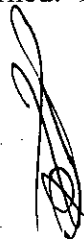


Appeal No. 661/2013.
Mr. Anurag Desai.

6.
09.09.2013


Clerk of counsel for the appellant present and moved an application for adjournment. Case is adjourned. To come up for preliminary hearing on 22.10.2013.


Member

7.
22.10.2013

Counsel for the appellant present and requested for withdrawal of the appeal alongwith connected appeals with permission to file fresh one. Request is accepted and the appeal is dismissed as withdrawn in limine with permission to file fresh one subject to all legal objections. File be consigned to the record.

ANNOUNCED
22.10.2013.


Member

3.
13.5.2013

Counsel for the appellant present and requested for adjournment. Case adjourned to 5.6.2013 for preliminary hearing.


Member.

4.
5.6.2013

Munshi to Counsel for the appellant present. In pursuance of the Khyber Pakhtunkhwa Service Tribunals (Amendment) Ordinance 2013, (Khyber Pakhtunkhwa ord. II of 2013), the case is adjourned on note Reader for proceedings as before on 15.7.2013.


Reader

5.
15.07.2013


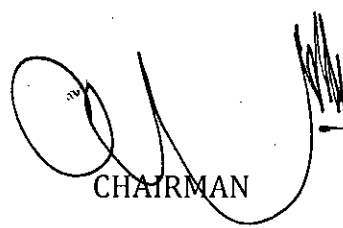
Clerk of counsel for the appellant present and requested for adjournment. Case is adjourned. To come up for preliminary hearing on 09.09.2013.


Member

Form-A
FORM OF ORDER SHEET

Court of _____

Case No. 661/2013

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	12/04/2013	<p>The appeal of Mr. Aurang Zeb resubmitted today by Mr. Khan Akbar Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	15-4-2013.	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>13-5-2013.</u></p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. ~~Aurangzeb~~ PET Teacher GMS Malak Abad received today i.e. on 08/04/2013 is incomplete on the following scores which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copy of Impugned seniority list is not attached with the appeal which may be placed on it.
- 2- The authority to whom the departmental appeal was made/preferred has not been arrayed a party.

No. 579 /S.T,

Dt. 09/04 /2013.

L. S. Q.
REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

MR. KHAN AKBAR KHAN ADV. PESH.

Sir,
We do not object to a junior seniority list
but we want that even
unnoticed period may be
counted towards our
service.
Other objection has been
ful filled.
KAR
Advocate
Pesh

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTOON
KHWA, PESHAWAR.

Service Appeal No 661 /2013

Aurangzeb.....Appellant

VERSUS


Govt of KPK through Secretary and others

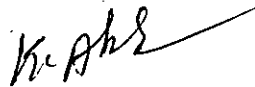
.....Respondents

INDEX

S.No.	Description of Documents	Annex	Pages
1.	Service appeal		1-4
2.	Application for Interim relief.		5-6
3.	Affidavit		7
4.	Copy of appointment order	"A"	8
5.	Copies of DMCs of Physical Education Training Course, BP.Ed and B.Ed	"B", "C" & "D"	9-11
6.	Copy of Service book	"E"	12
7.	Copy of Office Order dated 30.10.2009	"F"	13-14
8.	Copy of personal representation	"G"	15
9.	Wakalat Nama		16

Through


Appellant


(KHAN AKBAR KHAN)
Advocate, Peshawar.

Dated:-06-04-2013

Office: -

107-B, 2nd floor, Town Tower,
Jahangir Abad, University Road,
Peshawar.

Cell No: -

0344-9119111

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTOON

KHWA, PESHAWAR.

Service Appeal No 1691 /2013

A.W.F. Province
Khyber Pakhtoon
No. 690
Date 8-4-2013

Aurangzeb, Physical Education Teacher (PET), Government Middle
School, Malak Abad, Tehsil and District Mardan

.....Appellant

VERSUS

1. Government of Khyber Pakhtunkhwa, Elementary and Secondary Education Department, Peshawar through its Secretary.
2. Secretary to Government of Khyber Pakhtunkhwa, Finance Department, Civil Secretariat, Peshawar.
3. Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
4. Executive District Officer Elementary & Secondary Education Mardan..... Respondents

=====

APPEAL UNDER SECTION-4 OF THE KHYBER
PAKHTON KHWA, SERVICE TRIBUNAL ACT, 1974 TO
THE EFFECT THAT UNTRAINED PERIOD OF THE
APPELLANT MAY KINDLY BE COUNTED TOWARDS HIS
SERVICE AND THE FRESH SENIORITY LIST MAY
PLEASE BE PREPARED ACCORDINGLY.

=====

Filed to-
6/4/13

PRAYER IN APPEAL.

re-submitted to-
and filed.

12/4/13

On acceptance of this appeal the untrained period
of the appellant may kindly be counted towards
service of the appellant and fresh seniority list
may kindly be prepared accordingly.

=====

Respectfully Sheweth:-

1. That the appellant was appointed in the Education Department, as untrained PET on fixed pay and usual allowances on dated 27.10.1994 and is still serving on the said post with full zeal and

devotion. (Copy of appointment order is attached herewith as **Annexure "A"**).

2. That the appellant has got at his credit on the above said post a long tenure of service extending over 19 years.
3. That later on the appellant on dated 31.03.2002 passed Physical Education Training Course Examination from Department of Examination Education Department, BP. Ed from Abdul Wali Khan University and B. Ed from University of Peshawar. (Copies of DMC of Physical Education Training Course, DMC of B.P.Ed and B.Ed are attached herewith as **Annexure "B"**, **"C"** & **"D"** respectively).
4. That after passing the said Course Physical Education, the appellant was regularized and was allowed the graded/running pay scale in BPS-09 with effect from the date of passing the said CT course, i.e. 31.03.2002. (Copy of the relevant Page of service book regarding regularization is attached herewith as **Annexure "E"**).
5. That the on dated 30.10.2009, the Finance Department vide office order No. FD (PRC) 5-2/2002 allowed all benefits of annual increment from the date of first appointment to all untrained teachers. (Copy of the office order dated 30.10.2009 is attached herewith as **Annexure "F"**).
6. That previously a seniority list was prepared by the Education Department for District Mardan, on the basis of initial appointed in which appellant was placed at serial No.68, whereas in the early December 2012 the respondent Department issued a tentative seniority list, wherein the appellant has been placed at serial No.110, thus his untrained period of almost 8 years has been ignored altogether.
7. That now the respondent Department is not ready to count the untrained period of almost of 8 years of the appellant towards his service in utter disregard of dictum laid down by the superior courts in this behalf.

8. That against that action of the respondent department the appellant also moved his representation to the concerned authority on dated 15.12.2012, but no response was given by them. (Copy of the representation is attached herewith as **Annexure "G"**).
9. That the appellant along-with his other colleagues having their services extending from 20 to 25 years of spotless character and they have rendered valuable services and have performed their duties with zeal and devotion. But the respondents have totally deprived them from the period spent by them as untrained teachers.
10. That this attitude of the respondent department to deprive the appellant from the untrained period of service is without any cogent/legal grounds but just to give benefit to the blue eyed teachers of the respondent department, whom have been appointed in their tenure.
11. That the appellant has got no other efficacious remedy available to him but to approach this Honourable Tribunal on the following ground inter-alia.

GROUND.


- A. That act of the respondent department, thereby depriving the appellant from the above said benefit of Seniority is illegal, unlawful without authority/ jurisdiction, as well as being based on malafide intentions of the respondent department is liable to be set aside.
- B. That at the time of appointment of the appellant, the respondent Department had no trained teachers, hence the appellant was appointed on fixed pay.
- C. That after appointment of the appellant as PET Teacher there was neither any time limit for completing the desiring course nor there was any special program from Respondent Department.

- D. That it is pertinent to mention here that the said untrained period of the appellant is counted in the retirement period as the same is granted on the basis of date of initial appointment.
- E. That since hundred and hundreds of the teachers have been treated in a discriminatory manner and have been deprived of the above said benefit without any just cause.
- F. That the appellant has been serving on the above said post since long, whereas the minimum tenure of service amongst the appellant and his colleagues is 17 years and the maximum tenure amongst them is extended to 25 years, but they have been treated unlawfully without any cogent/solid grounds.
- G. That the said act of the respondent department is not merely illegal as well as unlawful, but is also against the very clear Article of Constitution of Islamic Republic of Pakistan as engraved in the basic rights of said constitution.

It is, therefore, prayed that on acceptance of this Service Appeal, the respondent may please be directed to count the untrained period of the appellant towards his service and they may further be directed to prepare a fresh seniority list on initial appointment basis.

Any other remedy to which appellant is found entitled, in the peculiar circumstances of the case may also be granted.


Appellant

Through 

Dated: -0 -04-2013

(KHAN AKBAR KHAN)
Advocate, High Court,
Peshawar.

CERTIFICATE:

Certified that as per information furnished by my client no such like service appeal on the subject has earlier been filed in this Hon'ble Tribunal.


ADVOCATE

(S)

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTOON
KHWA, PESHAWAR.

C.M No. _____ 2013

In

Service Appeal No _____ **/2013**

Aurangzeb..... **Appellant**

VERSUS

Govt of K P K through Secretary & others

..... **Respondents**

=====

***APPLICATION FOR TEMPORARY INJUNCTION TO THE
EFFECT THAT RESPONDENT MAY KINDLY BE
RESTRAINED FROM TAKING ANY ACTION OVER THE
TENTATIVE SENIORITY LIST, TILL THE FINAL DESICION
OF THE MAIN APPEAL.***

=====

Respectfully Sheweth:

1. That the appellant has filed the above titled service appeal before this Honourable Tribunal, in which no date of hearing has yet been fixed.
2. That respondent has prepared a seniority list in which the untrained period of almost 8 years of the appellant has not been counted towards his service.
3. That the applicant/appellant has very prima facie cause of action and is very hopeful of its ultimate success of his appeal.
4. That all the three ingredients i.e. prima facie case, balance of convenience and irreparable loss as per spirit of the rules for granting injunction is of the applicant/appellant are present in the said appeal.
5. That in case the injunction as prayed for above is denied, the applicant/appellant will suffer irreparable loss as the impugned.

Hence, it is in the interest of justice to stay further proceedings on the impugned notification, till the final decision of this Honourable Tribunal.

6. That there is no legal bar in granting the injunction as prayed for above.
7. That the facts and grounds taken in the memo of appeal may kindly be considered as part and parcel of the instant application.

It is, therefore, humbly prayed that in the light of above said submissions this Honourable Tribunal may please be kind enough to restrain the respondent from taking any action over the tentative Seniority list till the finalisation of the main appeal.


Applicant

Through



(KHAN AKBAR KHAN)
Advocate,
High Court, Peshawar.

Dated: 05 -04-2013

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTOON
KHWA, PESHAWAR.

Service Appeal No _____/2013

Aurangzeb.....Appellant

VERSUS

Govt of KPK through Secretary and others

.....Respondents

AFFIDAVIT

I, Khan Akbar Khan Advocate, as per instruction of my client, do hereby solemnly affirm and declare on Oath that the contents of the accompanying **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble court.



KAK
Deponent

OFFICE ORDER:

Mr. AURENG ZEB KHAN S/O JUNA GUL
Village New Baghdada Distt: Mardan is hereby
appointed as untrained PET post at GHS Mohabat Abad (Mardan)
against leave vacant post (leave vacancy) of PET in BPS No. 9 on
1605/-P.M. fixed plus usual allowances admissible under the rules
only as stop gap arrangement from the date of their taking over
charge on the following terms and conditions.

TERMS AND CONDITIONS:

His appointment is purely temporary and liable to termination
at any time without any assigning reason.

In case of resignation he will have to submit one month's prior
notice to the department or forfeit one month's pay in thereof
to the Government.

Medical certificate may be obtained from the Medical/Civil
surgeon concerned.

His age should not exceed 25+2 years.


His services will be ceased automatically on the arrival of
original incumbent.

(MOHAMMAD ZAFAR JALIL)
CIVIL DIRECTOR SECY: EDUCATION
MARDAN DIVN: MARDAN.

Order No. 17322-26 Dated Mardan the, 27/X /1994.

Copy forwarded to the:-

- 1- M/S to Education Minister (Secy:/Colleges) NWFP, Peshawar.
- 2- Distt: Education Officer (Male) Secy: Mardan.
- 3- Principal/Headmaster GHS, Mohabat Abad (Mardan)
- 4- Candidate concerned.


CIVIL DIRECTOR SECY: EDUCATION
MARDAN DIVN: MARDAN.

9) Ann. H. de = B

S. No. 0750

Departmental Examinations Education Department



Detailed Marks Certificate

Physical Education Training Examination

Name Abdangzeb

Session 2001

Father's name J. Mansoor Khan

Roll No. 209

Subject	Maximum Marks	Marks obtained	
		In figures	In words
1. Pri: Organisation and Administration	100	53	
2. Sc. Of Movement	100	63	
3. Theory of Games	100	46	
4. Olym: and recreative games	100	51	
5. Anatomy and Physiology	100	36	
6. Health Education	100	54	
7. Teaching of Education Gyms	60	25	
8. Teaching of Athletics	60	28	
9. Teaching of Major Games	60	28	
10. Skill in Education Games	50	24	
11. Skill in apparatus works and marching	50	22	
12. Skill in Athletics	40	22	
13. Skill in Games	40	22	
14. Girls' Guide, First Aid, Nursing, Civil Defence	60	22	
15. Rhythmical Exercises Rifle Drill	20	22	
16. Morning Assembly	20	22	
Total	1060	571	

Note: Errors/omissions excepted.

Result/Passed Passed

Division II

Prepared by [Signature]

Checked by [Signature]

Date of Declaration of Result 31-3-2002

Registrar
Departmental Examinations Education Department
NWFP, Peshawar



(B) Annures

ABDUL WALI KHAN UNIVERSITY

MARDAN, PAKISTAN

TRANSCRIPT

KHYBER COLLEGE EDUCATION, MARDAN BPed

Name: Aurang Zeb

F: Name: Juma Gul

Roll No: 6831

Reg. No: 11-AU-KCEM-M-31

1st Semester (Spring, 2011)							
Title of Course	Total Marks	Marks Obtained	CR Hrs	NG	GP	GPA	Remarks
Philosophical Basis of PE	100	75	3	3.5	10.5		
Anatomy & Physiology	100	72	3	3.2	9.6		
Rules & Technique of Games & Sports	100	84	3	4	12		
Teaching Practice/Project	80	71	3	4	12		
TOTAL	380	302	12		44.1	3.68	Promoted
2nd Semester (FALL, 2011)							
Title of Course	Total Marks	Marks Obtained	CR Hrs	NG	GP	GPA	Remarks
Movement Education	100	76	3	3.0	10.8		
Sports Nutrition	100	71	3	3.1	9.3		
Science of Track & Field	100	72	3	3.2	9.6		
Practical of Games & Sports	40	20	2	1	2		
Practical of Track & Field	40	33	2	4	8		
Practical of Gymnastics	40	37	2	4	8		
TOTAL	420	309	15		47.7	3.18	Passed

27 91.8

CGPA	3.40
------	------

Errors & Omissions are subject to subsequent rectification.

Result Declaration Date: - May 07, 2012

Prepared by: Ijaz Ahmad

Checked by: Shahzad Khan

Controller of Examinations

Serial No.

172105

ALLAMA IQBAL OPEN UNIVERSITY, ISLAMABAD
PROVISIONAL RESULT CARD



Name: LAURANG, ZEB
 Fathers's Name: JUMA GUL
 Address: FARID BAN ROAD NEW BUGHDADA
 MARDAN S/O JUMA GUL

Roll No: R670926
 Registration No: 05NNNO584
 Final Semester: SPR-2006

Tehsil: MARDAN
 District: MARDAN

has successfully completed BACHELOR OF EDUCATION (B. ED) Programme.

The detail of passed courses are as under:

Semester	Course Code	Title of Course	Marks	
			Maximum	Obtained
SPR-05	0513	SCHOOL ORGANIZATION	100	71
SPR-05	0514	EVALUATION, GUIDANCE & RESEARCH	100	66
SPR-05	0512	EDUCATIONAL PSYCHOLOGY & CURRICULUM	100	68
SPR-05	0651	ENGLISH	100	54
AUT-05	0517	TEACHING OF PAKISTAN STUDIES	100	64
AUT-05	0654	TEACHING OF ISLAMIAT	100	64
SPR-06	0512	PERSPECTIVES OF EDUCATION	100	71
SPR-06	0652	ISLAM, PAKISTAN AND MODERN WORLD	100	57
SPR-06	0655	WORKSHOP	100	88

CREDITS: 6

Total Marks / Obtained: 900 / 603

Result Declared on: JANUARY 25, 2007

Percentage / Grade: 67 B

Date of issue: FEBRUARY 06, 2007

Disclaimer:

This result card is issued provisionally, errors and omission excepted, as a notice only. Any entry appearing in this card does not itself confer any right or privilege on a candidate for the grant of certificate/degree/diploma, which will be issued under the rules/regulations on the basis of the original record of the university student.

[Signature]
Controller of Examinations

(13) Annexure (F)
GOVERNMENT OF N.W.F.I
FINANCE DEPARTMENT
(REGULATION WING)

NO. FD (PRC) 5-2 /2002
Dated Peshawar the: 30-10-2009

To: The Secretary to Govt. of NWFP,
Elementary & Secondary Education Department,
Peshawar.

Subject: GRANT OF ANNUAL INCREMENT / RUNNING PAY TO
UNTRAINED TEACHERS IN THE LIGHT OF SUPREME
COURT JUDGMENT.

Dear Sir,

I am directed to refer to this Department letter No.FD (PRC) 5-2/2002, dated 30-03-2009 on the subject noted above and to say that certain quarters have raised some queries about the subject matter which are clarified as under:-

- i. All those untrained teachers who were appointed on fix pay and were subsequently regularized against their posts, on acquiring / completing requisite training successfully, would be entitled for such benefits of annual increments from the date of their first appointments as such, but without arrears.
- ii. The above benefit would also be admissible to all those retired teachers who fulfil the above conditions.
- iii. The above benefit would not be admissible to those who themselves resigned, or were removed / terminated from service.

2. This Department letter of even number dated 30-03-2009 shall be deemed to have been modified to the above extent.

Yours Faithfully,

(SHAUKAT ULLAH)
SECTION OFFICER (SR-1)

Endst: of even No. & date.

Copy for information and necessary action:-

1. Accountant General, NWFP.
2. All District Coordination Officers, NWFP.
3. All District / Agency Accounts Officers, NWFP / FATA.

SECTION OFFICER (SR-1)

121



GOVERNMENT OF N.W.F.P.
FINANCE DEPARTMENT
(REGULATION WING)

NO.FD (PRC) 5-2/2002
Dated Peshawar the: 30-03-2009

To: The Secretary to Govt. of NWFP,
Elementary & Secondary Education,
Peshawar.

3222
7-4-09

Subject: GRANT OF ANNUAL INCREMENT / RUNNING
PAY TO UNTRAINED TEACHERS IN THE LIGHT
OF SUPREME COURT JUDGEMENT.

Dear Sir,

I am directed to refer to your letter NO.SO (B&A) 1-16/08/
Advance Increment dated February 27, 2009 on the subject noted above and
to state that the Provincial Government is pleased to allow the benefit of
annual increments to the untrained teachers from the date of their regular
appointment.

No arrears shall however, be admissible / payable prior to the
date of issuance of this circular.

HRDO
EA

(ABDUL JABBAR)
SECTION OFFICER (SR-1)

Encl: of even No & date.

Copy for information & necessary action to the:

1. Accountant General NWFP.
- ✓ 2. All District Coordination Officers.
3. All District / Agency Accounts Officers NWFP / FATA.

(Signature)
SECTION OFFICER (SR-1)

HRDO/EA

pl sent a copy to
Dco
10/04

بخدمت جناب ایگزیکٹو ڈسٹرکٹ آفیسر (ای اینڈ ایس) ایجوکیشن مردان

درخواست بمطابق سناری ٹی لسٹ 2012ء ضلع مردان

(بحوالہ: تاریخ آغاز ملازمت کو بنیاد بنایا جائے)

مندرجہ ذیل گزارشات گوش گزار کرنے کی سعی ہے امید باور ہے شنوائی و کارروائی حسب استدعا عمل میں لائی جائے گی۔

(1) یہ کہ سائل محکمہ تعلیم خیبر پختونخوا میں بحیثیت فریکل ایجوکیشن ٹیچر مورخہ 1-11-1997

گورنمنٹ ہائی سکول قہت آباد مردان میں تعینات ہوا تھا۔ اور دم تحریر اپنی ذمہ داری بطریق

احسن انجام دے رہا ہوں۔

(2) یہ کہ گزشتہ سناری ٹی لسٹ ضلع مردان کو تاریخ آغاز ملازمت کی بنیاد پر تیار کیا گیا تھا جس میں سائل کا

نمبر 68 تھا۔

(3) یہ کہ موجودہ ضلعی سناری ٹی لسٹ 2012ء میں ان ٹرینڈ پیریڈ کو شمار نہیں کیا گیا۔ جس میں سائل کا سناری ٹی لسٹ

نمبر 110 ہے۔

(4) یہ کہ مذکورہ ان ٹرینڈ پیریڈ کے سالانہ انگریمنٹ اور بقایا جات سائل کو ای ڈی او (ای اینڈ ایس) ایجوکیشن مردان

بذریعہ چھٹی نمبر 6208/9 مورخہ 2009-7-28 ادا کر دی گئی ہیں۔

(5) یہ کہ سناری ٹی لسٹ 2012ء میں تاریخ آغاز ملازمت کو خاطر میں نہ لاتے ہوئے مرتب کرنا سراسر خلاف ضابطہ و قانون

اور انصاف کے تقاضوں سے متصادم ہے۔ اور سائل کی حق تلفی بھی ہے۔

لہذا آپ صاحبان سے گزارش ہے کہ مذکورہ ضلعی لسٹ 2012ء کو کالعدم قرار دیتے ہوئے تاریخ آغاز ملازمت کو بنیاد

بنا کر مرتب کیا جائے۔

مورخہ: 2012-12-15

العارض
نام اور نکتہ پب اورنگزیب
پوسٹ فریکل ایجوکیشن ٹیچر PET
سکول گورنمنٹ ہائی سکول قہت آباد مردان

بشرف ملاحظہ:

Forwarded to the E.D.O Mardan
for further m/a pl.

(1) سیکرٹری ایجوکیشن خیبر پختونخوا

(2) ڈائریکٹر ایجوکیشن خیبر پختونخوا پشاور

(3) ڈی سی اوی ضلع مردان

No 4788

Date 12-2012

Headi Master
Govt. Middle School
Malak Abad, (Mardan)

WAKALATNAMA

BEFORE THE COURT OF Service Tribunal K.P.K.

No. _____ of 2013

Aurangzeb

✓
(Petitioner)
(Plaintiff)
(Appellant)

VERSUS

Govt of K.P.K through Secretary of the

(Respondent)
(Defendant)

I/We Aurangzeb

In the above noted Service Appeal do hereby appoint and constitute **Mr. Khan Akbar Khan** Advocate as my/ our Counsel in the subject proceedings and authorize him to appear, plead etc compromise, withdraw or refer the matter for arbitration for me/ us without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel at our/my expense and receive all sums and amounts payable to us/ me and to all such acts which he may deem necessary for protecting my/ our interest in the matter. He is also authorized to file Appeal, Revision, Application for restoration or application for setting asiding exparte decree proceedings on my/ our behalf.

Dated: - / /2012

Aurangzeb

(Client)

K. Akbar
(KHAN AKBAR KHAN)

Advocate, High Court, Peshawar.

Office Address: - B-107, Town Tower

Jahangir Abad, University Road, Peshawar.

Cell No. 0344-9111911