
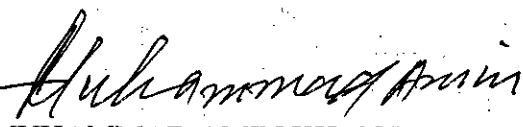


S.No	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
	14.04.2017	<p style="text-align: center;"><u>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,</u> <u>PESHAWAR.</u></p> <p style="text-align: center;">APPEAL NO.1395/2014</p> <p style="text-align: center;">(Abdul Hameed-VS- The Secretary, Government of Khyber Pakhtunkhwa and three others).</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>MUHAMMAD AMIN KHAN KUNDI, MEMBER:</u> Counsel for the appellant present. Mr. Kabirullah Khattak, Assistant Advocate General for the respondents also present.</p> <p>2. It was admitted by learned counsel for the appellant that in the instant appeal issue of up-gradation is involved. According to the judgment of august Supreme Court of Pakistan dated 17.02.2016 delivered in Civil Appeal No. 101 & 102-P of 2011 the service Tribunal shall have no jurisdiction to entertain any appeal involving the issue of up-gradation as it does not constitute part of terms and conditions of service of the Civil servants.</p> <p>3. In view of the above the appeal was not found maintainable by this Tribunal for want of jurisdiction. The same is therefore dismissed. The appellant may seek his remedy before any other appropriate forum if so advised. File be consigned to the record room.</p> <div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div style="text-align: center;">  (AHMAD HASSAN) MEMBER </div> <div style="text-align: center;">  (MUHAMMAD AMIN KHAN KUNDI) MEMBER </div> </div> <p><u>ANNOUNCED</u> 14.04.2017</p>

1395/2014

21.10.2016

Appellant with counsel and Mr. Daud Jan, Superintendent alongwith Mr. Ziaullah, GP for respondents present. The learned Member Judicial Mr. Pir Bakhsh Shah is on leave therefore Bench is incomplete. To come up for rejoinder and arguments on 30-12-16 before D.B.


(ABDUL LATIF)
MEMBER

30.12.2016

Counsel for the appellant and Mr. Daud Jan, Supdt. alongwith Addl. AG for respondents present. Rejoinder already submitted. Arguments could not be heard due to incomplete bench. Case adjourned to 14.04.2017 for arguments before D.B.


Chairman

21.09.2015

Appellant in person and Assistant AG for respondents present. Written reply by respondents No. 1, 3 and 4 not submitted. Requested for further adjournment. To come up for written reply/comments on 26.11.2015 before S.B.


Chairman

26.11.2015

Appellant in person, M/S Khurshid Khan, SO and Daud Jan, Supdt. alongwith Addl: A.G for respondents present. Written reply on behalf of respondents No. 1, 3 and 4 not submitted. Requested for further adjournment. Last opportunity granted. To come up for written reply/comments on behalf of respondents No. 1, 3 and 4 on 22.3.2016 before S.B.


Chairman

22.03.2016

Appellant with counsel, M/S Khurshid Khan, SO, Hameed-ur-Rehman, AD (lit.) and Daud Jan, Supdt. alongwith Addl: A.G for respondents present. Written reply by respondents No. 1 and 4 submitted. The learned Addl: AG relies on the same on behalf of respondent No. 3. The appeal is assigned to D.B for rejoinder and final hearing for 11.7.2016.


Chairman

11.07.2016

Appellant in person and Mr. Kabirullah Khan Khattak, Assistant AG for respondents present. Due to strike of the Bar learned counsel for the appellant is not in attendance today therefore, case is adjourned for rejoinder and arguments to ~~21-10-16~~.


MEMBER


MEMBER

Appeal No. 1395/2014
Mr. Abdul Hameed

04 17.02.2015

Counsel for the appellant present. Requested for adjournment.

Adjourned to 26.03.2015.


Member

5. 26.03.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant has put in almost 26 years service and was entitled to up-gradation from BPS-16 to BPS-17 on the strength of notification dated 26.01.2008 w.e.f. 01.07.2010 but the same has not granted to the appellant till date. That the appellant preferred departmental appeal on 29.08.2014 and after lapse of statutory period of 90 days the instant service appeal was preferred on 11.12.2014.

Appellant Deposited
Security & Process Fee



That the appellant is entitled to the benefits of up-gradation from BPS-16 to BPS-17 w.e.f 01.07.2010.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 10.06.2015 before S.B.


Chairman

6 10.06.2015

Counsel for the appellant and Mr. Daud Jan, Supdt. alongwith Addl: A.G for respondents present. Comments by respondent No. 2 submitted, while learned Addl; A.G requested for adjournment for submission of written reply on behalf of remaining respondents on 21.9.2015 before S.B.


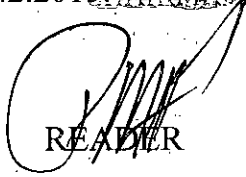


Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 1395/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	11.12.2014	<p>The appeal of Mr. Abdul Hameed presented today by Mr. Muhammad Asif Yousafzai Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2	21.1.2015	<p>This case is entrusted to Bench for preliminary hearing to be put up there on</p> <p>Since 20th January, 2015 has been declared as public holiday by the provincial government, therefore, case to come up for the same on 5.2.2015</p> <p style="text-align: right;"> READER</p>
3	5.2.2015	<p>Since 5th February has been declared as public holiday, therefore, case to come up for the same on 17.2.2015.</p> <p style="text-align: right;"> READER</p>

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.**

Appeal No. 1395 /2014

Mr. Abdul Hameed

V/S

FATA Education Deptt;

INDEX

S.No.	Documents	Annexure	Page No.
1.	Memo of Appeal	-----	01-03
2.	Copy of Appointment Order	- A -	04-07
3.	Copy of Service Certificate	- B -	08
4.	Copy of SSC	- C -	09
5.	Copy of Intermediate	- D -	10
6.	Copy of B.A.	- E -	11
7.	Copy of B.Ed.	- F -	12
8.	Copy of M.A.	- G -	13
9.	Copy of M.Ed.	-H-	14
10.	Copy of Notification dated (26.01.2008)	-I-	15
11.	Copy of Appeal	-J-	16
12.	Vakalat Nama	-----	17

APPELLANT

Abdul Hameed

THROUGH:



(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR.

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.**

Appeal No. 1395 /2014

Mr. Abdul Hameed,
(SET) GMS Nao Kaly
Prang Ghar Mohmand Agency.

K.P.F. Peshawar
No. 1433
11-12-2014

APPELLANT

VERSUS

1. The Secretary, Government of Khyber Pakhtunkhwa, Education (E&SE) Department, Civil Secretariat, Peshawar.
2. The Director of Education, (FATA), KPK, Peshawar.
3. The Agency Education Officer, Mohmand Agency.
4. The Secretary Finance KPK Peshawar.

RESPONDENTS

.....
APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL ACT, 1974 FOR GRANTING BPS-17 ON THE BASIS OF 10 YEARS SERVICE IN LIGHT OF GOVERNMENT NOTIFICATION DATED 26.01.2008 AND AGAINST NOT TAKING ANY ACTION ON THE DEPARTMENT APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.
.....


PRAYER:

THAT ON ACCEPTANCE OF THIS APPEAL, THE RESPONDENTS MAY BE DIRECTED TO GRANT BPS-17 ON THE BASIS OF 10 YEARS SERVICES W.E.FROM 1.10.2007 WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

RESPECTFULLY SHEWETH:

1. That the appellant joined the Education Department as SET on 24.02.1988. Copy of Order is attached as Annexure-A.
2. That the appellant served 26 years with good reputation and performed his duties honestly and entire satisfaction of his superior. Copy of Service Certificate is attached as Annexure-B.
3. That the appellant has passed SSC, Intermediate, B.A, B.Ed, M.A, M.Ed. Copies of Degrees are attached as Annexure-C, D, E, F, G and H.
4. That the Government of Khyber Pakhtunkhwa granted BPS-17 with effect from 01.10.2007 to those SETs who have 10 years service at their credit vide Government Notification on 26.01.2008. Copy of Notification is attached as Annexure-I.
5. That the appellant has 26 years service, but despite of that, the appellant has not been granted BPS-17, therefore, he submitted Departmental Appeal on 29.08.2008 and waited for 90 days but no reply has been received so far. Copy of Departmental Appeal is attached as Annexure-I.
6. That now the appellant comes to this Honourable Tribunal on the following grounds amongst the others.

GROUNDS:

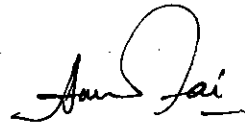
- A) That not granted BPS-17 on the basis of 10 years service in light of Government Notification dated 26.01.2008 and not taking any on the departmental appeal of the appellant within statutory period of ninety days, is against the law, rules, norms of justice and material on record, therefore, not tenable.
- B) That the appellant has not been treated according to law and rules and has been kept deprive from his legal right, which is not permissible under the rules.
- C) That the Government of Khyber Pakhtunkhwa's Notification dated 26.01.2007 has not been followed in the case of the appellant, which is against the law and rules.

- D) That the appellant was having 26 years service as SET and was eligible to BPS-17 as per Notification dated 26.01.2008, but the appellant has not been granted BPS-17 whereas many SETs have been given BPS-17 on the basis of same notification. Thus appellant has been discriminated through and he has been deprived from his legal rights which the violation of rules and law.
- E) That the appellant's claim is genuine and he is legally entitled to the benefits of BPS-17 as per Government Notification dated 26.01.2008, but the appellant has not been extended the benefit of BPS-17, which are crystal discrimination and an arbitrary manner.
- F) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

It is, therefore, most humbly prayed that the appeal of the appellant may be accepted as prayed for.

APPELLANT 
Abdul Hameed

THROUGH:


(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR.

A (4)


APPOINTMENT.

The following B.Ed(appeared) candidates(who are tribal domicile) are hereby appointed temporarily as S.E.Ts on Rs.1165/P.M. fixed or their own pay & B.P.S. (which ever beneficial to them) with effect from the dates of their taking over charge against the S.E.T posts in the schools noted against their names:-

<u>S.No.</u>	<u>Name & Address.</u>	<u>Place of posting.</u>	<u>Remarks.</u>
1.	Mr. Raza Mohammad CT GMS Badin ₂ ai Tangi(SWA)	GMS Suleman Khel (SWA).	Against newly created SET post.
2.	Mr. Saifur Rehman, CT GMS Doag(SWA)	GMS Tanai(SWA).	..do..
3.	Mr. Khairud Din, CT, GMS Janjal, SWA.	GMS Shakai, SWA.	Against the vacant SET post.
4.	Mr. Salim Khan CT, GHS Shinkai(SWA).	GMS Toi Khula, SWA.	..do..
5.	Mr. Mohammad Ayub Khan, CT, GMS Mandanai (SWA).	GHS Spin(SWA).	..do..
6.	Mr. Sher Wali, CT, GMS Dawatai, SWA.	GMS Dawatai, SWA.	..do.. vice Jalaluddin transferred.
7.	Mr. Jehangir Khan, CT GHS Kotkai.	GHS Spin(SWA)	Against vacant SET post.
8.	Mr. Shah Noor CT, GMS Tatal Langer Khel, (SWA).	..do..	..do..
9.	Mr. Haider Ali, CT, GMS Diba(SWA).	GMS Abbas Khel Tangi, SWA.	..do..
10.	Mr. Mir Badshah, CT, GMS Baghul Jadid, FR D.I.Khan.	GHS Kohi Bahara, FR D.I.K.	..do..
11.	Mr. Iqbal Hussain, B.Sc, B.Ed appeared, GMS Mali Killi(Kurram) returned from leave.	GMS Angori, Kurram.	Against vacant SET post.
12.	Mr. Zainud Din, CT, GHS Karama(SWA).	GHS Karama.	..do.. vice Ghulam Siddiq transferred.
13.	Mr. Mohammad Ismail, CT, GMS Mir Azam Kor (FR D.I.K) returned from S/Leave.	GMS Shamazan Kot (NWA)	Against vacant post vice Khurshid Rauf transferred & posted as I/C H/M.
14.	Mr. Abbas Ali, PTC, GMS Momiteen Khel, (FR Bannu). (B.Ed appeared).	GMS Gulshin(Spulg) (NWA).	Against the newly created post.
15.	Mr. Maday Jan, CT, B.Ed appeared, GMS Morga(FR D.I.Khan).	GHS Kohi Bahara, FR D.I.Khan.	Against the vacant SET post.

continued next page..2..

ATTESTED



5

- | | | |
|--|-------------------------------------|---|
| 16. Mr. Abdul Latif, CT, GMS Amad Gul Killi(B.Ed appeared). | GMS Turkani (Orak: Ag:) | Against the vacant SET post. |
| 17. Mr. Abdul Halim, CT, GHS Alizai, (Kurram) B.Ed appeared. | GHS Ali Zai, (Kurram). | ..do.. |
| 18. Mr. Mohammad Afsar, CT, GHS Bilyamin, (Kurram) B.Ed appeared. | GHS Bilyamin, Kurram. | ..do.. vice Nizamuddin resigned. |
| 19. Mr. S. Abbas Ali Shah, PTC, GHS Parachinar (Kurram). (B.Ed app:) | GMS Parachinar, (Kurram Ag:) | Against vacant SET post vice Mr. Ibrar Hussain transferred & posted as I/C H.M. |
| 20. Mr. Nizamud Din, CT, GHS Dosali (NWA) B.Ed appeared. | GMS Gul Mohammad (Madi Khel) N.W.A. | Against newly created post. |
| 21. Mr. Abdul Qadim Shah, M.A. B.Ed appeared (Mohmand Agency). | GMS Palosai, Orak: Agency. | Against vacant SET post vice Mir Qalam Khan proceeded on long leave. |
| 22. Mr. Hussain Badshah, B.A. B.Ed appeared Mohmand Agency. | GMS Daran Sheikhan, Orakzai Agency. | Against vacant SET post vice Mohammad Sarwar proceeded on long leave. |
| 23. Mr. Abdul Hamid, BA, B.Ed, appeared, Mohmand Agency. | ..do... | Against vacant SET post vice Mani Khan transferred. |
| 24. Mr. Muntaz Khan, B.A. B.Ed, appeared, (Khyber Agency). | GMS Parang Dara, (Khyber Agency) | Against vacant SET post vice Ghulam Younsaf transferred. |
| 25. Mr. Mohammad Jaffar, B.A. B.Ed appeared, FR Peshawar. | GMS Injor Patti, Orak: Agency. | Against vacant SET post. |
| 26. Mr. Rab Nawaz, (B.A. B.Ed, appeared,) (SWA). | GHS Nana, (SWA). | ..do.. |
| 27. Mr. Maseehur Rehman, (.....do.....) (NWA). | Govt. Public School Razmak. | ..do.. vice Mr. Muntaz Khan selected as a lecturer. |
| 28. Mr. Inayatullah Khan, (.....do.....) FR Bannu. | GHS Sadda (Kurram) | Against vacant SET post vice Ghulam Mohammad promoted as MAEO. |
| 29. Fazal Rehman, (....do....) FR Bannu. | GMS Amal Kot, (Kurram). | Against vacant SET post vice Salim selected for MBBS. |

محمد احمد سيف الدين
 داکٹر علی محمد خان
 ڈیپٹی سیکریٹری

- | | | |
|---|--------------------------------|--|
| 30. Mr. Hayatullah, (B.A. B.Ed appeared)
FR Bannu. | GMS Nasti Kot,
(Kurram). | Against vacant SET
post vice Mohammad
Ghulam posted as I/C
H. Master. |
| 31. Mr. Mohammad Nawaz, (...do....)
FR Bannu. | GMS Badama,
(Kurram): | Against vacant SET
post vice Sabihur
Rehman transferred. |
| 32. Mr. Hazrat Usman, (...do.....)
FR Bannu. | GMS Shah Ibrahim,
(Kurram): | Against vacant SET
post. |
| 33. Mr. Mohammad Noor, (...do...)
FR Bannu. | GHS Ghiljo,
(Orakzai Ag:) | ...do.... vice
sarfraz transferred. |
| 34. Mohammad Ayub, (B.Sc, B.Ed appeared)
FR Bannu. | GHS Kalaya,
(Orakzi Ag:) | Against vacant SET
post. |
| 35. Mr. Azizullah Khan, (...do..)
FR Bannu. | GHS Bilyamin,
(Kurram). | ...do... vice Fazal
Dayan transferred. |
| 36. Mr. Akhtar Hussain, (...do...)
FR Bannu. | GHS Shinkai,
(SWA). | Against vacant SET
post vice Noor Amal
Khan transferred. |
| 37. Mr. Azizullah, B.A. B.Ed
FR Bannu. | GHS Sadda,
(Kurram Ag:) | Against vacant SET
post vice Said Wazir
posted as AKEO FR
Kurram. |

NOTES:-

1. Charge reports should be submitted in duplicate to all concerned.
2. Their appointment are being made purely on temporarily basis and are liable to termination at any time without notice and without assigning any reasons. In case they wishes to resign their posts, they shall have to give one month's prior notice or forfeit one Month's pay in lieu thereof. Their services will be terminated if they are not selected by the Selection Committee.
3. The original qualification, Date of Birth & Domicile Certificates of fresh candidates should be checked before they are handed over charge of the posts and attested copies thereof be kept on the record of School.
4. TA/DA etc: is not allowed.
5. The fresh candidates should be sent to the Agency Civil Surgeon concerned for Medical Examination the day on which they report their arrival for duty and no pay should be drawn for them unless and until they produce their health and age certificates from the said Surgeon.

Cont: next page..4...

ATTESTED



6. Their verification roll of character and antecedents should be got completed and verified from the authorities concerned.
7. The Pay Scale and service rules would be subject to revision in accordance with the orders to be passed by the Govt. of N.W.F.P. from time to time.
8. The fresh candidates should not be handed over charge of the post if they are below (18) or above (35) years of age. If they fail to resume charge within two weeks their vacancies should be reported to this office at once.
9. The candidate's knowledge in Islamic Education & Pakistan Studies must be judged before handing over the charge.
effect
10. The order will take/with effect from 1.3.88 or subsequent date of their taking over charge.

(GAUHAR RAHMAN ABBASI)
DIRECTOR OF EDUCATION
FATA, NWFP, PESHAWAR.

Endst.No. 9595-662 /A.1/Apptt./Transf: of SET. Dated Pesh the 24/2/88.
Copy forwarded for information & necessary action to the:-

- 1-6) Agency Education Officers, Orakzai Agency, Kurram Agency, North Waz: Agency, South Waz: Agency, Mohmand Agency & Khyber Agency.
- 7-24) Headmasters Govt. High Schools concerned.
- 25) Principal, Govt. Public School Razmak (N.W.A.).
- 26-63) Candidates concerned.
- 64) P.A. to Director of Edu: (FATA).
- 65-66) IV & VII A.E. local Directorate.
- 67) P/File.

H. W.
BY: DIRECTOR OF EDUCATION
FATA, NWFP, PESHAWAR.

G. Abbas.

S. No 271781

بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ

Roll No. 24584

Board Of Intermediate And Secondary Education
Peshawar N. W. F. P. Pakistan



Secondary School Certificate Examination

SESSION 1979 (ANNUAL)

This is to certify that Abdul Hameed
Son/Daughter of Saif Ullah
and a student of Govt: High School Hari Chand (Peshawar)

has passed the **SECONDARY SCHOOL CERTIFICATE EXAMINATION**
of the Board of Intermediate and Secondary Education, Peshawar held in April 1979,
as a Regular candidate He/She obtained 347 Marks out of 850/900/1000
and has been placed in Grade Representing Fair

The Candidate passed in the following subjects:

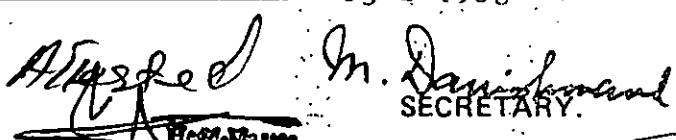
- | | | |
|--------------|----------------------|-----------------|
| 1. English | 4. Pakistan Studies. | 7. Mathematics. |
| 2. Urdu | 5. Physics . | 8. Chemistry. |
| 3. Islamiyat | 6. Biology . | |

He/She has been awarded Grade on the basis of internal
assessment by the Institution concerned.

Date of birth according to admission form is Fifteenth April
one thousand nine hundred and Sixty Three (15-4-1963)


Asstt. Secretary

11th August 1979


SECRETARY.

Headmaster
Govt: High School
P. Prag Ghar
Mohmand Agency.

This certificate is issued without alteration or erasure.

ATTESTED

S. No. 127486

بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ

Roll No. 8745

D 10

BOARD OF INTERMEDIATE AND SECONDARY EDUCATION

Peshawar N.W.F.P. Pakistan
 Intermediate Examination
 Humanities, Group



SESSION 1982 (SUPPLEMENTARY)

THIS IS TO CERTIFY THAT Abdul Hameed

Son/Daughter of Saifullah


and a resident of Peshawar District

Registered No. 117-B/Ch-79 has passed the Intermediate Examination of the Board of Intermediate & Secondary Education, Peshawar held in November, 1982.

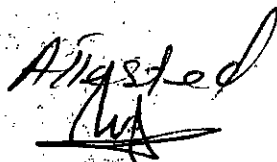
as a *Private Candidate*. He/She obtained 450 Marks out of 1000

and has been placed in Grade **D** Representing Fair

The examination was taken in parts.


 Asst. Secretary

8th January, 1983.



 Head Master

Govt. High School
 Prang Ghar
 Mohmand Agency

Secretary

This certificate is issued without alteration or erasure.

ATTESTED



عبدالحق صاحب

University of Peshawar

(Pakistan)

Session Autumn-1905

Abdul Hamid Son of Saifullah

and a student

of Govt College, Landi Kotla (Karnal Agency) having passed the prescribed examination

in August, 1905 number Roll No. 2738 and was admitted

by the University of Peshawar to the Degree of

Bachelor of Arts

in the Third Division

was permitted to appear in the same examination

in September, 1905 and obtained Second Division

Serial No 000273

Registered No. 91-LK-31

Roll No. 5675

[Signature]



Head Master
Govt. High School
Mokhammad Agency.

[Signature]
Registrar

Countersigned

[Signature]
Vice-Chancellor

ATTESTED

[Signature]

20TH JANUARY, 1905

E 11

F (12)

Allama Iqbal Open University Islamabad



Serial No. 63187

Certified that Mr. / Ms. ABDUL HAMEED

Son / Daughter of SAIF ULLAH

Registration No: 00-NCA-0633 Roll No: K-0144519

having completed the prescribed requirements in semester
AUTUMN 2001

is awarded the degree of:

Bachelor of Education (B.Ed)

He / She has secured 56 % marks and has been placed in B grade.

Fajr
CONTROLLER OF EXAMINATIONS
August 12, 2002
Result declared on:
July 06, 2004
ISLAMABAD. DATED:



VICE-CHANCELLOR

THIS DEGREE IS TO BE READ IN CONJUNCTION WITH THE TRANSCRIPT, ISSUED SEPARATELY

Attest
Head Master
Govt High School
Prang Qhar
Islamabad Agency.

ATTESTED

913

بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ

University of Peshawar

(Pakistan)

Session: ANNUAL - 1987

ABDUL HAMID Daughter/Son of SAIFULLAH and a student of UNIVERSITY OF PESHAWAR having passed the prescribed examination held in MARCH, 1989, is this day admitted by the University of Peshawar

to the Degree of Master of Arts

in the SECOND Division

The subject of examination being PASHTO

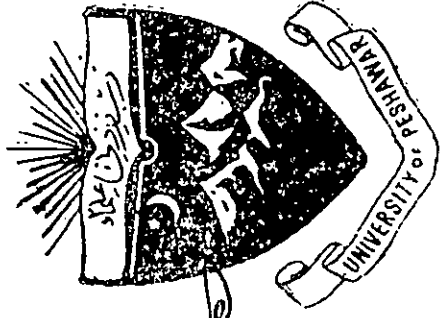
The examination was taken as a whole/in parts.

Serial No: 006636

Registered No. 81 - LN-31

Roll No. 1758

8TH MAY 19 90



Ali...

Head Master
Govt. High School
Prang Char
Mohmand Agency.

Shahul Hameed
Registrar

Countersigned

M. J. Khan
Vice-Chancellor

ATTESTED

H (14)

Allama Iqbal Open University Islamabad



21555

Serial No. _____

Certified that Mr. / Ms. ABDUL HAMEED

Son / Daughter of SAIF ULLAH

Registration No: 00-NCA-0633 Roll No: Q-673607

having completed the prescribed requirements in semester
AUTUMN 2006 is awarded the degree of:

Master of Education (M.Ed.)

He / She has secured 61 % marks and has been placed in B grade.

[Signature]
CONTROLLER OF EXAMINATIONS

Result declared on: September 04, 2007

ISLAMABAD. DATED: June 16, 2010



[Signature]
CHANCELLOR
Govt. High School
Prang Chaur
Mohmand Agency

THIS DEGREE IS TO BE READ IN CONJUNCTION WITH THE TRANSCRIPT, ISSUED SEPARATELY

[Signature]
Head Master,
Govt. High School
Prang Chaur
Mohmand Agency.

ATTESTED



GOVERNMENT OF NWFP
FINANCE DEPARTMENT
(REGULATION WING)

Dated Peshawar, the 26th January, 2008.

NOTIFICATION

NO.FD/SO(FR)10-22/2007. In supercession of this Department's letter No.SO(FR)10-22(B)/2005 dated 01-10-2007 and in pursuance of the decisions of the meeting held under the Chairmanship of Secretary Establishment on 2-1-2008, the Competent Authority is pleased to allow upgradation for the incumbents of the posts as per details given below w.e.f. 1-10-2007:-

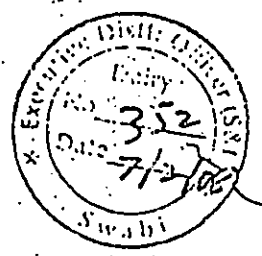
S.NO	Existing Designation and Pay Scale	Qualification	Upgraded Scale
1	Primary School Teacher (PST) (BPS-07).	FA/FSc and are trained teachers	BPS-09 (one time only)
2	Primary School Teacher (PST) with requisite experience remained as Head Teacher/Head Mistress of Primary Schools (BPS-07).	Having 10 years service.	BPS-12 (one time only)
3	CT (BPS-09).	BA/BSc and are trained teachers	BPS-15 (one time only)
4	SETs (BPS-16)	With at least ten years service. Upgradation to the post shall be made through DPC as per laid down procedure.	BPS-17
5	Qari/Qaria (BPS-07)	Hafiz Quran with SSC	BPS-12

SECRETARY TO GOVT. OF NWFP
FINANCE DEPARTMENT

Encl No. & Date even.

Copy of the above is forwarded for information and necessary action to the:-

1. All the Secretaries in NWFP, Peshawar.
2. All the DCOs/EDOs Schools & Literacy Department, NWFP.
3. Accountant General, NWFP, Peshawar.
4. Director Schools & Literacy NWFP, Peshawar.
5. Director of Education FATA NWFP, Peshawar.
6. PSO to Chief Minister, NWFP.
7. PSO to Chief Secretary, NWFP.
8. PS to Secretary Finance Department, NWFP.
9. All District/Agency Accounts Officers in NWFP.



(NAIB KHAN)
SECTION OFFICER (FR)

[Handwritten signature]

ATTESTED

EXECUTIVE DISTRICT OFFICER
Elementary & Secondary Education
SWABI

J (16)

To

The Director of Education FATA, Peshawar
Through Proper Channel

Subject:

Appeal for Grant B-17, as per Notification
Dated: 26-01-2008 on ten years service

Sir,

Most profoundly it is submitted that I joined the education deptt: as SET on 24-02-1988. I have already passed B.A, B.Ed, M.A, M.Ed with whole service having good record.

The Govt vide notification at 26-01-2008 has allowed B-17, with effect from 01-10-2007 to all SETs who have 10 years service at their credit.

I have more than 26 yeas service and may² joined SETs have been awarded B-17, as per notification mentioned above. Thus I have been kept deprived from the same benefit ^{on} the basis of arbitrary and discriminatory treatment.

Therefore it is requested that I may also be awarded B-17, from May due date by treating me at ^{as} per with those SETs ^{have been awarded} who are awarding the benefits of B-17, in light of Govt Notification at 26-01-2008.

9141/dl-29/8/2014

Your's sincerely

Abdul Hameed
(SET) GMS Nao Kaly
Prang Ghar Mohmand Agency

for awarded for further please.

[Handwritten signature]

ATTESTED

Received letter No. 9141
dated 29-8-2014. Mohmand
D.E. CPMTA D-No.
FAB
J 2/9/2014 5631
4/9/214

VAKALAT NAMA

NO. AT No 120

IN THE COURT OF SERVICE TRIBUNAL PESHAWAR

MR. ABDUL HAMEED (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

FATA EDUCATION DEPTT (Respondent)
(Defendant)

I/We ABDUL HAMEED

Do hereby appoint and constitute **M.Asif Yousafzai, Advocate, Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated 11-12-2014


(CLIENT)

ACCEPTED


M. ASIF YOUSAFZAI
Advocate

M. ASIF YOUSAFZAI
Advocate High Court,
Peshawar.

OFFICE:

Room No.1, Upper Floor,
Islamia Club Building,
Khyber Bazar Peshawar.
Ph.091-2211391-
0333-9103240

BEFORE THE KHYBER PAKHTUNKHAWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 1395/2014

Mr. Abdul Hameed (SET) GMS Nao Kalay Prang Ghar Mohmand Agency.....Appellant

.....VERSUS.....

1. The Secretary, Government of Khyber Pakhtunkhwa, Education (E&SE) Department, Civil Secretariat Peshawar.
2. Director Education FATA, Khyber Pakhtunkhwa Peshawar.
3. The Agency Education Officer Mohmand Agency.
4. The Secretary Finance KPK Peshawar Respondents.

PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO.2

Respectfully Sheweth.

PRELIMINARY OBJECTIONS.

1. That the appellant has got no cause of action/locus standi to file the instant appeal.
2. That the appellant has not come to this Honorable Tribunal with clean hands.
3. That the appellant has concealed material facts from this Honorable Tribunal.
4. That the appellant is estopped by his own conduct to bring the present appeal.
5. That the appeal is not maintainable in its present form.
6. That the appellant is bad due to non-joinder and mis-joinder of necessary parties.

Reply on Facts.

1. No comments. Pertains to record.
2. No comments. Pertains to record.
3. No comments. Pertains to record.
4. No comments relates to R. No. 4.
5. Incorrect. It is submitted for the kind information of the Honorable Service Tribunal that the subject case totally relates to R. No. 1 as all sorts of work of SET/ subject specialist/ Head Master are deal with by the said Competent Authority respondent No. 2 i.e Director of Education FATA has no power to interfere in the subject case.
6. No comments. Hence denied.

Grounds.

- A. No comments. As explained in Para No. 5 above.
- B. No comment. Relates to R. No. 1.
- C. No relevancy with the R. No. 2.
- D. Incorrect. The appellant case will be deal by the concerned respondents in accordance with law and rules.
- E. No comments as explained in Para No. D above.
- F. Respondent No. 2 also seeks permission to advance other grounds and proofs at the time of arguments.

In the light of above explained position it is humbly prayed that the appeal may very kindly be dismissed having no legal force.


Respondent No2.


Director Education FATA

AFFIDAVIT

I, the above respondent do hereby declare and affirm that the above comments are true and correct to the best of my knowledge and belief that nothing has been concealed from this Hon'ble Tribunal.

Respondent No.2


**Director Education (FATA)
FATA Secretariat Peshawar**

BEFORE THE KHYBER PAKHTUNKHAWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 1395/2014

Mr. Abdul Hameed (SET) GMS Nao Kalay Prang Ghar Mohmand Agency.....Appellant

.....VERSUS.....

1. The Secretary, Government of Khyber Pakhtunkhwa, Education (E&SE) Department, Civil Secretariat Peshawar.
2. Director Education FATA, Khyber Pakhtunkhwa Peshawar.
3. The Agency Education Officer Mohmand Agency.
4. The Secretary Finance KPK Peshawar Respondents.

PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO.2

Respectfully Sheweth.

PRELIMINARY OBJECTIONS.

1. That the appellant has got no cause of action/locus standi to file the instant appeal.
2. That the appellant has not come to this Honorable Tribunal with clean hands.
3. That the appellant has concealed material facts from this Honorable Tribunal.
4. That the appellant is estopped by his own conduct to bring the present appeal.
5. That the appeal is not maintainable in its present form.
6. That the appellant is bad due to non-joinder and mis-joinder of necessary parties.

Reply on Facts.

1. No comments. Pertains to record.
2. No comments. Pertains to record.
3. No comments. Pertains to record.
4. No comments relates to R. No. 4.
5. Incorrect. It is submitted for the kind information of the Honorable Service Tribunal that the subject case totally relates to R. No. 1 as all sorts of work of SET/ subject specialist/ Head Master are deal with by the said Competent Authority respondent No. 2, i.e Director of Education FATA has no power to interfere in the subject case.
6. No comments. Hence denied.

Grounds.

- A. No comments. As explained in Para No. 5 above.
- B. No comment. Relates to R. No. 1.
- C. No relevancy with the R. No. 2.
- D. Incorrect. The appellant case will be deal by the concerned respondents in accordance with law and rules.
- E. No comments as explained in Para No. D above.
- F. Respondent No. 2 also seeks permission to advance other grounds and proofs at the time of arguments.

In the light of above explained position it is humbly prayed that the appeal may very kindly be dismissed having no legal force.


Respondent No2.


Director Education FATA

AFFIDAVIT

I, the above respondent do hereby declare and affirm that the above comments are true and correct to the best of my knowledge and belief that nothing has been concealed from this Hon'ble Tribunal.

Respondent No.2


**Director Education (FATA)
FATA Secretariat Peshawar**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal # 1395/2014.

Abdul Hamid, SET, GMS, Nao Kaly Prang Ghar Mohmand Agency.....Appellant

VERSUS

Secretary E&SE, Deptt: Govt: of Khyber Pakhtunkhwa & others..... Respondents

Parawise Comments on behalf of Respondent No. 144.

Respectfully Sheweth,

The Respondents submit as under:-

Preliminary Objections:-

1. The appellant has got no cause of action/ locus standi.
2. The instant appeal is badly time barred.
3. The appellant has concealed the material facts from this Hon 'able Tribunal, hence is liable to be dismissed on this score.
4. The appellant has not come to this Hon 'able Tribunal with clean hands.
5. The appellant has filed the instant appeal with malafide intentions just to pressurize the Respondents for gaining illegal service benefits.
6. The present appeal is liable to be dismissed for mis-joinder & non joinder of necessary parties.
7. The instant appeal is against the prevailing law and rules.
8. The appellant is estopped by his own conduct to file the instant appeal.
9. The instant appeal is not maintainable in its present form and also in the present circumstances of the issue.
10. That the appellant is not entitled for the grant of Up-gradation in BS-17 (Personal) against the SET Post.
11. No Departmental appeal has been filed by the Appellant.
12. That the appellant is not an aggrieved person under the relevant Section-4 of Service Tribunal Act, 1974.
13. That instant Appeal is barred by Law.

FACTS.

1. Para-1 needs no comments being relates to the Service record of the appellant.
2. Para-2 is also needs no comments being pertains to the qualifying service of Appellant.
3. Para-3 also needs no comments being pertains to the professional and academic record of the Appellant.

is correct. The Govt: of Khyber Pakhtunkhwa has allowed Up-gradation in BS-17 (personal) w.e.f 01-10-2007 to those SETs who have completed ten years qualifying service and have submitted the required documents for processing and preparation of working papers for onward submission before the concerned DPC meeting for final approval. The

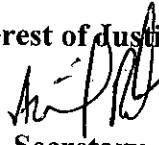
Appellant has failed to submit the required documents to the Authority concerned in spite of the repeated requests for the needful, hence he has been rejected for the grant of Up-gradation in BS-17(personal) against the SET post by the Respondent Department in the interest of justice.

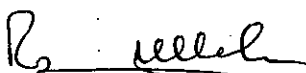
5. Para-5 is also incorrect and denied, detailed reply of this para has already been given in para-4 with the submission that no Departmental appeal has been filed by the Appellant neither any such record is available in the offices of the Respondent Department.
6. Para-6 is legal, however, the Respondents further submit on the following grounds inter-alia.

GROUND.

- A. Incorrect & denied, The Appellant has been found ineligible for the grant of Up-gradation in BS-17(personal) against the SET male post in the wake of above made submissions in para-4 of the instant reply, hence the plea of the Appellant is liable to be rejected.
- B. Incorrect and denied, the Appellant has been treated as per Law, Rules and Notification dated 26-01-2008 issued by the Finance Department Regulation Wing Govt: of Khyber Pakhtunkhwa
- C. Incorrect and denied. Detailed reply has been given in the above ~~for~~ paras.
- D. Incorrect & Denied. The statement of the Appellant regarding the non grant of Up-gradation in BS-17 regular against the SET post in the light of Notification dated 26-01-2008 w.e.f 01-10-2007 is baseless and without any legal justification in the light of the above made submission in para-4. hence denied.
- E. Incorrect & Denied, The Respondents have acted as per Law, Rules and Procedure in the instant case, therefore, the plea of the appellant is not only baseless but also liable to be struck down in favor of the replying Respondents in the interest of Justice,
- F. Legal, However, the Respondents seek leave of this Hon'able Tribunal to submit Addl: grounds/record at the time of arguments.

In view of the above made submissions, it is, therefore, most humbly prayed that this Honourable Tribunal may very graciously be pleased to dismiss the appeal in hand with cost in favour of the Respondents in the interest of Justice.


Secretary,
Elementary & Secondary Education,
Department.
(Respondent ~~NOI~~)


Secretary

Finance Department.

Solict II Respdnt No: 4

**BEFORE THE KHYBER PAKHTUNKHWA,
SERVICE TRIBUNAL, PESHAWAR.**

Service Appeal No. 1395/2014

Abdul Hamid

VS

Education Deptt:

.....

**REJOINDER TO PARA WISE COMMENTS OF RESPONDENTS
NO.1 AND 4 ON BEHALF OF APPELLANT**

.....

RESPECTFULLY SHEWETH:

Preliminary Objections:

(1-13) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

- 1 No comments endorsed by the respondent's department which mean they have admitted Para-1 of the appeal as correct by the respondents as the service record of the appellant is in the custody of respondent department.
- 2 No comments endorsed by the respondent's department which mean they have admitted Para-2 of the appeal as correct by the respondents as the service record of the appellant is in the custody of respondent department.
- 3 No comments endorsed by the respondent's department which mean they have admitted Para-3 of the appeal as correct by the respondents as the service record of the appellant is in the custody of respondent department.
- 4 In first portion of his reply Respondent's department admitted para-4 of the appeal as correct while rest of the contention of the department is incorrect hence denied.

- 5 Incorrect. While para-5 of the appeal is correct as mentioned in the appeal of the appellant. The appellant has filed departmental appeal, which is attached as **annexure-J** with the appeal.
- 6 Legal.

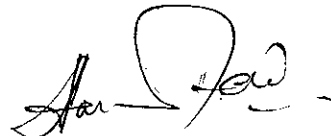
GROUNDS:

- A) Incorrect. While Para-A of the appeal is correct as mentioned in the main appeal of the appellant. Moreover, not granting BPS-17 on the basis of 10 years is against the law, rules, norms of justice and material on record.
- B) Incorrect. While Para-B of the appeal is correct as mentioned in the main appeal of the appellant. Moreover, appellant has not been treated according to law and rules.
- C) Incorrect. While Para-C of the appeal is correct as mentioned in the main appeal of the appellant.
- D) Incorrect. While Para-D of the appeal is correct as mentioned in the main appeal of the appellant.
- E) Incorrect. While Para-E of the appeal is correct as mentioned in the main appeal of the appellant.
- F) Legal.

It is, therefore, most humbly prayed that the appeal of appellant may kindly be accepted as prayed for.

APPELLANT
Abdul Hamid

Through:



(M. ASIF YOUSAFZAI)

&

(SYED NOAMAN ALI BUKHARI)
ADVOCATES, PESHAWAR.

AFFIDAVIT

It is affirmed and declared that the contents of rejoinder and appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from the Hon'able Tribunal.



DEPONENT

