

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 1345/2014

Date of Institution ... 19.11.2014

Date of Decision ... 03.07.2018

Noor Muhammad Shah PET Now DPE Govt. Higher Secondary School Billi Tang  
District Kohat. ... (Appellant)

VERSUS

1. Director (E&S) Education Govt. of Khyber Pakhtunkhwa, Peshawar and 3  
others. ... (Respondents)

-----  
Mr. Nasir Mahmood Advocate,  
Advocate

--- For appellant.

Mr. Muhammad Jan,  
Deputy District Attorney

--- For respondents.

MR. AHMAD HASSAN,  
MR. MUHAMMAD AMIN KHAN KUNDI

--- MEMBER(Executive)  
--- MEMBER(Judicial)

JUDGMENT

AHMAD HASSAN, MEMBER.- Arguments of the learned counsel for the  
parties heard and record perused.

FACTS

2. The brief facts are that the appellant was appointed as PET in Education  
Department on 24.11.1994. That the pay fixation party objected on BPS-15 allowed  
of the appellant. As a result of which the respondent department started recovery of  
the disputed amount from the appellant. He preferred departmental appeal on  
06.08.2014, which was not responded, hence the instant service appeal on  
19.11.2014.

### ARGUMENTS

3. Learned counsel for the appellant argued that he was appointed as PET in Govt: Middle School Wach Bazar Hangu on 24.11.1994. The appellant on 25.11.1994 submitted an application to the then Divisional Director Education, Kohat for issuing corrigendum and appointment of the appellant against the post lying vacant in GHS Shaikhan Kohat. Instead of issuance corrigendum he was transferred to the said school. That the government of Khyber Pakhtunkhwa Finance Department issued notification dated 12.01.1995, whereby BPS-15 was awarded to PETs having qualification of B.A/BSc and were working in Govt: High/Comprehensive High School as personal to them w.e.f 01.07.1983. The Head Master of GHS, Shaikhan after taking approval from the then Divisional Director Education, Kohat fixed the pay of the appellant in grade-15. The pay fixation party raised objection over the fixation of pay as the appellant was not entitled for pay of grade-15 thus his pay was fixed in BPS-14 and access drawl to the tune of Rs. 123000/- was ordered to be recovered from the appellant. Feeling aggrieved he filed departmental appeal was not responded, hence, the present service appeal. The appellant has not been treated according to Article-4 and 25 of the Constitution of the Islamic Republic of Pakistan 1973. That principle of locus-poinententie is also applicable in this case. As certain rights had accrued in favour of the appellant.

4. On the other hand learned Deputy District Attorney argued that appellant was appointed as PET on 25.11.1994. According to the Finance Department notification dated 12.01.1995 the present and future Elementary School Teacher (EST/CT/SV/PET/DM) who possessed the qualification of B.S/BSc with prescribed professional training were to be placed in BPS-14 with 1/3 Selection Grade B-15 hence, the pay of the appellant was fixed in grade-15 by the fixation party. The

appellant was allowed BPS-15 by the then DDE, Kohat in violation of Finance Department letter dated 12.01.1995. The appellant was finally appointed in Govt: Middle School Wach Bazar Hangu and as such was not entitled for the benefits mentioned in the said letter of the Finance Department.

### CONCLUSION

5. The appellant was appointed as PET in Govt: Middle School Wach Bazar Hangu on 25.11.1994. He was awarded BPS-15 by the then DDE, Kohat in violation of rules. Letter of the Finance Department dated 12.01.1995 apart from other conditions was applicable to the teachers serving in Govt: High/Comprehensive High School as personal to them. As the appellant was appointed in a Middle School, so he was not entitled for the said benefits.

6. As a sequel to the above, the appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

  
(AHMAD HASSAN)  
MEMBER

ANNOUNCED  
03.07.2018

16.04.2018

Junior to counsel for the appellant and Mr. Muhammad Jan, DDA alongwith Mr. Waheed Gul, Supdt for respondents present. Junior to counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 03.07.2018 before D.B.

  
(Ahmad Hassan)  
Member

  
(M. Amin Khan Kundi)  
Member

Order

03.07.2018

Counsel for the appellant present. Mr. Muhammad Jan, Deputy District Attorney for respondents present. Arguments heard and record perused.

Vide detailed judgment of today of this Tribunal placed on file, the appeal is dismissed. Parties are left to bear their own cost. File be consigned to the record room.


Announced:  
03.07.2018

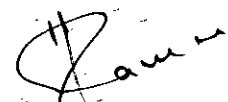
  
(AHMAD HASSAN)  
Member

  
(MUHAMAMD AMIN KHAN KUNDI)  
Member

16.08.2017


Counsel for the appellant present..Mr. Waheed Gul, ADEO (litigation) and Mr. Zakiullah, Senior Auditor alongwith Mr. Kabirullah Khattak, Assistant AG for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 06.12.2017 before D.B.

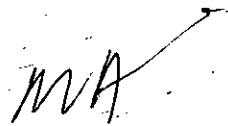
  
(Muhammad Amin Khan Kundi)  
Member (J)

  
(Muhammad Hamid Mughal)  
Member (J)

06.12.2017

Junior to counsel for the appellant present. Mr. Ziaullah, Deputy District Attorney for respondent also present. Junior to counsel for the appellant requested for adjournment. Adjourned. To come up for amended appeal and arguments on 12.02.2018 before the D.B.

  
(Ahmad Hassan)  
Member (E)

  
(Muhammad Amin Khan Kundi)  
Member (J)

12.02.2018

Clerk to counsel for the appellant and Mr. Kabir Ullah Khattak, Learned Additional Advocate General for the respondents present. DBA is on strike, therefore the case is adjourned. To come up for arguments on 16.04.2018 before D.B

  
(Ahmad Hassan)  
MEMBER

  
(Muhammad Hamid Mughal)  
MEMBER

15.08.2016

Agent to counsel for the appellant and Mr. Sarraast Khan, Assistant alongwith Additional AG for respondents present. Rejoinder on behalf of the appellant submitted and requested for adjournment. To come up for arguments on 23-12-16 before D.B.

Member

Member

23.12.2016

Clerk to counsel for the appellant, Mr. Zakiullah, Senior Auditor and Mr. Waheed Gul, ADO alongwith Mr. Ziaullah, GP for respondents present. Clerk to counsel for the appellant requested for adjournment. Request accepted. To come up for arguments on 10-5-17.

(Muhammad Aamir Nazir)  
Member

(Ashfaque Taj)  
Member

10.05.2017

Counsel for the appellant and Asst. AG alongwith Mr. Waheed Gul, ADO(Lit) and Mr. Zakiullah, Senior Auditor for respondents present. Counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 16.08.2017 before D.B.

(Ahmad Hassan)  
Member

(M.Amin Khan Kundi)  
Member

26.06.2015

Appellant in person, M/S Khurshid Khan, SO for respondent No. 2, Javed Ahmed, Supdt. for respondent No. 1, Abid Hussain, ADO for respondent No. 2 and Ansar Ahmed, AAO for respondents No. 3 and 4 alongwith Addl: A.G present. Separate written replies/comments submitted. The appeal is assigned to D.B for rejoinder and final hearing for 23.11.2015.

  
Chairman

23.11.2015

Counsel for the appellant and Mr. Abid Hussain, ADO for respondent No. 2 and Mr. Ansar Ahmad, AAO for respondent No. 3 and 4 alongwith Mr. Ziaullah, GP present. Arguments could not be heard due to learned member (Judicial) is on official tour to D.I Khan. To come up for rejoinder as well as arguments on

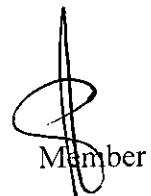
22/4/16

  
Member

22.04.2016

Counsel for the appellant and Mr. Ansar Ahmad, AAO alongwith Mr. Usman Ghani, Sr. GP for respondents present. Arguments could not be heard due to paucity of time. To come up for arguments on 15.08.2016.

  
Member

  
Member

4. 19.2.2015

Counsel for the appellant present and submitted that the appellant is serving as PET in BPS-15 since 1995 and according to the scale he was being paid his salary. That the pay fixation party has objected on BPS-15 of the appellant. As a result of which the respondent department is going to recover the disputed amount from the appellant. Points raised need consideration. The appeal is admitted for regular hearing, subject to all legal exceptions. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 27.4.2015.

*Appellant deposited  
process fee & security*

*21.05.15*

*[Signature]*  
MEMBER

5.

27.04.2015

Counsel for the appellant, M/S Abid Hussain, ADEO and Ansar Ahmad, AAO alongwith Mr. Ziaullah, GP for the respondents present. Representative of the respondents requested for time to submit written reply/comments. To come up for written reply/comments on 26.06.2015 before S.B.

*[Signature]*




*[Signature]*  
Member



Form- A  
FORM OF ORDER SHEET

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

Case No. 1345/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	19.11.2014	<p>The appeal of Mr. Noor Muhammad Shah presented today by Mr. Nasir Mehmood 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	15-01-2015	<p>This case is entrusted to Bench <u>II</u> for preliminary hearing to be put up there on <u>16-01-2015</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
3	16.1.2015	<p>Notice of general strike received from the Khyber Pakhtunkhwa Bar Council. Notice be issued to appellant and his counsel. To come up for preliminary hearing on 19.2.2015.</p> <p style="text-align: right;"> MEMBER</p>

BEFORE THE SERVICE TRIBUNAL KPK, PESHAWAR

IN RE; Service Appeal NO.....1345.....\2014

*Shah*

Noor Muhammad<sup>A</sup>PET Now DPE Govt. Higher Secondary School Billi Tang  
District Kohat.....Appellant

Versus

1. Director (E&S) Education Govt. of KPK Peshawar and  
others.....Respondents

INDEX

S.NO.	Description of Documents	Annexure	Pages
1.	Grounds of Appeal		1-3
2.	Appointment order dated 24.11.1994	A	4
3.	Application dated 25.11.1994	B	5
4.	Notification dated 12.01.1995	C	6
5.	Letter dated 07.05.1995	D	7
6.	Service Book	E	8-24
7.	Departmental Appeal	F	25-26
8.	Wakalat Nama		

*Shah*

Appellant

Through

*Nasir Mahmood*  
Nasir Mahmood Advocate 18/11  
Supreme Court of Pakistan  
13-D Haroon Mansion Peshawar.  
Mob: No.03339176275

I

BEFORE THE SERVICE TRIBUNAL KPK, PESHAWAR

IN RE; Service Appeal NO....1345.....2014

1382  
19-11-2014

Noor Muhammad Shah PET Now DPE Govt. Higher Secondary School Billi Tang  
District Kohat.....Appellant

Versus

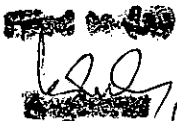
1. Director (E&S) Education Govt. of KPK Peshawar.
2. District Education Officer (Male) Kohat.
3. Accountant General KPK, Peshawar.
4. District Account Officer *Kohat*..... Respondents

Service Appeal U Section 4 of the KPK Service Tribunal Act, 1974 against the non action of the respondents on the departmental appeal dated 06.08.2014, which was filed against the objection of Pay Fixation Party vide which the appellant was not held entitled to BPS-15 under Notification dated 12.01.1995 and an amount Rs.1, 23000/- was ordered to be recovered from the appellant and after the expiry of statutory period the instant appeal is being filed.

Prayer in Appeal; To set-aside the objections of Pay Fixation Party and the appellant be held entitled to BPS-15 from 04.12.1994 Under Notification dated 12.01.1995.

Respectfully Sheweth;

1. That appellant was appointed vide office order dated 24.11.1994 as PET in Govt. Middle School Wach Bazar Hangu. Copy of his appointment order is attached as annexure-A.
2. That the appellant moved an application dated 25.11.1994 to the then Divisional Director Education Kohat for issuing Corrigendum in the above noted order for appointment of appellant on a vacant post of PET which was lying in Govt. High

  
19/11/14

School Sheikhan, Kohat and consequent of application of appellant instead of issuing corrigendum for his appointment he was transferred to the above noted School. Copy of the application is attached herewith as annexure-B.

3. That later on Govt. of KPK Finance Department issued notification dated 12.01.1995 vide which BPS-15 was awarded to PETs w.e.f 01.07.1983 to the existing PETs who were having qualification of BA\BSc with SDPE and were working in Govt. High\Comprehensive High Schools as personal pay to them. Copy of the notification is attached herewith as annexure-C.

4. That Head Master, of the Govt. High School Sheikhan, Kohat in the light of the above mentioned notification after taking approval from the then Divisional Director fixed the pay of the appellant in Grade-15 and the appellant was receiving pay in Grade-15. Copy of the approval letter dated 07.05.1995 is attached as annexure-D.

5. That Pay Fixation Party raised objection over the fixation of the pay of the appellant in Grade-15 and are of the view that the appellant in the light of the notification dated 12.01.1995 is not entitled to pay in Grade-15 and thus his pay was fixed in Grade-14 and an amount of Rs.1, 23000/- was ordered to be recovered from the appellant .Copy of the Service Book of the appellant is attached as annexure-E

6. That the appellant being seriously aggrieved of the such acts of the respondents moved departmental appeal (Copy attached as annexure-F) which was unresponded hence the instant appeal inter alia on the following grounds;

#### Grounds

A. That under the principle of **Locus Poenitentiae** once an order has taken legal effect, and in pursuance thereof certain rights have been created in favor of any individual, such an order cannot be withdrawn or rescinded to the detriment of those rights. Here in the instant case the appellant was receiving the Graded pay of BPS-15 for long time but the respondents without any reason ordered for fixation of the pay of the appellant in Grade-14 by misinterpreting the notification dated 12.01.1995 to the detriment of the appellant.

B. That the PETs working in the Govt. Middle Schools are doing the same job which is done by the PETs working in Govt. High\Comprehensive High Schools so by extending the benefit of the above mentioned notification to one set of civil servants and depriving others is absolutely discriminatory and consequently they are to be treated equally.

C. That the respondents have not treated the Appellant in accordance with law and rules on the subject and acted in violation of article-4 and 25 of the constitution of Islamic republic of Pakistan, 1973 and unlawfully ordered for fixation of the pay of the appellant in Grade-14 which is unjust, unfair hence not sustainable in the eye of law.

D. That the fundamental rights of the appellant has been violated and the matter of the appellant in peculiar facts and circumstances of the case comes within the ambit of past and closed transaction.

For the aforesaid reasons it is, therefore, respectfully prayed that on acceptance this appeal, this honorable tribunal may be pleased to allow appeal of the appellant in the light of prayer sought in the heading of the appeal.

Any other remedy not specifically asked for but appropriate in the circumstances of the case may also be awarded to the appellant.

*[Signature]*

Appellant

Through

*[Signature]*  
18/11

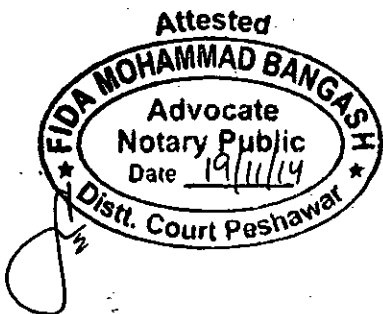
Nasir Mahmood Advocate  
13-D Haroon Mansion Peshawar.

Affidavit

I, do hereby declare, and affirm on oath that the contents of accompanying appeal are true and correct to the best my knowledge and belief and nothing has been concealed from this hon'ble tribunal.

*[Signature]*

Deponent



APPOINTMENT. On the recommendation of the Deptl: Selection Committee Appointment of the following candidates is/are hereby ordered against the post of P.E.T. on temporary and ~~ad hoc~~ basis at Rs. R.P. Scale, PM fixed plus usual allowances as admissible under the rules in EPS -9 (~~Rs. R.P. Scale.~~) at the institution noted against each name:-

S.No.	Name/Qualification/Address.	Posted at.	Remarks.
1.	Mr. Noor Mohammad Shah PTC, Teacher, GPS, Hayat Abad (Karak), (BHPED) Trained.	GMS, Wach Bazar Hangu (Kohat).	Against vacant P.E.T. post.
2.	Mr. Abdur Rauf PTC, Teacher GPS Zenaka Banda (Karak), (BHPED) Trained.	<del>GMS, Gandayal Kohat</del> Gurgura Kohat	-----do-----

TERMS & CONDITIONS:

1. Their appointment is purely temporary & liable to termination at any time without assigning reasons or notice.
2. In case of resignation they will have to submit one month's Prior notice to the Deptt: or forfeit one month's pay in lieu thereof to the Government.
3. ~~He/She/They~~ are required to produce health & age certificate from the Medical authority concerned before taking over charge provided they are not already in Government Service.
4. ~~He/She/They~~ should not be allowed to take over charge if ~~his/her~~ their age is/are less than 18 years or above 27 years.
5. ~~His/Her/Their~~ appointment is subject to further condition that ~~he/she/they~~ they are domiciled of N.W.F.P.
6. All Educational, Character & Domicile-Certificates should be thoroughly checked before handing over charge & if necessary it should be verified from the institution concerned.
7. If ~~he/she/they~~ they fail to take over charge of the post within a week of the receipt of this order, the offer of appointment shall stand cancelled.
8. Charge reports should be submitted to all concerned in duplicate.
9. No TA/DA etc is allowed.

(HAJI ABDUL QAHAR KHAN)

DIVISIONAL DIRECTOR OF EDUCATION (SCHOOLS), KOHAT DIVISION KOHAT.

Encl: No. 12318-21 / IV-AE/ Apptt: Dt: Kohat the 24-11-1994.  
Copy forwarded for information & n/action to the:-

1. Distt: Education Officer, (M) Secondary Kohat.
2. Sub Divl: Education Officer, ~~xxxxxxx~~ Gurgura Kohat
3. ~~Principal~~ / Headmaster / ~~xxxxxxx~~ GMS, Wach Bazar, Gandayal ~~Payen~~ (Kohat).
4. Candidate concerned.

M. SHAUKAT /\*\*\*\*

*M. R. Bangul*  
DIVISIONAL DIRECTOR OF EDUCATION (SCHOOLS), KOHAT DIVISION KOHAT.  
Certified to be True Copy  
*C.T.C*  
*Am*  
24/11/94

# Annexure "B"

مختصر صاف ڈوئمنٹل ڈاٹریٹنگ ورک کوہٹ ڈوئمنٹ کوہٹ دہام ایشیا  
عنوان : درخواست بنیاد آرڈر نمبر 21/17/AE-12318-1 میں نریم

صاف عالی

نوڈ نام ایس ہے کہ بندہ آے کے حکیمانہ نمبر 21/17/AE-12318-1 فریم 24.11.99  
کے تحت گورنمنٹ ہائی سکول و جبار (ہنگو) میں بطور PET مدرس تعینات  
ہوا ہے۔

سائل ضلع کڑکھا کوہٹ ہے اور BA/SDPE ہے اعلیٰ قابلیت کا حامل

گورنمنٹ ہائی سکول شیخان (کوہٹ) میں PET پوسٹ عالی ہے

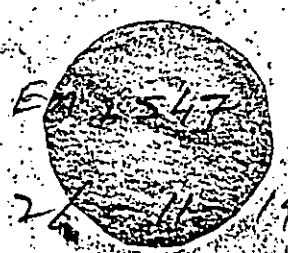
در ایہ صورت حال گورنمنٹ کی عالی ہے کہ محولہ بالا آرڈر میں

ترمیم کر کے فوری کو گورنمنٹ و جبار (ہنگو) کی عالی گورنمنٹ  
ہائی سکول شیخان کوہٹ میں تعینات کرنے کے احکامات

صادر فرمائیں

عین نواز مسیحی دیپارٹمنٹ آڈر

صفحہ 2 25-11-99

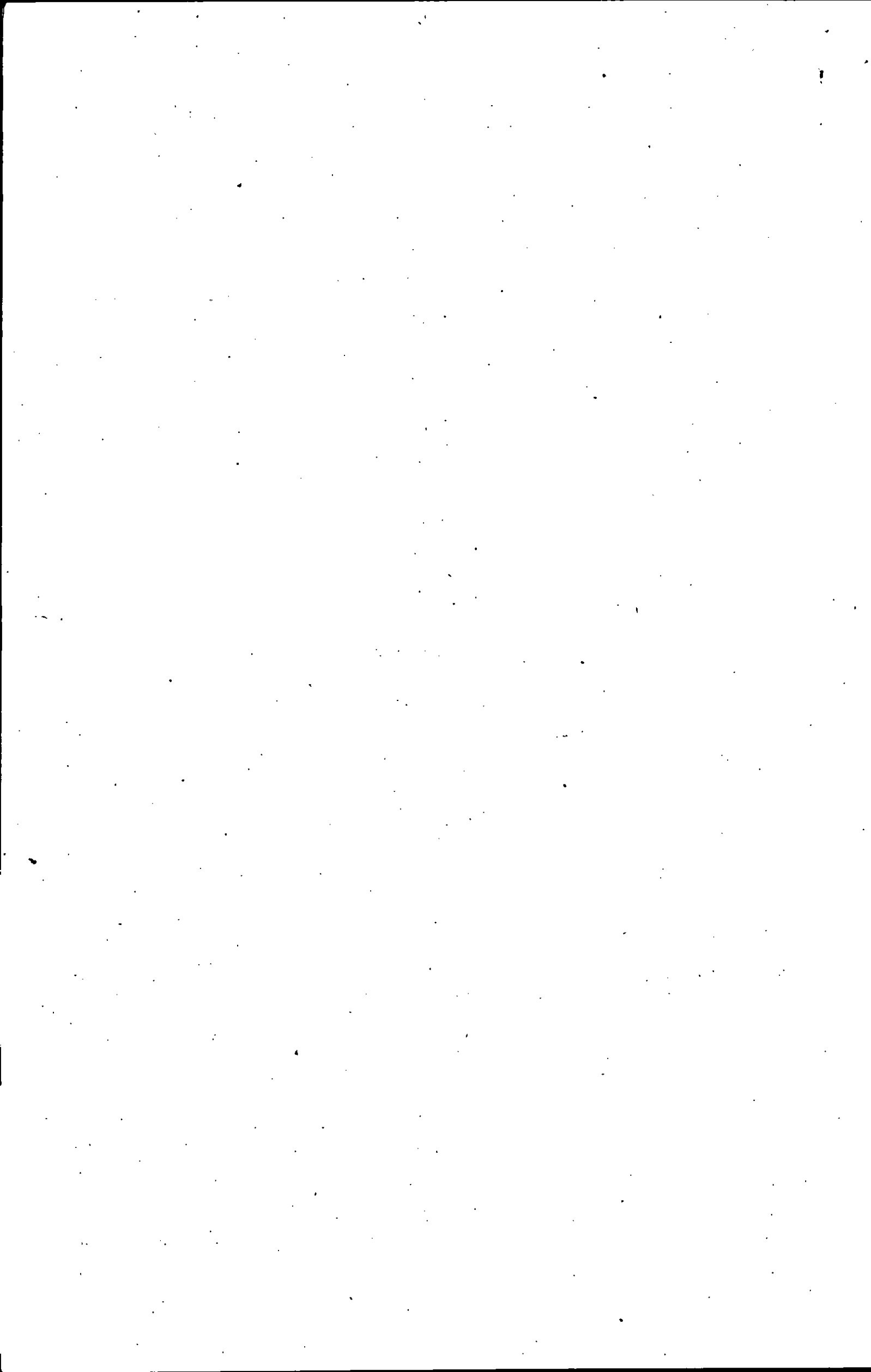


Moov Muhammed

وزیر محمد شاہ PTC گورنمنٹ ہائی سکول شیخان آباد ضلع کڑکھا

Certified to be True Copy

Handwritten signature and initials





6 Annexure 'C'

NO. FD(PRC)5-1/93.  
GOVERNMENT OF H.W.F.P.,  
FINANCE DEPARTMENT.  
Dated Peshawar, the 12th January, 95.

The Secretary to Government of  
H.W.F.P., Education Department,  
Peshawar.

(مہیاں ایوب)

To

Subject:- MEETING ON THE DEMANDS OF ALL TEACHERS ASSOCIATION.

Sir, I am directed to refer to your letter No. 50(S)7-3/94/  
M. Ayub dated 10th January, 1995 and to convey the approval of the  
following decisions taken in the meeting held on 5.1.1995 in the  
Office of Secretary to Government of NWFP, Education Department :-

1. Pay Scales of P.T. I  
DPS-15 would be admissible with effect from 1.7.1983 to the existing P.T. 15 with BA/BSc qualifications with senior diploma in physical education and work in the Government High/Comprehensival High schools as personal to them.
2. Recoveries of two payments granted to un-trained P.T. Ch.  
It has been decided to suspend the recoveries till further orders from the un-trained on account of fixation of their pay at Rs. 1225/- P.M with effect from 1.5.1991. The matter would be finally decided by the Education Department, Finance Department and Accountant General, NWFP jointly.
3. Recovery from D.A. City appointed against 3 V posts in B-14 to conversion of route into C posts  
The 3 V cadre posts may be merged with 3 V cadre along with incumbent. The Education Department will amend the respective Recruitment Rules and also get the posts reflected in C to in the budget.
4. Grant of graded pay to Arabic Teachers with effect from 1.7.1987  
The graded pay in DPS-9 would be admissible to Arabic Teachers with effect from 1.7.1983 onwards irrespective of date of notification of Services Recruitment Rules in 1987.

*W. Jaffer*

(Contd. P/2..)

Certified to be  
True Copy

C. T. C.

41

63125

73953

10157

97150

CR

...possibilities of...  
...acquiring...  
...2nd Division

The advance increments sanctioned under the Finance Department's letter No. FD(SR-I)1-67/S3, dated 24.8.1989 as clarified in the Finance Department's Notification No. FD(PRC)1-1/83, dated 7.5.1991 are not admissible to those who have been granted higher pay scales on the basis of higher specified qualifications in atleast 2nd Division. The advance increments in terms of Para 1 of the letter dated 24.8.1991, referred to above are still admissible to those who could not get higher pay scales for not possessing/acquiring the specified higher qualifications in 2nd Division.

Your obedient servant,

*[Signature]*

Section Officer (PR)

Encl: NO. FD(PRC)5-1/95, dated 12th February, 1995.

Copy for information and necessary action is

forwarded to:

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.

- The Accountant General, N.W.F.P.
- All District/Agency Accounts Officers in 1997
- All Additional Secretaries in the Finance Deptt.
- All Deputy Secretaries in the Finance Department.
- All Section/Subject Officers in the Finance Deptt.
- The Section Officer (R-I) Services & General Adm. Department.

*[Signature]*

*[Signature]*

Section Officer (PR)

Approved by ...  
9-10-1997  
Page-139

Certified to be True Copy

*[Signature]*

6A

Better Copy

NO. FD (PRC) 5-1\93.  
GOVERNMENT OF N.W.F.P.  
FINANCE DEPARTMENT.  
Dated Peshawar, the 12<sup>th</sup> January , 95.

The Secretary to Government of  
N.W.F.P. Education Department,  
Peshawar.

Subject: Meeting on the Demands of All Teachers Association.

Sir,

I am directed to refer to your letter no. SO (S) 7-3\94\ M. Ayub dated 10<sup>th</sup> January, 1995 and to convey the approval of the following decisions taken in the meeting held in 05.01.1995 in the office of Secretary to Government of N.W.F.P, Education Department:

1. Pay Scales of PETs.

BPS-15 would be admissible with effect from 01.07.1983 to the existing PETs with BA\BSc qualifications with Senior Diploma in Physical Education and working in the Govt. High\Comprehensive High Schools as personal ~~to~~ to them.

Certified to be  
True Copy

C. T. C

(H)

7

Annexure "D"

5

Divl: Directorate of Education  
(Schools), Kohat Divn. Kohat.

No. 4800 /IV-AE/P.E.

Dated Kohat the 7-5-1995.

To

The Headmaster,  
GHS, Sheikhhan, (Kohat).

Subject: APPLICATION FOR GRADED PAY SANCTION IN EPS-15.

Memo:-

Reference DEO, (M) Secondary Kohat letter No. 4436/G. File/ II-AE dated 17.4.1995 addressed to this office with a copy thereof endorsed to you.

The application, Service Book & other relevant document in respect of Mr. Noor Mohammad Shah PET GHS, Sheikhhan (Kohat) received in this office on the subject noted above is returned herewith with the remarks that his all such documents may be got verified by the authority concerned and then may be allowed EPS-15 by making fixation in his S/Book directly on the Basis of BA, with BHPED degree as per rules.

*M.A. Bani*  
for/Divl: Director of Education, (Schools)  
Kohat Division Kohat.

Encls: No. \_\_\_\_\_

Copy forwarded to the District Education Officer, (M) Secondary Kohat for information and necessary action, please.

*Sd/Asst*  
for/Divl: Director of Education, (Schools)  
Kohat Division Kohat.

M. Shaukat/-

Certified to be

True Copy

*C.T.C.*

*(H)*



26

OFFICE OF THE PRINCIPAL GISS, BILLITANG KOHAT.

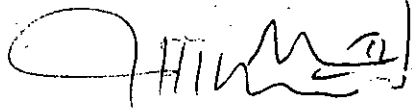
No. 656-58(B)

Dated. 6/8/14

To  
The district Education  
Officer Kohat.

Subject: Departmental Appeal in r/o Noor Muhammad Shah  
DPE.

Please find herewith the application in respect of Mr. Noor Muhammad Shah DPE along with enclosure for further necessary and onward transmission.



Principal  
G. S. Billitang Kohat.

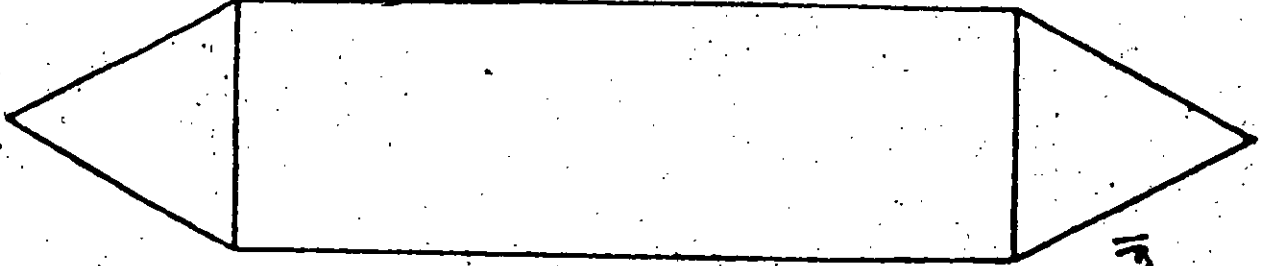
PRINCIPAL  
G. S. BILLITANG  
KOHAT

Certified to be  
True Copy

C.T.C



# بعد التمسیر و سٹریٹوئل چیئر بمقتویٰ ایشاور



موزہ  
مقدمہ  
دعویٰ  
جرم

19 نومبر  
نور محمد شاہ  
بنام ڈائریکٹر ایجوکیشن وغیرہ

14 جولائی 1944ء

سروس اپیل -

## باعث تحریر انکم

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب وہی دکل  
کارروائی متعلقہ آن مقام ایشاور کے لئے نا صحر مشورہ سید عبد الحفیظ ایڈوکیٹ حیات ایشاور  
مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا نیز  
دیکل صاحب کو کرنے راضی نامہ و تقررات و فیصلہ برحسب دیے جواب دی اور اقبال دعویٰ اور  
بصورت دیگر کرنے اجراء اور وصول چیک و روپیہ اور مرضی دعویٰ اور درخواست برتنم کی تصدیق  
نہر اس پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا دیگر کیل یا اپیل کی برآمدگی اور دعویٰ  
نیز دائر کرنے اپیل ٹکرائی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ اور بصورت ضرورت سے مقدمہ مذکور  
کے کل یا جزوی کارروائی کے واسطے اور دیکل یا مختار قانونی کو اپنے ہمراہ یا اپنی جگہ اختیار  
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جلد مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساتھ  
پداخت منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ و ہرجانہ اتوائے مقدمہ کے سب سے ہوگا۔  
اس کے مستحق دیکل صاحب موصوف ہوں گے۔ نیز بقایا خرچہ کی ذمہ داری کرنے کا بھی اختیار ہوگا۔ اگر  
کوئی تاریخ پیشی مقام دورہ پر ہو یا بعد سے باہر ہو تو دیکل صاحب پابند نہ ہوں گے۔ کہ پیروی  
مذکورہ کریں۔ لہذا ذکات نامہ لکھ دیا کہ سند رہے۔

نور محمد شاہ  
19 نومبر 1944ء

المترجم 19 نومبر 1944ء

Attested: [Signature]

بمقام ایشاور کے لئے منظور ہے۔

Accepted [Signature]





**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Appeal No. 1345/2014

Noor Muhammad Shah PET Now DPE GHSS Bilitang.

**Appellant.**

**Versus**

1. Director Elementary & Secondary Education Peshawar.
2. District Education Officer (M) Kohat.
3. Accountant General Khyber Pakhtun Khwa Peshawar.
4. District Accounts Officer Kohat.

**Respondents**

**Respectfully Sheweth:-**

Para wise comments on behalf of respondents 1-2 are submitted as under:-

**Preliminary Objections.**

1. That the instant appeal is badly time barred.
2. That the appellant has no cause of action.
3. That the appellant has not come to the Service Tribunal with clean hands.
4. That the appellant has concealed material facts from this Service Tribunal.
5. That the appellant has no locus standi to file the instant appeal.

**Facts:-**


1. Admitted that the appellant was promoted to the post of PET on 24/11/1994 vide Divisional Director of Education Kohat No.12318-21 at GMS Wach Bazar but the appellant took over charge on 04-12-1994. (Annexure A)
2. Not Concerned. That the appellant moved application on 25-11-1994 to the then Divisional Director Kohat.
3. Admitted to the extent that finance Department issued notification on 12-01-1995 for award of BPS-15 to those PETS having qualification BA/BSc with SDPE performing their duties in High/ Comprehensive High School wef 01-07-1983 as personal. But the appellant was performing duties at GMS Wach Bazar till 27-02-1995. According to the said notification he was not entitled for BPS-15. (Annexure B)

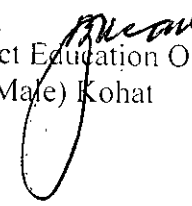
4. Admitted to the extent that entry to this effect has been made in his service book by the Head Master concerned.
5. Not concerned. That pay fixation party has re-fixed the salary of the appellant in BPS-14 with a recovery of RS.1,23000/- (Annexure C)
6. The appellant has got no cause of action to file departmental appeal as he was treated as per law hence instant appeal is also liable to be dismissed.

**Grounds:-**

- (A) Incorrect. That the appellant pay has been re-fixed by pay fixation party and hence no need to reply on the part of Education Department.
- (B) Incorrect. As explained in Para 3 above.
- (C) Incorrect. The appellant was treated as per constitution, law and policy on the subject.
- (D) Incorrect. No right of the appellant has been violated hence the appellant has got no cause of action to file instant appeal.

It is therefore humbly prayed that the instant appeal may graciously be dismissed with cost.

  
Director  
Elementary & Secondary Education  
Khyber Pakhtun Khwa Peshawar

  
District Education Officer  
(Male) Kohat

APPOINTMENT. On the recommendation of the Deptl: Selection Committee Appointment of the following candidates is/are hereby ordered against the post of P.E.T. on temporary and ~~ad-hoc~~ basis at Rs. R.P. Scale. PM fixed plus usual allowances as admissible under the rules in BPS -9 (~~Rs. R.P. Scale.~~) at the institution noted against each name:-

S.No.	Name/Qualification/Address.	Posted at.	Remarks.
1.	Mr. Noor Mohammad Shah PTC, Teacher, GPS, Hayat Abad (Karak), (BHPED) Trained.	GMS, Wach Bazar Hangu (Kohat).	Against vacant P.E.T. post.
2.	Mr. Abdur Rauf PTC, Teacher GPS Zanaka Banda (Karak), (BHPED) Trained.	<del>GMS, Ghandayali xx Fayat Kohat xx</del> Gurgura Kohat	<del>-----do-----</del>

TERMS & CONDITIONS:

1. Their appointment is purely temporary & liable to termination at any time without assigning reasons or notice.
2. In case of resignation they will have to submit one month's Prior notice to the Deptt: or forfeit one month's pay in lieu thereof to the Government.
3. ~~He/She/They~~ They are required to produce health & age certificate from the Medical authority concerned before taking over charge provided they are not already in Government Service.
4. ~~He/She/They~~ They should not be allowed to take over charge if ~~his/her~~ their age is/are less than 18 years or above 27 years.
5. ~~His/Her~~ Their appointment is subject to further condition that ~~he~~ ~~she~~ they are domiciled of N.S.F.P.
6. All Educational, Character & Domicile-Certificates should be thoroughly checked before handing over charge & if necessary it should be verified from the institution concerned.
7. If ~~he/she~~ they fail to take over charge of the post within a week of the receipt of this order, the offer of appointment shall stand cancelled.
8. Charge reports should be submitted to all concerned in duplicate.
9. No TA/DA etc is allowed.

(HAJI ABDUL QAHAH KHAN)

DIVISIONAL DIRECTOR OF EDUCATION (SCHOOLS), KOHAT DIVISION KOHAT.

Endst: No. 12718-21 / IV-AE/ Apptt: Dt: Kohat the 24-11-1994.  
Copy forwarded for information & n/action to the:-

1. Distt: Education Officer, (M) Secondary Kohat.
2. Sub Divl: Education Officer, ~~xxxxxxx~~ Gurgura Kohat
3. ~~Principal/Headmaster/xxxxxxx~~ GMS, Wach Bazar, Ghandayali ~~Fayat~~ (Kohat).
4. Candidate concerned.

M. SHAUKAT /\*\*\*\*

*M. R. Baigul*  
 21 DIVISIONAL DIRECTOR OF EDUCATION (SCHOOLS), KOHAT DIVISION KOHAT.  
*24/11/94*  
 C.T.C.  
 H

1	2	3	4	5	6	7	8
Name of post	Whether substantive or officiating and whether permanent or temporary	If officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C. S. R.	Pay in substantive post	Additional Pay for officiating	Other emolument falling under the term "Pay"	Date of appointment	Signature of Government servant
P.T.C							
9. P. Bami Bander	off/Temp.			Rs. 2284/-		16/94	<i>[Signature]</i>
9. P. Hareet Alach				Rs. 2284/-		29/94	<i>[Signature]</i>
W	W			Rs. 2381/-		12/94	<i>[Signature]</i>
PET Post GMS Watch Bazar	DO	BPS-9		2381/-		04/94	<i>[Signature]</i>
<p>Office of The District Accounts Officer                  Kothal                  Pay Fixed in the Revised Pay Scales - 1994                  of Rs: 1605-97-3060 (BPS-9)                  at Rs: 2284/- P.M. 1-6-94                  With next increment on 1-2-1-13-94</p>							
PET							
GHS, Sheikhan				Rs. 2381/-		28/95	<i>[Signature]</i>
				C.T.C			
				<i>[Signature]</i>			



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

**SERVICE APPEAL NO.1345 OF 2014**

Noor Muhammad Shah.....Appellant.

V/S

Director (E &S) Education Government of  
Khyber Pakhtunkhwa and others.....Respondents.

(Reply on behalf of respondent No. 3 & 4)

**Preliminary Objections:-**

- 1). That the Appellant has no Locus standi and cause of action.
- 2). That the claim is not based on fact.
- 3). That the appeal is based on mollified liable to be dismissed.
- 4). That the similar nature case has already been decided by the Khyber Pakhtunkhwa Service Tribunal Peshawar. (Photo copy attached).Annex (A).

**Respectfully Sheweth:-**

1). No Comments.

2). Relate to Education Department. Hence no comments.

3). (i) The Government of Khyber Pakhtunkhwa Finance Department has issued corrigendum vide FD (PRG)5-1 /93 dated 09.06.1194. The existing entries at s. no.6 and 7 appearing under Education Department in Annexure II to the finance Department letter no. FD (SR-1)1-67/83 dated 24.08.1983. Shall be deemed to have been inserted abiiinitio. Which is reproduced below:-

<b><u>Name of Post</u></b>	<b><u>Existing Scale</u></b>	<b><u>Basic Scale</u></b>
Physical Training Instructor GHS / Comprehensive School with (SDPE)	BPS-8 (370-15-514/19-640 22-750).	BPS-09(620-29-1200
	Photo copy of the letter is attached. Annexure (B)	

3). (ii). The appellant was appointed as PET in BPS-09 on 25.11.1994, according to the S. No. 02 of the Notification Government of Khyber Pakhtunkhwa Finance Department FD (PRC)1-1/89 dated 07.08.1991. All the present and future Elementary School teachers (EST/CT/SV/PET/DM/ who possess the Qualification of BA/BSC 2<sup>nd</sup> Division plus existing prescribe professional Training shall be placed in BPS-14 with 1/3<sup>rd</sup> Selection Grade in BPS-15 hence the pay of the appellant was fixed in BPS-14 by the Pay Fixation Party. Annexure (C).

4). The applet was transfer to GHS Sheikhan on 10.03.1995 and was allowed pay in BPS-15 by the Head Master GHS Sheikhan / Divisional Director of Education Kohat which is volition of the Finance Department order dated 12.01.1995. Annexure (D).

5). The Pay Fixation Party of the Accountant General KPK Peshawar has fixed the pay of the appellant in the light of existing rules/ Notification of the Finance Department Government of KPK Peshawar.

6). No coments.

Keeping in views the above mentioned facts, it is therefore, humbly prayed that writ in hand <sup>having</sup> no merits may be dismissed with cost.

  
DISTRICT ACCOUNTS OFFICER  
KOHAT

  
ACCOUNTANT GENERAL  
KHYBER PAKHTUNKHWA

BEFORE THE N.W.F.P SERVICE TRIBUNAL, PESHAWAR.

SERVICE APPEAL NO. 323/2004

Date of institution ... 26.04.2004  
Date of decision ... 28.11.2005

Kaleem Nawaz alias Kaleemullah S/o Rab Nawaz,  
R/O Kaleem Abad, D.I. Khan, presently C/O EDO(S&L),  
D.I. Khan. .. Appellant

VERSUS

1. Secretary to Govt. of NWFP,  
Education Department, Peshawar.
2. Director of Education (S&L), NWFP, Peshawar.
3. Executive District Officer(S&L), D.I. Khan.
4. District Accounts Officer, D.I. Khan. .. Respondents

APPEAL AGAINST THE ORDER DATED 12.01.2004 OF  
RESPONDENT NO.4 VIDE WHICH THE APPELLANT HAS  
BEEN HELD TO BE NOT ENTITLED FOR PAY IN B-15  
AND THE RECOVERY HAS BEEN ORDERED TO BE MADE  
FROM THE APPELLANT FROM THE DATE OF HIS  
APPOINTMENT.

Sayed Zafar Abbas Zaidi, &  
Farmanullah Khattak  
Advocates.

.. For appellant

Mr. Noor Eaman Khan,  
Addl: Govt. Pleader.

For respondents

Mr. Abdul Sattar Khan,  
Mr. Azmat Hanif Crakpai.

Chairman  
Member

JUDGMENT

ABDUL SATTAR KHAN, CHAIRMAN: The appellant

namely Kaleem Nawaz is serving as FET in the Education  
Department ever-since his appointment on 11.01.96. He



is also holder of qualifications of B.A and SDPE + M.Sc Physical Education. It is alleged that Physical Education is taught as a subject in Matric as well as in colleges. The teachers who perform the same duties in the colleges are known as 'DPEs'. That requirement for appointment both in schools and colleges is a diploma of SDPE. The appointees in the colleges are given B-16 while the appointment in schools, in case of SDPEs was in B-15 in accordance with the instructions issued by the Government of NWFP Finance Department vide Notification dated 24th August, 1983. It is further alleged that the Education Department in consultation with the Finance Department also allowed three advance increments to all those appointees who had Master Degrees to their credit in the field of Physical Education. That the appellant was initially appointed in BS-14. He was allowed BS-15 w.e.f 13.01.96 on the basis of Notification of the Finance Department, referred to, above. However, this concession was withdrawn and the PETS' appointments were specified to be in B-9 and when the matter was finally considered, all the teachers who have been granted BS-15 were later on ordered to be having BS-9, were given BS-15 as personal grades w.e.f 12.1.95. On this analogy, the appellant was also entitled to the same benefit on the principle of consistency and to avoid discriminatory treatment. However, in disregard of the above facts, respondent No.4 has re-agitated the matter and a recovery has been ordered from the appellant from his pay on the mistaken view that the appellant was not entitled to BS-15. After exhausting his departmental remedy, the appellant has come up in appeal.

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to the Tribunal for the redressal of his grievances.

2. Notices were sent to the respondents. They turned up and contested the appeal by filing their separate written replies. Various factual and legal pleas were raised. It was also inter alia alleged that existing entries appearing against S.No. 6 of annex-II of impugned circular letter dated 24/8/83 were deleted ab-initio and inserted with new entries vide Finance Department corrigendum No. FD(PRC)5-1/93 dated 9.6.94. Hence, due to deletion of these entries, the appellant was not entitled to be allowed E-15. However, as per Finance Department letter dated 12.1.95, only those existing PETs were eligible for E-15 (as personal to them) who were possessing prescribed academic/professional qualification and serving in High Schools. Similar nature appeal of Shafiq-ur-Rehman, PET has already been dismissed by the Hon'ble High Court vide its decision dated 23.4.02 in appeal No. 153/99. That the appellant is also not entitled to three advance increments on the basis of M.Sc; qualification. No replication, in rebuttal, was filed by the appellant.

3. Arguments heard and record perused.

4. Learned counsel for the appellant argued that on the basis of principle of locus-poenitentiae, the appellant is entitled to BS-15; that the benefit once enjoyed cannot be withdrawn after the lapse of 8 years; that the circular letter of 1994 of Finance Department has no legal value and it cannot over-ride the powers of the competent authority and more-so when it is not notified in the official gazette and that there is no

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material/notification to the effect that the Administrative Department has consented to it. Lastly, it was argued that the appellant has been discriminated as some of his colleagues are receiving/enjoying the benefit of BS-15, while the appellant has been deprived of the same benefit. As such the appellant is entitled to BS-15 and no recovery be made from him.

5. In reply it was urged that similar nature of case was decided by the High Court on 23.4.02 and no relief was granted to the petitioner ; that the case of the present appellant is also at par with those who have been denied the benefit of BS-15 and that the circular letter of 1994 is a legal one, therefore, the appeal is liable to be dismissed.

6. The Tribunal holds that the claim of the appellant is groundless. He is not entitled to the award of BS-15. The award of BS-15 to the appellant was an error which was rectified through a corrigendum issued by the Finance Department vide letter No. FD(PROC)5-1/93 dated 9.6.94. However, to compensate these <sup>PETs</sup> already in receipt of BS-15, the Provincial Government allowed BS-15 to <sup>F.D</sup> them as personal vide letter dated 12.1.95, therefore, the provision of the above letter was specific to those mentioned above and not general. The relevant para of the Finance Department's letter dated 12.1.95 reads as under:

"Pay Scales of P.T.Is  
BPS-15 would be admissible with effect from 1.7.1983 to the existing P.T.Is with BA/B.Sc qualifications with senior diploma in physical education and working in the Government High/Comprehensive High Schools as personal to them."

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The appellant was either appointed after 12.1.95 or has qualified BA/B.Sc with senior diploma in Physical Education after 12.1.95, therefore, he cannot be placed in BS-15. He is only entitled to be placed in the scale as admissible to him in the light of F.D's letter No. FD(PRC)1-1/89 dated 7.8.91. The appellant is also not entitled to three advance increments on the basis/strength of higher qualification of M.Sc Physical-Education in view of the Finance Department's Notification. The principle of locus-poenitentiae is not applicable as the appellant was erroneously allowed BS-15 which was later on withdrawn and he has enjoyed <sup>sufficiently</sup> the benefit of the Notification of the Finance Department of 1983. The Peshawar High Court, Peshawar in W.P. No. 153 of 1999 filed by Shafiq-ur-Rehman, dis-allowed the concession of BS-15 to those P.E.Ts, holding qualifications of BA/B.Sc with senior diploma. It was also held that grant of BPS-15 to the teachers was an error as it was unreasonable that they be given a jump of six steps to be granted BS-15. The error was later on corrected by issuing a corrigendum by the Finance Department.

7. Further, joint departmental appeal was filed by the present appellant namely Kaleem Nawaz with co-appellants namely Kashif Rehman, Sayed Mohsin Abbas, Jamshed Khan and Mohammad Khalid. Like-wise, joint departmental appeal was filed by Muhammed Aslam appellant with co-appellants namely Muhammed Ayaz S/o Sarfaraz, Muhammed Younis, Salah-ud-Din, Muhammed Attahar, Munawar-Mussain Shah, Abdul Salam Shmas, Muhammed Sajjid, Muhammed Naveed Ahmad, Muhammed Behram, Habib-ur-Rehman,

NWFP  
SARFARAZ  
POSTMASTER  
EMERGENCY  
CORRAL  
ATTESTED  
SARFARAZ

Muhammad Zahoor, Muhammad Ayaz S/o Rab Nawaz, Azmatullah & Abdul Samad, respectively. Filing of joint departmental appeal is violation of the NWFP Civil Servants (Appeal) Rules, 1986. According to Rule-3, sub-rule(2) where the order of the competent authority affects more than one civil servant, every affected civil servant shall prefer the appeal separately. The present departmental appeal by the appellant has been filed by 8 persons jointly, whereas the appeal filed by Muhammad Aslam and co-appellants has been filed by 16 persons jointly. So this departmental appeal as well as the departmental appeal filed by the co-appellants are in total violation of sub-rule(2) of Rule-3 of Appeal Rules ibid which would mean that no departmental appeal has been filed in the present appeal as well as in the connected appeals, whereas filing of departmental appeal is sine-qua-non. Reliance is placed on the authority of the august Supreme Court of Pakistan in C.Ps No. 351-P to 357-P of 1999 titled, "Muhammad Shoab & 6 others-Vs-Director Primary Education NWFP, Peshawar & 3 others", decided on 15.7.99. Lastly, the appellant is claiming financial benefits, whereas the Govt. of NWFP Finance Department has not been impleaded as party. Impleadment of necessary party i.e. F.D was essential. On this score the instant appeal and connected appeals No. 324, 325, 326 & 327 of 2004 are also liable to be dismissed. As such no case for indulgence of the Tribunal was made out. Accordingly, the instant appeal fails and is dismissed.

3. This order/judgment shall also dispose of 24 other connected appeals bearing No. 324 to 327 of 2004 ; 462 to 464/04, 466 to 470/04, 478 to 482/04, 556 and 557 of 2004 as well as appeals No. 598 to 602 of 2004 filed by Kashif Rehman, Sayed Mohsin Abbas, Jamshed Khan, &

ATTESTED

*[Signature]*

NWFP  
OFFICE  
GENERAL

Muhammad Khalid, Muhammad Aslam, Muhammad Ayaz S/o Sarfaraz, Muhammad Younis, Salah-ud-Din, Muhammad Attahar, Munawar-Russair Shah, Abdul Salam Shmas, Muhammad Sajjid, Muhammad Naveed Ahmad, Muhammad Behram, Habib-ur-Rehman, M. Zeheer, Muhammad Ayaz s/o Rab Nawaz, Azmatullah & Abdul Samad and Laiq Zaman; Lais Khan, Intikhab Gul, Ikramullah & Haider Muhammad appellants respectively in the same manner involving common questions of law & facts.

9. This judgment shall also dispose of Service Appeal No. 819 of 2004 titled, "Dost Muhammad-Vs-Govt. of NWFP through Secretary of Education (S&L) Civil Sectt: Peshawar & others". The appellant an A.T in the Education-Department was allowed BS-14 on getting qualification of Shahadat-ul-Alamia. The Pay Fixation Party re-fixed his pay in BS-9 and recovery was also ordered to be made from him. Since the appellant has obtained the Sanad of Shahadat-ul-Alamia from Madrassa of Hoti Mardan which is not recognized by Peshawar University. BS-14 is admissible to those A.Ts having qualification of Shahadat-ul-Alamia subject to the condition that the degree/sanad is obtained from the Institution declared as authorised by the University of Peshawar vide letter No. 10357/59/9-C/Vol: VXI/9-C/ACAD/V dated 19.4.94. The Sanad of the appellant is not recognized by the Peshawar University, therefore, he is not entitled to BS-14 and <sup>his pay</sup> has rightly been fixed in BS-9 by the Pay Fixation Party. However, no recovery be made from all the appellants regarding the excess salary received by them in higher grades. No order as to costs. File be consigned to the record.

ANNOUNCED  
29.11.2005

(AZMAT HANIF ORAKZAI)  
MEMBER

(ABDUL SATTAR KHAN)  
CHAIRMAN  
NWFP SERVICE TRIBUNAL  
PESHAWAR.

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14-05  
7/3/06

28/11/05

Annexure B

43

(52)

GOVERNMENT OF NW  
FINANCE DEPARTMENT

CORRIGENDUM/

NO. FD(PRC) 5-1/93

To,

GOVERNMENT OF NWFP,  
FINANCE DEPTT:  
dt:-9.6.1994.

(57)

The Secretary to Govt. of  
NWFP Edu: Deptt.:

349

Subj: CORRIGENDUM IN THE SCHEME OF BASIC PAY SCALES AWARD  
OF B-17 SELECTION GRADE TO B.A/R. SC WITH SDPE.

Sir,

I am directed to refer to your letter No. SO(S) 1-49/90(A) dated 19th October, 1993 on the subject noted above and to say that for the existing entries at serial No. 6 & 7 appearing under Education Department in Annexure-II to the Finance Deptt.'s letter No. FD(SR-I) 1-57/93, dated 24.3.1993 shall be deemed to have been inserted as follows:-

(43)  
246  
B-15

<u>Name of post</u>	<u>Existing Scale</u>	<u>Basic Scale</u>
Physical Training Instructor (High Schools/Comprehensive Schools) B.A. with Senior Diploma in Physical Edu.	RWPS-8 (Rs. 370-15-514/18-640-22-750)	B-9 Rs. 620-29-1200
Librarian (High Schools) B.A. with Diploma in Library Science.	RWPS-14 (Rs. 540-30-730/35-1010-40-1210)	B-15 (Rs. 900-55-2000)

Yours Obedient Servant,  
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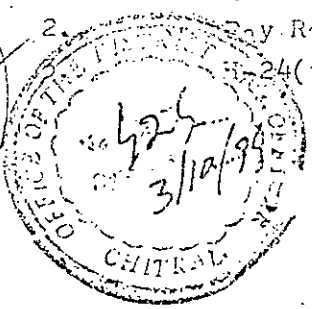
(SHAFIR ULLAH)  
Section Officer (PRC)

Encl: No. & date given.

OFFICE OF THE ACCOUNTANT GENERAL NWFP, PESHAWAR.  
NO. H-24(71)/vol: III/H/2113/ dt:-

Copy forwarded for information and necessary action to

1. All DACs/AOs in NWFP.
2. Pay Roll, III, IV and VI Local.



Mr. Abdul Hameed

ACCOUNTS OFFICER  
NWFP, PESHAWAR.

=====  
Fair Copy  
=====

Annex B

Annex - c  
Recd

GOVERNMENT OF NORTH WEST FRONTIER PROVINCE  
FINANCE DEPARTMENT.

D

NOTIFICATION.

Peshawar dated the 7<sup>th</sup> August 1991.

NO. FD (PRC) 1-1 / 89. In exercise of all the powers enabling him in this behalf the Governor of the North-West Frontier Province is pleased to order the following scales of pay/benefits to various categories of Teachers with effect from 01.07.1991.

S.No	Name of the Post	Benefits extended
1.	2.	3.
1.	Primary School Teachers (PTC / J.V)  <i>Matric</i>	All the present and future primary school teachers who hold the qualification of F.A/F.Sc (2 <sup>nd</sup> Division) plus existing prescribed professional training shall be placed in BPS-9 with 1/3 <sup>rd</sup> in selection grade BPS-10.  All other teachers who do not possess higher qualification shall continue getting existing pay scale with Selection grade accordingly.  However, the higher Scales/grades allowed to these teachers will be personal to them and the inter-se-seniority will remain intact.
2.	Elementary School Teachers (E.S.T / C.T / S.V / P.E.T / Drawing Masters/PTI.  <i>F.A/F.Sc</i>	All the present and future Elementary School Teachers who possess the qualification of B.A/B.Sc (2 <sup>nd</sup> Division) plus existing prescribed professional training shall be placed in BPS-14 with 1/3 <sup>rd</sup> in selection Grade BPS-15.  All other teachers who do not possess higher qualification shall continue getting existing pay scales with selection Grade accordingly.  However, the higher Scales/grades allowed to these teachers will be personal to them and the inter-se-seniority will remain intact.
3.	Arabic Teachers.  <i>Honour in Arabic</i> <i>فہم فی عربیہ</i>	All the present and future Arabic Teachers who possess the qualification of Trained/Fazil with B.A/B.Sc (2 <sup>nd</sup> Division) and five years teaching experience or M.A. Arabic or equivalent qualifications shall be placed in BPS-14 with 1/3 <sup>rd</sup> in Selection Grade BPS-15.



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		All other teachers who do not possess higher qualification shall continue getting existing pay scales with Selection Grade accordingly.  However, the higher Scales/grades allowed to these teachers will be personal to them and the inter-se seniority will remain intact.
4.	Secondary School Teachers. <i>B.A/Bsc. Bed.</i>	All the present and future Secondary School Teachers with prescribed qualification under the Rules shall be placed in BPS-16 with 1/3 <sup>rd</sup> in Selection Grade BPS-17.

The advance increments sanctioned by Finance Department vide Para-9 of its letter No.FD(SR-1)1-67/82 dated 24-08-1983 will not be admissible on acquiring/possessing qualifications for which higher pay scales are being sanctioned through this notification.

Sd/-  
SECRETARY TO GOVERNMENT OF  
North West Frontier Province  
Finance Department.

Dated Peshawar the 7<sup>th</sup> August, 1991.

Endst No. FD (PRC) 1-1 / 89

A copy is forwarded to the Accountant General, NWFP, Peshawar for information and necessary action.

Sd/-  
(GHULAM DASTAGIR AKHTAR)  
Deputy Secretary (Regulation)  
Finance Department.

Endst No. FD (PRC) 1-1 / 89      Dated Peshawar the 7<sup>th</sup> August 1991.

A copy is forwarded to :-

1. All Administrative Secretaries to Govt. of NWFP.
2. All Commissioners of Division, NWFP.
3. All Heads of Attached Departments, NWFP.
4. The Secretary to Governor, NWFP.
5. The Registrar, Peshawar High Court, Peshawar.
6. The Secretary, Public Service Commission, NWFP.
7. The Registrar, Service Tribunal, NWFP.
8. All Dy. Commissioners/ Political Agents/District & Session Judges in NWFP.

Sd/-  
(GHULAM DASTAGIR AKHTAR)  
Deputy Secretary (Regulation)  
Finance Department.

*B. S. S. S.*  
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GOVERNMENT OF N.W.F.P  
FINANCE DEPARTMENT

NO.FD(SR.1)2-123/2004

Dated Peshawar the, August 13, 2005.

To

1. The Secretary to Govt. of NWFP,  
Schools & Literacy Department. ✓
2. The Accountant General,  
NWFP ✓

25/8

SUBJECT:- CLARIFICATIONS ON DIFFERENT ISSUES RELATED TO THE DIFFERENT CATEGORIES OF TEACHERS.

Dear Sir,

I am directed to refer to the subject noted above and to clarify the following issues related to the different categories of teachers:-

1. PTC TEACHERS

A PTC Teacher who availed advance increments on attaining or possessing BA/BSc qualification in the PTC cadre and when subsequently appointed as C.T/DM/PET/ AWI also availed BPS-14 on the same qualification would either retain BPS-14 or the advance increments. In case he opts for BPS-14 the increments will be discontinued from the date of availing BPS-14. However recovery of over payment on either account i.e. advance increments or BPS-14 shall not be effected and the amount already recovered shall not be refunded. The cut off date for opting one of the two facilities as above is 30<sup>th</sup> June 2005.

2. Qari/TT

- a. Those Qaries/Theology Teachers (BPS-7) who availed BPS-9 on higher qualification of FA/FSc 2<sup>nd</sup> Divison are also entitled to three advance increments on BA/BSc/B.Com as were allowed to the PTC teachers on the basis of same qualification. However no advance increments are allowed on or after 1-12-2001 on possessing/acquiring BA/BSc as

the scheme has since been discontinued in the Pay Revision Rules 2001 enforced w.e.f 1-12-2001.

b. TIs and Qaries are also entitled to BPS-9 on possessing/acquiring higher qualification of Deeni Asnads from 1<sup>st</sup> July 2005 onwards which had been equated to FA/FSc by Higher Education Commission Islamabad. BPS-9 previously granted on Deeni Asnads without approval of the govt. being irregular, may be withdrawn. However, recoveries may not be effected from the affected teachers but the amount already recovered from beneficiaries shall not be refunded.

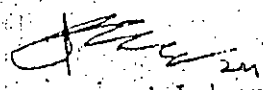
3. Arabic Teacher

Under the existing policy Arabic Teachers on possessing/acquiring BA/BSc 2<sup>nd</sup> Division with 5 years teaching experience or MA Arabic or equivalent qualification are granted BPS-14. Teachers having BA/BSc in 3<sup>rd</sup> Division were allowed 3 advance increments. Some of the teachers have availed the benefit of 3 advance increments as well as BPS-14 which is not admissible and being irregular the advance increments have to be withdrawn from such teachers on the date of availing BPS-14. Recoveries on account of over payment on this account shall, however, not be made up to 30-6-2005 but the amount recovered so far shall not be refunded.

4. PET/PTI

PETs/PTIs who were granted BPS-15 as personal vide letter No.FD(PRC)5-1/93 dated 12-1-1995 are not entitled to advance increments on attaining higher qualification of MA/MSc. However, recoveries may not be effected from such teachers on account of over payment on the basis of advance increments but the amount already recovered shall not be refunded.

Yours faithfully

  
(Aurangzeb Jadoon  
Section Officer (SR.)

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5. Advance increments on possessing or acquiring qualifications of F.A/B.A in 3rd Division.

The advance increments sanctioned under the Finance Department's letter No.FD(SR-I)1-67/83, dated 24.8.1985 as clarified in the Finance Department's Notification No.FD(PRC)1-1/89, dated 7.8.1991 are not admissible to those who have been granted higher pay scales on the basis of higher specified qualifications in atleast 2nd Division. The advance increments in term of FD's letter dated 24.8.1983, referred to above are still admissible to those who could not get higher pay scales for not possessing/acquiring the specified higher qualifications in 2nd Division.

Your obedient servant

*J. Jabbar*

( J.L. JABBAR )  
Section Officer (PRC)

Enclst: NO.FD(PRC)5-1/93, dated 12th-January, 1995.

Copy for information and necessary action is forwarded to :-

1. The Accountant General, N.W.F.P.
2. All District/Agency Accounts Officers in NWFP.
3. All Additional Secretaries in the Finance Deptt.:
4. All Deputy Secretaries in the Finance Department.
5. All Section/Budget Officers in the Finance Deptt.:
6. The Section Officer(R-I) Services & General Admn: Department.

*Mr. Ans  
may be noted &  
The Encl: H.D. for  
ad copy - Encl:  
Encl.*

*M.  
noted  
12/1/95*



*J. Jabbar*

( J.L. JABBAR )  
Section Officer (PRC)

12/1/95

BEFORE THE SERVICE TRIBUNAL KPK, PESHAWAR

IN RE; Service Appeal NO.1345\2014

Noor Muhammad Shah.....Appellant

Versus

Director Elementary & Secondary Education Peshawar and  
others.....Respondents

Rejoinder on behalf of appellant to the reply of  
respondent No.1&2.

Preliminary Objections:

All the preliminary objections have been taken in routine. The appeal is within time. Appellant has got cause of action and the appeal is competent in its present form. It is further submitted that the appellant has presented true picture before this honorable tribunal and nothing has been concealed by the appellant. The appellant has come to this honorable tribunal with clean hands. The rights of the appellant have been denied therefore, he has locus standi to file the appeal.

ON FACTS:

1. Para-1&2 of the reply needs no rejoinder.
2. Para-3 of the reply is misleading. It was not the fault of the appellant that he was appointed in middle school however he was performing the same functions as teachers of the high schools were performing.
3. Para-4&5 of the reply needs no rejoinder.
4. Para-6 is wrong and incorrect. Appellant was not treated in accordance with law.

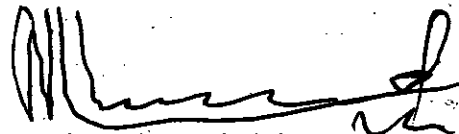
GROUND:

- A. Ground-A of the reply is wrong and incorrect. Ground-A of the appeal reiterated.
- B. Ground-B of the reply is wrong and incorrect.

- C. Ground-C of the reply is wrong and incorrect. The appellant was treated illegally.
- D. Ground-D of the reply is wrong and incorrect. Rights of the appellant have been violated.

In the light of the above rejoinder the appeal may kindly be accepted.

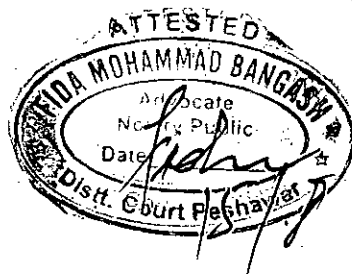
Through



Nasir Mahmood Advocate  
Supreme Court of Pakistan  
13-D Haroon Mansion Peshawar.

Affidavit

I do hereby declare, and affirm on oath that the contents of accompanying rejoinder are true and correct to the best my knowledge and belief and nothing has been concealed from this hon'ble tribunal.



Deponent

