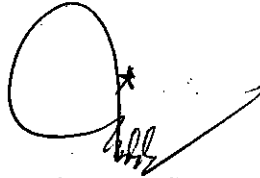


06.03.2020


None for the appellant present. Mr. Ziaullah, DDA alongwith Mr. Shahab Khattak, Legal Advisor for respondents present. Called for several times but no one appeared on behalf of the appellant, as such the instant appeal is hereby dismissed for non-prosecution. File be consigned to the record room.

Announced:

06.03.2020



(Mian Muhammad)  
Member



(Muhammad Amin Khan Kundi)  
Member

24.09.2019

Appellant in person and Mr. Ziaullah, Deputy District Attorney for the respondents present. Appellant requested for adjournment on the ground that his counsel is not available today. Adjourned to 29.11.2019 for arguments before D.B.

  
(Hussain Shah)  
Member

  
(M. Amin Khan Kundi)  
Member

29.11.2019

Appellant in person present. Asst: AG alongwith Mr. Shahab Khattak, Legal Advisor for respondents present. Appellant seeks adjournment as his counsel is not available today. Adjourn. To come up for arguments on 22.01.2020 before D.B.

  
Member

  
Member

22.01.2020

Due to general strike on the call of the Khyber Pakhtunkhwa Bar Council, learned counsel for the appellant is not available today. Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present. Adjourned to 06.03.2020 for arguments/ further proceedings before D.B.

  
(Hussain Shah)  
Member

  
(M. Amin Khan Kundi)  
Member

14.06.2019

None present on behalf of the appellant. Mr. Kabirullah Khattak, Additional AG for the respondent present. Neither written reply on behalf of respondents submitted nor representative of the department is present therefore, notice be issued to the respondents with the direction to direct the representative to attend the court and submit written reply on the next date positively. Adjourned to 10.07.2019 for written reply/comments before S.B. Notice be also issued to the appellant for attendance for the date fixed.

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

10.07.2019

Appellant in person and Addl: AG alongwith Mr. Shahab Khattak, Legal Advisor for respondents present.

Learned counsel for the respondents states that the respondents rely on judgment of this Tribunal passed in appeal no.1085/13 on 25.04.2019 and do not feel it necessary to submit written reply to the appeal. To come up for arguments before D.B on 24.09.2019 before D.B.

  
Chairman

04.01.2019

Clerk of counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG for the respondents present. Neither written reply on behalf of respondents submitted nor representative of the department is present therefore, notice be issued to the respondents with the direction to direct the representative to attend the court and submit written reply on the next date positively. Adjourned. To come up for written reply/comments on 19.03.2019 before S.B.

  
(Muhammad Amin Khan Kundi)  
Member

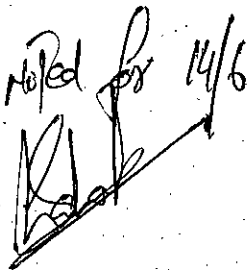
19.03.2019

Appellant in person present. Mr. Kabirulalh Khatak learned Addl; AG alongwith Mr. Shahab Khan legal Advisor for the respondents present and seeks time to file written reply /comments. Adjourn. To come up for written reply/comments on 19.04.2019 before S.B.

  
Member

19.04.2019

Clerk to counsel for the appellant present. Written reply not submitted. <sup>Mr</sup> Shahab Khattak Legal Advisor representative of the respondent department absent. He be summoned with direction to furnish written reply/comments. Last opportunity is granted. Adjourn. To come up for written reply/comments on 14.06.2019 before S.B.

  
Noted for 14/6

  
Member

08.08.2018 Counsel for the appellant and Mr. Kairullah Khattak, Additional Advocate General present. Written reply not submitted. Requested for adjournment. Adjourned. Another last opportunity is granted. To come up for written reply/comments on 03.10.2018 before S.B.

*M.A.*  
Muhammad Amin Khan Kundi  
Member

03.10.2018 Clerk of the counsel for appellant present. Mr. Kabirullah Khattak, Additional AG for the respondents present. Written reply not submitted despite last chance. Learned Additional AG requested for further adjournment. Another last opportunity granted. Adjourned. To come up for written reply/comments on 16.11.2018 before S.B.

*M.A.*  
(Muhammad Amin Khan Kundi)  
Member

*16-11-2018* Due to Retirement of Honorable Chairman the Tribunal is non functional therefore the case is adjourned to come up for the same on 4-1-2018  
*Agreed*  
*Reader*

22.03.2018. Learned counsel for the appellant and learned Additional Advocate General for the respondents present. Learned counsel for the appellant requested for the impleadment of proper/necessary parties in the memo of appeal and for the purpose to submit amended appeal. Request accepted. To come up for amended appeal on 05.04.2018 before S.B

  
Member

05.04.2018 Appellant absent. Junior counsel present on behalf of appellant. Mr. Kabir Ullah Khattak, Additional AG for the respondents present. Amended appeal not submitted. The appellant again is directed to submit amended appeal on the next date fixed. To come up for amended appeal on 10.05.2018 before S.B.

  
Member

10.05.2018 The Tribunal is non-functional due to retirement of our Hon'ble Chairman. Therefore, the case is adjourned. To come up for same on 04.07.2018.


  
Reader

04.07.2018 Junior counsel for appellant and Mr. Sardar Shaukat Hayat, Addl. for the respondents present. Written reply not submitted. Requested for further adjournment. Adjourned. Last opportunity is granted. To come up for written reply/comments on 08.08.2018 before S.B.

  
Member

**01.01.2018**

Clerk of the counsel for appellant present and Assistant AG and Mr. Shahab Khattak, Legal Coordinator for respondents No. 3 & 4 present. Written reply not submitted Learned Assistant AG requested for further adjournment. To come up for written/comments on 17.01.2018 before S.B.

  
(Gul Zeb Khan)  
Member (E)

**17.01.2018**

Clerk of the counsel for appellant present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Zarghoon Shah, Deputy Director Technical Education for the respondents also present. Written reply on behalf of respondents not submitted. Learned Additional AG requested for further adjournment. Adjourned. To come up for written reply/comments on 19.02.2018 before S.B.

  
(Muhammad Amin Khan Kundi)  
Member

**19.02.2018**

Appellant in person present. Mr. Riaz Paindkhel, Assistant AG present. None present on behalf of respondent department therefore, fresh notice be issued to the respondent department for submission of written reply/comments on 22.03.2018 before S.B.

  
(Gul Zeb Khan)  
Member

Service Appeal No. 14/2014

04.10.2017

Appellant in person present. Mr. Kabirullah Khattak, Additional AG for the respondents also present. Written reply on behalf of respondents not submitted. Learned Additional AG requested for adjournment. Adjourned. To come up for written reply/comments on 08.11.2017 before S.B.


  
(Muhammad Amin Khan Kundi)  
Member

08.11.2017

Counsel for the appellant, Mr. Usman Ghani, District Attorney and Mr. Shahab Khattak, Legal Coordinator for respondents no. 3 and 4 present. Written reply not submitted. Requested for adjournment. Adjourned. To come up for written reply/comments on 07.12.2017 before S.B.

07.12.2017

Junior counsel for the appellant present. Mr. Riaz Khan, Pajinda Khan Assistant AG and Mr. Shahab Khattak, Legal Coordinator for respondents No. 3 and 4 present. Written reply not submitted. Requested for adjournment. Adjourned. To come up for written reply/comments on 01.01.2018 before S.B.

  
(Gul Zeb Khan)  
Member (E)



02.08.2017

Appellant in person present. Record reveals that the instant appeal was dismissed in default vide order sheet dated 21.09.2015, but later on vide order sheet dated 02.03.2017 the appeal was restored. So far the appeal is not admitted for regular hearing, therefore, case to come up for preliminary hearing on 16.08.2017 before S.B.

  
(Muhammad Amin Khan Kundi)  
Member

16.08.2017

Counsel for the appellant present and seeks adjournment. Adjourned. To come up for preliminary hearing on 31.08.2017 before S.B.

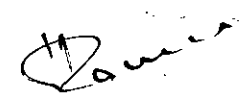
  
(Ahmad Hassan)  
Member

31.08.2017

Learned counsel for the appellant present. Preliminary argument heard. Appellant has filed the present appeal seeking relief in accordance with Regularization of Services Act, 2009 with consequential benefits.

Points agitated and raised in the grounds of appeal need consideration. Admitted for regular hearing, subject to all just exceptions. The appellant is directed to deposit security and process fee within 10 days, notices be issued to the respondent for written reply/comments for 4-10-2017. before S.B.

Appellant Deposited  
Security & Process Fee

  
(Muhammad Hamid Mughal)  
Member (J)

14/14  
11.04.2017

11.04.2017

Clerk of counsel for the appellant and Asstt. AG for the respondents present. Requested for adjournment as counsel for the appellant is busy in other cases. Adjourned for preliminary hearing to 15.05.2017 before S.B.

  
Chairman

15.05.2017

Appellant in person and Addl. AG for the respondents present. Written reply not submitted. Requested for adjournment. Request accepted. To come up for written reply/comments on 01.07.2017 before S.B.

  
(Ahmad Hassan)  
Member

04.07.2017

Appellant in person and Addl: AG for respondents present. Written reply not submitted. Requested for adjournment. Last opportunity granted. To come up for written reply/comments on 02.08.2017.

  
(Ahmad Hassan)  
Member

20.12.2016

Counsel for the appellant present. Arguments heard and case file perused. Last dates of hearing notice were issued to the respondents but non appeared on behalf of the respondents today. Fresh notices be issued to the respondents alongwith Addl: AG. To come up for reply and arguments on restoration application on 26.01.2017.

  
(MUHAMMAD AMIR NAZIR)  
MEMBER

26.1.2017

Junior to counsel for the petitioner and Addl: AG for respondents present. Learned Addl. Seeks adjournment. To come up for reply and arguments on application on 02.03.2017 before S.B.


  
Chairman

02.03.2017

Counsel for the petitioner and Asstt. AG for the respondents present. Arguments on restoration application heard and record perused.

The appeal was dismissed in default vide order dated 30.08.2016 while application for restoration of the same has been submitted on 08.09.2016. As such the same is within time. Application is therefore accepted and the appeal is restored.

Appellant has not deposited security and process fee. Last opportunity for the same is granted which shall be deposited within a week and where-after notices be issued to the respondents. To come up for written reply/comments on 11.04.2017 before S.B.

  
CHAIRMAN  
02.03.2017




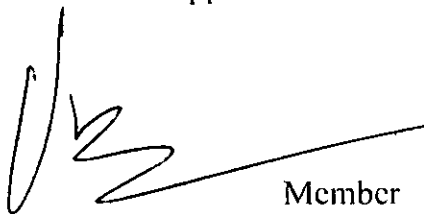
Amir Nazir  
Secy



Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

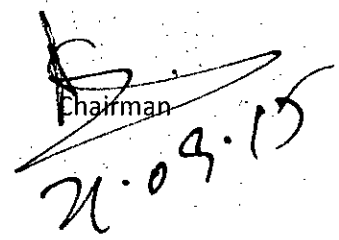
Restoration application No. 169 /2016

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	08.09.2016	<p>The application for restoration of appeal No.14/2014 submitted by Mr. Asif Khan through Jehanzeb Mahsud Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2	<u>15-09-2016</u>	<p>This restoration application is entrusted to S. Bench to be put up there on <u>16-9-16</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	16.09.2016	<p>None present for the applicant. Notices be issued to the parties. Record of the appeal be also requisitioned from record room. To come up for reply and arguments on restoration application on 04.11.2016 before S.B.</p> <p style="text-align: right;"> Chairman</p>
	4.11.2016	<p>Counsel for the petitioner and Assistant AG for the respondents present. Through the instant petition, the petitioner seeks restoration of service appeal which was dismissed in default on 30.08.2016. Let a notice be issued to the respondents for submission of reply to application. To come up for reply and arguments on restoration application on 20.12.2016 before S.B.</p> <p style="text-align: right;"> Member</p>

21.09.2015

None present for appellant despite repeated calls. Mr. Kabirullah Khan Khattak, Assistant AG for respondents present. The Court time is about to over. Dismissed for want of prosecution. File be consigned to the record.

ANNOUNCED  
21.9.2015.

  
Chairman  
21.09.15

14

30.07.2015

None present for appellant. Assistant A.G for respondents present.  
Notice to counsel for the appellant be issued for 12.8.2015 for preliminary hearing before S.B.

  
Chairman

12.08.2015

Agent of counsel for the appellant and Assistant A.G for respondents present. Learned counsel for the appellant is stated busy at D.I.Khan. Adjourned to 25.8.2015 for preliminary hearing before S.B.

  
Chairman

16

25.08.2015

Agent of counsel for the appellant and Assistant A.G for respondents present. Learned counsel for the appellant is not in attendance. Last opportunity granted. To come up for preliminary hearing on 31.8.2015 before S.B.

  
Chairman

17

31.08.2015

Appellant in person present. Learned counsel for the appellant is not in attendance due to strike of the Bar. Adjourned to 21.9.2015 for preliminary hearing before S.B.

  
Chairman

Appeal No. 14/2014.

10.

05.03.2015

No one is present on behalf of the appellant. Notice be issued to the learned counsel for the appellant. To come up for preliminary hearing on 04.05.2015.



Member

11.

04.05.2015

Clerk of counsel for the appellant present, and requested for adjournment. Request accepted. To come up for preliminary hearing for 11.06.2015 before S.B.



Member

12

11.06.2015

Junior to counsel for the appellant present. Requested for adjournment as senior counsel for the appellant is stated busy before the august Peshawar High Court. Adjourned for preliminary hearing to 2.7.2015 before S.B.



Chairman

13

02.07.2015

Counsel for the appellant is not in attendance. Assistant A.G for respondents present. Adjourned to 30.7.2015 for preliminary hearing before S.B.



Chairman

7.  
Reader Note.

11.09.2014

Counsel for the appellant and Mr. Kabiruulah Khattak, Assistant Advocate General for the respondents present present. The learned Member (Judicial) is not working due to a recent order of the Hon'ble Peshawar High Court, Peshawar effecting his status as District and Session Judge. To come up for preliminary hearing on 18.11.2014.

  
Reader

8.  
Reader Note:

18.11.2014

Counsel for the appellant present. Since the Tribunal is incomplete, therefore, case is adjourned to 31.12.2014 for the same.

  
Reader

9.  
Reader Note:

31.12.2014


No one is present on behalf of the appellant Mr. Kabirullah Khattak, Asst: Advocate General for the respondents present. Since the Tribunal is incomplete, therefore, case is adjourned 05.03.2015 for the same.

  
Reader



3.  
04.03.2014

Clerk to counsel for the appellant present and requested for adjournment due to general strike of the Bar. To come up for preliminary hearing on 18.04.2014.

  
Member

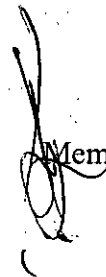
4.  
18.04.2014

Counsel for the appellant present and requested for adjournment. To come up for preliminary hearing on ~~14~~ 05.2014.

  
Member


5.  
19.05.2014

Counsel for the appellant present. Preliminary arguments partly heard. Pre-admission notice be issued to the learned GP to assist the Tribunal. To come up for preliminary hearing on ~~01~~ 07.2014.

  
Member

6.  
01.07.2014



Clerk of counsel for the appellant and Mr. Ziaullah, GP for the respondents present. Clerk of counsel for the appellant requested for adjournment. Request accepted. To come up for preliminary hearing on 11.09.2014.

  
Member

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 14/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1.	2	3
1	06/01/2014	<p>The appeal of Mr. Asif Khan presented today by Mr. Jahanzeb Mahsud 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	7-1-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>4-3-2014</u></p> <p style="text-align: right;"> CHAIRMAN</p>
2		<p><del>The appeal of Mr. Asif Khan presented today by Mr. Jahanzeb Mahsud Advocate may be entered in the Institution register and put-up to the Worthy Chairman for preliminary hearing.</del></p>

IN THE KHYBER PAKHTUNKHAWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 14 of 2014

Asif Khan

.....Appellant

Versus

Province of Khyber Pakhtunkhawa & Others

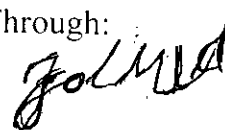
.....Respondents

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Sr. No.	Description of Documents	Annx	Page
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2.	Copy of Appointment Order	A	8
3.	Copy of the extension of contract	B	9-11
4.	Copy of the Act, 2009	C	12-13
5.	Copy of the Judgment dated 08.03.2012	D	14-28
6.	Copy of Notification dated 31.12.2012	E	29-33
7.	Copy of pay roll and departmental Appeal	F&G	34-35
7.	Power of Attorney (Vakalatnama)		36

Appellant

Through:



**Jahanzeb Mahsud**

**Advocate High Court**

Office No -205-B, 4<sup>th</sup> Floor,

Town Tower,

University Road, Peshawar.

0333-9143005

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IN THE KHYBER PAKHTUNKHAWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 14 of 2014

Asif Khan, Lecturer in Physics Government College of Technology, Sawabi.

.....Appellant

Versus

N.W.F. Peshawar  
20  
06-1-14

1. **Province of Khyber Pakhtunkhawa,**  
Through Chief Secretary,  
Peshawar.
2. **Additional Chief Secretary FATA,**  
FATA Secretariat,  
Warsak Road,  
Peshawar.
3. **Secretary,**  
Industries, Commerce & Technical Education,  
Government of Khyber Pakhtunkhawa,  
Peshawar.
4. **Director General,**  
Technical Education and Manpower Training, Khyber Pakhtunkhawa,  
Benevolent Building, Peshawar Saddar,  
Peshawar
5. **Director,**  
Technical Education, FATA,  
FATA Secretariat, Warsak Road,  
Peshawar.

.....Respondents

**APPEAL** UNDER SECTION 4 OF THE N.W.F.P. SERVICE TRIBUNALS ACT, 1974 FOR PAYMENT OF SALARY TO THE APPELLANT FROM THE DATE HE WAS ENTITLED TO REGULARIZATION UNDER N.W.F.P (REGULARIZATION OF SERVICES) ACT, 2009 TILL THE ISSUANCE OF THE OFFICE ORDER No.SO III(IND)TE/3-9/2012 DATED 31.12.2012, WHEREBY THE APPELLANT'S SERVICES WERE REGULARISED UNDER N.W.F.P (REGULARIZATION OF SERVICES) ACT, 2009 AND THE DETERMINATION OF HIS SENIORITY AS PER SECTION 4 OF THE SAID ACT.

*[Handwritten signature]*  
6/1/14

**PRAYER** TO TREAT THE APPELLANT AS REGULARIZE FROM DATE OF PROMULGATION OF THE REGULARIZATION ACT OF 2009 AND TO RELEASE HIM THE SALARY TILL THE ISSAUNCE OF THE NOTIFICATION DATED 31.12.2012 AND ACCORDINGLY DETERMINATION OF HIS SENIORITY.

Humbly sheweth:

**FACTS:**

Facts leading to the institution of the instant Appeal are as under:

- 1- **That** the Appellant was appointed on contract vide office order Endst: No. DTE/FATA/Apptt: / 815-20 Dated 27.09.2004 as Instructor by the Directorate of Technical Education FATA, FATA Secretariat in Government College of Management Sciences Ghallani, Mohmand Agency.

**True** copy of the Appointment letter is annexed herewith as mark "A"

- 2- **That** the Appellant was performing his duties to the best of his abilities and the Respondents extended his services on contract from time to time. It is important to mention that the Appellant was holding his post on contract on 31<sup>st</sup> December, 2008.

**True** Copy is annexed herewith as mark "B"

- 3- **That** the Provincial Government of Khyber Pakhtunkhawa passed an Act N.W.F.P Employees (Regularization of Services) Act, 2009 (N.W.F.P ACT NO. XVI of 2009) whereby the services of all the employees who were holding a post "on contract or adhoc basis and holding that post on 31.12.2008 or till the commencement of this Act shall be deemed to have been validly appointed on regular basis having the same qualification and experience for a regular post".

**True** copy of the Act is annexed herewith as mark "C"

- 4- **That** Appellant being equally entitled to benefits granted through the Act, applied to the Respondents for regularization of his service under the Act. And on refusal of the Respondents, the Appellant filed a writ Petition before the Honourable Peshawar High Court, Peshawar. The relief sought by the Appellant from the Honourable Court was the regularization of his services under the beneficial provisions of N.W.F.P Employees (Regularization of Services) Act, 2009. It would be appropriate to mention that the Respondents stopped

payment of salaries to the Appellant since 30<sup>th</sup> June, 2010 and the Appellant was performing his duty without getting any salary.

- 5- **That** the Appellant Writ Petition was allowed by the Honourable Court vide judgment and order dated 08.03.2012 wherein directions were given in the following words **“we, therefore, issue writ in favour of the Petitioners and against the Respondents to the effect that the Petitioners shall be deemed to be regular and permanent employees of Respondent No 1 & 2 Department within the meaning of N.W.F.P (Regularization of Services) Act, 2009 and the Respondents are directed to issue notification of their regularization within a period of one month”**.

True Copy of the Order dated 08.03.2012 are annexed herewith as mark “D”

- 6- **That** in spite of the elapsed of the one month period, Respondents failed to comply with the clear directions of the Honourable Court. It was finally on 31.12.2012, that a notification was issued by the Respondents whereby the services of the Appellant were regularized under the Regularization Act of 2009. Relevant portion of the Notification is reproduced below:

“ In pursuance of the Peshawar High Court, Peshawar judgment dated 08.03.2012 announced in Writ Petition No 1289/2010 the competent authority has been pleased to regularize the services of the following employees of Technical Education under the N.W.F.P (Regularization of Services) Act 2009 with immediate effect:”

True Copy of the Notification dated 31.12.2012 are annexed herewith as mark “E”

- 7- **That** the Respondents regularize the services of the Appellant under the Regularization Act of 2009 as mentioned in the Notification, however, the salary that has been given to the Appellant is of fresh candidate. And except for appointment of the Appellant on regular basis, the Respondents have not given any benefit to the Appellant to which he is entitled under the Regularization Act.

True Copy of the Pay Roll is annexed herewith as mark “F”

8- **That** the Appellant duly filed his Departmental Representation before the competent authority, wherein he prayed for payment of his salary as per his entitlement under the Act (from the date of the regularization of his services i.e. 1<sup>st</sup> January, 2009) as extended to other contract employees whose services were regularize under the Act and also prayed for the release of his salary from 30.06.2010 till the date of his regularization. At the same time, the Appellant also requested for determination of his seniority as per mandate of Section 4 of the Act, but no heed has been paid by the Respondents to his representation.

**True** Copy of the Departmental Appeal is annexed herewith as mark "G"

9- **That** on failure of the Respondents to decide his departmental representation dated 10.09.2013, within the statutory period of ninety (90) days, the Appellant being dissatisfied by the action and inaction of the Respondents, approaches this Hon'ble Tribunal and challenges and seeks the release of his salary/payment as per his entitlement in view his regularization of services under the Act and accordingly his seniority *inter alia* on the following grounds:

**GROUND:**

- A- **Because** the inaction of the Respondents whereby the Appellant services has not been regularized in accordance with the mandate of Employees Regularization Act of 2009 and the refusal of the Respondents to pay him his salaries from date of promulgation of the Act, 2009 violates the right guaranteed and secured to him under the law.
- B- **Because** it offends the provision of Art. 4 of the Constitution to enjoy the protection of the law and to be treated in accordance with law which is the inalienable right of every citizen, wherever he may be, and of every other person for the time being within Pakistan.
- C- **Because** the action of the Respondents is discriminatory and in blatant violation of Articles 9 and 25 of the Constitution of Pakistan as similar other contract employees whose services were regularized under the Act, their salaries have been increased from 1<sup>st</sup> January, 2009 with retrospective effect.
- D- **Because** the action of the Respondents is bad in law.



**E- Because** the Appellant was entitled to regularization from the commencement of the employees regularization of services Act, and also entitled to the pay and other benefits from 1<sup>st</sup> January, 2009. Moreover, the Appellant was not paid any salary from 30<sup>th</sup> June, 2010 till the issuance of the afore-mentioned notification on 31<sup>st</sup> December, 2012 though he was performing his duty in the his college. *Mala fide* is apparent.

**F- Because** the seniority of the Appellant has also not yet been determined in spite of the specific provision provided for in the Act itself i.e. section 4 of the Act.

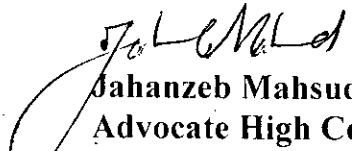
**G- Because** the Appellant crave for leave to add further grounds at the time of his oral arguments before this Hon'ble Court highlighting further contraventions of the provisions of the law which adversely affected the Petitioner.


**PRAYER:**

In view of the foregoing submissions, the Appellant humbly prays that his appeal may be allowed and his salary and seniority be determined in the light of N.W.F.P (Regularization of services) Act, 2009.

Any further better relief may also kindly be granted in the circumstances of the Appellant's case.

  
**Appellant**  
Through:

  
**Jahanzeb Mahsud**  
Advocate High Court

  
**Kashan Abdullah Mahsud**  
Advocate High Court

IN THE KHYBER PAKHTUNKHAWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. \_\_\_\_\_ of 2013

Asif Khan

.....Appellant

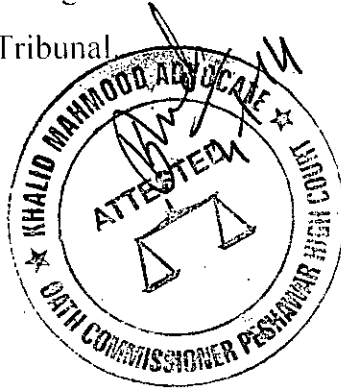
Versus

Province of Khyber Pakhtunkhawa & Others

.....Respondents

AFFIDAVIT

I, Asif Khan, Lecturer (Physics) , Government College of Technology, Swabi do hereby solemnly declare and affirm that the contents of the accompanying service appeal are true and correct to the best of my knowledge and information and nothing material has been kept concealed from this Hon'ble Tribunal



Signature  
16202-0977677-1  
DEPONENT

Identified by:

Signature of Jahanzeb Mahsud  
Jahanzeb Mahsud  
Advocate High Court

IN THE KHBER PAKHTUNKHAWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. \_\_\_\_\_ of 2013

**Asif Khan**

Versus

**Province of Khyber Pakhtunkhawa & Others**

MEMO OF ADDRESS

**Asif Khan**, Lecturer in Physics Government College of Technology, Sawabi.

.....Appellant

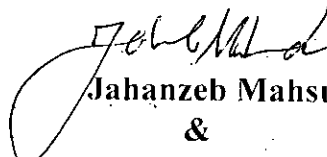
Versus

- 1- **Province of Khyber Pakhtunkhawa**,  
Through Chief Secretary,  
Peshawar.
- 2- **Additional Chief Secretary FATA**,  
FATA Secretariat,  
Warsak Road,  
Peshawar.
- 3- **Secretary**,  
Industries, Commerce & Technical Education,  
Government of Khyber Pakhtunkhawa,  
Peshawar.
- 4- **Director General**,  
Technical Education and Manpower Training, Khyber Pakhtunkhawa,  
Benevolent Building, Peshawar Saddar,  
Peshawar
- 5- **Director**,  
Technical Education, FATA,  
FATA Secretariat, Warsak Road,  
Peshawar.

.....Respondents

Appellant

Through:

  
**Jahanzeb Mahsud**  
 &  
**Kashan Abdullah Mahsud**  
 Advocates High Court Peshawar

DIRECTORATE OF TECH:EDU (FATA)  
GOVERNOR'S SECRETARIAT (FATA)  
WARSAK ROAD PESHAWAR.

## OFFICE ORDER

Mr. Asif Khan S/O Noor Rahim is hereby appointed as Instructor(Physics) on fixed pay @ Rs. 8000/- P.M in Government College of Management Sciences, Ghalaanai Mohmand Agency w.c.f. date of taking over the charge. His appointment is subject to the following terms and conditions:-

## TERMS AND CONDITIONS:

- 1) His appointment will be purely on fixed pay and his service can be terminated at any time without assigning any reason.
- 2) His period of selection is for one year only or till the creation of regular posts/arrival of NWFP Public Service Commission nominee whichever is earlier.
- 3) He will not be considered for regularization at any stage at any time being an employee on fixed pay.
- 4) He will be governed by such rules and orders as may be prescribed and issued by the Government from time to time for the category of the Government Servants to which he belongs.
- 5) He will have to perform any duty assigned to him in connection with the affairs of this department.
- 6) He will not be entitled for any TA/DA for joining service.
- 7) If he wishes to accept the post on the above terms and conditions, he should report for duty to the Principal GCMS, Ghalaanai Mohmand Agency immediately failing which the offer of appointment will be treated as cancelled.
- 8) The offer shall be automatically held cancelled if he fails to join in 15 days of the receipt of this offer.


-Sd-

Secretary to Governor  
Governor's Secretariat(FATA).

Endst:No. DTE/FATA/Apptt:/ 815-20Dated 27/9/2004.

Copy forwarded for information and necessary action to:-

1. The A.G.P.R (Sub Office), Peshawar.
2. The Director, Technical Education and Manpower Training, NWFP, Peshawar.
3. The Principal, GCMS, Ghalaanai Mohmand Agency.
4. The Political Agent Mohmand Agency.
5. The Agency Accounts Officer Mohmand Agency.
6. The Officer/Official concerned.
7. Personal files/Office copy.

  
DEPUTY DIRECTOR(TE)FATA

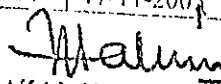
ANNEXURE B  
9

DIRECTORATE OF TECHNICAL EDUCATION (FATA)  
GOVERNOR'S SECRETARIAT (FATA)  
PESHAWAR.

Notification.

The Competent Authority is pleased to extend the contract appointment of the following Instructors, Director Physical Education (D.P.E.) and Librarian in the Government College of Management Sciences (GCMS) and Government Technical Institute (GTIs) in FATA for a further period of one year w.e.f the dates or till the arrival of NWFP Public Service Commission selectees w.e.f the dates noted against each on the existing terms and condition.

S. No	Name and Designation of Instructors	Date of appointment	Date of expiry of contract period	Date of one year extension	Date of 2 <sup>nd</sup> year extension
1) Government College of Management Sciences, Miranshah (N.W. Agency)					
	1. Mr. Qudrat Ullah Khan Librarian	01-10-2004	30-09-2005	30-09-2006	30-09-2007
	2. Mr. Asim Khan, Instructor (Com: Scie:)	07-10-2004	06-10-2005	07-10-2006	05-10-2007
	3. Mr. Mian Gul Khan, Inst(Buss:Admn)	01-10-2004	30-09-2005	30-09-2006	30-09-2007
	4. Mr. Shahid Khan Masood, Instructor (Com: Scie:)	13-10-2004	12-10-2005	11-10-2006	10-10-2007
	5. Mr. Asad Rauf, Instructor (Physics)	01-10-2004	30-09-2005	30-09-2006	30-09-2007
	6. Mr. Farid Ullah, Instructor (Com: Scie:)	09-10-2004	10-10-2005	09-10-2006	10-10-2007
	7. Mr. Asif Iqbal, Instructore (English)	01-10-2004	30-09-2005	30-09-2006	30-09-2007
	8. Mr. Nisar Khan, Instructor(Buss:Admn)	01-10-2004	30-09-2005	30-09-2006	30-09-2007
	9. Mr. Faisal Islam, D.P.E.	01-10-2004	30-09-2005	30-09-2006	30-09-2007
2) Government College of Management Sciences, Ghallani (Mohmand Agency)					
	1. Mr. Hidayat Khan, Instructor (Comp:Scie)	28-09-2004	27-09-2005	26-09-2006	26-09-2007
	2. Mr. Shahid Alam, Instructor (Com: Scie:)	07-10-2004	06-10-2005	05-10-2006	05-10-2007
	3. Mr. Asif Khan, Instructor (Physics)	01-10-2004	30-09-2005	30-09-2006	30-09-2007
	4. Mr. Sajid Nawaz, Instructor (Buss: Admn:)	29-09-2004	28-09-2005	28-09-2006	28-09-2007
	5. Mr. Asim Rehman, Instructor (Buss:Admn)	01-10-2004	30-09-2005	30-09-2006	30-09-2007
	6. Mr. Haseeb-ur-Rehman, Instructor (B.A)	05-10-2004	04-10-2005	03-10-2006	03-10-2007
	7. Mr. Adnan Sohail, D.P.E.	01-10-2004	30-09-2005	30-09-2006	30-09-2007
	8. Mr. Shahidullah, Instructor(Comp: Scie:)	28-09-2004	27-09-2005	26-09-2006	26-09-2007
3) Government College of Management Sciences, Parachinar (Kurram Agency)					
	1. Mr. Israr-ud-Din, Instructor(Comp:Scie:)	09-10-2004	08-10-2005	07-10-2006	07-10-2007
	2. Mr. Kashif Amin, Instructor(Comp:Scie:)	13-12-2004	12-12-2005	11-12-2006	11-12-2007
	3. Mr. Kiffat Ullah, Instructor(Buss: Admn)	01-10-2004	30-09-2005	30-09-2006	30-09-2007
	4. Mr. Noor-ul-Wahab, D.P.E.	13-11-2004	12-11-2005	11-11-2006	11-11-2007
	5. Mr. Hidayat Ullah, Librarian	01-10-2004	30-09-2005	30-09-2006	30-09-2007
	6. Mr. Ikramullah, Instructor(Bus:Admn)	01-10-2004	30-09-2005	30-09-2006	30-09-2007
4) Government College of Management Sciences, Khar (Bajaur Agency)					
	1. Mr. Saz Wali, Instructor (Business Admn)	05-11-2005	04-11-2005	04-11-2006	04-11-2007
	2. Mr. Muhammad Raees, Instructor (C. S)	01-10-2004	30-09-2005	30-09-2006	30-09-2007
5) Government Technical Institute, Bara (Khyber Agency)					
	1. Mr. Muhammad Tufail Awan, Instructor (Computer Science)	05-10-2004	04-10-2005	03-11-2006	03-11-2007
	2. Mr. Masood Gul, Instructor (English)	10-11-2004	09-11-2005	08-11-2006	08-11-2007
	3. Mr. Bait Ullah, Instructor (Physic)	04-10-2004	04-10-2005	04-10-2006	04-10-2007
6) Government Technical Institute, Ekka Ghund (Mohmand Agency)					
	1. Mr. Rehmat Khan, Instructor (Electronic)	05-11-2004	04-10-2005	03-10-2006	03-11-2007
	2. Mr. Hatif Ahmad, Instructor (Physic)	01-10-2004	30-09-2005	30-09-2006	30-09-2007
	3. Mr. Sami Ullah, Jr. Instructor (Tele-Com)	20-11-2004	19-11-2005	19-11-2006	19-11-2007
	4. Mr. Muhammad Imran, Instructor (Comp:Scie)	01-10-2004	30-09-2005	30-09-2006	30-09-2006
7) Government Technical Institute, Sadda (Kurram Agency)					
	1. Mr. Abid Rehman, Instructor (English)	08-11-2004	07-11-2005	06-11-2006	06-11-2007
	2. Mr. Naimat Ullah, Instructor (Physic)	18-11-2004	17-11-2005	17-11-2006	17-11-2007

  
 (FAZAL HAKIM)  
 DEPUTY DIRECTOR  
 TECHNICAL EDUCATION (FATA)  
 GOVERNOR SECRETARIAT PESHAWAR.

ENDST/No.DTE&MT/P&D/FATA/1-35/4365-77 C1-12)

Dated 13/10/2006.

Copy is forwarded to:-

- 1- The Director, Technical Education, NWFP, Peshawar.
- 2- The Accountant General, (PR), Sub-Office, Peshawar.
- 3- P.S. to Secretary FATA, Governor Secretariat Peshawar.

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13/1/07

DIRECTORATE OF TECHNICAL EDUCATION (FATA)  
GOVERNOR'S SECRETARIAT (FATA)  
PESHAWAR.

**Notification.**

The Competent Authority is pleased to extend the contract appointment of the following staff of Government College of Management Sciences (GCMS) and Government Technical Institute (GTIs) in FATA for a further period of one year or till the arrival of NWFP Public Service Commission selectees w.e.f. the dates noted against each on the existing terms and condition.

S. No	Name and Designation	Date of appointment	Date of expiry of contract period	Date of further extension
<b>1- Government College of Management Sciences, Miranshah (N.W. Agency)</b>				
	1. Mr. Qudrat Khan, Librarian	01-10-2004	30-09-2005	30-09-2006
	2. Mr. Asim Khan, Instructor (Comp: Scie.)	07-10-2004	06-10-2005	05-10-2006
	3. Mian Gul Khan, Instructor (Buss: Admn)	01-10-2004	30-09-2005	30-09-2006
	4. Mr. Shahid Khan Masood, Inst: (Com Scie)	13-10-2004	12-10-2005	11-10-2006
	5. Mr. Asad Rafeel, Instructor (Physic)	01-10-2004	30-09-2005	30-09-2006
	6. Mr. Farid Ullah, Instructor (Com: Scie)	09-10-2004	10-10-2005	09-10-2006
	7. Mr. Asif Iqbal, Instructor (E: glish)	04-10-2004	30-09-2005	30-09-2006
	8. Mr. Nisar Khan, Instructor (Buss: Admn)	01-10-2004	30-09-2005	30-09-2006
	9. Mr. Faisal Islam, D.P.E.	01-10-2004	30-09-2005	30-09-2006
<b>2- Government College of Management Sciences, Ghulam (Mohmand Agency)</b>				
	1. Mr. Hidayat Khan, Instructor (Comp: Scie)	28-09-2004	27-09-2005	26-09-2006
	2. Mr. Shahid Alam, Instructor (Comp: Scie)	07-10-2004	06-10-2005	05-10-2006
	3. Mr. Asif Khan, Instructor (Physic)	01-10-2004	30-09-2005	30-09-2006
	4. Mr. Sajid Nawaz, Instructor (Buss Admn)	29-09-2004	28-09-2005	27-09-2006
	5. Mr. Asim Rehman, Instructor (B. Admn)	01-10-2004	30-09-2005	30-09-2006
	6. Mr. Haseeb-ur-Rehman, Instructor (B.A)	05-10-2004	04-10-2005	03-10-2006
	7. Mr. Adnan Sohail, D.P.E.	01-10-2004	30-09-2005	30-09-2006
	8. Mr. Shahid Ullah, Instructor (Comp Scie)	28-09-2004	27-09-2005	26-09-2006
	9. Mr. Mazhar Ali, Librarian	01-10-2004	30-09-2005	30-09-2006
<b>3- Government College of Management Sciences, Parachinar (Kurram Agency)</b>				
	1. Mr. Israr-ud-Din, Instructor (Comp: Scie)	09-10-2004	08-10-2005	07-10-2006
	2. Mr. Kashif Amin, Instructor (Comp: Scie)	13-12-2004	12-12-2005	11-12-2006
	3. Mr. Riffat Ullah Khan, Instructor (B. Admn)	01-10-2004	30-09-2005	30-09-2006
	4. Mr. Neer-ul-Wahab, D.P.E.	13-11-2004	12-11-2005	11-11-2006
	5. Mr. Hidayat Ullah, Librarian	01-10-2004	30-09-2005	30-09-2006
	6. Mr. Ikramullah, Instructor (B. Admn)	01-10-2004	30-09-2005	30-09-2006
<b>4- Government College of Management Sciences, Khar (Bajaur Agency)</b>				
	1. Mr. Saz Wali Khan, Instructor (B. Admn)	05-11-2004	04-11-2005	03-11-2006
	2. Mr. Muhammad Raees, Instructor (Comp: Scie)	01-10-2004	30-09-2005	30-09-2006
<b>5- Government Technical Institute, Bara (Khyber Agency)</b>				
	1. Mr. Muhammad Tufail Awan, Instructor (Computer Science)	05-10-2004	04-10-2005	03-10-2006
	2. Mr. Masood Gul, Instructor (English)	10-11-2004	09-11-2005	08-11-2006
	3. Mr. Baiz Ullah, Instructor (Physic)	04-10-2004	03-10-2005	02-10-2006
<b>6- Government Technical Institute, Ekka Ghund (Mohmand Agency)</b>				
	1. Mr. Muhammad Imran, Instructor (Computer Science)	01-10-2004	30-09-2005	30-09-2006
	2. Mr. Rehmat Khan, Instructor (Electronic)	05-11-2004	04-11-2005	03-11-2006
	3. Mr. Iftad Ahmad, Instructor (Physic)	01-10-2004	30-09-2005	30-09-2006
	4. Mr. Sami Ullah, Jr, Instructor (Tele-Com)	20-11-2004	19-11-2005	18-11-2006
<b>7- Government Technical Institute, Sadda (Kurram Agency)</b>				
	1. Mr. Abid Rehman, Instructor (English)	08-11-2004	07-11-2005	06-11-2006
	2. Mr. Naimat Ullah, Instructor (Physic)	18-11-2004	17-11-2005	16-11-2006

M. Akbar  
(FAZAL HAKIMI)  
DEPUTY DIRECTOR

TECHNICAL EDUCATION (FATA)  
GOVERNOR SECRETARIAT PESHAWAR.

ENDST: No. DTE&MT/P&D/FATA/1-35/ 780-80(1-11) dated 3/15/2006.

Copy is forwarded for information to:-

- 1- The Director, Technical Education, NWFP, Peshawar.
- 2- The Accountant General, (PR), Sub-Office, Peshawar.
- 3- P.S. to Secretary FATA, Governor Secretariat Peshawar.
- 4- All Principal, GCMS/GTIs in FATA with the request to inform all the officers/officials concerned.
- 5- Accountant H.Q. Peshawar for information & necessary action.

M. Akbar  
DEPUTY DIRECTOR (TE) FATA

(11) 27

DIRECTORATE OF TECHNICAL EDUCATION (FATA)  
FATA SECRETARIAT WASAK ROAD PESHAWAR.

NOTIFICATION.

The competent authority is pleased to re-appoint/ extend the services of the following fixed pay staff working in GTIs, and GCMS (FATA) on the existing terms and conditions w.e.f. 04-07-2009 to 30-06-2010.

S.No.	Name and Designation
1)	Government College of Management Science, Jamrud (Khyber Agency)
1-	Sadat Khan, Instructor English
2-	Muhammad Fayaz Afridi, Instructor (C.S)
3-	Rahim Dad Khan, Instructor (Comp: Science)
4-	Waqar Ahmad, Instructor (Comp: Science)
2)	Government College of Management Science, Khar (Bajuar Agency)
1-	Irfan Ullah, Instructor (B:Admn)
2-	Snageen Khan, Instructor (B:Admn)
3-	Muhammad Ibrahim, Instructor (English)
4-	Muhammad Ilyas, Instructor (Physics)
5-	Hayat Ullah, Instructor (Physics)
6-	Abdul Qadoos, instructor (Computer Science)
7-	Ahmad Shah, (D.P.E)
3)	Government College of Management Science, Ghallani (Mohmand Agency)
1-	Irfan Qadar, Instructor ( Comp: Science )
2-	Shaid Alam, Instructor ( Comp:Science )
3-	Iltaf Hussain, Instructor(Comp: Science )
4-	Hilikhkar Ali, Instructor ( Physics)
5-	Asif Khan, Instructor (Physics)
6-	Sajjad Ahmad, Instructor ( Comp: Science )
7-	Zeenat Shah, Instructor ( B. Admn )
8-	Muhammad Iqbal, Instructor ( B.Admn)
9-	Muhammad Ilyas, Instructor ( B.Admn)
10-	Khial Bahader, Instructor ( B.Admn )
11-	Sartaj Aziz, Instructor ( B.Admn )
12-	Inam Khan, Instructor ( Librarian )
13-	Rehan-ud-Din, Instructor ( D.P.E )
4)	Government College of Management Science, Parachinar (Kurram Agency)
1-	Shaukat Hussain, Instructor (B.Admn)
2-	Anjad Ali, Instructor (B.Admn)
5)	Government College of Management Science, Miranshah ( N.W.Agency)
1-	Noor Hassan, Instructor (C.Science)
2-	Jaffar Ali Khan, Instructor (B.Admn)
3-	Shafi-ur-Rehman, Instructor (B.Admn)
4-	Jamshid Alam, Instructor ( D.P.E )
5-	Muhammad Tahir Shah, Instt.(English)
6-	Shaid Khan Masood, Instructor (Comp:Sciences)
6)	Government Technical Institute, Bara (Khyber Agency)
1-	Sajidullah, Instructor ( English )
7)	Government Technical Institute, Ekka Ghund (Mohmand Agency)
1-	Muhammad Iqbal, Instructor (Telecom)
2-	Rehmat Khan, Instructor (Telecom)
3-	Muhammad Iqbal, Instructor (English)

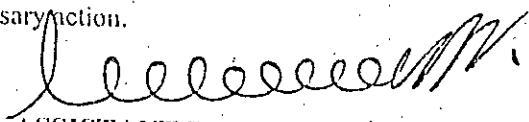
sd/-  
DIRECTOR,  
INDS: MENRAL & TECH: EDU: (FATA)

ENDST: No.DET/&MT/P&D/FATA/1-35/2102-16

Dated 1/8/2009.

Copy is forwarded for information to: -

- 1- The Accountant General,(PR), Sub-Officer, Peshawar.
- 2- P.S. to Secretary Admn &Coord FATA, Secretariat Peshawar.
- 3- All Principals, GCMS/GTIs in FATA.
- 4- Accountant H.Q. Peshawar for information & necessary action.

  
ASSISTANT DIRECTOR (TE)

Notifications

20th October 2010 | (N-W.F.P. ACT NO. XVI OF 2009)

**THE NORTH-WEST FRONTIER PROVINCE EMPLOYEES (REGULARIZATION OF SERVICES) ACT, 2009.**

NOTIFICATION

Dated Peshawar, the 24<sup>th</sup> October, 2009.

No.PA/NWFP/Bills/2009/38472.—The North-West Frontier Province Employees (Regularization of Services) Bill, 2009 having been passed by the Provincial Assembly of North-West Frontier Province on 15<sup>th</sup> October, 2009 and assented to by the Governor of the North-West Frontier Province on 20<sup>th</sup> October, 2009 is hereby published as an Act of the Provincial Legislature of the North-West Frontier Province.

THE NORTH-WEST FRONTIER PROVINCE EMPLOYEES (REGULARIZATION OF SERVICES) ACT, 2009 (N-W.F.P. ACT NO. XVI OF 2009)

*(First published after having received the assent of the Governor of the*

*North-West Frontier Province in the Gazette of the N.W.F.P. (Extraordinary).*

*Dated the 24<sup>th</sup> October, 2009).*

**AN ACT**

*to provide for the regularization of the services of certain employees appointed on adhoc or contract basis.*

**Preamble.** ---WHEREAS it is expedient to provide for the regularization of the services of certain employees appointed on adhoc or contract basis, in the public interest, for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. **Short title and commencement.** --- (1) This Act may be called the North- West Frontier Province Employees (Regularization of Services) Act, 2009.

(2) It shall come into force at once and shall be deemed to have been taken effect at the promulgation of the Ordinance.

2. **Definitions.** --- (1) In this Act, unless the context otherwise requires,-

(a) "Commission" means the North-West Frontier Province Public Service Commission;

(aa) "contract appointment" means appointment of a duly qualified person made otherwise than in accordance with the prescribed method of recruitment;

(b) "employee" means an adhoc or a contract employee appointed by Government on adhoc or contract basis or second shift/night shift but does not include the employees for project post or appointed on work charge basis or who are paid out of contingencies;

(c) "Government" means the Government of the North-West Frontier Province;

(d) "Government Department" means any department constituted under rule 3 of the North-West Frontier Province Government Rules of Business, 1985;

(e) "law or rule" means the law or rule for the time being in force governing the selection and appointment of civil servants; and

(f) "post" means a post under Government or in connection with the affairs of Government to be filled in on the recommendation of the Commission.

Annexure "C"  
12

Attested  
Ae/V



(2) The expressions "ad hoc appointment" and "civil servant" shall have the same meanings as respectively assigned to them in the North-West Frontier Province Civil Servants Act, 1973 (N.-W.F.P. Act No. XVIII of 1973).

3. **Regularization of services of certain employees.**--- All employees including recommendees of the High Court appointed on contract or ad hoc basis and holding that post on 31<sup>st</sup> December, 2008 or till the commencement of this Act shall be deemed to have been validly appointed on regular basis having the same qualification and experience for a regular post:

Provided that the service promotion quota of all service cadres shall not be affected.

4. **Determination of seniority.**--- (1) The employees whose services are regularized under this Act or in the process of attaining service at the commencement of this Act shall rank junior to all civil servants belonging to the same service or cadre, as the case may be, who are in service on regular basis on the commencement of this Act, and shall also rank junior to such other persons, if any, who, in pursuance of the recommendation of the Commission made before the commencement of this Act, are to be appointed to the respective service or cadre, irrespective of their actual date of appointment.

(2) The seniority *inter se* of the employees, whose services are regularized under this Act within the same service or cadre, shall be determined on the basis of their continuous officiation in such service or cadre:

Provided that if the date of continuous officiation in the case of two or more employees is the same, the employee older in age shall rank senior to the younger one.

4A. **Overriding effect.**--- Notwithstanding any thing to the contrary contained in any other law or rule for the time being in force, the provisions of this Act shall have an overriding effect and the provisions of any such law or rule to the extent of inconsistency to this Act shall cease to have effect.

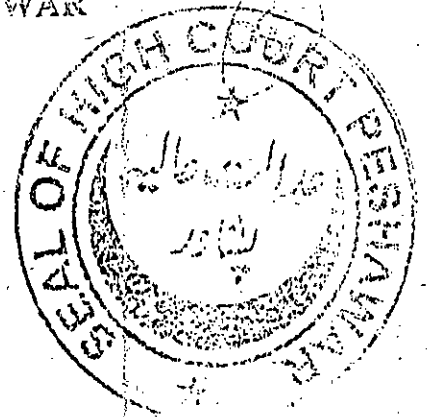
5. **Repeal.**--- The North-West Frontier Province Employees (Regularization of Services) Ordinance, 2009 (N.-W.F.P. Ordinance No. VII of 2009) is hereby repealed.

-----  
By the orders of Mr. Speaker  
Provincial Assembly of Khyber Pakhtunkhwa  
Secretary  
Provincial Assembly of Khyber Pakhtunkhwa

Attested  
A/V

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

Writ Petition No F.3.111/2011



1. Syed Athar Ali Shah S/o Syed Munawar Ali Shah, Instructor (Business Administration), Government College of Management Sciences, Parachinar (Kurram Agency)
  2. S Hussain Ali Shah S/o S Kamal Ali Shah, Instructor (Business Administration), Government College of Management Sciences, Parachinar (Kurram Agency)
  3. Asif Ali S/o Ghulam Abbass, Instructor of Computer Science, Government College of Management Sciences, Parachinar (Kurram Agency) .
- .....Petitioners

Versus

1. Government of Khyber Pakhtunkhwa through Additional Chief Secretary (FATA), Peshawar.
2. Director Technical Education (FATA) through its Director, FATA Secretariat, Warsak Road, Peshawar.
3. Secretary Industries, Commerce, Mineral Development Department, Government of Khyber Pakhtunkhwa, Peshawar. ....Respondents

Writ Petition under Article 199 of The  
Constitution of Islamic Republic of Pakistan,  
1973.

ATTESTED  
EXAMINER  
Peshawar High Court.

Respectfully Sheweth,

Brief but relevant facts of the case are as follows:

1. That the respondents advertized certain posts of Instructors, Junior Instructors and Librarians etc and invited applications for appointment on contract basis against such posts. (Copy of Advertisement is attached as Annexure "A")
2. That the petitioners being qualified and eligible for appointment against the said posts submitted their applications which were scrutinized by the Departmental Selection Committee comprising of Deputy Secretary P & D, Deputy Secretary Admin, Director Technical Education FATA and the

(SF)

(46)

JUDGMENT SHEET  
PESHAWAR HIGH COURT PESHAWAR  
JUDICIAL DEPARTMENT.

No. 1289 of W.P. 2011

JUDGMENT

Date of hearing: 2-3-2012

Appellant: Mrs. Sultana Begum

Respondent: Govt. of Punjab

MIAN FASIHUL MULK, J.: For the reasons recorded in our detailed judgment of even date in W.P. No.1289/2010, this writ petition is also accepted in the terms stated therein.

Announced  
03.03.2012

sd/ Miftah ud Din Khan

sd/ Mian Fasihul Mulk

CERTIFIED TO BE TRUE COPY

SP  
Examiner 20/3/12  
Peshawar High Court Peshawar  
Authorised Under Article 87 of  
The Qanun-e-Shahadat Order 1984

(16)

(17)

JUDGMENT SHEET  
PESHAWAR HIGH COURT PESHAWAR  
JUDICIAL DEPARTMENT.

W.P. No. 1289 of Year 2010

JUDGMENT

Date of hearing:

8-3-2012

Appellant: Govt. Ahmad Shah etc by Mr. Raheel Amin. Sr

Respondent: (Govt. NWFP) by Mr. Nazir Ali DAG  
Mr. Mahmood Alam Advocate & Respondent

MIAN FASHUL MULK, J.- Petitioners, through

instant petition, seek the indulgence of this Court by issuing directions to respondents to treat the petitioners as regularized employees under the NWFP Employees (Regularization of Services) Act, 2009. The petitioners in connected Writ Petitions No. 1145/2010, 1252/2010, 2639/2010, 1870/2011, 2992/2011, 3244/2011, 3285/2011 and 46/2012, have also similar grievances against the respondents, therefore, we propose to dispose of all the writ petitions through this common judgment in W.P. No. 1289/2010.

2. In these petitions the common point of law involved is whether petitioners' appointment on various posts in the respondents' department in pursuance to the advertisement made in the newspapers was on contract basis so as to attract the provisions of Section 3 of

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approval of Governor, which was accordingly approved

and petitioners were issued the appointment orders.

6. On completion of one year term, the contract was extended from time to time without any break till the year 2009, when the NWFP (Regularization of Services) Act, 2009 was promulgated where under the employees appointed on adhoc or contract basis by the Government were given the status of regular employees. Petitioners represented against before respondent No.1 for their regularization but the same was denied to them on the ground that they were not appointed on contract basis rather their appointment was on fixed pay against the project posts; hence they were not qualifying the conditions as contained in the Act *ibid*.

7. We have heard learned counsel for the parties and have also gone through the record appended with these petitions.

8. A look at the advertisement at Annexure:A would disclose that the posts were on contract basis. The appointment orders issued to petitioners would reveal that though their appointments were made on fixed pay but Para-2 of the terms and conditions contained in the said appointment letters was to the effect that, "*their period of selection was for one year or till the creation*

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of regular posts/arrival of NWFP Public Service Commission nominee which ever is earlier."

From the above, no doubt remains that although appointment of petitioners was on fixed pay but the posts on which petitioners were appointed were not temporary posts rather regular one liable to be filled through regular appointment.

9. Except the bald allegation of respondents that petitioners were project employees and daily wages, nothing has been brought on record to show that their appointments were made on the posts meant for a Project. Annexure:E at Page-43 is the Summary for Governor. According to it, the Governor was pleased to upgrade the existing five Government Commercial Training Institutes in FATA to the level of College of Management Sciences so as to offer Bachelor's degree in Business Administration and Information Technology to the students. For the purpose, Schedule for New Expenditure (SNE) was prepared to recruit the regular staff and forwarded to SAFRON Division for sanction. It further reveals that recruitment of staff being a lengthy process, it was proposed that for the purpose of starting the classes staff may be recruited on contract basis till appointment of regular staff and their salaries may be paid from ADP. From the above summary, which is duly

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approved by the Governor, it is very much evident that neither the posts to be filled in were temporary nor the same were meant for any Project except that their salaries were to be paid from ADP.

10. A similar question had arisen before the august Supreme Court of Pakistan in the case of Ali Akbar vs. The Government of NWFP (C.P. No.462-P of 2006) decided on 05.05.2009, wherein it was held as under:-

*"The petitioner's appointment by office order dated 04.02.1985 was as Research Officer in BPS-16 and according to Para-7 of the said order, it was a stop gap arrangement and on ad-hoc basis till the regular appointee. The petitioner's appointment order mentions three different terms as regard his status, namely, "on temporary basis", "stop gap arrangement" and "one ad-hoc basis". However, Para-7 of the order mentions his appointment on ad-hoc basis to continue till the post is filled up through regular appointment. It follows that the post to which the petitioner was appointed was not a temporary post but a regular post liable to be filled through regular appointment. The*

*Dr*

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order of appointment also does not mention anywhere that the post in question was a temporary one. Furthermore, the petitioner's appointment in a particular pay scale as Assistant Research Officer in the Directorate of Agriculture Research establishes that the petitioner's appointment was on ad-hoc basis on a regular post in the Directorate. By the same office order, the petitioner was posted against a vacancy in the Project Research on the Cultivation of Edible Mashroom in Pakistan. The order, therefore, had made a clear distinction against the petitioner's appointment and posing, whereas he was appointed in the Directorate of Agriculture Research, he was posted in a project against vacancy. It is, therefore, wrong to say that the petitioner was a project employee and termination of his service on that score cannot be maintained."

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11. The objection of respondents that petitioners were appointed against project posts in view of the advertisement and summary to Governor is not sustainable.

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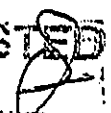


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12. As per Section 3 of the NWFP (Regularization of Services) Act, 2009, all employees appointed on contract or ad-hoc basis and holding that post on 31<sup>st</sup> December, 2008 or till the commencement of this Act shall be deemed to have been validly appointed on regular basis having the same qualification and experience for a regular post. Under Section 2(b), the word "employee" means an adhoc or a contract employee appointed by Government on adhoc or contract basis or second shift/night shift but does not include the employees of project post or appointed on work charge basis or who are paid out of contingencies.

13. Admittedly, the posts were advertised on contract basis and petitioners were appointed on the posts having requisite qualification after going through the process of test and interview conducted by a Recruitment Committee. There is no mention in the appointment order that petitioners' appointment is against the project posts except that their appointment was made on fixed pay as against the terms of advertisement wherein the posts were clearly mentioned to be on contract basis. The salary slips of petitioners also indicate that though they were being paid fixed pay but their post is clearly written to be "contract" post. The

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petitioners also draw their salaries from the AGPR. The other objection of the Department that the petitioners were appointed on fixed pay, hence their services could not be regularized is, therefore, also nothing but a trick played by the respondents in the appointment orders to avoid monetary benefits of the posts to which the petitioners under the law were entitled to get. The term "fixed pay" has not been defined in service laws. As stated above, the petitioners' appointments were made in pursuance to the advertisement published in the press against the posts on contract basis and it can, therefore, be safely inferred that status of petitioners' was that of contract employees regardless of the words "fixed pay" used in their appointment letters.

14. The respondents, during the course of proceedings in these writ petitions, sought time on so many occasions that the Government has in principles decided to regularize the petitioners by proposing legislation to cater therefore, and even copy of a bill contending to be placed before the Parliament, was also produced but till to-date nothing has been done.

15. The respondents while inviting the attention of this Court to Para-3 of Appointment letters, contended that as the petitioners have accepted the terms and

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petitioners also draw their salaries from the AGPR. The other objection of the Department that the petitioners were appointed on fixed pay, hence their services could not be regularized is, therefore, also nothing but a trick played by the respondents in the appointment orders to avoid monetary benefits of the posts to which the petitioners under the law were entitled to get. The term "fixed pay" has not been defined in service laws. As stated above, the petitioners' appointments were made in pursuance to the advertisement published in the press against the posts on contract basis and it can, therefore, be safely inferred that status of petitioners' was that of contract employees regardless of the words "fixed pay" used in their appointment letters.

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15. The respondents while inviting the attention of this Court to Para-3 of Appointment letters, contended that as the petitioners have accepted the terms and

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conditions of their appointment, wherein it is categorically mentioned that petitioners will not be considered for regularization at any stage, at any time, being employees on fixed pay, therefore, the principle of estoppel would attract to their cases. We have not been impressed by the arguments on two counts; one that there can be no estoppel against Statute and second that an employee at the time of appointment has little choice to enforce any condition of his choice on the employer. In the case of Ikram Bari and 524 others vs. National Bank of Pakistan through President and another (2005 SCMR 100) it has been held by their lordships in the following words:-

*"It is difficult to countenance the approach of the Bank that the temporary Godown staff and the daily wages employees should be continued to be governed on disgraceful terms and conditions of service for an indefinite period. In view of section 24-A of the General Clauses Act 1897, the National Bank was required to act reasonably, fairly and justly. An employee being jobless and in fear of being shown the door had no option but to accept and continue with the appointment on whatever conditions it was offered by the Bank. In the case of Pakistan v. Public at Large PLD 1987 SC 304, it was contended before the*

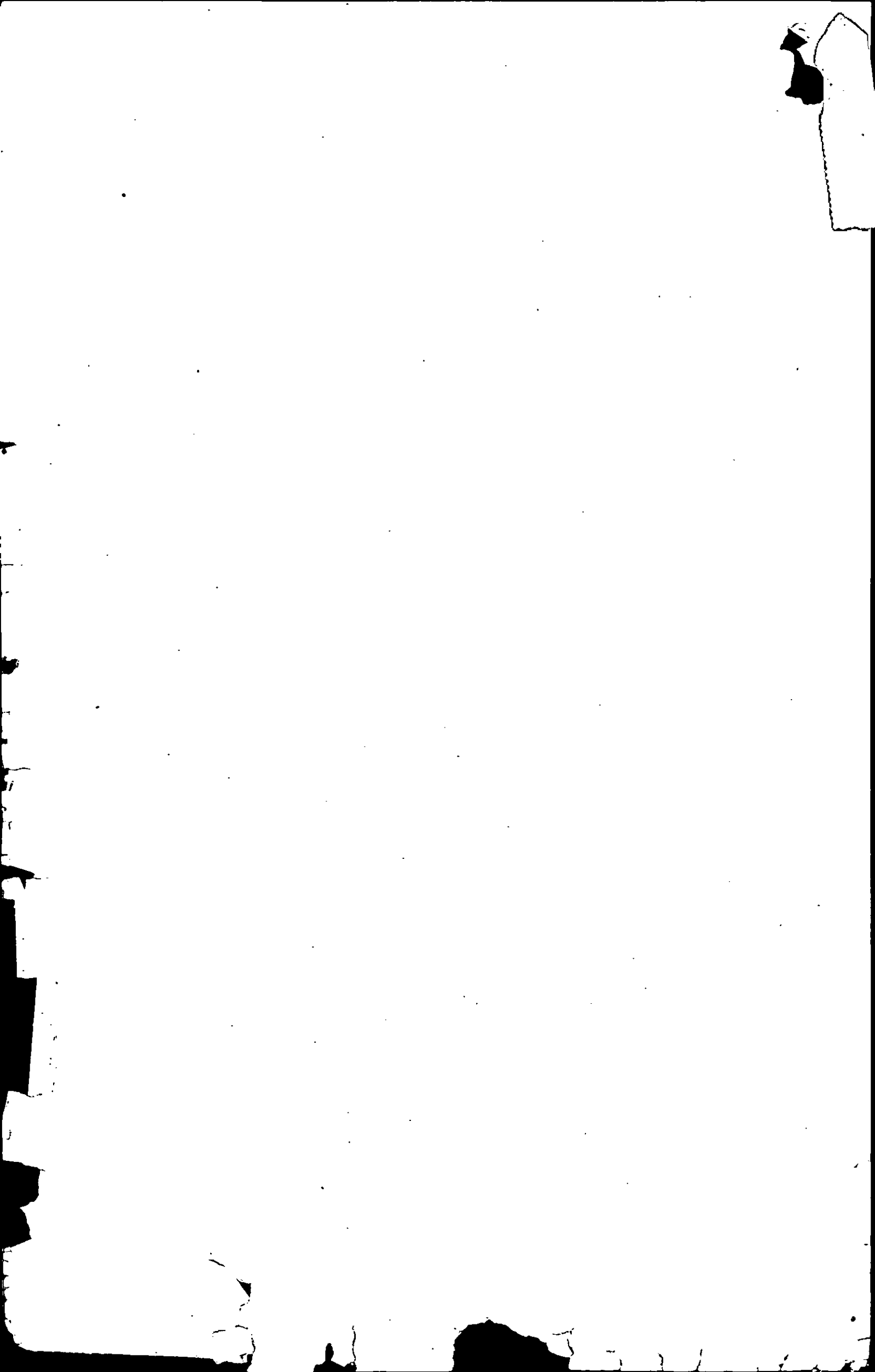
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Shariat Appellate Bench of this Court that the provisions of law impugned therein amounted to a contract between the Government and the civil servant and thus they involved his consent. It was observed that in fact it was not in the nature of a free consent between the agents. On one hand, State power was projected in the form of a Statute and on the other; the civil servant had no choice of a bargain on those provisions when joining the service. He could not get it changed. In *Habibullah v. Government of the Punjab and 5 others* PLD 1980 Lah. 37, it was held that the employer being placed in a position of authority and strength could always coerce employees to waive their legal protection and accept contractual terms at the pains of losing his job.

15. We may observe here that firstly the respondents utilized the word "fixed pay" in their appointment letters purely as a means of evading their statutory obligations in terms of the service laws and also to save money by denying them the opportunity of pension/provident fund benefits etc. although their appointments were made in accordance with the prescribed method of recruitment and through a duly constituted Recruitment Committee and secondly, when

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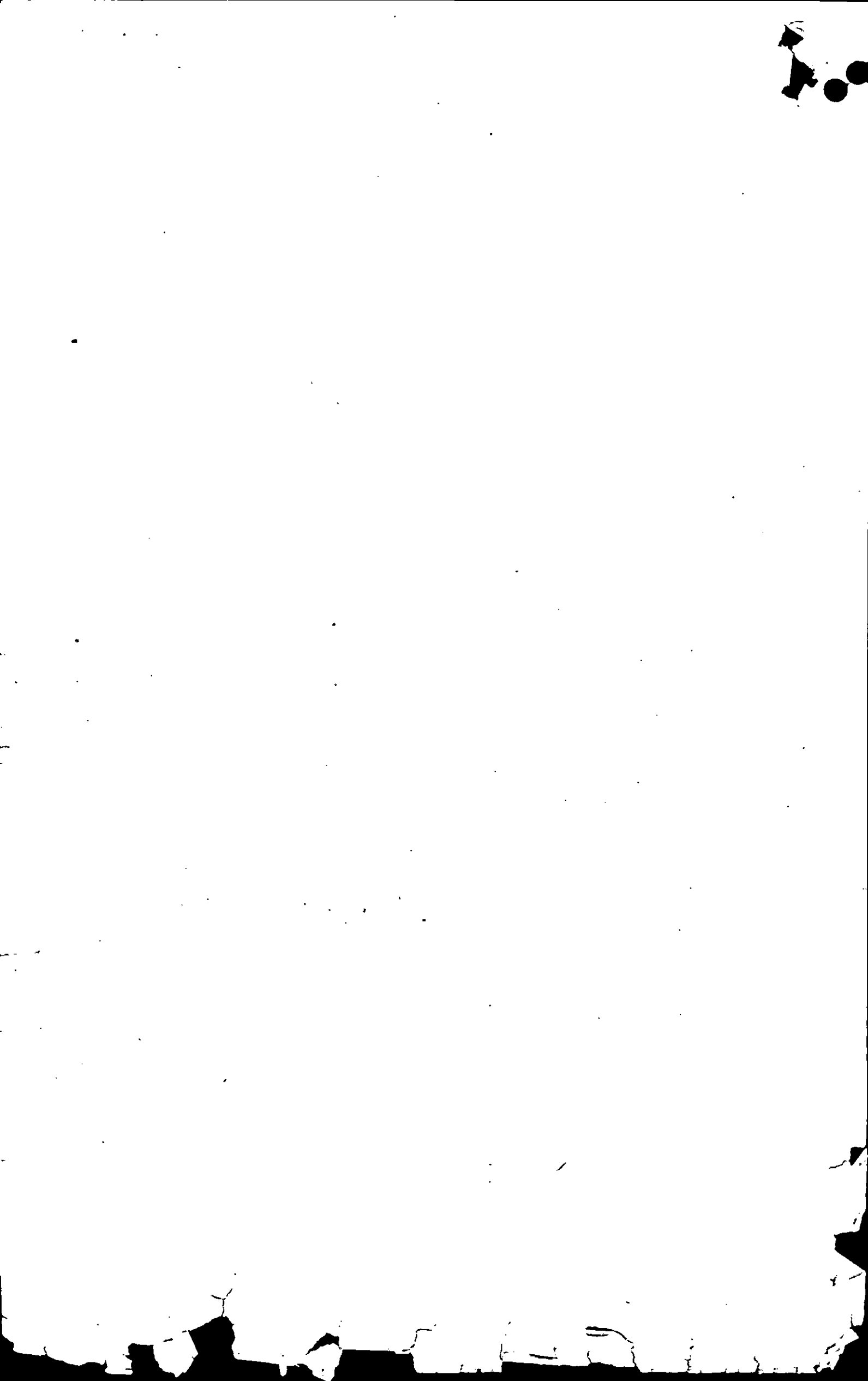


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the right of their regularization accrued in view of the promulgation of the Act, 2009, they denied them such benefit and came up with lame excuses before this Court that they were project employees, daily wages and payee out of contingency. The petitioners, as is evident from the record, are neither project employees, nor daily wages nor receiving salary from contingency but were contract employees on regular posts and after promulgation of NWFP (Regularization of Services) Act, 2009, have now assumed the status of regular employees of the Department. The acts of respondents being reprehensible, amounts to exploitation of petitioners at their own expense and are, therefore, liable to be declared as illegal and in excess of lawful jurisdiction.

16. We, therefore, issue writ in favour of petitioners and against the respondents to the effect that petitioners shall be deemed to be regular and permanent employees of respondents' No.1 and 2 Department within the meaning of NWFP (Regularization of Services) Act, 2009 and the

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Peshawar High Court





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ON 13.10.2012

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respondents are directed to issue notification of their regularization within a period of one month.

Announced  
08.03.2012

*Sd/- Miftakuddin Khan*  
*Sd/- Mian Farukh Malik*  
Judge

CERTIFIED TO BE TRUE COPY

*Sd/-*  
Examiner  
Peshawar High Court Peshawar  
Authorized under Article 20  
The Qanun-e-Shahadaat Ordinance 1984  
20/3/12

*PC issue*  
*Sd/-*  
*Adil Khan*  
*Eg/12*

Date of Presentation of Application	12718
No. of Pages	14 P
Copying fee	
Urgent Fee	
Total	28
Date of Preparation of Copy	20/3/12
Date Given For Delivery	20/3/12
Date of Delivery of Copy	20/3/12
Received By	<i>[Signature]</i>



Dated Peshawar this: \_\_\_\_\_

NOTIFICATION

No. SOIII(INDYTE/3-9/2012. In pursuance of the Peshawar High Court. Peshawar judgment dated 08-03-2012 announced in Writ Petition No.1289/2010 the Competent Authority has been pleased to regularize the services of the following employees of Technical Education under the NWFP (Regularization of Services) Act 2009 with immediate effect:-

SR#	NAME & FATHER NAME
1	Mr. Shahid Khan Masood S/o Sarfraz
2	Mr. Shahid Akht S/o Mohammad Nisar
3	Mr. Irfanullah S/o Amanullah
4	Mr. Asif Khan S/o Noor Rahim ✓
5	Mr. Rahmat Khan S/o Gulzar Khan
6	Mr. Mohammad Iqbal S/o Ali Rehman
7	Mr. Inam Khan S/o Fazal Manan-
8	Mr. Mohammad Iqbal S/o Gul Said
9	Mr. Ahmed Shah S/o Niaz Amin
10	Mr. Itaf Hussain S/o Maqbool Khan
11	Mr. Irfan Qadir S/o Fazal Qadir
12	Mr. Khial Bahadar S/o Bahadar Khan
13	Mr. Rehanud Din S/o Shabud Din
14	Mr. Sajjad Ahmad S/o Abdul Ghafar
15	Mr. Sartaj Aziz S/o Zarabat Khan
16	Mr. Zeenat Shah S/o Mehraban Shan
17	Mr. Ifikhar Ali S/o Mohammad Akbar
18	Mr. Ikhtiar Zada S/o Habibul Hassan
19	Mr. Hayat Ullah S/o Wahid Ullah
20	Mr. Abdul Qadoos S/o Mohammad Hazrat
21	Mr. Mohammad Ilyas S/o Khanzada
22	Mr. Mohammad Ibrahim S/o Kabal Khan
23	Muhammad Ilyas S/o Mohammad Akram
24	Mr. Sangeen Khan S/o Khair Mohammad
25	Mr. Sajjid Ullah S/o Sher Azam Khan
26	Mr. Jaffar Ali S/o Kashmir Khan
27	Mr. Janshid Alam S/o Shah Salam
28	Mr. Shafiq Rehman S/o Qandahar Khan
29	Mohammad Tahir Shah S/o Mohammad Subhan

#	NAME & FATHER NAME	POSTING
	Mr. Shahid Khan Masood S/o Satriaz	As Lecturer (Computer Science), BPS-17 GCMS, D.I.Khan
	Mr. Shahid Alam S/o Mohammad Nisar	As Lecturer (Computer Science) BPS-17, GCMS Charsadda
	Mr. Irfanullah S/o Amanullah	As Lecturer (Commerce) BPS-17, GCMS Bannu
	Mr. Asif Khan S/o Noor Rahim	As Lecturer (Physics), BPS-17, GCT Swabi
	Mr. Rahmat Khan S/o Gulzar Khan	As Lecturer (Telecom), BPS-17, GTI Khanj
	Mr. Mohammad Iqbal S/o Ali Rehman	As Lecturer (Telecom), BPS-17, GTI B/Agency,
	Mr. Inam Khan S/o Fazal Minan	Khanj (B/Agency)
	Mr. Mohammad Iqbal S/o Gul Said	As Librarian, BPS-17, GCT Kohat
	Mr. Asif Shadi S/o Niaz Amin	As Lecturer (Commerce), BPS-17, GCMS Charsadda
		As Director Physical Education BPS-17, GCMS Chitral

Consequent upon their regularization the following posting are hereby made as

3	Mr. Noor Hassan Shah S/o Gul Sher Khan	
1	Mr. Waqar Ahmed S/o Aisar Shah	
2	Mr. Saadat Khan S/o Khanan Khan	
3	Mr. Rahim Dad Khan S/o Waris Khan	
1	Mr. Mohammad Fayaz Afridi S/o Shad Mohammad	
5	Mr. Anjid Ali S/o Shaban Ali	
1	Mr. Mohammad Iqbal S/o Mohammad Hazrat	
7	Mr. Shoukat Hussain S/o Gulab Hussain	
3	Mr. Tahir Ayub S/o Mohammad Usman	
3	Mr. Anjid Ali S/o Hussain Ali	
1	Mr. Muhammad Iqbal S/o Fazal Khan	
1	Mr. Sallah Ud Din S/o Mohammad Rehman	
	Mr. Mohammad Ayub S/o Abdul Saeed Jan	
	Mr. Abdul Aziz S/o Rahim Badshah	
	Mr. Mumtaz Khan S/o Zahir Shah	
	Mr. Shaban Zeb S/o Sher Bahadar	
	Mr. Fareed Ullah S/o Essar Khan	
	Mr. Irfanullah S/o Noor Nawaz	
	Mr. Mohammad Hamayun S/o Ibrahim Ali	
	Mr. Said Badshah S/o Hazrat Badshah	
	Mr. Shah Zarin Khan S/o Naurang Khan	
	Mr. Noor Zada S/o Haya Khan	
	Mr. Kashif Amin S/o Amin Ul Haq	
	Syed Athar Ali Shah S/o Syed Munawwar Ali Shan	
	Syed Hussain Ali Shah S/o Kamran Ali Shah	
	Mr. Asif Ali S/o Ghulam Abbas	

10	Mr. Hafeez Hussain S/o Maqbool Khan	As Lecturer(Computer Science), BPS-17, GCMS Nowshera
11	Mr. Irfan Qadir S/o Fazal Qadir	As Lecturer(Computer Science), BPS-17, GCMS Mardan
12	Mr. Khial Bahadar S/o Bahadar Khan	As Lecturer(Commerce), BPS-17, GCC No.02 Mardan
13	Mr. Rehman Din S/o Shabud Din	As Director Physical Education(DPE) BPS-17, GTI Bara Khyber Agency
14	Mr. Sajjad Ahmad S/o Abdul Ghaffar	As Lecturer(Computer Science), BPS-17, GCMS Sangota Swat
15	Mr. Saqib Aziz S/o Zarabul Khan	As Lecturer(Commerce), BPS-17, GCMS Thana
16	Mr. Zeenat Shah S/o Mehraban Shan	As Lecturer(Commerce), BPS-17, GCMS Kohat
17	Mr. Ihtsham Ali S/o Mohammad Akbar	As Lecturer(Physics), BPS-17, GP1 Taldit Bhatta
18	Mr. Ikhtiar Zada S/o Habibul Hassan	As Lecturer(Commerce), BPS-17, GCMS Sangota Swat
19	Mr. Hayat Ullah S/o Wahid Ullah	As Lecturer(Physics), BPS-17, GCT Nowshera
20	Mr. Abdul Qadoos S/o Mohammad Fazal	As Lecturer(Computer Science), BPS-17, GCMS Chitral
21	Mr. Mohammad Ilyas S/o Khanzada	As Lecturer(Physics), BPS-17, GTI Miranshah(NWA)
22	Mr. Mohammad Ibrahim S/o	As Lecturer(English), BPS-17, GCMS Khar Kabal Khan
23	Mr. Mohammad Hyas S/o Mohammad Akram	As Lecturer(Commerce), BPS-17, GCMS Charsadda
24	Mr. Sangeen Khan S/o Khair Mohammad	As Lecturer(Commerce), BPS-17, GCMS Charsadda
25	Mr. Sajid Ullah S/o Sher Azam Khan	As Lecturer(English), BPS-17, GCT Peshawar
26	Mr. Jaffar Ali S/o Kashmir Khan	As Lecturer(Commerce), BPS-17, GCMS(NWA)
27	Mr. Jamshid Alam S/o Shah Saleem	As Director Physical Education BPS-17, GCMS Parachinar (K/Agency)
28	Mr. Shafiq Rehman S/o	As Lecturer(Economics), BPS-17, GCMS Lakki Qandahar Khan
29	Mr. Mohammad Fahir Shah S/o Mohammad Subhan	As Lecturer(English), BPS-17, GCMS Kohat
30	Mr. Noor Hassan Shah S/o Gul Sher Khan	As Lecturer(Computer Science), BPS-17, GCMS Bannu
31	Mr. Waqar Ahmed S/o Afsar Shah	As Lecturer(Computer Science), BPS-17, GCMS Charsadda
32	Mr. Saadat Khan S/o Khawan Khan	As Lecturer(English), BPS-17, GCMS Kohat
33	Mr. Rahim Dad Khan S/o Waris Khan	As Lecturer(Computer Science), BPS-17, GCMS Thana
34	Mr. Mohammad Fayaz Afridi S/o Shah Mohammad	As Lecturer(Computer Science), BPS-17, GCC Hangu
35	Mr. Anjid Ali S/o Shaban Ali	As Librarian, BPS-17, GCMS Karak
36	Mr. Mohammad Iqbal S/o Mohammad Fazal	As Lecturer(English), BPS-17, GCT Timergara (Lower Dir)
37	Mr. Shekai Hussain S/o Gulab Hussain	As Lecturer(Commerce), BPS-17, GCMS Parachinar
38	Mr. Fahir Ayub S/o Mohammad Usman	As Lecturer(English), BPS-17, GTI Sadda K/Agency
39	Mr. Anjid Ali S/o Hussain Ali	As Lecturer(Commerce), BPS-17, GCMS Parachinar
40	Mr. Mohammad Iqbal S/o Fazal Rahim	As Lecturer(Commerce), BPS-17, GCMS Chitral

41	Mr. Sallah Ud Din S/o Mohammad Rehman	As Lecturer(Commerce), BPS-17, GCTI, Wari(Dir-Upper)
42	Mr. Mohammad Ayub S/o Abdul Saeed Jan	As Lecturer(English), BPS-17, GCMS Nowshera.
43	Mr. Abdul Aziz S/o Rahim Badshah	As Lecturer(Commerce), BPS-17, GCMS Chitral
44	Mr. Mumtaz Khan S/o Zahir Shah	As Lecturer(Computer Science), BPS-17, GCMS Lakki
45	Mr. Shahan Zeb S/o Sher Bahadar	As Lecturer(Commerce), BPS-17, GCMS Khar (B/Agency)
46	Mr. Fareed Ullah S/o Essar Khan	As Lecturer(Computer Science), BPS-17, GCMS D.I.Khan
47	Mr. Ikramullah S/o Noor Nawaz	As Lecturer(Computer Science), BPS-17, GCMS Lakki
48	Mr. Mohammad Hamayun S/o Ibrahim Ali	As Lecturer(Physics), BPS-17, GCMS Parachinar.
49	Mr. Said Badshah S/o Hazrat Badshah	As Junior Instructor DAE(Telecom), BPS-14 CTI Ekkaghund
50	Mr. Shah Zarin Khan S/o Naurang Khan	As Lecturer(Physics), GCT Tangi
51	Mr. Noor Zada S/o Haya Khan	As Lecturer(Computer Science), BPS-17, GCT Tangi
52	Mr. Kashif Amin S/o Amin Ullah	As Lecturer(Computer Science), GCMS Parachinar
53	Syed Adhar Ali Shah S/o Syed Munawar Ali Shah	As Lecturer(Commerce), BPS-17, GCMS Parachinar
54	Syed Hussain Ali Shah S/o Kamran Ali Shah	As Lecturer(Commerce), BPS-17, GCMS Parachinar
55	Mr. Asif Ali S/o Ghulam Abbas	As Lecturer(Computer Science), BPS-17 GCMS Parachinar.

Terms and conditions of their Regular Appointment will be as under:-

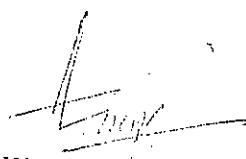
- a. They will get pay at the minimum of BPS-17 including usual allowances as admissible under the rules. They will also be entitled to annual increments as per existing policy.
- b. They shall be governed by the Khyber Pakhtunkhwa Civil Servants Act 1973, all the laws applicable to the Civil Servants and rules made there-under.
- c. They shall for all intents and purposes, be Civil Servants except for purpose of pension & gratuity. In lieu of pension and gratuity, they shall be entitled to receive such amount as would be contributed by them towards Contributory Provident Fund(CPF) alongwith the contributions made by Government to their account in the said fund in the prescribed manner.
- d. Their employments in the department in purely temporary and their services are liable to be terminated without assigning any reason at thirty(30) days notice or on the payment of 30-days salary in lieu thereof. In case they wish to resign at any time, 30-days notice will be necessary or in lieu thereof 30-days pay will be forfeited.
- e. They shall, initially, be on probation for a period of two years extendable upto 3-years.
- f. Their seniority shall be determined in accordance with relevant rules but subject to section-4 of the Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2009.

Endst: No. SOH(INDYTE/3-9/2012

Dated Pesh, the 31<sup>st</sup> December, 2012

Copy of the above is forwarded to the:-

1. Additional Chief Secretary(FATA), FATA Secretariat, Worsak Road Peshawar.
2. Secretary to Govt. of Khyber Pakhtunkhwa Establishment Department.
3. Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department.
4. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa
5. Secretary to Governor, Khyber Pakhtunkhwa
6. Accountant General, Khyber Pakhtunkhwa, Peshawar.
7. The Director General, Technical Education & Manpower Training, Khyber Pakhtunkhwa, Peshawar.
8. Director Technical Education, FATA, Khyber Pakhtunkhwa, Warsak Road Peshawar.
9. Director Information Khyber Pakhtunkhwa for wide publicity through media.
10. Agency/Districts Accounts Officers concerned.
11. Registrar Peshawar High Court, Peshawar.
12. Director Recruitment, Khyber Pakhtunkhwa, Public Service Commission Peshawar.
13. Section Officer(FATA), Education Wing, Governor Secretariat(FATA) Worsak Road Peshawar.
14. PS to Secretary, IC&TE Department.
15. P.A to Additional Secretary-I, IC&TE Department.
16. The Officer concerned.
17. O/O file.

  
(ANWAR-UL-HAQ)  
DEPUTY SECRETARY-I

ANNEXURE 'F'

GOVERNMENT OF PUNJAB  
ACCOUNTANT GENERAL GENERAL SERVICES DIVISION  
DISTRICT Swabi  
PAY ROLL SYSTEM

PAYMENT ADV.  
P Sec: 003 Month: June 2013  
SU4259 - Principal Govt Coll  
Min: Industries  
NTN:  
GPF #:   
Old #:

34

Fers #: 00330830 Suckle:  
Name: ASIF KHAN  
Dsg.: INSTRUCTOR  
CNIC No. 1620209776771  
GPF Interest Free

DEPT CODE SU4259

17 Vocational Temporary  
PAYS AND ALLOWANCES:

0001-Basic Pay	15,000.00
1000-House Rent Allowance	2,955.00
1947-Medical Allow 15% (16-22)	1,477.00
1948-Adhoc Allowance 2010E FCX	4,925.00
1970-Adhoc Relief Allow 2011	1,477.00
2118-Adhoc Relief Allow (2012)	3,200.00
5011-Adj Conveyance Allowance	2,263.00

Gross Pay and Allowances 32,367.00

DEDUCTIONS:	
GPF Balance 6,720.00	Subtr: 2,240.00
3501-Benevolent Fund	250.00
3511-Addl Group Insurance	25.00
3604-Group Insurance	230.00
3990-Emp. Edu. Fund KPK	200.00

Total Deductions 27945.00

NET AMOUNT PAYABLE 29,422.00

QUALIFYING SERVICE YRS MO	D.O.B 07.04.1979	LFP Quota: ABL, SWABI BRANCH SWABI BRANCH 01-200-2540-2
08 years 08 months 021 Days		

ANNEXURE "G"

35

To

The Secretary,  
Industries, Commerce & Technical Education,  
Govt. of Khyber Pakhtunkhwa Peshawar.

Dated: September 10, 2013

Subject: Appeal for seniority, Arrears & Annual Increments

Respected Sir,

With great reverence it is requested/appealed that the Honorable High Court Peshawar has announced the judgment on March 08, 2012 in favor of lecturers Technical Education in order to regularize them according to the NWFP Regularization of Services Act 2009, within a period of one month.

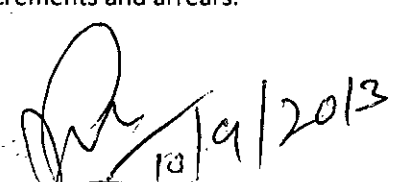
All the employees/lecturers of KPK regularized under this Act were issued notification with effect from 01/01/2009 by their concerned departments but we were issued the same nature notification vide No.SOIII (IND) TE/3-9/2012 on 31/12/2012 which is eloquently different and not only after nine months from the date of announcement of The Honorable Court judgment but is not according to the NWFP Regularization of Services Act 2009 as well. Our notification has been issued with "Immediate Effect" which means a fresh notification and not with effect from 01/01/2009.

You are therefore humbly appealed to revise this notification according to The Honorable Court judgment and with effect from 01/01/2009, with seniority, annual increments and arrears.

We will be thankful to you in this regard.

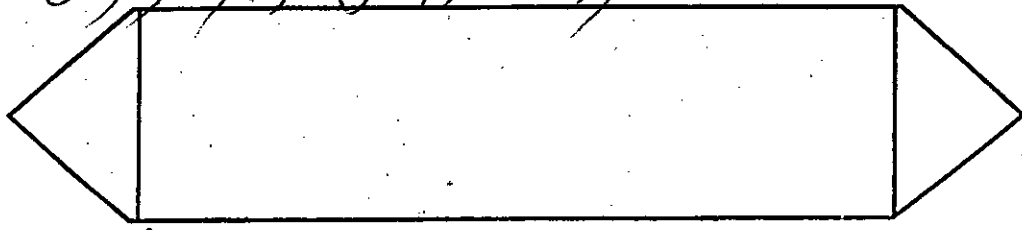
  
Yours Faithfully,

ASIF - KHAN,  
Lecturer in physics.  
G.C.T Swabi.

  
SECY, ICD  
D.NO.  
DATED



# بعدالت سرحدی ٹریبونل فیصلہ بخشہ خواہ



2 منجانبہ  
آصف خان بنام حکومت

موزعہ  
مقدمہ  
دعویٰ  
جرم

## باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ  
 آن مقام ~~لیسٹا~~ کیلئے جسٹس مسٹر محمد سعید صاحب نے ان کے عدالتی احکامات کی تعمیل میں  
 مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز  
 وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور  
 بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق  
 زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برادگی اور منسوخی  
 نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور  
 کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار  
 ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ  
 پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔  
 کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی  
 مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

المرقوم \_\_\_\_\_ ماہ \_\_\_\_\_ 2014

العبد \_\_\_\_\_ واہ العبد \_\_\_\_\_

کے لئے منظور ہے۔

بمقام

*Kashan Abdullah*  
**KASHAN ABDULLAH**  
 Advocate  
 High Court Peshawar

*Kashan Abdullah*  
**Kashan Abdullah**