

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1376/2020

BEFORE: MRS. RASHIDA BANO ... MEMBER (J)  
MISS FAREEHA PAUL ... MEMBER(E)

Khalid Muhammad, Arabic Teacher GMS Anbar, Swabi.  
.... (Appellant)

VERSUS

1. The Secretary to Government of Khyber Pakhtunkhwa, Elementary and Secondary Education, Peshawar.
2. The Decorator, Elementary and Secondary Education, Peshawar.
3. The District Education Officer, Male Swabi.
4. The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.

.... (Respondents)

Mr. Hilal Zubair  
Advocate ... Forappellant

Mr. Habib Anwar  
Additional Advocate General ... Forrespondents

Date of Institution..... 09.03.2020  
Date of Hearing.....05.01.2024  
Date of Decision.....05.01.2024

JUDGMENT

Rashida Bano, Member(J): The instant service appeal has been instituted under section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as below:

**“On acceptance of this appeal, the respondents may be directed to fix the appellant’s pay in BPS-14 as at the relevant time as per notification dated 07.08.1991 with all back and consequential benefits. Any other remedy which**

SCANNED  
KPST  
Peshawar



**this august tribunal deems fit that may be also be awarded in favour of appellant.”**

2. Brief facts leading to filing of the instant appeal are that the appellant was appointed as Arabic Teacher (BPS-9) in Education Department vide order dated 24.09.1985. That appellant has passed BA in the year 1987 and MA in 1991. That the government of Khyber Pakhtunkhwa had issued notification dated 07.08.1991, whereby various grades had been given to different categories of the teachers. The cadre of the appellant was placed in BPS-14 who had five year of service but appellant was ignored. Feeling aggrieved, appellant filed departmental appeal which was not responded, hence, the instant the service appeal.

3. We have heard learned counsel for the appellant and learned District Attorney for the respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Learned counsel for the appellant argued that the appellant has not been treated in accordance with notification dated 07.08.1991. He further argued that inaction of the respondent and not following the notification dated 07.08.1991 in respect of appellant's pay fixation is an arbitrary act on the part of respondents. He further argued that the appellant was entitled to BPS-14 as but his pay was not fixed accordingly which is deprivation of appellant from his legal right.

5. Conversely, learned District Attorney contended that the appellant was treated in accordance with law and rules. He further contended that the appellant was promoted to the post of SST and adjusted at GHS Kunda vide order dated 30.10.2014 and was retired from service on attaining the age of superannuation on 04.02.2019. He further contended that appellant was not

trained Fazil, hence he is not entitled for award of BPS-14. He further contended that appellant had earlier filed the same appeal with the same prayer, facts and grounds, under Service Appeal No. 232/2017, which was dismissed as withdrawn by this tribunal on 14.12.2018, thus the instant service appeal is barred by the principal of resjudicata and is liable to be dismissed.

6. Perusal of record reveals that appellant filed instant appeal for fixation of his pay in BPS-14 in accordance with notification dated 07.08.1991 with request to grant him all back and consequential benefits. Appellant was appointed as Arabic Teacher in BPS-09 vide order dated 24.09.1995, passed his BA in 1987 while MA Islamyat in the year 1991 on 07.08.1991. Government of Khyber Pakhtunkhwa issued a notification in accordance with which various grades had been given to different categories of teachers. Those Arabic teachers had been placed in BPS-14 who had 5 years service and passed B.A in 2<sup>nd</sup> division or MA Arabic. Appellant fulfilled this criteria but he was astonished to check that his pay was not fixed in BPS-14 at the relevant time as per notification dated 07.08.1991. Appellant alleged discrimination because pay of all others teachers of appellant's cadre were fixed in BPS-14 by ignoring the appellant.

7. Learned Deputy District Attorney at the very outset raised objection upon maintainability of instant appeal by arguing that earlier, the appellant filed service appeal bearing No.232/2017 with the same prayer as is claimed there in the instant appeal, and the said appeal was withdrawn by the appellant, therefore, instant appeal is hit by Rule, 24 of the Khyber




Pakhtunkhwa Service Tribunal Act, 1974. i.e. resjudicata and requested for rejection of appeal.


8. Perusal of service appeal No.232/2017 reveals that said appeal was also for fixation of the pay of the appellant in BPS-14 at the relevant time as per notification dated 07.08.1991 which means that said appeal was filed for the same relief which appellant seeks in the instant appeal also. Appellant withdrew that appeal on 14.12.2018. Rule 24 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 is reproduced for ready reference:

*“24. Appellant precluded from bringing another appeal in certain cases. Where an appeal has been withdrawn by the appellant and is in consequence dismissed by a Tribunal, the appellant shall, unless otherwise directed by a Tribunal, be precluded from bringing another appeal in respect of the same cause of action.”*

9. In view of the above discussion, the appeal in hand is dismiss having no force in it. Cost shall follow the event. Consign.

10. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 5<sup>th</sup> day of January, 2024.*

  
(FAREEHA PAUL)  
Member (E)

  
(RASHIDA BANO)  
Member (J)

SCANNED  
KPST  
Peshawar

**ORDER**


05.01.2024


1. Learned counsel for the appellant present. Mr. Habib Anwar learned Additional Advocate General for the respondents present.

2. Vide our detailed judgment of today placed on file, the appeal in hand is dismissed having no force in it. Cost shall follow the event. Consign.

3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 5<sup>th</sup> day of January, 2024.*

SCANNED  
Peshawar

  
(FARZHA PAUL)  
Member (E)

  
(RASHIDA BANO)  
Member (J)

SCANNED  
Peshawar

31<sup>st</sup> Oct. 2023

1. Appellant in person present. Mr. Muhammad Jan learned District Attorney alongwith Fazli Khaliq, ADEO for the respondents present.

2. Appellant requested for adjournment for adjournment on the ground that his counsel is busy before Worthy Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 30.11.2023 before D.B. P.P given to the parties.

(Muhammad Akbar Khan)  
Member (E)

(Rashida Bano)  
Member (J)

30<sup>th</sup> Nov. 2023

1. Learned counsel for the appellant present. Mr. Muhammad Jan, learned District Attorney for the respondents present.

2. Learned counsel for the appellant requested for adjournment in order to prepare the brief. Adjourned. To come up for arguments 05.01.2024 before D.B. P.P given to the parties.

(Muhammad Akbar Khan)  
Member (E)

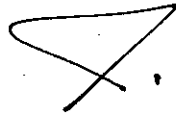
(Rashida Bano)  
Member (J)

02<sup>nd</sup> May, 2023

SCANNED  
KPST  
Peshawar

\*Naeem Amin\*

1. Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney alongwith Mr. Fazle Khaliq, Headmaster for the respondents present.
2. Learned counsel for the appellant seeks adjournment on the ground that he has not made preparation of arguments. Last opportunity is granted. To come up for arguments on 03.07.2023 before the D.B. Parcha Peshi is given to the parties.



(Salah-ud-Din)  
Member (J)



(Kalim Arshad Khan)  
Chairman

13<sup>th</sup> June, 2023

SCANNED  
KPST  
Peshawar

\*Mutazem Shah\*

1. Appellant in person present. Mr. Asif Masood Ali Shah learned Deputy District Attorney alongwith Mr. Fazal Khalid ADEO for the respondents present.
2. Appellant requested for adjournment as his counsel is not available today. Adjourned. To come up for 31.10.2021 before the D.B. P.P given to the parties.



(Rashida Bano)  
Member (J)



(Kalim Arshad Khan)  
Chairman

14<sup>th</sup> Dec. 2022

Due to strike of the Bar and Mrs. Rozina Rehman, learned Member (J) being on leave, this matter is adjourned to 03.03.2023 before the D.B. Office is directed to notify the next date on the notice board as well as the website of the Tribunal.

SCANNED  
KFPT  
Peshawar


  
(Fareeha Paul)  
Member(E)

03.03.2023

Clerk of learned counsel for the appellant present. Mr. Fazle Khaliq, ADEO alongwith Mr. Muhammad Jan, District Attorney for the respondents present.

SCANNED  
KFPT  
Peshawar

Clerk of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is unable to appear before the Tribunal due to some domestic engagement. Adjourned. To come up for arguments on 02.05.2023 before the D.B. Parcha Peshi given to the parties.

  
(Fareeha Paul)  
Member (E)

  
(Salah-ud-Din)  
Member (J)



12<sup>th</sup> Oct, 2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl: AG alongwith Mr. Kukarram Khan, SO for respondents present.


Written reply/comments on behalf of the respondents not submitted. Respondents are directed to submit written reply/comments on the next date. To come up for written reply/comments on 14.11.2022 before S.B.



(Kalim Arshad Khan)  
Chairman

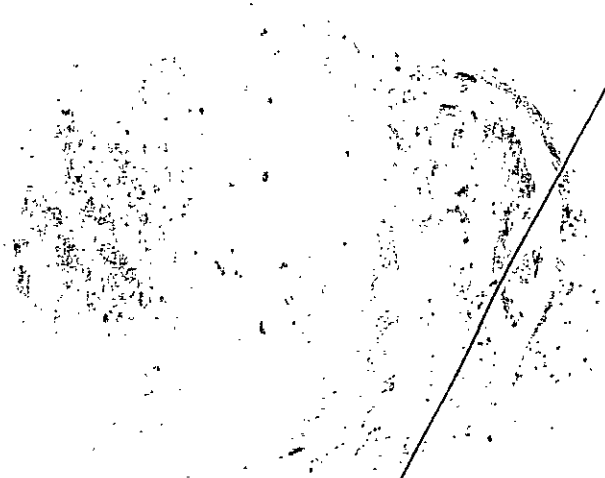
14.11.2022

Learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Fazle Khaliq, ADO (litigation) for the respondents present and submitted reply/comments which are placed on file. Copy of the same handed over to learned counsel for the appellant. To come up for rejoinder, if any, and arguments before the D.B on 14.12.2022.



(Mian Muhammad)  
Member (E)

SCANNED  
K.F. & T  
Peshawar



ll

08.03.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 08.06.2022 for the same as before.

Reader.

08.06.2022

Junior to counsel for the appellant present.

Lawyers are on general strike, therefore case is adjourned. To come up for preliminary hearing on 26.07.2022 before S.B.

(Rozina Rehman)  
Member (J)

26.07.2022

Appellant present through counsel.

Preliminary arguments heard. Record perused.

*Local respondent were put on notice while respondent (3) is out district.*

Points raised need consideration. Instant appeal is admitted for regular hearing subject to all legal objections. Appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to respondents for reply/comments. To come up for written reply/comments on 12.10.2022 before S.B.

*Rs: 600/-  
Appellant Deposited  
Security & Process Fee  
28/7/22*

**SCANNED**  
KPT  
Peshawar

(Rozina Rehman)  
Member (J)

08.12.2021


Junior of learned counsel for the appellant present. Mr. Muhammad Adeel, Addl: AG for respondents present.

As per order sheet dated 16.06.2021 the instant service appeal was dismissed in default for non-compliance of its earlier order regarding submission of amended appeal. An application for restoration was submitted on 25.06.2021 with the plea that learned counsel for the appellant was engaged in Peshawar High Court on that very date. As the application has been submitted within the prescribed limitation period, service appeal No. 1376/2020 is restored to its previous proceedings. Learned counsel for the appellant is bound to submit amended appeal on or before the next date. To come up for further proceedings on 10.01.2022 before S.B.

  
(MIAN MUHAMMAD)  
MEMBER (E)

10.01.2022

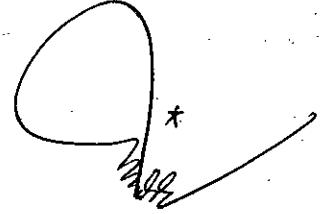
Clerk of learned counsel for the appellant present and sought further time for submission of amended appeal on the ground that learned counsel for the appellant is not available today due to some domestic engagements. Adjourned. Last opportunity given. To come up for submission of amended appeal before the S.B on 08.03.2022.

  
(Salah-Ud-Din)  
Member (J)

30.08.2021

Junior of counsel for the petitioner present. Mr. Usman Ghani, District Attorney alongwith Mr. Fazal Khaliq, ADEO for respondents present.

Junior of learned counsel for the petitioner requested for adjournment on the ground that the learned counsel for the petitioner is not available today. Adjourned. To come up for further proceedings before the S.B on 13.10.2021.



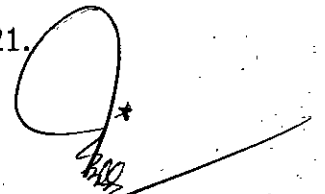
(MIAN MUHAMMAD)  
MEMBER (E)

10/10/21

13.10.2021

Junior of learned counsel for the petitioner present. Mr. Kabirullah Khattak, Addl: AG for respondents present.

Junior of learned counsel for the petitioner requested for adjournment on the ground that the learned counsel for the petitioner is not available today. Adjourned. To come up for further proceedings before the S.B on 08.12.2021.

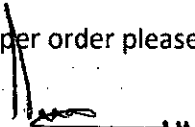




(MIAN MUHAMMAD)  
MEMBER (E)

FORM OF ORDER SHEET

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


Restoration Application No. 120 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	25.06.2021	<p>The Restoration Application submitted by Mr. Khalid Muhammad through Mr. Muhammad Asif Yousafzai 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-		<p>This Restoration Application be put up before S. Bench on <u>16/07/21</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	16.07.2021	<p>Junior to counsel for the petitioner present.</p> <p>Notices be issued to the respondents. To come up for reply and arguments on restoration application on 30.08.2021 before S.B.</p> <p style="text-align: right;"> Chairman</p>

09.12.2020

Counsel for appellant present.

He made a request for adjournment to furnish amended appeal; granted. To come up for amended appeal and preliminary hearing on 11.03.2021 before S.B.



(Rozina Rehman)  
Member (J)

11.03.2021

Appellant present through counsel.

Again, a request was made for adjournment, therefore, last chance is given for submission of amended appeal and preliminary hearing on 16/06/2021 before S.B.



(Rozina Rehman)  
Member (J)

16.06.2021

Nemo for the appellant.

A request for submission of amended appeal was made on 01.10.2020. Request was allowed and appellant was required to submit amended appeal on or before 09.12.2020. The appellant has not submitted to file amended appeal till date, despite the fact that on 11.03.2021, last opportunity was given to the appellant. To-day neither the appellant nor his counsel is in attendance. Therefore, this appeal is dismissed in default for non-compliance <sup>of</sup> order of the Tribunal. File be consigned to the record room.



Chairman

ANNOUNCED  
16.06.2021

13.03.2020

Nemo for the appellant. Adjourn. To come up for preliminary hearing on 21.04.2020 before S.B.

  
Member

21.04.2020

Due to COVID19, the case is adjourned to 22.07.2020 for the same as before.

  
Reader

22.07.2020

Syed Noman Ali Bukhari, Advocate junior to the senior is present. Request for adjournment. Adjourned to 01.10.2020. To come up for preliminary hearing before S.B.


  
(MUHAMMAD JAMAL KHAN)  
MEMBER

01.10.2020

Counsel for the appellant requests for time to submit amended appeal as certain facts relevant for the purpose were inadvertently not noted in the memorandum of appeal.

The appeal is at initial stage, therefore, the request is allowed. The requisite amended appeal may be submitted on or before next date of hearing.

Adjourned to 09.12.2020 before S.B.

  
Chairman




Form- A

FORM OF ORDER SHEET

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

Case No.- 1376 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	09/03/2020	The appeal of Mr. Khalied Muhammad presented today by Syed Noman Ali Bukhari Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.  REGISTRAR 9/13/2020
2-	12/03/20	This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>13/03/2020</u>  MA MEMBER

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. 1376/2020

SCANNED  
KPST  
Peshawar

Khalid Muhammad

V/S

Education Deptt:

**INDEX**

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Memo of Appeal	-----	1-03
2.	Copy of appointment order	A	04-05
3.	Copy of BA Degree	B	06
4.	Copy of MA DMC	C	07
5.	Copy of notification 07.08.1991	D	08-09
6.	Copy of departmental appeal	E	10
07.	Wakalat nama	.....	11

APPELLANT

THROUGH:

  
M. ASIF YOUSAFZAI

  
(SYED NOMAN ALI BUKHARI)  
ADVOCATE, HIGH COURT.

①

**BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR.**

APPEAL NO. 1376 /2020.

Khyber Pakhtunkhwa  
Service Tribunal

Case No. 516

Dated 09/3/2020

Khalid Muhammad, AT,  
GMS Anbar, Sawabi

Appellant

**VERSUS**

1. The Secretary Education Peshawar,
2. The Director Education Peshawar.
3. The Distt: Education Officer, Male Swabi.
4. The Secretary Finance Deptt : Kpk Peshawar .

Respondents.

**APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNAL ACT 1974 FOR DIRECTING THE RESPONDENTS TO FIX THE PAY OF APPELLANT IN BPS-14 AT THE RELEVANT TIME AS PER NOTIFICATION DATED. 07.08.1991 AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL WITH IN STATUTORY PERIOD.**

**PRAYER:**

*Filed to - my  
Registrar  
09/03/2020*

**THAT ON ACCEPTANCE ON THIS APPEAL THE RESPONDENTS MAY BE DIRECTED TO FIX THE APPELLANT PAY BPS-14 AS AT AT THE RELEVANT TIME AS PER NOTIFICATION DATED. 07.08.1991 WITH ALL BACK AND CONSEQUENTIAL BENEFITS .ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT THAT MAY ALSO BE AWARDED IN FAVOR OF APPELLANT.**

**R.SHEWETH.**

1. That the appellant was appointed as Arabic teacher in BPS-09 by the competent authority vide order dated.24.9.1985. The appellant has

more than 30 year experience as AT with good result and record. **copy of the order is attached as annexure -A.**

2. That the appellant passed BA in the year 1987 and MA Islamic in 1991. **Copies of the degree /DMC are attached as annexure -B & C.**
3. That the government: of kpk had issued a notification dated. 07.08:1991, whereby various grade had been given to different categories of the teachers. The Arabic teacher had been place in BPS-14 who had 5 year service + passed BA (2<sup>nd</sup> division) or MA Arabic. **copy of the notification is attached as annexure-D.**
4. That the appellant was astonished to check that his paywas not fixed in BPS-14 at the relevant time as per notification mentioned above, which caused him huge financial loss in monthly pay will also affect his pension fixation . Therefore the appellant submitted departmental appeal to the director of the education and waited for ninety days but that appeal has not been responded during the statutory period. Hence the present appeal on the following grounds amongst the others. **Copy of appeal is attached as annexure -E.**

**GROUND:**

- A. That not fixing the pay of appellant in BPS-14. as the relevant time as AT as per notification dated. 07.08.1991 and not deciding the appeal of the appellant within statutory period is against the law, facts, norms of justice. Hence not tenable.
- B. That the appellant was entitled to BPS-14 as per notification dated. 07.08.1991 but his pay was not fixed accordingly. This amount to deprivation of appellant from his legal right.
- C. That due to inaction of the respondent and not following the notification dated.07.08.1991 in respect of appellant pay fixation is an arbitrary act on the part of respondents.
- D. That due to inaction and wrong fixation of pay of appellant of the respondent, the appellant has suffered from huge loss in monthly pay as well as the same will affect appellant fixation in future.
- E. That the appellant has not been treated in accordance with the notification dated. 07.08.1991.

3

F. That the appellant seeks the permission to advance other grounds and facts at the time of hearing.

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

*Khalid Muhammad*  
Appellant

Khalid Muhammad

Through

*M. Asif*

M. ASIF YOUSAFZAL

*& Noman*

SYED NOMAN ALI BUKHARI

Advocate High Court.

A - *Handwritten signature* 4

Office No. 45171

OFFICE OF THE DIRECTOR OF EDUCATION (SCHOOLS) PESHAWAR DIVISION, PESHAWAR

APPOINTMENTS

Appointment of the following persons are hereby ordered against the posts of Arabic on temporary and Adhoc basis at Rs.620/-P.M. fixed allowances as admissible under the rules in Basic Pay Scale No. 9 at the Institutions noted against each Name:-

S.No.	Name, Qualification & Address.	Posted at	Remarks.
1.	Nasirud Din S/O Mohammad Din BA/Wafaq/53/Khatieb Madina Jamia Mosque Gil Bazar Colony No.2 Peshawar.	GHS: Kaga Wala, Peshawar.	Against vac. Arabic post.
2.	Fida Mohammad S/O Ghulam Mohammad TA/Wafaq/55 C/O Madina Medicine Company Children Hospital Haji Camp Peshawar.	GHS: Gulonai Peshawar.	-do-
3.	Qari Roohullah S/O Mohammad Quresh Wafaq/HA/49/TT GHS: Abba Dher (Chd.)	GHS: Agra (Chd).	-do-
4.	Zahir Shah S/O Rahmat Shah H.A/CP/48/GHS: Gul. Abad Maira.	GHS: Shakoor Chd:	Vice Han: an. transferred.
5.	Mian Mohammad Hussain S/O Mohammad Shafiq, Wafaq/48 Vill: Qazi Khel Badsam (Charsadda).	GMS: No.1 Utmanzai Charsadda.	Against vac. Arabic post.
6.	Mohammad Ghufraan S/O Rafiqullah Wafaq/43 C/O HM GHS: Inzeri (NSP).	GHS: Bara Banda Nowshera.	-do-
7.	Mohammad Irshadul Hassan S/O Abdur Razaq Sangeen Wafaq/HA/42/C/O Abdur Razaq Sangeen SGT, GHS: Akora Khattak (Nowshera).	GHS: Akora Khattak (Nowshera).	-do-
8.	Mohammad Ismail S/O Niftahud Din, MA Arabic/39/Moh: Masood Khel Charsadda Town.	GHS: No.2 Nowshera Cantt:	-do-
9.	Hafiz Abdur Razaq S/O Mohammad Shah Wafaq/38/Vill: Umarzai Charsadda.	GMS: Kangra Chd:	-do-
10.	Juma Gul S/O Mohammad Aslam Wafaq/37/TT GMS: Ghazgai (Charsadda).	GHS: Mian Gujar Peshawar.	Vice Q. Fazli Asam transfir
11.	Mir Akbar Hussain S/O Gharat Big Wafaq/36/Pepal Mundi Masjid Pesh:	GMS: Mattani Peshawar.	Against vaca Arabic post.
12.	Hafiz Mukaram Khan S/O Mohammad Akrim Wafaq/34/P.ish Imam GPS: Qaid Abad Kakshal Peshawar City.	GHS: Mohib Banda Nowshera.	-do-
13.	Misbahullah S/O Shakirullah Tanzeemul Madaras/34/Shaheen Town Peshawar City.	GHS: Musazai Pesh:	-do-

DISTRICT MARDAN.

14.	Nazir Ahmad S/O Zainul Haq MA/Arabic/55/ C/O Noorul Inwar Aftab Eng: Works Cantt: Toan Peshawar.	GMS: Naro Banda Mardan.	-do-
15.	Hamdullah S/O Abdul Baqi Wafaq/48 TT: C.M.S. Yar Peshawar.	GMS: Torlandi. Mardan.	-do-
16.	Rashid Ahmad S/O Bashir Ahmad Wafaq/48/Vill: Dobian Mardan.	GHS: Dobian Mardan.	-do-

CONTD: PAGE 2.

*Handwritten signature*  
ATTESTED

ATTESTED  
*Handwritten signature*  
(HEAD MASTER)  
G.M.S: AMBAR  
DIST: SWABI.

ATTESTED

- .....2.....
18. Warul Haq S/O Fazal Haq Wafaq/45 Moh: Ghulam Kneel Vill: Topi Swabi, GHS: Topi Swabi. Against Arabic post -do-
  19. Iqbal Ahmad S/O Nisar Mohammad MA Arabic/44 Vill: & P/O Toru District: Mardan. GMS: Labour Colony Mardan.
  20. Shamshad Tabraiz S/O Saifur Rehman Wafaq/44/Vill: & P/O Yaqubi Swabi. GMS: Jagan Nath Mardan. -do-
  21. Nowsherwan S/O Ali Asghar M/ Arabic/43/Vill: Hisar P/O Kotki Mdn: GMS: Nawan Killi. -do-
  22. Fazli Rabbi S/O Mohammad Islam M/ 45/C/O Mohammad Tahir Teacher GHS: Gujer Garhi (Mardan). GMS: Saro Shah Mardan. -do-
  23. Noor Habib Shah S/O Sabit Shah Wafaq/41/Moh Sher Dil Khan Mbar Road P.O. Hoti. GMS: Takkar. -do-
  24. Fazal Mehmood S/O Mohammad Roshan Wafaq/41/Vill: Mian Killi P/O Fardos Abad Swabi. GMS: Kalabat Mardan. -do-
  25. Abdul Wahid S/O Mubrak Din Wafaq/ 37/Vill: Orang Abad Swabi. GMS: Punj Pir Mardan. -do-
  26. Sher Wali S/O Gul Wali Wafaq/34 Gul Poor Killi P/O Hathian. GMS: Jalala. -do-
  27. Piayatullah S/O Gul Shahzada Wafaq 29/Vill: Pandheri Payan P/O Bakhshali Mardan. GMS: Babozai Mardan. -do-
  28. Bawar Said S/O Gohar Said BA/Arabic 28/Vill: Yaqubi Swabi Mardan. GMS: Sheraghudd Mardan. -do-
  29. Khalid Mohammad S/O Gul Dad F./with Subject Arabic Vill: Shah Mansoor. GMS: Hund Mardan. -do-
- DISTRICT KOHAT/KARAK.
30. Mohammad Usman S/O Saliman Wafaq/ 52/C/O Umar Khitab Asstt: Wapda House No. 2 Bangash Manzil Pesh: Cantt: GHS: No. 1 Kohat. -do-
  31. Mohammad Hafiz S/O Abdul Aleem Wafaq/50 C/O Mohammad Jamil Kateeb Jamia Masjid Suni Gumbat Kohat. GMS: Gumbat Kohat. -do-
  32. Qari Abdul Hasib S/O Abdul Jalil BA/GHS: No. 2 Kohat. with Arabic Subject/32/Vill: Bazar-Abhad Khan District: Bannu. -do-
  33. Mohammad Jabrial S/O Hamesh Gul Wafaq/30/C/O HM GHS: Bilitang. GHS: Bilitang. -do-
  34. Fazal Ghaffar S/O Manjwar B/ with Arabic/Nawan Killi P/O Mansoor Mardan. GMS: Malka Kedi. -do-

IMPORTANT NOTE.

- A. The Deeni snad of the candidates viz Ashahadatul Fazeela or Ashahadatul Faragh or Ashahadatul Alia etc shall be verified from Wafaqui Madaris, Multan or concerned Institutions and a report submitted to this office immediately.
- B. They will be placed in regular scale of Arabic Teacher EPS-9 as when method of recruitment qualification and age etc are prescribed for the post by the Provincial Government.
- C. Theology Teacher are allowed to get their own pay in substantive BPS-7 till further order.

Handwritten signature and stamp.

TERMS & CONDITIONS.

1. Their appointments are purely temporary and liable to termination or reversion to lower post/cadre as the case may be, at any time without assigning reasons or notice during the period probation.
2. Their appointments are purely temporary and their services will be terminated on fourteen day notice or payment of fourteen days pay in the lieu thereof by the Department.
3. In case of resignation they will have to submit one Month's Prior Notice to the Department or forfeit one Month's Pay in lieu thereof to the Government.
4. They are required to produce Health and Age certificates from the Medical Officer concerned before taking over charge.
5. Their original Educational Certificates shall be checked before handing over charge. Charge should not be given to the person who does not hold the said qualifications.
6. Their appointments are purely temporary and will not confer on them any right/claim to permanent retention in service.
7. They shall be governed by such service, Discipline, and conduct rules as have been or may be prescribed hereafter by the Govt. of NW.
8. They shall not be allowed to take over charge in case their age is above 40 years or less than 16 years.
9. If any one fails to take over charge of the post within one week of receipt of these order, the offer of appointment will stand cancelled.
10. No TA/DA etc. is allowed.
11. Charge reports should be submitted to all concerned.

(SHAH JALAN KHAN)  
 DIRECTOR OF EDUCATION (SCHOOLS),  
 PESHAWAR DIVISION, PESHAWAR.

Enst. No. 40059-189

/1-5/Arabic/Apptt://AEO/VI-IE/Dated Pesh: the 24-9/85

Copy forwarded to the:-

1. District Education Officer (Male) Peshawar, Mardan, Kohat & Karak.
2. Sub Divl. Education Officers (Male) in Peshawar Division.
3. All Headmaster of High Schools concerned.
4. All Headmasters of Middle School concerned.
5. Candidates concerned.
6. Inptt. Encl. Branch.
7. Personal Files.

*(Signature)*

(FOR) DIRECTOR OF EDUCATION (SCHOOLS),  
 PESHAWAR DIVISION, PESHAWAR.

SHAH JALAN KHAN  
 24-9-1985

*(Signature)*  
 ATTESTED

*(Signature)*  
 (HEAD MASTER)  
 G.M.S. AMBAR  
 DISTT. SWABI.

*(Signature)*  
 ATTESTED



B (6)



UNIVERSITY OF PESHAWAR  
(PAKISTAN)

Detailed Marks Certificate

№ 016139

B. A

Examination 1987 (Annual/Supplementary)

Mr. / Ms.

Khalid Mohammed

Roll No. 8127

The candidate secured the following marks and has been placed in Second Division.

SUBJECTS	M A R K S			
	MAXIMUM	O B T A I N E D		
		In figures	In Words	
English	150	49	Forty nine	
Arabic	150	88	Eighty Eight	
Islamic Studies	150	59	Fifty Nine	
Pakistan Studies	40	16	Sixteen	
Islamology	60	35	Thirty Five	
		1		
Errors and omissions are subject to subsequent rectification		550	297	Two Hundred Forty Seven

The examination was taken as a Whole / In Parts

Date 6-8-88

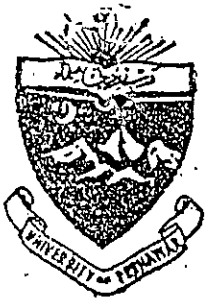
*Attested*  
*M. U. S.*

Controller of Examinations  
University of Peshawar

HEAD MASTER  
Q.N.S. Hund (Swabi)

*Attested*

*Attested*  
**ATTESTED**



# UNIVERSITY OF PESHAWAR

(PAKISTAN)

C  
= (7)

## Detailed Marks Certificate.

No. 017158

M. A. Islamiyat (100%), Examination 1991 (Annual/Supplementary)

Mr./Ms. Khalid Mahmood Roll No. 16277

The candidate secured the following marks and has been placed in M.A.C. Division.

S U B J E C T S	M A R K S				
	MAXIMUM	O B T A I N E D			
		In figures	In Words		
Paper I	100	40	Forty only		
Paper II	100	56	Fifty Six		
Paper III	100	39	Thirty Nine		
Paper IV	100	37	Thirty Seven		
Paper V	100	40	Forty only		
Viva	100	45	Fifty five		
(Prev.)	500	187			
		1100	444	Four hundred & forty four	

Errors and omissions are subject to subsequent rectification

The examination was taken as a Whole. / In Parts

Date 3-9-98

*[Signature]*

Controller of Examination  
University of Peshawar

**HEAD MASTER**  
G.H.S. Hund (Swabi)

ATTESTED

*[Signature]*  
**ATTESTED**

NOTIFICATION

Peshawar, dated the 7th 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/benefit to various categories of Teachers with effect from 1-7-1991.

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

60  
10/8/91

*Handwritten signatures and initials:*  
 S. A. I.  
 S. P. A.  
 S. P. A.

EX No 6684  
12/8/91

ATTESTED

EX No 2909  
12/8

ATTESTED  
*Handwritten signature*  
 Attested

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

Copy forwarded for information to:-

1. The Secretary to Government of Punjab, Finance Department, Lahore.
2. The Secretary to Government of Sindh, Finance Deptt, Karachi.
3. The Secretary to Government of Baluchistan, Finance Department, Quatta.

*(Signature)*

(GHULAM DASTGIR AKHTAR)  
Deputy Secretary (Regulation)  
Finance Department.

Endst.No.FD(PRC)/1-1/89. Dated Peshawar, the 7th Aggst, 1991.

Copy forwarded for information to:-

1. All District/Agency Accounts Officers in NWFP.
2. The Treasury Officer, Peshawar.
3. The Private Secretary to Finance Minister, NWFP.
4. The Private Secretary to Finance Secretary, NWFP.
5. PAs to Additional Secretaries/Deputy Secretaries in Finance Department.
6. All Section Officers/Budget Officers in Finance Department.

*(Signature)*

(ABDUR RASHID)  
Section Officer (PRC)  
Finance Department.

maqbool/

K.M

ATTESTED

ATTESTED

کمرت عیالہ ذالہ بلکہ اچھو کیشن الیکنڈی الیڈ سلندری اچھو کیشن

صوبہ صبر و کھنوخواہ

صیاب عالی درخواست برادر وصول لہ کے بیک بندھشس از  
1991-7-1 تا 30-6-12 صیاب عالی صبر و کھنوخواہ

1- یہ کہ من سائل عیالہ اچھو کیشن و کھنوخواہ میں سال 8/10/1985  
سے بطور A.T. تفصیلات ہوں - اور نا حال بطور A.T.

درجات سہ اجماع کے اراکوں - 89-14-F.D(P.R.C)  
2- یہ کہ عیالہ عیالہ و کھنوخواہ میں 7/8/1991 عیالہ

3- یہ کہ بیرونی نوٹیفیکیشن سہ اجماع کے اراکوں کے ساتھ  
B.P.S-14 کے تحت تفصیلات بعد ازاں عیالہ و کھنوخواہ میں  
نا حال ہے - کھنوخواہ میں سائل عیالہ و کھنوخواہ میں تفصیلات  
سے نا ہوتے سند H.E.C کے ساتھ نا حال ہے - نقل ہو رہے ہے -

3- یہ کہ بیرونی نوٹیفیکیشن سہ اجماع کے اراکوں کے ساتھ  
نا حال ہے - کھنوخواہ میں سائل عیالہ و کھنوخواہ میں تفصیلات  
سے نا ہوتے سند H.E.C کے ساتھ نا حال ہے - نقل ہو رہے ہے -

ATTESTED

ATTESTED  
HARJINDER K. SINGH  
Advocate  
District Courts  
بھان لالی  
صفا شیبائی  
ہریش دھو  
ملقین  
ATTESTED  
30-6-12  
1991-7-1  
2011/19

2011/19

صیاب عالی  
G.M.S  
صیاب عالی  
ATTESTED

**VAKALATNAMA**

NO. \_\_\_\_\_/20

IN THE COURT OF KP Service Tribunal Peshawar

Khalid Muhammad

(Appellant)  
(Petitioner)  
(Plaintiff)

VERSUS

Education Deptt

(Respondent)  
(Defendant)

I/We, Khalid Muhammad

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

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

Dated \_\_\_\_\_/20

Khalid Muhammad  
(CLIENT)

ACCEPTED

Syed Noman Ali Bukhari  
**SYED NOMAN ALI BUKHARI**  
Advocate High Court Peshawar.

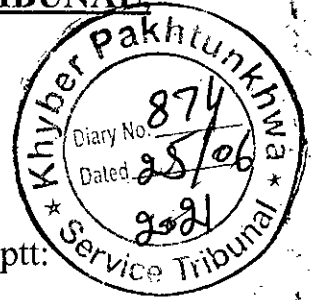
**BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL**  
**PESHAWAR.**

**APPEAL NO.1374/2020**

Mr. Khalid Muhammad

V/S

Education Deptt:



**APPLICATION FOR RESTORATION OF APPEAL NO.**  
**1374/2020 WHICH WAS DISMISSED ON DEFAULT VIDE**  
**ORDER DATED 16.06.2021.**

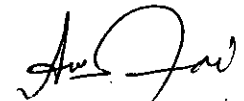

**RESPECTFULLY SHEWETH:**

1. That the instant appeal No. 1374/2020 was filed before this Honorable Tribunal.
2. That the instant appeal was in preliminary Hearing at principle Bench Peshawar, on date 16.06.2021 the senior counsel for the appellant busy in Peshawar High court and junior counsel was attending another bench. The case was called and dismissed on default on 16.06.2021 this fact came to the knowledge of the counsel. **Copy of order is attached as annexure-A.**
3. That it is in the interest of justice that the appeal should be dealt on merit rather to dismiss on default.

It is therefore, most humbly prayed, that the instant appeal No. 1374/2020 may be restore on the acceptance of this application.

**APPELLANT**

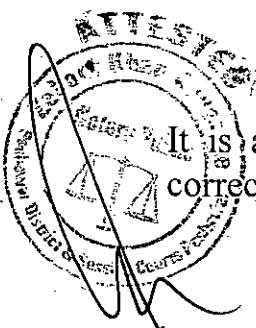
Through:

  
**(M. ASIF YOUSAFZAI)**  
&   
**(SYED NOMAN ALI BUKHARI)**  
**ADVOCATE, HIGH COURT**  
**PESHAWAR.**

**AFFIDAVIT**

It is affirmed and declared that the contents of application are true and correct to the best of my knowledge and belief.

  
**DEPONENT**



(1)

**BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR.**

APPEAL NO. 1376/2020.

R. A. NO 120/2021

Khyber Pakhtunkhwa  
Service Tribunal

Case No. 1516

Date 09/3/2020

Khalid Muhammad, AT,  
GMS Anbar, Sawabi

Appellant

**VERSUS**

1. The Secretary Education Peshawar,
2. The Director Education Peshawar.
3. The Distt: Education Officer, Male Swabi.
4. The Secretary Finance Deptt : Kpk Peshawar.



Respondents.

**APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNAL ACT 1974 FOR DIRECTING THE RESPONDENTS TO FIX THE PAY OF APPELLANT IN BPS-14 AT THE RELEVANT TIME AS PER NOTIFICATION DATED. 07.08.1991 AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL WITH IN STATUTORY PERIOD**

16.06.2021

Nemo for the appellant.

A request for submission of amended appeal was made on 01.10.2020. Request was allowed and appellant was required to submit amended appeal on or before 09.12.2020. The appellant has not submitted to file amended appeal till date, despite the fact that on 11.03.2021, last opportunity was given to the appellant. To-day neither the appellant nor his counsel is in attendance. Therefore, this appeal is dismissed in default for non-compliance<sup>of</sup> order of the Tribunal. File be consigned to the record room.

*[Signature]*  
Chairman

ANNOUNCED  
16.06.2021

Certified to be true copy

*[Signature]*  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Date of Presentation of Application 25-6-2021  
Number of Words 452  
Copying Fee 6.00  
Urgent 4-00  
Total 10.00  
Name of Copyist \_\_\_\_\_  
Date of Completion of Copy 25-6-21  
Date of Delivery of Copy 25-6-21



Annexure - B

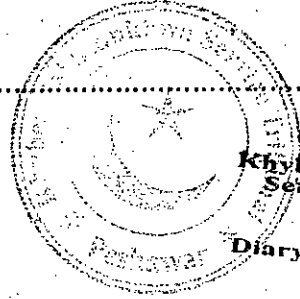
06

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

APPEAL NO. 232 /2017.

Khalid Muhammad, AT,  
GMS Anbar, Swabi.....

Appellant.



Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 185

Dated 20-02-2017

VERSUS


- 1- The Secretary Education (E&SE) Peshawar.
- 2- The Director Education (E&SE), Peshawar.
- 3- The Distt: Education Officer , male (E&SE) Swabi.
- 4- The Secretary Finance Deptt: KPK Peshawar.

.....Respondents.

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT 1974 FOR DIRECTING THE RESPONDENTS TO FIX THE PAY OF APPELLANT IN BPS-14 AT THE RELEVANT TIME AS PER NOTIFICATION DATED. 07.08.1991 AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN STATUTORY PERIOD.

14.12.2018

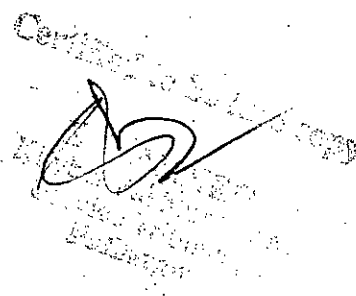
Learned counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney alongwith Shahi Mulk Deputy D.O present. Learned counsel for the appellant seeks withdrawal of the present service appeal. Consequently the present service appeal is hereby dismissed as withdrawn. No order as to costs. File be consigned to the record room.

  
Member

  
Member

ANNOUNCED.

14.12.2018

  
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR

SCANNED  
KPST  
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.

Service No. 1376/2020  
With Previous Service Appeal on the same stance already decided.  
Service Appeal No.232/2017  
Khalid Muhammad AT, GMS Anbar, Swabi.....Appellant

**VERSUS**

1. Secretary E&SE Khyber Pakhtunkhwa Peshawar
2. Director E&SE Khyber Pakhtunkhwa, Peshawar
3. District Education (E&SE) Male Swabi
4. Secretary Finance Department Khyber Pakhtunkhwa Peshawar

.....Respondents

**INDEX**

S#	Description of Documents	Annexure	Page
1	Para Wise Comments with affidavit	-	01 to 04
2	Retirement order of the appellant	"A"	05
3	Dismissed withdrawn order on the same Stance	"B"	06
4	Para-wise comments, already submitted in SA No.232/2017 on the same stance	"C"	07-16

**DISTRICT EDUCATION OFFICER  
(MALE) SWABI**

Distt: Education Officer  
(Male) Swabi

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.

Service No. 1376/2020

With previous Service Appeal which was filed on the same stance has already been decided.

Service Appeal No.232/2017

Khalid Muhammad AT, GMS Anbar, Swabi.....Appellant

**VERSUS**

- 1. Secretary E&SE Khyber Pakhtunkhwa Peshawar
- 2. Director E&SE Khyber Pakhtunkhwa, Peshawar
- 3. District Education (E&SE) Male Swabi
- 4. Secretary Finance Department Khyber Pakhtunkhwa Peshawar

.....Respondents

**PARAWISE COMMENTS ON BEHALF OF RESPONDENTS 01 TO 04**

**Respectfully Sheweth,**

As the present Service Appeal is the same, that has already been dismissed <sup>as</sup> with drawn on 14/12/2018. The main objection is that, this Service Appeal is hit by the principles of res-judicata and furthermore the appellant has already been retired form service on 04/02/2019 on superannuation. Therefore, the appeal is not maintainable and the comments submitted in the previous Service Appeal No. 232/2017 with signatures of all the four respondents is reproduced and annexed as " C" for ready reference. Please peruse special note about the case at the end of the grounds of comments.

**PRELIMINARY OBJECTIONS.**

- 1. That the appellant Khalid Muhammad does not exist at work against AT post at GMS Anbar (Swabi). There is GHS Anbar, the appellant does not exist there also. This named teacher is SST and working at GHS Gar Munara (Swabi). The appellant concealed the material facts from the Honourable Tribunal and is not maintainable.
- 2. That no departmental appeal dated 20.11.2016 has been filed before the appellate authority. Departmental appeal dated 02.07.2013(Annexure-A) has been manipulated in dates by appellant, hence he has not come this Honourable Tribunal with clean hands.
- 3. That the instant Appeal is badly time barred and not maintainable.
- 4. That the departmental appeal is not presented to the proper appellate authority, hence not maintainable.
- 5. That the Appellant has no locus standi or cause of action to file the instant appeal
- 6. That the Appellant has not come to the Tribunal with clean hands.
- 7. That the Appellant has filed the instant Appeal just to pressurize the respondents.
- 8. That the Appellant is estopped by his own conduct to file the instant appeal.
- 9. That, the Appeal is not maintainable in the present form and also in the present circumstances of the issue.
- 10. That the instant Appeal is against the prevailing laws and rules.

**Facts.**

1. That, the para relates to the appointment of the appellant. He was appointed on temporary and Adhoc basis at Rs.620/- PM fixed in BPS No.9 subject to the important note, section B, they will be placed in regular scale of Arabic Teacher BPS No.9 as when method of recruitment, qualification and age etc; are prescribed for the post by the Provincial Government. Later on method of recruitment, qualification and age was prescribed for the post of AT by the Provincial Government, which is stated as under.

- AT:- I. Sanad in Darsi Nizami
- II. Honour in Arabic
- OR
- Shahadat-ul-Alamia
- OR

Equivalent qualification from a recognized institution with age limit 18-33 years.

In the light of the above prescribed criteria/ qualification, the appellant does not hold the prescribed qualification for the post. This stance has already been accepted by the Honourable Service tribunal Khyber Pakhtunkhwa judgment announced on 13.03.2008 in S.A No.828/2007 of the appellant. (Judgment annexed as-B).

Furthermore he annexed manipulated in dates departmental appeal, with the service appeal. The appellant on 20.11.2016 is not in GMS Anbar. He is working as SST at GHS Gar Munara. There is no GMS Anbar exist in District Swabi.

- 2. That, the para relates to the qualification of the appellant.
- 3. That, the notification of Govt of KPK dated 07.08.1991 in award of BPS-14 to AT is very clear that: " All the present and future Arabic Teacher who possess the qualification of Trained Fazil with BA/BSc (2nd Division) and five year teaching experience or MA Arabic or equivalent qualification, shall be placed in BPS-14 with 1/3rd in selection grade BPS-15. However the higher scales/grade allowed to those teacher will be personal to them and the inter-se-seniority will remain intact" As discussed in para-1 of the para-wise comments above, the appellant is not a trained Fazil. He is not entitled for award of BPS-14 as per notification of Government Khyber Pakhtunkhwa dated 07.08.1991.
- 4. Incorrect, the appellant was not trained Fazil, hence not entitled for award of BPS-14. Furthermore he did not raise the issue in the previous appeal No.828/2007, which decided on 13.03.2008. The Departmental appeal, he attached with the service appeal as annexure-E is not in its original shape and manipulated. Hence this departmental appeal is badly time barred and not maintainable. There does not exist GMS Anbar on 20.11.2016, this school is GHS Anbar. Muhammad Khalid is not AT teacher at GMS Anbar on 20.11.2016. Muhammad Khalid named teacher is working against SST post at GHS Gar Munara. Hence he has concealed the facts. The appeal is not maintainable in the present form and also in the present circumstances of the issue. He has no cause of action to file the instant appeal and the appeal in hand is liable to be dismissed with the following grounds inter alia.

**Grounds**

- A. Incorrect, the appellant is not eligible for grant of BPS-14 due to lack of professional qualification as per notification dated 07.08.1991. His Departmental appeal is manipulated in dates and not submitted to the appellate authority. Hence the appeal is not maintainable in present form and also in present circumstances of the issue.
- B. Incorrect, hence denied, the appellant is not entitled to BPS-14 as per notification dated 07.09.1991. His pay is fixed in the light of judgment passed by this Honourable Tribunal in S.A No.828/2007 dated 13.03.2008. His annexed departmental appeal is manipulated in dates and not sent to the appellate authority.
- C. Incorrect, hence denied, the respondents followed the notification in letter and spirit for all including the appellant for fixation of pay. The appellant is not entitled for award of BPS-14. The action of the respondents is according to law, rule and policy.
- D. Incorrect, hence denied, the appellant is not entitled for award of BPS-14. The respondents can not violate the notification. The action of the respondents is as per law, rule, policy and norm of natural justice.
- E. Incorrect, hence strongly denied, the appellant has been treated in accordance with the notification dated 07.08.1991. He was not entitled for award of BPS-14 due to lack of professional qualification. Hence he was treated as per law, rule, policy and norm of natural justice.
- F. That the respondents seek permission to raise other points/grounds/facts at the time of hearing in view of the above facts.

**Special Note:-**

That the appellant, Mr.Khalid Muhammad AT, GMS Anbar (Swabi), was promoted to SST BPS-16 and adjusted at GHS Kunda (Swabi ) vide DEO(M) Swabi Endst:No.6160-6282/ dated Swabi the 30/10/2014. The GMS Anbar (Swabi) has already been upgraded to GHS Anbar on 01/12/2015. He was transferred and adjusted against SST post at GHS Gar Munara vide order Endst:No.3581-84/ dated 18/04/2016, from there, he was retired form Government Service on 04/02/2019 on attaining the age of superannuation. Retirement order annexed as "A".


That the appellant filed the same appeal with the same prayer, facts and grounds, under Service Appeal No.232/2017, which was dismissed as withdrawn vide this Honourable Service Tribunal order dated 14/12/2018. Thus the instant Service Appeal before Service Tribunal is barred by the principles of res judicata and is liable to be dismissed. Dismissed withdrawn annexed as "B".


That a retired person is not a Civil Servant, same is reported in 1998 SCMR 569. That Promotion from back date to the retired Civil Servants can not be granted, same is reported in PLD 2003 SC 110.

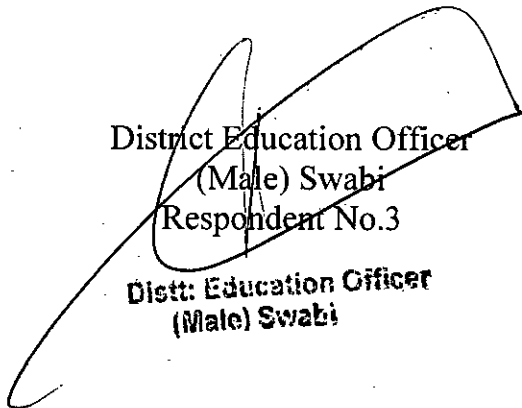
That the departmental appeal dated 02/07/2013 or 20/11/2016 has been manipulated in dates by appellant, hence he has committed serious breach of disciple, forgery, professional dishonesty and misconduct.

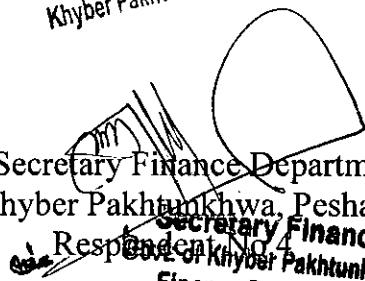
That repetitive frivolous and fraudulent litigation after final adjudication of matter has no legal back up, same is reported in 2011 SCMR 27. The signatures of other respondents are present in the para-wise comments, already submitted in the same grounds Service Appeal No. 232/2017, which is annexed as " C" for ready reference.

In wake of the above submissions, it is requested that this Honourable Service Tribunal may very graciously be pleased to dismiss the instant appeal with special compensatory cost in favour of the respondent department.

  
Secretary E&SED  
Khyber Pakhtunkhwa, Peshawar  
Respondent No.1  
Govt. of Khyber Pakhtunkhwa  
SECRETARY  
& Secondary Edu. Deptt.

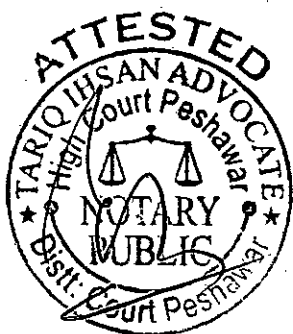
  
Director E&SE  
Khyber Pakhtunkhwa, Peshawar  
Respondent No.2  
Director  
Elementary & Secondary Education  
Khyber Pakhtunkhwa Peshawar

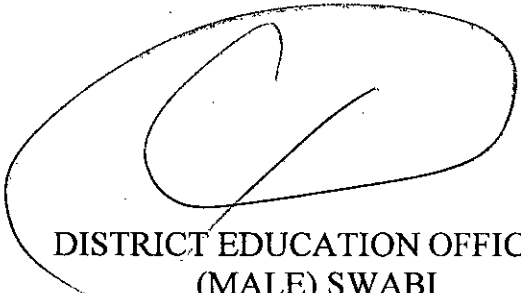
  
District Education Officer  
(Male) Swabi  
Respondent No.3  
Distt: Education Officer  
(Male) Swabi

  
Secretary Finance Department  
Khyber Pakhtunkhwa, Peshawar  
Respondent No.4  
Secretary Finance  
Govt. of Khyber Pakhtunkhwa  
Finance Department

**AFFIDAVIT**

I Irfan Ali, DEO (M) Swabi do hereby solemnly affirm and declare on oath that the contents of the comments are true and correct to the best of my knowledge and belief, nothing has been concealed from this Honourable Tribunal.



  
DISTRICT EDUCATION OFFICER  
(MALE) SWABI  
Distt: Education Officer  
(Male) Swabi



Annexure - A

(05)

**DISTRICT EDUCATION OFFICE (MALE) SWABI**

(Office phone & Fax No 0938280239, emis\_swabi@yahoo.com)

**OFFICE ORDER.**

The competent authority is pleased to accord Sanction to the grant of Encashment of leave in lieu of LPR wef: 01-05-2018 to 04-02-2019 (280 days) on full pay in respect of Mr. Khalid Muhammad SST (Swabi) as due and admissible to him under the revised leave Rules 1981.

The District Accounts Officer Swabi has certified that the Leave encashment for 280 days is admissible to the SST concerned under the rules.

He shall stand to be retired from Govt: service on 04-02-2019 (ANI) on attaining the age of superannuation.

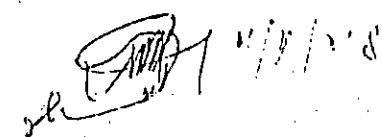
These orders are final and shall not be revoked at any stage.

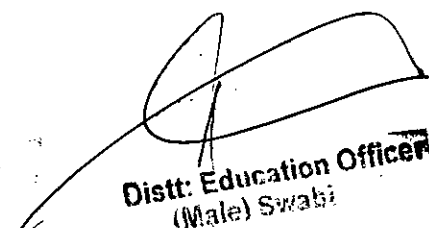
(JEHANGIR KHAN)  
DISTRICT EDUCATION OFFICER  
(M) SWABI

Endst No 8964-68 /Ret: L-Encash: SST/ Vol: 16/Dated Swabi the 15/10 /2018

Copy of the above is forwarded to the:-

1. Director E & S5 Khyber Pakhtunkhwa Peshawar.
2. District Accounts Officer Swabi.
3. Principal GHS Gar Munara .
4. ADEO Estab: Local Office.
5. Officer/Official Concerned.

  
DY DISTRICT EDUCATION OFFICER  
(M) SWABI

  
Distt: Education Officer  
(Male) Swabi

1871

1871

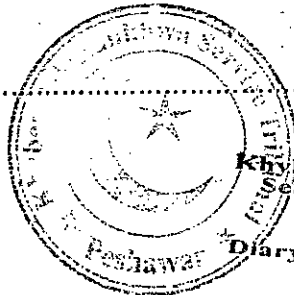


BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

APPEAL NO. 232 /2017.

Khalid Muhammad, AT,  
GMS Anbar, Swabi.....

Appellant.



Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 185

Dated 20-02-2017

VERSUS

- 1- The Secretary Education (E&SE) Peshawar.
- 2- The Director Education (E&SE), Peshawar.
- 3- The Distt: Education Officer , male (E&SE) Swabi.
- 4- The Secretary Finance Deptt: KPK Peshawar.

..... Respondents.

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT 1974 FOR DIRECTING THE RESPONDENTS TO FIX THE PAY OF APPELLANT IN BPS-14 AT THE RELEVANT TIME AS PER NOTIFICATION DATED. 07.08.1991 AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN STATUTORY PERIOD.

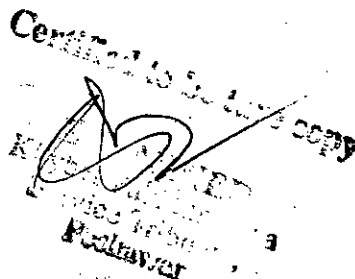
14.12.2018

Learned counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney alongwith Shahi Mulk Deputy D.O present. Learned counsel for the appellant seeks withdrawal of the present service appeal. Consequently the present service appeal is hereby dismissed as withdrawn. No order as to costs. File be consigned to the record room.

  
Member

  
Member

ANNOUNCED.  
14.12.2018

  
Registrar

Annexure - C / 17 AB

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.

29/10/17  
(07)

Service Appeal No.232/2017

Khalid Muhammad AT, GMS Anbar, Swabi.....Appellant

**VERSUS**

1. Secretary E&SE Khyber Pakhtunkhwa Peshawar
2. Director E&SE Khyber Pakhtunkhwa, Peshawar
3. District Education (E&SE) Male Swabi
4. Secretary Finance Department Khyber Pakhtunkhwa Peshawar

.....Respondents

**INDEX**

S#	Description of Documents	Annexure	Page
1	Para Wise Comments with affidavit	-	01 to 03
2	Departmental Appeal and its Manipulation in dates	"A"	04-06
3	Judgments in Service Appeal No.828/2007	"B"	07-09

~~\_\_\_\_\_~~  
DISTRICT EDUCATION OFFICER  
(MALE) SWABI

(08)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.

Service Appeal No.232/2017

Khalid Muhammad AT, GMS Anbar, Swabi.....Appellant

**VERSUS**

1. Secretary E&SE Khyber Pakhtunkhwa Peshawar
2. Director E&SE Khyber Pakhtunkhwa, Peshawar
3. District Education (E&SE) Male Swabi
4. Secretary Finance Department Khyber Pakhtunkhwa Peshawar

.....Respondents

**PARAWISE COMMENTS ON BEHALF OF RESPONDENTS 01 TO 04**

Respectfully Sheweth,

**PRELIMINARY OBJECTIONS.**

1. That the appellant Khalid Muhammad does not exist at work against AT post at GMS Anbar (Swabi). There is GHS Anbar, the appellant does not exist there also. This named teacher is SST and working at GHS Gar Munara (Swabi). The appellant concealed the material facts from the Honourable Tribunal and is not maintainable.
2. That no departmental appeal dated 20.11.2016 has been filed before the appellate authority. Departmental appeal dated 02.07.2013( Annexure-A) has been manipulated in dates by appellant, hence he has not come this Honourable Tribunal with clean hands.
3. That the instant Appeal is badly time barred and not maintainable.
4. That the departmental appeal is not presented to the proper appellate authority, hence not maintainable.
5. That the Appellant has no locus standi or cause of action to file the instant appeal
6. That the Appellant has not come to the Tribunal with clean hands.
7. That the Appellant has filed the instant Appeal just to pressurize the respondents.
8. That the Appellant is estopped by his own conduct to file the instant appeal.
9. That, the Appeal is not maintainable in the present form and also in the present circumstances of the issue.
10. That the instant Appeal is against the prevailing laws and rules.

**Facts.**

1. That, the para relates to the appointment of the appellant. He was appointed on temporary and Adhoc basis at Rs.620/- PM fixed in BPS No.9 subject to the important note, section B, they will be placed in regular scale of Arabic Teacher BPS No.9 as when method of recruitment, qualification and age etc; are prescribed for the post by the Provincial Government. Later on method of recruitment, qualification and age was prescribed for the post of AT by the Provincial Government, which is stated as under.

AT:- I. Sanad in Darsi Nizami  
II. Honour in Arabic  
OR  
Shahadat-ul-Alamia  
OR

Equivalent qualification from a recognized institution with age limit 18-33 years.

In the light of the above prescribed criteria/ qualification, the appellant does not hold the prescribed qualification for the post. This stance has already been accepted by the Honourable Service tribunal Khyber Pakhtunkhwa judgment announced on 13.03.2008 in S.A No.828/2007 of the appellant. (Judgment annexed as-B).

Furthermore he annexed manipulated in dates departmental appeal with the service appeal. The appellant on 20.11.2016 is not in GMS Anbar. He is working as SST at GHS Gar Munara. There is no GMS Anbar exist in District Swabi.

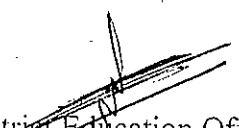
- 2. That, the para relates to the qualification of the appellant.
- 3. That, the notification of Govt of KPK dated 07.08.1991 in award of BPS-14 to AT is very clear that: " All the present and future Arabic Teacher who possess the qualification of Trained Fazil with BA/BSc (2nd Division) and five year teaching experience or MA Arabic or equivalent qualification, shall be placed in BPS-14 with 1/3rd in selection grade BPS-15. However the higher scales/grade allowed to those teacher will be personal to them and the inter-se-seniority will remain intact" As discussed in para-1 of the parawise comments above, the appellant is not a trained Fazil. He is not entitled for award of BPS-14 as per notification of Government Khyber Pakhtunkhwa dated 07.08.1991.
- 4. Incorrect, the appellant was not trained Fazil, hence not entitled for award of BPS-14. Furthermore he did not raise the issue in the previous appeal No.828/2007, which decided on 13.03.2008. The Departmental appeal, he attached with the service appeal as annexure-E is not in its original shape and manipulated. Hence this departmental appeal is badly time barred and not maintainable. There does not exist GMS Anbar on 20.11.2016, this school is GHS Anbar. Muhammad Khalid is not AT teacher at GMS Anbar on 20.11.2016. Muhammad Khalid named teacher is working against SST post at GHS Gar Munara. Hence he has concealed the facts. The appeal is not maintainable in the present form and also in the present circumstances of the issue. He has no cause of action to file the instant appeal and the appeal in hand is liable to be dismissed with the following grounds inter alia.


**Grounds**


- A. Incorrect, the appellant is not eligible for grant of BPS-14 due to lack of professional qualification as per notification dated 07.08.1991. His Departmental appeal is manipulated in dates and not submitted to the appellate authority. Hence the appeal is not maintainable in present form and also in present circumstances of the issue.
- B. Incorrect, hence denied, the appellant is not entitled to BPS-14 as per notification dated 07.08.1991. His pay is fixed in the light of judgment passed by this Honourable Tribunal in S.A No.828/2007 dated 13.03.2008. His annexed departmental appeal is manipulated in dates and not sent to the appellate authority.
- C. Incorrect, hence denied, the respondents followed the notification in letter and spirit for all including the appellant for fixation of pay. The appellant is not entitled for award of BPS-14. The action of the respondents is according to law, rule and policy.
- D. Incorrect, hence denied, the appellant is not entitled for award of BPS-14. The respondents can not violate the notification. The action of the respondents is as per law, rule, policy and norm of natural justice.

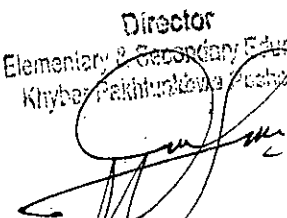
- E. Incorrect, hence strongly denied, the appellant has been treated in accordance with the notification dated 07.08.1991. He was not entitled for award of BPS-14 due to lack of professional qualification. Hence he was treated as per law, rule, policy and norm of natural justice.
- F. That the respondents seek permission to raise other points/grounds/facts at the time of hearing in view of the above facts.

In wake of the above submission, it is requested that this Honourable Service Tribunal may very graciously be pleased to dismiss the instant appeal in favour of the respondent department.

  
 District Education Officer  
 (Male) Swabi


  
 Director Elementary & Secondary Education  
 Khyber Pakhtunkhwa, Peshawar

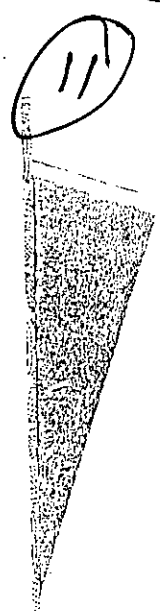
  
 Secretary E&SE Department  
 Govt:of Khyber Pakhtunkhwa, Peshawar

  
 Director  
 Elementary & Secondary Education  
 Khyber Pakhtunkhwa, Peshawar  
 Secretary Finance Department  
 Govt:of Khyber Pakhtunkhwa, Peshawar

**AFFIDAVIT**

We do hereby solemnly affirm and declare on oath that the contents of the comments are true and correct to the best of our knowledge and belief, nothing has been concealed from this Honourable Tribunal.

  
 DISTRICT EDUCATION OFFICER  
 (MALE) SWABI



کسرت صباب ڈائریٹریٹ، ایجوکیشن ایجنسی، ایف ڈی پی آر، ایف ڈی پی آر  
صوبہ خیبر پختونخواہ

صباب عالی، درخواست برآمد وصول کنڈ، بیگ، پیفٹیشن از  
1991-7-1 تا 12-6-30 فیجانڈ سائنس سٹیبل ہے۔

1 - یہ گمن سائنس محکمہ ایجوکیشن ڈکنوخواہ میں سال 8/10/1985  
بھ بھور A.T. کفینات ہوں - اورناصال بھور A.T.

وعدت سراجام دے اسیوں - 89-1-1-89 (F.D.P.R.C)

2 - یہ کہ بھاق نوٹیفکیشن مورف 7/8/1991 مہری

B.P.S-14 کے مملات مع آرٹریٹیشن و پیفٹیشن لینے کا قندرا

ناصال ہے - کونڈ من سائنس بھاق نوٹیفکیشن مکررہ مملات

ہینے کا ہرے سند H.E.C. لینے کا قندرا ہے - نقل نوٹ ہے

3 - یہ کہ ہرے نوٹیفکیشن مکررہ من سائنس ناصال مملات

سید محمد سعید

HERINA KHALIL  
Public Trust Courts  
Advocate

بھاق لطفی 13/1/1991  
صفا بیباکی صوں - پیجم  
سرانیب ڈنوٹہ کا قندرا  
ملقین مہر دوست اووہی

2 7/13

سائنس خانہ محمد ولد گل جواد کفینات صابور  
بھاق  
74  
8/7/1991

(12) 13/16 (17)  
2/9/13

**DIRECTORATE OF ELEMENTARY AND SECONDARY EDUCATION**  
**KHYBER PAKHTUNKHWA.**

No. 3160 /F.No. 285/Vol:III/TT/AT/Qari(M)

Dated Peshawar the 22/8/2013.

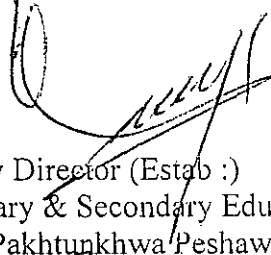
To,

The District Education Officer (M)  
Swabi.

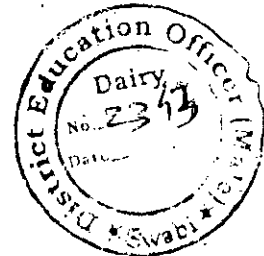
Subject: - APPEAL..

Memo:

I am directed to enclose herewith a copy appeal alongwith its enclosure in respect of Mr. Khalid Muhammad S/O Mr. Gul Dad R/o District Swabi on the subject noted above noted above and to ask you to submit comments/factual position as desired.

  
Deputy Director (Estab :)  
Elementary & Secondary Edu:  
Khyber Pakhtunkhwa Peshawar.

27/8/13



کمرت صواب ڈائریٹریٹ، ایجوکیشن ایگنڈا، ایف ڈی پریگنڈا، ایف ڈی پریگنڈا

صوبہ، صبر، دکتو خواہ

صواب عالی، درخواست برادری وصول کر کے، بینک، بینفٹس، 11  
1991-7-1 تا 12-6-30 صواب عالی، صواب عالی، 2-

1- یہ کہ من سائل حکم ایجوکیشن دکتو خواہ میں سال 8/10/1985  
سے بطور A.T. لکھنات ہوں - اور تاحال بطور A.T.

درجات سرانجام دے رہا ہوں - 89-1-1-89 (F.D.P.R.C.)  
2- یہ کہ عطا نوٹیفکیشن مورخ 7/8/1991 غیر

14-15 B.P.S. کے درجات بعد انٹر، عیش و بینفٹس لینے کا فقدان  
تاحال ہے - کیونکہ من سائل عطا نوٹیفکیشن متکرارہ درجات

لینے کا بہت سند H.E.C. لینے کا فقدان ہے - نقل ہو رہے -  
3- یہ کہ بہت نوٹیفکیشن متکرارہ من سائل تاحال درجات ایجوکیشن

ATTESTED

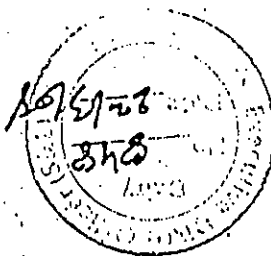
ATTESTED  
HAKIM KHALID  
Public Advocate  
بہار لنگی  
کلفاتیائی صورتوں میں  
سرٹیفکیٹ ڈیپارٹمنٹ کا  
ملفین میں ڈیپارٹمنٹ

20/11/16

سائل خانہ محدود کل جوائنٹ منسٹریز، صوبہ، حکومت سندھ، سکریٹری  
حکومت سندھ، حجاج، G.M.S، سکریٹری



EXHIBIT No. *17*  
 Date: *17*  
 Schmitz & Jordan Swabl



*Handwritten signature and scribbles*

Through the JUSTICE (R) SALIM KHAN, CHAIRMAN: present appeal, the appellant contended that he was appointed as A.T on 24.9.1985 in BPS-9, but in fixed scale, that the appellant passed SSC, B.A, B.A, M.A &

JUDGMENT

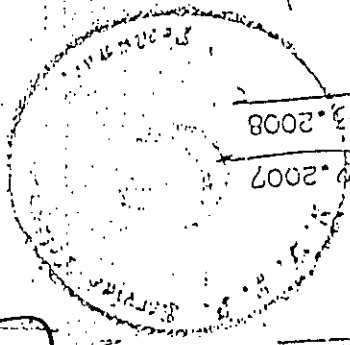
For appellant: Mr. Muhammad Asif Yousafzai, Advocate.  
 For respondents: Mr. Tahir Iqbal, Addl. Govt. Pleader.  
 Mr. Justice (R) Salim Khan, Mr. Sultan Mahmood Khattak, Chairman Member

APPEAL U/S 4 OF THE N.W.F.P. SERVICE TRIBUNALS ACT, 1974 FOR GRANT OF GRADED PAY AND OTHER ATTACHED BENEFITS OF A.T. POST FROM THE DATE OF APPOINTMENT.

- 1. The D.C.O, Swabi.
- 2. The E.D.O (S&I), Swabi.
- 3. The Secretary Finance, NWFP, Peshawar.

VERSUS

(Appellant) Khalid Mohammad, A.T, R/O Shah Mansoor, Swabi.



Appral No. 828/2007  
 Date of institution ... 27.09.2007  
 Date of decision ... 13.03.2008

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

*Annexure-B*

*14*

*Legal opinion by M. J. S. Curry*

*Handwritten initials and marks*

15

Sanad-ul-Faragh and he also worked for more than <sup>23</sup> (30) years.

The appellant submitted that graded pay and other attached benefits of the post of A.T since his appointment were not given to him, that the appellant submitted departmental appeal, but with no reply. Hence the present appeal.

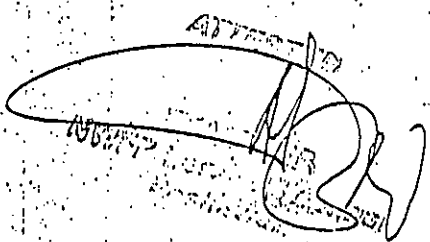
2. The respondents contested the appeal on various legal and factual grounds, including the ground that, though the appellant had passed M.A Islamiyat and Sanad-ul-Faragh, but he was not qualified for the post

according to rules prescribed for the same. We heard the arguments and perused the record.

3. The learned counsel for the appellant produced the copy of Detailed Marks Certificate for B.A in the name of Khalid Mohammad, but neither signature appears on the same properly nor it is attested. The learned counsel, however, referred to the relevant rules for the post mentioned in letter No. 5882-5959 dated 26.01.88 of the Deputy Director(Schools) for D.E(S)N/FP, Peshawar.

The learned counsel for the appellant straight away accepted that the appellant had not acquired the required qualification for the post, though he has been working against the said post practically for more than (30) years. → 23

He referred to the judgment of the August Supreme Court of Pakistan in C.B.No. 204 and 205 of 1991 as well as the judgment in C.P.No.288-P of 1993, and contended that

ATTACHED  


the incumbent of a post was always entitled to the salary, allowances and other benefits of the post which he was holding.

4. The AGP contended that the appellant has no relevant qualification and he is not entitled to the graded pay of the post.

5. As already mentioned, it is an admitted fact that the appellant does not hold the prescribed qualification for the post. But, in the light of the above judgments and the principle of law enunciated by the said judgments, the appellant is entitled to the pay, allowances and other benefits of the post against which he has been working as A.T, and is still working as such. In the light of the above, we accept the present appeal, and direct the respondents to allow the graded pay, allowances and other benefits of the post of A.T to the appellant from the date the rules mentioned above were prescribed. Parties are left to bear their own costs. File be consigned to the record.

ANNOUNCED  
13.03.2008

*[Handwritten signature]*  
CHIEF JUSTICE  
PUNJAB

(JUSTICE (R) SALIM KHAN)  
CHAIRMAN

*[Handwritten signature]*

Date of presentation	17-3-08
Number of copies	1200
Copies to	8
Original	2
Subj	10
Date	17-3-08
	17-3-08