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**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**

EXECUTION NO \_\_\_\_\_

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**M. Ramzan VS EDUCATION**

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*Muharir*  
Muharir Compilation  
09/07/24

*Incharge*  
Incharge Judicial Branch  
10/7/24

7. Incorrect. The Deputy Commissioner, Shangle being PAS officer has managed to transfer the appellant pre-maturely just to shift the responsibility of huge loss to the public exchequer occurred due to involvement of the Deputy Commissioner, Shangla office.

8&9. No specific denial is given by the respondents against these paras, therefore, needs no clarification.

GROUNDS

a. Incorrect. The impugned order dated 31.7.2023 is against the law, facts, norms of justice, policy of the government, therefore, not tenable and liable to be set aside.

b. Incorrect. The appellant has not completed his normal tenure on the station transferred from, therefore, the posting/transfers orders is against the policy and liable to be set-aside.

c. Incorrect. The posting/transfer policy is very much attracted to the appellant because appellant is government servant and all policies of the provincial government of Khyber Pakhtun-Khwa is attracted to the appellant.

d. Incorrect. The appellant has not been treated in accordance law and policy of the government and has been tortured just to please some-one belonging to strong cadre.

e. Incorrect. Needs no clarification.

f. Incorrect. Needs no clarification.

gtol. All replies to the grounds g to l given by the respondents are incorrect. The public interest has been damaged in the present posting /transfer by occurring huge financial loss to the public exchequer.

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

**Service Appeal No. 987/2017**

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

Muhammad Ramzan Ex-PST, GPS Tube Well Noor Alam, D.I.Khan.  
.....(Appellant)

Versus

1. The Secretary (E&SE) Khyber Pakhtunkhwa Peshawar.
  2. The Director Education Khyber Pakhtunkhwa Peshawar.
  3. Executive District Officer (Schools & Literacy) D.I.Khan.
  4. Director General Agriculture (Extension) District Tank.
- .....(Respondents)

S.Numan Ali Bukhari,  
Advocate

... For appellant

Mr. Muhammad Jan,  
District Attorney

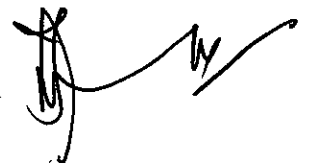
... For respondents

Date of Institution.....	21.07.2017
Date of Hearing.....	11.06.2024
Date of Decision.....	11.06.2024

SCANNED  
KPST  
Peshawar

**JUDGEMENT**

**FAREEHA PAUL, MEMBER (E):** The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 08.02.2012, communicated to the appellant on 24.02.2017 in Execution Petition No. 197/2016, whereby the appellant was terminated from service and against not taking action on the departmental appeal of the appellant within the statutory period of 90 days. It has been prayed that on acceptance of the appeal, the impugned order dated 08.02.2012 might be declared as illegal and be set aside and the appellant be reinstated



with all back and consequential benefits, alongwith any other remedy which the Tribunal deemed appropriate.

2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was working as Driver (BPS- 6) in District Office Agriculture Tank for 16 years. He applied for the post of PST through proper channel and was transferred/posted as PST on 01.02.2008 vide order dated 30.01.2008. He was terminated from service by the DCO, D.I.Khan vide order dated 04.09.2009 against which he filed appeal No. 2600/2010 in the Khyber Pakhtunkhwa Service Tribunal which was disposed of in the same manner as appeal No. 1042/2007 & 545/2011 were decided on 28.01.2010 and 28.04.2011. The respondents were directed to ascertain that the appellant was similarly placed as those in appeal No. 1042/2007 and 545/2011. The respondent department conducted one sided inquiry by violating the directions of the Service Tribunal and issued the impugned termination order dated 08.02.2012, communicated to the appellant on 24.02.2017 in Execution Petition No. 197/2016, without giving him any personal hearing. Feeling aggrieved, he filed departmental appeal which was not replied by the respondents within the statutory period of 90 days; hence the instant service appeal.

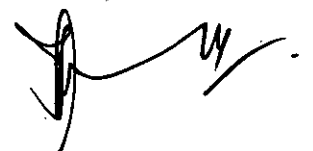
3. Respondents were put on notice. Respondent No. 3 submitted parawise comments. We heard the learned counsel for the appellant as well as learned District Attorney for the respondents and perused the case file with connected documents in detail.



4. Learned counsel for the appellant, after presenting the case in detail, argued that the impugned order dated 08.02.2012 was against the law, facts, material on record and norms of justice and was liable to be set aside. He argued that neither a regular inquiry was conducted nor the appellant was heard in person. He argued that no codal formalities were fulfilled by the department before imposing major penalty which was against the verdict of the superior court and directions of the Service Tribunal given in the judgment dated 27.10.2011. He further argued that the appellant had more than 16 years service in the Agriculture Department and was entitled to be repatriated to his parent department. He requested that the appeal might be accepted as prayed for.

5. Learned District Attorney, while rebutting the arguments of learned counsel for the appellant, argued that appointment of the appellant was made without advertisement and without observance of the codal formalities including test and interview, preparation of merit list and its approval by the competent authority and that was the reason for termination of his services. He requested that the appeal might be dismissed.

6. The appellant was appointed as PTC in the year 2008. Prior to that he was a Driver in the District Office Agriculture, Tank. As stated by him in his service appeal, he applied for the post of PTC through proper channel. Upon a query from the bench, he could not provide any application routed through proper channel to the Executive District Officer, Schools & Literacy, D.I.Khan, nor could he provide any advertisement in pursuance of which he applied for the post of PTC. His services, alongwith several others, were



terminated through the impugned order dated 08.02.2012 on the ground that their appointment was illegal, irregular and void ab-initio in terms of rule 10(2) of the NWFP Civil Savants (Appointment, Promotion and Transfer) Rules, 1989 and prescribed method of recruitment. Before passing the order of 08.02.2012, an order dated 04.09.2009 was passed by the DCO, D.I.Khan and services of various male and female teaches were terminated. That order was impugned before the Tribunal in which a judgment dated 27.10.2011 was passed according to which that order was set aside and the case was remanded back to the Secretary Elementary & Secondary Education Department as follows:-

*"-----but instead of their outright reinstatement, their cases are remanded/sent back to the Secretary, Elementary & Secondary Education Department, Peshawar (respondent No. 1) for reconsideration of the cases in the light of above observations for reinstatement of the qualified appellants and a speaking order in respect of those who are not found qualified, by the competent authority, after affording opportunity of hearing to the said appellants through an efficient and fair mechanism to be evolved for the purpose by him so as to ensure compliance with the mandatory legal requirements on the one hand and integrity of the proceedings on the other."*

In pursuance of the above judgment the order dated 08.02.2012 was impugned before the Tribunal by a number of colleagues of the appellant but their appeals were dismissed through a consolidated judgment on 14.03.2018 in Service



Appeal No. 943/2012 titled "Mst. Mehnaz Begum Vs. the Government of Khyber Pakhtunkhwa through Secretary E&SE, Peshawar and two others." The appellants of those appeals preferred Civil Petitions before the august Supreme Court of Pakistan, which were also dismissed on 19.09.2018, refusing leave to appeal.


7. There were two parts of prayer of the appellant in the appeal before us; first part was to declare the order dated 08.02.2012 as illegal, set it aside and reinstate the appellant with all back benefits whereas the second part was that he might be repatriated to his parent department. Taking the first part, it was extremely clear from the record presented before us that due process was not followed in the appointment of appellant, alongwith several other male and female teachers, and the matter was enquired on the orders of the Tribunal and decided through the order dated 08.02.2012. The same order was impugned before the Tribunal and had already been dismissed against which Civil Petitions before the august Supreme Court of Pakistan had also been dismissed which meant that the matter had attained finality and hence the prayer of the appellant had got no ground.

8. As regards the second part of the prayer about repatriation to his parent department, no order of retaining lien with the Agriculture Department could be produced before us by the appellant in his appeal or by his learned counsel during arguments. Moreover, if there was any lien, as per rules it would have been for two years. The appellant's services were terminated in 2012, which meant that his two years service after 2008 completed in 2010 and he could not claim repatriation after 2010.




9. In view of the above discussion, the appeal in hand is dismissed being groundless. Cost shall follow the event. Consign.

10. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 11<sup>th</sup> day of June, 2024.*

  
(FAWZIYA PAUL)  
Member (F)

\*Fazle Subhan PS\*

  
(RASHIDA BANO)  
Member(J)




SA 987/2017

11<sup>th</sup> June, 2024 01. Syed Numan Ali Bukhari, Advocate for the appellant present. Mr. Muhammad Jan, District Attorney for the respondents present. Arguments heard and record perused.

02. Vide our detailed judgment consisting of 06 pages, the appeal in hand is dismissed being groundless. Cost shall follow the event. Consign.

03. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 11<sup>th</sup> day of June, 2024.*

  
(FARZANA PAUL)  
Member (E)

  
(RASHIDA BANO)  
Member(J)

\*Fazal Subhan PS\*

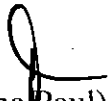
SCANNED  
KPST  
Peshawar

8

21.05.2024 1. Appellant in person present. Mr. Asif Masood Ali Shah, learned Deputy District Attorney alongwith Abdul Haleem, Agriculture Officer for the respondents present.

2. Former requested for adjournment on the ground that his counsel is not available due to general strike of the lawyers. Adjourned. To come up for arguments on 11.06.2024 before D.B at principal seat Peshawar. P.P given to the parties.

SCANNED  
AT  
PESHAWAR



(Fareeha Paul)  
Member (E)  
Camp Court, D.I.Khan



(Rashida Bano)  
Member (J)  
Camp Court, D.I.Khan

20<sup>th</sup> Dec. 2023

1. Appellant in person present. Mr. Asad Ali Khan, Assistant Advocate General for the respondents present.

2. Appellant seeks adjournment on the ground that his counsel is not available today. Adjourned. To come up for arguments on 16.01.2024 before D.B at Camp Court, D.I.Khan. P.P given to the parties.

SCANNED  
KUST  
Peshawar

\*Adnani Shah \*

(Salah Ud Din)  
Member(J)

(Kalim Arshad Khan)  
Chairman  
Camp Court, D.I.Khan

16.01.2024 1. Learned counsel for the appellant present. Mr. Asif Masood Ali, Deputy District Attorney alongwith Abdul Haleem, Agriculture Officer for the respondents present.

2. Learned counsel for the appellant requested for adjournment on the ground that he has not prepared the brief. Last chance is given. To come up for arguments on <sup>11-3-2024</sup> ~~19.02.2024~~ before the D.B at camp court, D.I.Khan. P.P given to the parties.

SCANNED  
KUST  
Peshawar

\*Kaleemullah

(Fareeha Paul)  
Member (E)  
Camp Court, D.I.Khan

(Rashida Bano)  
Member (J)  
Camp Court, D.I.Khan

11-3-24

Proper DB is not available  
Therefore case is adjourned

to 18-3-24

Due to cancellation of tour Reader case is adjourned  
to 21-5-2024.

18<sup>th</sup> Oct. 2023

1. Learned counsel for the appellant present. Mr. Asad Ali Khan, Assistant Advocate General alongwith Mr. Khalid Saeed ADEO for the respondents present.

2. Reply on behalf of the respondents is still awaited. Representative of the respondents requested for time to submit reply/comments. Granted by way of last chance with direction to submit the same within 10 days at the Principal Seat, Peshawar. To come up for arguments on 23.11.2023 before D.B at Camp Court, D.I.Khan. P.P given to the parties.

SCANNED  
KPST  
Peshawar

(Kalim Arshad Khan)  
Chairman  
Camp Court, D.I.Khan

\*Mutazem Shah \*

23<sup>rd</sup> Nov. 2023

1. Appellant in person present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

2. Bench is incomplete. Therefore, case is adjourned. To come up for arguments on 20.12.2023 before D.B at Camp Court, D.I.Khan. P.P given to the parties.

SCANNED  
KPST  
Peshawar

(Muhammad Akbar Khan)  
Member (E)  
Camp Court, D.I.Khan


\*Mutazem Shah \*

11

08.09.2023

Learned counsel for the appellant argued that appellant was appointed as PTC on 30.01.2008 after submitting NOC from department concerned. Appellant assumed the charge of PTC on 31.01.2008, but services of appellant alongwith others were terminated vide order dated 04.09.2009, which was challenged in service appeal bearing No. 2600/2010. Appeal was accepted and matter was remitted to the respondent department for holding proper inquiry and deciding afresh on merit each case of the appellant. He further argued that respondent again decided the matter by keeping the appellant in dark, who came to know about it about when in execution proceeding in the Tribunal on 24.02.2017 when impugned order dated 08.02.2012 was produce by respondent. Appellant filed departmental appeal 02.03.2017, which was not decided, hence instant service appeal was filed on 21.07.2017. He further contended that other colleagues of the appellant who were in service and joined the department through proper channel were sent back to their parent department but appellants service was terminated in violation of law. Points raised need consideration. Instant appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security fee within 10 days. Thereafter, notices be issued to respondents for submission of written reply/comments. Respondents be summoned through TCS the expenses of which be deposited by the appellant within 3 days. Adjourned. Instant appeal pertains to D.I.Khan jurisdiction therefore, be fixed at camp court, D.I Khan. To come up for written reply/comments on 18.10.2023 before S.B at camp court, D.I.Khan. P.P given to learned counsel for the appellant.

SCANNED  
KPST  
Peshawar

  
(Rashida Bano)  
Member (J)

7<sup>th</sup> July, 2023

1. Learned counsel for the petitioner and Mr. Asad Ali Khan, Assistant Advocate General for respondents present.
2. Notice of the instant application be issued to the respondents for reply. Expenses of notice, for summoning respondents through TCS, be deposited by the petitioner. To come up for reply and arguments on restoration on 18.08.2023 before S.B. Office is once again directed to produce original file. P.P given to the parties.

SCANNED  
KPBT  
Peshawar

(Kalim Arshad Khan)  
Chairman

\*Mutazem Shah\*

18.08.2023 1. Learned counsel for the applicant present and argued that appeal filed by the appellant bearing No. 987/2017 adjourned sine-die vide order dated 31.10.2019 in order to avail outcome of execution petition No. 197/2016. Execution petitioner bearing 197/2016 was decided vide order 15.05.2023 wherein desired result was not given to the appellant in it, therefore, now appellant want to restore instant appeal bearing No. 987/2016 adjourned sine-die vide order, dated 31.10.2019.

SCANNED  
KPBT  
Peshawar



2. From perusal of record coupled with the arguments of learned counsel for the appellant, appeal is hereby restored with direction to the office register it in its old number. To come up on 08.09.2023 before S.B at Peshawar.

(Rashida Bano)  
Member (J)

Form-A 13  
FORM OF ORDER SHEET

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

Restoration Application No. 357/2023

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	05.06.2023 <b>SCANNED KPS Peshawar</b>	<p>The application for restoration of appeal No. 987/2017 submitted today by Syed Noman Ali Bukhari Advocate. It is fixed for hearing before Single Bench at Peshawar on 12-06-2023. Original file be requisitioned.</p> <p>By the order of Chairman  REGISTRAR</p> <p>12<sup>th</sup> June, 2023</p> <p>01. Clerk of learned counsel for the appellant present and requested for adjournment as learned counsel for the petitioner was not in attendance due to strike of lawyers. Adjourned. To come up for further proceedings on 07.07.2023 before the S.B. Original file be also requisitioned. Parcha Peshi given to clerk of learned counsel for the appellant.</p> <p> (FAREEHA PAUL) Member (E)</p> <p><b>SCANNED! KPS Peshawar</b></p> <p><i>*Fazle Subhan, P.S*</i></p>

17.09.2019

Counsel for the appellant present.

Learned counsel requests for adjournment as the appellant has not provided all the documents necessary for submission of amended appeal.

Adjourned to 31.10.2019 before S.B.



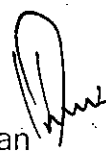
Chairman

31.10.2019

Counsel for the appellant present.

Learned counsel requests for adjournment of instant appeal sine-die in order to avail the outcome of execution petition No. 197/2016.

Order accordingly. The appellant may apply for restoration of the appeal, if need be.



Chairman



15

10.05.2019

Counsel for the appellant present and requested for adjournment. Another last opportunity is granted to counsel for the appellant for preliminary hearing. Adjourned to 27.06.2019 for preliminary hearing before S.B.



(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

27.06.2019

Appellant absent. Learned counsel for the appellant absent. Appellant and his counsel be put to notice for 19.08.2019. Adjourn. To come up for preliminary hearing on the date fixed before S.B



Member

19.08.2019

Counsel for the appellant present.

Learned counsel states that during pendency of instant appeal the appellant had reached the age of superannuation and, therefore, an amended appeal is required to be submitted. He, therefore, requests for time to do the needful.


May do so within a fortnight subject to all just exceptions. Adjourned to 17.09.2019 before S.B



Chairman

30.01.2019

None present on behalf of the appellant therefore, notice be issued to appellant and his counsel for attendance and preliminary arguments for 01.03.2019 before S.B.

  
(Muhammad Amin Khan Kundi)  
Member

01.03.2019 Due to general strike of the bar, the case is adjourned: To come up for preliminary hearing on 09.04.2019 before S.B

  
Member

09.04.2019 Counsel for the appellant present.

Learned counsel for the appellant requests for adjournment in order to further prepare the brief.

Instant matter has been previously adjourned on so many occasions upon the request of appellant/counsel, therefore, as a last opportunity it is posted for hearing on 10.05.2019 before S.B.

  
Chairman

11.09.2018

Since 12<sup>th</sup> September 2018 has been declared as public holiday, by the Provincial Government on account of 1<sup>st</sup> Mukharram-ul-Haram, therefore the case is adjourned to 18.10.2018 for preliminary hearing before S.B.

  
Chairman

18.10.2018

Learned counsel for appellant present and seeks adjournment. Adjourn. To come up for preliminary hearing on 27.11.2018 before S.B

  
Member

27.11.2018

Learned counsel for the appellant present and seeks adjournment. Adjourn. To come up for preliminary hearing on 19.12.2018 before S.B.

  
Member

19.12.2018

Appellant absent. Learned counsel for the absent. Adjourn. To come up for preliminary hearing on 30.01.2019 before S.B.

  
Member

20.04.2018

Counsel for the appellant and Asst: AG for respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for preliminary hearing on 08.05.2018 before S.B.

  
(Ahmad Hassan)  
Member

08.05.2018

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

  
Reader

04.07.2018

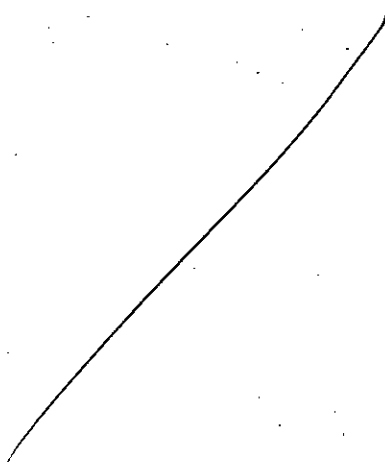
Counsel for the petitioner present and seeks adjournment. Adjourned. To come up for preliminary hearing on 31.07.2018 before S.B.

  
(Muhammad Amin Khan Kundi)  
Member

31.07.2018

Syed Noman Ali Bukhari, Advocate counsel for the appellant present and made a request for adjournment. Granted. To come up for preliminary hearing on 12.09.2018 before S.B.

  
Chairman



69  
Service Appeal No. 987/2017

18.01.2018

Counsel for the appellant present and requested for adjournment. Adjourned. To come up for preliminary hearing on 15.02.2018 before S.B.

  
(Muhammad Amin Khan Kundi)  
Member

15.02.2018

Appellant in person present and seeks adjournment. Adjourned. To come up for preliminary hearing on 09.03.2018 before S.B.

  
(Muhammad Amin Khan Kundi)  
Member (J)


09.03.2018

Counsel for the appellant present and requested for adjournment. Adjourned. To come up for preliminary hearing on 30.03.2018 before S.B.

  
(Muhammad Amin Khan Kundi)  
Member

30.03.2018

Counsel for the appellant present and seeks adjournment. Adjourned. To come up for preliminary hearing on 20.04.2018 before S.B.

  
(Ahmad Hassan)  
Member

The appeal of Mr. Muhammad Ramzan Ex-PST GPS Tube Well Noor Alam D.I.Khan received today i.e. on 21.07.2017 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

- 1- Memorandum of appeal may be got signed by the appellatant.
- 2- Copies of judgment mentioned in para-3 the memo of appeal are not attached with the appeal which may be placed on it.
- 3- Annexures of the appeal are illegible which may be replaced by legible/better one.
- 4- Annexures of the appeal may be attested.
- 5- Annexures of the appeal may be flagged.
- 6- Six more copies/sets of the appeal along annexures i.e. complete in all respect may also be submitted with the appeal.

No. 1730 /S.T,

Dt. 21/7 /2017

*[Signature]*  
 REGISTRAR  
 SERVICE TRIBUNAL  
 KHYBER PAKHTUNKHWA  
 PESHAWAR.

Syed Noman Ali Bukhari Adv. Pesh.

*Sir,*

*Objections were generated &  
 filed resubmitted*

*[Signature]*

18

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.

Appeal No. 987 /2017

MUHAMMAD RAMZAN

V/S

Govt of kpk.

.....

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*M. Ramzan*

APPELLANT

Muhammad Ramzan

THROUGH:

*M. Noman Ali Bukhari*

(SYED NOMAN ALI BUKHARI)  
ADVOCATE, PESHAWAR.

Cell No: 0335-8390122 -

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.

Service Appeal No. 987 2017

Khyber Pakhtunkhwa  
Service Tribunal

Muhammad Ramzan Ex-PST  
GPS tube well Noor Alam DI. KHan

Diary No. 826

Dated 21-7-2017

APPELLANT

VERSUS

1. The Secretary (E&SE) KPK Peshawar.
2. The Director Education Khyber Pahtunkhwa Peshawar.
3. Executive District Officer, Schools & Literacy DI. Khan.
4. DG Agriculture Extension Wing Tank, DI. Khan.

RESPONDENT

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 08.02.2012 COMMUNICATED TO THE APPELLANT ON 24.02.2017 THROUGH EXECUTION IN EXECUTION PETITION NO. 197/2016 WHEREBY THE APPEAL WAS TERMINATED FROM SERVICE AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN STATUTORY PERIOD OF 90 DAYS.

*Appellant*

PRAYER:

THAT ON ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 08.02.2012 MAY BE DECLARED AS ILLEGAL AND MAY BE SET ASIDE. AND REINSTATED THE APPELLANT WITH ALL BACK AND CONSEQUENTIAL BENEFITS OR MAY BE REPATRIATED TO HIS PARENT DEPARTMENT. ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

Filed to day  
*[Signature]*  
Registrar 21/7/17

Re-submitted to -day  
and filed.

*[Signature]*  
Registrar

31/8/17

RESPECTFULLY SHEWETH:  
FACTS:

1. That the appellant was working as driver (BPS-6) in District officer Agriculture tank for last more than 16 years. The appellant performed his duty up to entire satisfaction of his superiors and no complaint has been filed against him.



- 2. That the appellant was applied for the post of PST through proper channel and the appellant was transferred/posted as PST on 1.2.2008 vide order dated 30.01.2008. (Copy of Appointment order, NOC and charge report is attached as Annexure-A, B & C).
- 3. That the appellant was terminated from service by the DCO, DI Khan vide order dated 04.09.2009 under the colour of compliance to the Chief Minister, KPK. Then appellant filed appeal NO. 2600/2010 IN KPK Service Tribunal Peshawar, which was decide in 27.10.2011 and the said appeal was accepted and disposed of the appeal in same manner as according to appeal no 1042/2007 and 545/2011 decided on 28.1.2010 and 28.04.2011 and directed the respondents shall ascertain that the present appellant are similar placed person to the appellant in appeal no. 1042/2007 and 545/2011. Copy of judgment is attached as Annexure-D
- 4. That the respondent conducted one sided inquiry by violating the direction of KPK service Tribunal Peshawar and issued impugned termination order dated 08.02.2012, communicated to the appellant on 24.02.2017 through execution in execution petition no. 197/2016, without giving personal hearing to the appellant which is against the law and rules. Furthermore appellant has right to repatriated to his department. Copy of orders is attached as Annexure E & F.
- 5. That the appellant filed an appeal against the order dated 28.02.2012 communicated to the appellant on 24.02.2017 through execution in execution petition no. 197/2016 which was not replied by the respondents within statutory period of 90 days.
- 6. That now the appellant comes to this Honourable Tribunal on the following grounds amongst the others.

**GROUND:**

08-2-2012

- A) That the impugned order dated 28.04.2012 is against the law, facts, material on record and norms of justice and liable to be set aside.
- B) That no regular inquiry was conducted against he appellant before imposing major penalty of termination from service which is not permissible in law.
- C) That the no codal formalities was fulfilled by the department before imposing major penalty which is violation of superior court judgment and also violation of the directions of the

15


KPK Service Tribunal given on the judgment dated 27.10.2011.

- D) That neither the regular enquiry was conducted nor the appellant was heard in person which amounts to *AUDI ALTERM PALTERM*.
- E) That the appellant have more than 16 years' service in agriculture department and applied through proper channel and the penalty imposed by the education department is too harsh and also discriminated the appellant. There is some person repatriated to his parent department so the appellant is also entitled for the same relief. Copy of the order is attached as Annexure-G
- F) That the appellant has not been treated according to law and rules.
- G) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

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

  
**APPELLANT**  
Muhammad Ramzan

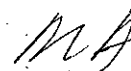
**THROUGH:**

  
**(SYED NOMAN ALI BUKHARI)**  
**ADVOCATE, PESHAWAR.**

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28.09.2017

Counsel for the appellant present and requested for adjournment. Adjourned. To come up for preliminary hearing on 31.10.2017 before S.B.



(Muhammad Amin Khan Kundi)  
Member

31.10.2017

Counsel for the appellant present and seeks adjournment. Adjourned. To come up for preliminary hearing on 29.11.2017 before S.B.



Ahmad Hassan  
(Member)

29.11.2017

Learned counsel for the appellant present and seeks adjournment. Adjourned. To come up for Preliminary Hearing on 28.12.2017 before S.B



(Muhammad Hamid Mughal)  
MEMBER

28.12.2017

Clerk of the counsel for appellant present and requested for adjournment. Adjourned. To come up for preliminary hearing on 18.01.2018 before S.B.



(Gul Zeb Khan)  
Member (E)

12

Form-A  
FORM OF ORDERSHEET

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

Case No. 987/2017

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	31/08/2017	<p>The appeal of Mr. Muhammad Ramzan resubmitted today by Syed Noman Ali Bukhari Advocate, may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR</p>
2-	11-9-2017	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>28-9-2017</u>.</p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>

22  
A  
4

OFFICE OF THE EXECUTIVE DISTRICT OFFICER, (SCHOOLS & LIT.)  
DIKHAN

APPOINTMENT ORDER:

Consequent upon the approval of Selection Committee of District Co-Ordination Officer D.I.Khan, the following In-Service is hereby appointed against vacant post of PTC in the school noted against their name in BPS 07 plus usual allowances being a qualified, fresh candidate as per existing policy in the interest of public service w.e. from the date of taking over charge on the following terms and conditions.

S.No. Name of Candidate with Father's Name

Muhammad Ramzan S/O Muhammad Ayaz  
Driver Agriculture Deptt. Tank.

Schools where posted.

GPS, F.Well Noor Alam

TERMS & CONDITIONS:

1. Charge reports should be submitted to all concerned.
2. The original documents may be checked/ verified by concerned Board/ University through DDO concerned before handing over charge.
3. The candidate is also entitled for all the benefits of regular Govt. Servant such as GPFund & Pensionary benefit and she also entitled for graded pay shown in L.P.C. issued by the concerned office.
4. No TADA is allowed.

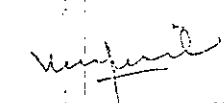
Sd/-  
EXECUTIVE DISTRICT OFFICER,  
SCHOOLS & LITERACY DIKHAN


Endst: No. 905-10

Dated D.I.Khan the 30 10/2008

Copy to the:-

1. Director Schools & Literacy N.W.F.P. Peshawar.
2. E.D.O (Agriculture) Tank.
3. District Co-ordination Officer, D.I.Khan.
4. District Accounts Officer, D.I.Khan.
5. Headmistress/ Headmaster concerned.
6. Candidate concerned.

  
Executive District Officer  
(Schools & Literacy), D.I.Khan

  
EXECUTIVE DISTRICT OFFICER  
SCHOOLS & LITERACY DIKHAN

  
ATTESTED

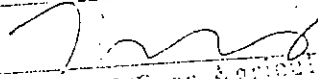
  
Attested

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'B' (9)

NOC

Considered; that this Dept: (Agri. Ext.) Tank  
 have no objection; to appoint Mr.:  
 Mohammed Razaq (VID) as PTC teacher in  
 Education Dept: Further this office will  
 receive the official or provision of office  
 order of the appointment from competent  
 authority;

  
 Div: Officer Agriculture  
 Dist: TANK

Attested

  
**ATTESTED**

# چارج رپورٹ

میں سی محمد رسنان نے سی سجاد عازم

سے جو کہ آج مورخہ 1-2-08 قبل بعد از دوپہر بموجب حکم نمبری 905-10

2008-1-30 آئندہ از دفتر (ک) - 30-1-2008

تبدیل ہوا ہے پوسٹ کا چارج سنبھال لیا ہے۔

مقام گورنمنٹ ہائی اسکول، آئی۔ آئی۔ ایم

مورخہ 2008-01-30

Head Teacher  
GPS T. V. Noor Akbar  
P. I. Khan

صیاد سجاد عازم نے سی سجاد عازم کو رپورٹ کیا ہے  
مکمل و آئندہ کا حکم جاری ہے

محمد رسنان دارال محمدیاز  
P.T.c

Attested

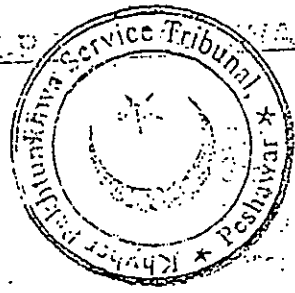
ATTESTED

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D

9

BEFORE THE SERVICE TRIBUNAL K.P.K. PESHAWAR



Service Appeal No. 2600 /2010

Muhammad Ramzan (Ex-PTC)  
CPS, T. Well, Noor Alam  
Tehsil & District D.I. Khan ..... Appellant

VERSUS

1. Govt. of K.P.K., through Secretary Elementary & Secondary Education, Peshawar.
2. Director Elementary & Secondary Education K.P.K., Peshawar.
3. District Coordination Office, D.I. Khan.
4. Executive District Officer (Elementary & Secondary Education) D.I. Khan

..... Respondents

Appeal u/s 4 of the NWFP Service Tribunal Act, 1974 against the impugned order dated 04.09.2009, whereby the services of the appellant has been terminated

Prayer

On acceptance of this appeal this Honourable Tribunal may be pleased to set-aside the impugned order dated 04.09.2009 and the appellant be re-  
instated in his service with all benefits

RECEIVED

OFFICE  
of the  
Tribunal

ATTESTED

*[Signature]*

*Attested*



27.10.2011

Counsel for the appellant, M/S Hidayatullah, S.O, Abbas Ali, S.O, Mashal Khan, L.O, Miss Nacia, A.D and Muhammad Nawaz, ADO on behalf of the respondents with AAG present. Arguments heard and record perused.

Vide detailed judgment of today, placed on connected appeal No.1407/2010 titled 'Abdul Salam-vs-Province of KPK through Secretary, E&SE, Peshawar etc.' the appeal of the appellant is accepted and his/her termination order in his/her case set aside, but instead of his/her outright reinstatement, his/her case is remanded/sent back to the Secretary, Elementary & Secondary Education Department, Peshawar (P/epandem No.1) for reconsideration of the case in the light of observations made in the judgment for reinstatement of the qualified appellants and a speaking order in respect of those who are not found qualified, by the competent authority, after affording opportunity of hearing to the appellant(s) through an efficient and fair mechanism to be evolved for the purpose by him, so as to ensure compliance with the mandatory legal requirements on the one hand and integrity of the proceedings on the other hand. Since the matter has already been delayed inordinately, it is expected that the proposed exercise should not take more than three months, where-after a progress report be submitted to the Registrar of the Tribunal.

The respondent-department should also look into claim of appellants who have alleged performance of duty for considerable time after their appointment, and if they are found to have actually performed duty for certain period, and, as such, entitled to pay/salary for the period of the duty. legal procedure should be adopted for recovery of their claims from the then EDO D.L.Khan who has already been held responsible for appointments in-question as a consequence of departmental proceedings against him. There shall however, be no order as to costs.

**ANNOUNCED**  
27.10.2011

MEMBER

CHAIRMAN

**ATTESTED**

Seal of the Tribunal with handwritten text: "Certified as a true copy" and "27.10.2011".

Handwritten signature/initials.

27

9

Before the NWP Service Tribunal, Peshawar

Appeal no. 1407/10

Abdul Salam s/o. Shah Suliman, D. I. Khan  
Ex. P.T.C, GPS Kamal Khel. VS Appellant

- 1. Province of KPK through secretary Elementary and Secondary Education Peshawar.
- 2. Director of Education (E&S) K.P.K. Peshawar.
- 3. Executive District Officer, (E&S) Dera Ismail Khan.
- 4. District Co-ordination Officer, Dera Ismail Khan.

2. P. P. Division  
Service Tribunal  
Entry No. 1469  
Date 21/7/10

RESPONDENTS:

Appeal U/S 4 of NWP Service Tribunal Act 1974 against impugned Order Dated 04-9-2009, whereby the appellant has been terminated from service, by the incompetent authority, disregard of the rules, and without observing the legal requirements, and his departmental appeal elicited no response within statutory period.

Respectfully Sheweth :

Facts of the Case :

1. That certain posts of different cadre were advertised through media of press by resp : No-3. The appellant applied for the post of P.T.C, and after successfully going through the prescribed selection process, appointed by the competent authority on regular basis against a regular vacant vacancy. ( Annex : A )

2. That in pursuance of his appointment order the appellant took over the charge of the post and performed his statutory functions for a period of two years to the entire satisfaction of his superiors. and no cause of complaint was ever reported against him.

3. That certain members of the provincial assembly were not satisfied with the appointments made by the respondent No:3 as they were keenly interested to appoint their own kith and kins, therefore they took undue advantage of their own position and crowned successful in formulating an enquiry Qaima Committee, comprising of elected members of Provincial Assembly, who were not supposed to act as member of the committee. Their entire action was totally illegal, unwarranted by law and a direct encroachment in the affairs of the civil service.

4. That aforesaid committee recommended in their report that all the appointees, appointed during 1<sup>st</sup> Jan 2007 to June 2008, their appointment orders should be cancelled and the officials who made these appointments be taken at task. These recommendations were ultra vires of the rules and members of the committee acted without jurisdiction. (Annex : B) However the recommendations of the committee were approved and

Filed to-Gen

*[Signature]*  
21/7/10

Re-submitted to-Gen and filed.

*[Signature]*  
21/8/10

ATTESTED

*[Signature]*

28 (V)

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR.

SERVICE APPEAL NO. 1407/2010

Date of institution .... 21.07.2010  
Date of judgment ... 27.10.2011

Abdul Salam S/o Shah Suliman,  
D.I.Khan, Ex. P.T.C GPS, Kamal Khel .. (Appellant)

VERSUS

1. Province of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education, Peshawar.
2. Director of Education (E&S) Khyber Pakhtunkhwa, Peshawar.
3. Executive District Officer (E&S) Dera Ismail Khan.
4. District Coordination Officer, Dera Ismail Khan. ... (Respondents)

APPEAL U/S 4 OF NWFP (KHYBER PAKHTUNKHWA) SERVICE TRIBUNALS ACT, 1974 AGAINST IMPUGNED ORDER DATED 04.9.2009, WHEREBY THE APPELLANT HAS BEEN TERMINATED FROM SERVICE, BY THE INCOMPETENT AUTHORITY, DISREGARD OF THE RULES, AND WITHOUT OBSERVING THE LEGAL REQUIREMENTS, AND HIS DEPARTMENTAL APPEAL ELICITED NO RESPONSE WITHIN STATUTORY PERIOD.

1. Shahzada Irfan Zia, Advocate for the appellant
  2. Ashraf Ali Khattak
  3. Ghulam Nabi
  4. Saadullah Khan Marwat
  5. Muhammad Arif Baloch
  6. Muhammad Anwar Awan
  7. Shaukat Ali Jan
  8. Matiullah Rand
  9. Abdul Qayyum Qureshi
  10. Muhammad Ismail Alizai
  11. Abdul-Hamid Khan
  12. Muhammad Waqar Alam
  13. Muhammad Saeed Bhutta
  14. Muhammad Saeed Khan & M. Asghar Khan
  15. Rustam Khan Kundi
  16. Gul Tiaz Khan
  17. Zahid Muhibullah
  18. Khalil-ur-Rehman Hissam
  19. Fazal-ur-Rehman Baloch
  20. Javed Iqbal
  21. Yasir Zakria Baloch
  22. Allah Nawaz, Advocates
- Advocates from S.No.2 to 22 for the remaining appellants.  
Mr. Sher Afgan Khattak, AAG. For respondents

**ATTESTED**  


Mr. Qalandar Ali Khan  
Syed Manzoor Ali Shah

Chairman  
Member

JUDGMENT

QALANDAR ALI KHAN, CHAIRMAN:- This single judgment is also directed to dispose of the appeals mentioned in the list appended herewith, as common questions of law and facts are involved in all the appeals.

2. In the Daily 'Mashriq' Peshawar dated 7<sup>th</sup> April 2007, a publication/ advertisement appeared from the Executive District Officer (EDO), E&SE, D.I.Khan, inviting applications for unspecified posts, both male and female, of C.T, Drawing sters (D.M), Physical Education Teachers (PET), Arabic Teachers (A.T), Islamiyat eology) Teachers (TT), Qari and Primary School Teachers (PST) by 20.4.2007, and on with other conditions for selection of the candidates, the minimum qualification for e posts, dates of test and interview as well as places/venues of interview were also mentioned. The record would show that a large number of applications were received. est and interview were also conducted for the said posts, resulting in appointments not only against the above mentioned posts but also against other posts like Junior Clerks, Lab: Assistants and Assistant Store Keeper (M) in the year 2007. However, in the year 2008, a local Member of the Provincial Assembly, raised question No.31 regarding recruitment/appointments made in the Education Department of District D.I.Khan by the EDO D.I.Khan, which was referred to Standing Committee No.26 for Elementary & Secondary Education, by the Provincial Assembly. The Standing Committee deliberated upon the issue, during which the Committee was informed that inquiries had also been conducted into appointments in Education Department of District D.I.Khan and Inquiry Committee/Inquiry Officers have made recommendations for appropriate legal/departmental action. After deliberations, the Standing Committee recommended

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that within one month the department should cancel appointment orders of those persons who were illegally appointed during the period between 1<sup>st</sup> January 2007 and June 2008 and also take stern disciplinary action against officers/officials found involved in illegal appointments. The record further shows that a Writ Petition was lodged in the High Court Bench D.I.Khan, which was accepted and an Hon'ble Bench of the Peshawar High Court D.I.Khan Bench directed the department to act upon the inquiry report dated 05.01.2009 positively within two months from 11.6.2009, where upon the District Coordination Officer (DCO) D.I.Khan passed office order dated 4.9.2009 thereby implementing the decision of the Standing Committee No.26, order of the Peshawar High Court D.I.Khan Bench dated 11.6.2009 and order of the Chief Minister NWFP (Khyber Pakhtunkhwa) contained in the Elementary & Secondary Education Department letter dated 26/8/2009, and terminated services of all the 'illegally/irregularly' appointed teachers, detail of which was given in Annexure to the office order. This office order of the DCO D.I.Khan was followed by a letter dated 7.5.2010 from the ED@ (E&SE) D.I.Khan to all concerned for implementation of termination orders issued by the DCO on 4.9.2009, and also a corrigendum on 20.5.2010 thereby terminating all the personnel appointed from January 2007 to 30<sup>th</sup> June 2008 except 131 (F)PST, 309 (M) PST + deceased son quota, disabled quota and minority quota in the light of decision of the Peshawar High Court, D.I.Khan Bench. It is against the said order of DCO D.I.Khan that the appellant in the instant appeal as well as appellants in the connected appeals, listed in the enclosed list, first preferred departmental appeals and then lodged these appeals. In the meantime, some of the appellants had also approached Peshawar High Court, D.I.Khan Bench and had filed Writ Petitions which were returned to the petitioners for presentation to the proper forum (KPK Service Tribunal) if they so desire, vide order dated 29.4.2010. The petitioners moved the august Supreme Court of Pakistan wherefrom the petitions were withdrawn and consequently dismissed by a Hon'ble Bench of

ATTESTED

august Supreme Court of Pakistan vide order dated 28.6.2010 with the observation that if the petitioners approached proper forum for redressal of their grievances, the question of limitation be considered sympathetically if so raised. There-after, the appellants started lodging these appeals one by one, inter-alia, on the grounds that the impugned order dated 4.9.2009 was void, illegal and without jurisdiction because DCO D.I.Khan was not competent to terminate the services of officials in BPS-1 to BPS-10; that the DCO did not apply his independent mind and just acted upon the direction of Chief Minister and recommendation of a politically constituted Standing Committee; that before passing the impugned order, legal requirements were not fulfilled and the appellants were terminated from service without any charge sheet and/or show cause notice; that no chance of personal hearing was afforded to the appellants before passing the impugned order, hence they were condemned unheard; that even during the course of successive inquiry proceedings, the appellants were not associated to justify their respective position and thus the entire proceedings were conducted ex-parte; and that if there was any fault or lapse on the part of the department in the selection process, the appellants should not have been punished for the same.

It may be mentioned here that quite a number of affectees of the impugned termination order had also approached this Tribunal in the year 2009 and vide order dated 10.2.2009, this Tribunal had disposed of around 49 appeals with direction to the Secretary to Government of NWFP (S&L) to constitute a committee of experts of his department and, if need be, of the Establishment Department and Finance Department, to consider the cases of all the appellants named in the order as well as cases of all similarly placed persons, and decision regarding the same be given at the level of the competent authority, so that the parties are saved from unnecessary litigation, in the interest of justice, and in the interest of public work. It was expected that such a committee would be in a position to finalize its findings, and the competent authority may be in a position

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to grant a decision in these cases, within a period of three months from the date of delivery of the order. The said order was not implemented within the specified time, therefore, implementation petitions were lodged, wherein directions were accordingly issued to the department for implementation of the order, following which, a committee comprising a Chairman and three other Members was constituted, which conducted its proceedings and submitted its report, which has been kept in the office record, while a copy of report/findings/recommendations has been placed on this file. The Scrutiny Committee concluded that appointments of all the appellants, except that of Shahana Niazi D/o Ghulam Sadiq (Service Appeal No.2177/2010), were illegal and irregular. The report/findings/recommendations of the Scrutiny Committee reveals appointments of more than two thousand teachers of various categories against following 1390 sanctioned posts:-

PST	961
AT	61
TT	59
Qari	50
CT	171
DM	43
PET	45
<u>Total</u>	<u>1390</u>

The respondents defended the impugned termination order and resisted the appeals on several legal and factual grounds including the one that the services of a civil servant can be terminated without notice during the initial or extended period of his probation under section 11(i) of the NWFP (Khyber Pakhtunkhwa) Civil Servants Act, 1973. They alleged, in their written reply/comments, that the appellants were neither eligible/qualified for the posts, nor requisite codal formalities for appointment were observed, hence the appointments were illegal and fake. They contended that more than one inquiries were conducted and the matter was taken up in the Provincial Assembly and that it was recommended as a result of inquiries as well as by the Standing

**ATTESTED**

Committee, recommendations of which were unanimously adopted by the Provincial Assembly, to terminate the services of all persons illegally appointed. They maintained that all the appointments were found illegal and in violation of recruitment policy except 309 (M) and 131 (F) PST. They concluded that the decisions of the Inquiry Committees and recommendations of the Standing Committee, adopted unanimously by the Provincial Assembly, were also confirmed by the Chief Minister as well as by the Peshawar High Court D.I.Khan Bench, which were followed by the DCO by terminating the services of all those persons who were illegally/irregularly appointed and that the order of DCO was also followed by corrigendum issued by the EDO.

5. Arguments of the learned counsel for the appellants and learned AAG heard, and record perused.

6. The main thrust of the arguments of the learned counsel for the appellants was against the impugned order dated 4.9.2009 of the DCO D.I.Khan, which was a general order in all the cases of 'illegal/irregular' appointments. The objections to the impugned order were two-fold. Firstly, the order was general in nature on the direction/recommendation of the Standing Committee of the Provincial Assembly without application of mind to each and every case, and thereby services of around 1613 male and female teachers of various categories were terminated with one stroke of pen; and, secondly, the order was passed by the DCO D.I.Khan who was not appointing authority for employees in BPS-1 to BPS-10, and thus not competent to dispense with their services. The learned counsel further laid stress on the non-observance of codal formalities essentially required for termination of services of civil servants, like service of charge sheet and/or show cause notice and providing them opportunity of defence and hearing. They also alleged non-association of appellants in the inquiry proceedings conducted in the matter. The learned counsel contended that the appellants were appointed after qualifying test and interview for the posts conducted in pursuance of

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advertisement/publication made in the newspaper by the department/authority and after their applications for the posts were found in order by the department. They maintained that the appellants had joined service and performed their duty without any complaint about their performance from the quarter concerned.

7. The learned AAG assisted by the representatives of the department vehemently contested claim of the appellants/counsel for the appellants and argued that the appointments were made without first obtaining proper sanction of the posts, without advertisement, and without observance of the codal formalities including test and interview, preparation of merit list, and its approval by the competent authority. It was argued on behalf of the department that some of the appointments were made even before advertisement, without specifying the posts against which the appointments were being made and without checking whether the educational qualification of the candidates fulfilled the academic requirements for the posts. It was pointed out that all 440 PSTs appointed on merits and after observance of codal formalities were retained, while the st appointed 'illegally/irregularly' were terminated as a result of more than one quiries, recommendation of the Standing Committee, and orders of the Chief Minister as well as Peshawar High Court, D.I.Khan Bench. It was alleged on behalf of the department that the competent authority i.e. EDO D.I.Khan not only endorsed the impugned order of DCO D.I.Khan dated 4.9.2009 but also issued a follow up letter dated 7.5.2010 and corrigendum on 20.5.2010. They further pointed out that none of the appellants was in possession of proper documents showing his eligibility for the post, and also proper appointment order against the post. They concluded that the appointments of the appellants have been found by various legal and constitutional forums as illegal/irregular, besides fake in most of the cases.

**ATTESTED**  
*[Signature]*

8. From whatever has been narrated above, as well as from perusal of the record, the following points emerge which are critically important for determination of fate of these appeals:-

- (a) The services of the appellants, appointed in 2007, were dispensed with vide a general order of the DCO D.I.Khan dated 4.9.2009, against which some of them preferred departmental appeals and then lodged appeals in the Tribunal, which were disposed of vide order dated 10.2.2009, while the rest moved the Peshawar High Court D.I.Khan Bench in writ jurisdiction, but their writ petitions were returned to them for presentation to the proper forum vide judgment/order dated 29.4.2010, against which petitions were moved in the august Supreme Court of Pakistan, which were dismissed as withdrawn with the observation that if the petitioners/appellants approached appropriate forum for redressal of their grievances, the question of limitation be considered sympathetically if so raised. Not only that the question of limitation has not been raised so vehemently by the department, the appellants have also been vigilantly pursuing their case, albeit in the wrong forum, therefore, the appeals lodged in the Tribunal after disposal of their petitions by the august Supreme Court of Pakistan cannot be held as time-barred, especially when the august Supreme Court of Pakistan directed for sympathetic consideration of the question of limitation, together with certain facts of the case warranting interference by the Tribunal. Besides, the impugned order has been issued by the DCO D.I.Khan who was not appointing authority of civil servants in BPS-1 to BPS-10, and, as

ATTESTED  
*[Signature]*

such, the impugned order would be deemed to be an order by an authority not competent to issue the order, and, as such, void; and no limitation would run against such order (2007 SCMR 262 (g) and PLJ 2005 SC 709 (Appellate Jurisdiction)).

- (b) The posts of Junior Clerks, Lab.Assistants and Assistant Store Keeper (M) were never advertised, and, as such, no codal formalities were observed for appointment of 14 Junior Clerks, 03 Lab.Assistants and one Assistant Store Keeper. Their appointments were, therefore, aptly termed as illegal/irregular, and, consequently, their services have rightly been terminated, as appointments secured through illegal/irregular orders would be void ab-initio and would not confer any right on the holders of such appointment orders. Their appeals also deserve to be dismissed on this score.

- a)
- c) After painstaking exercise in pursuance of the order dated 20.01.2011 in one of the implementation/execution petitions, for which the then Secretary Education, Mr.Muhammad Arifeen Khan, and his team genuinely deserve commendation, the Scrutiny Committee prepared a detailed report, stretching over hundreds of pages, wherein they held only the appointment of PST Shahana Niazi D/o Ghulam Sadiq (Service Appeal No.2177/10) according to the prescribed procedure, as her name also appeared in the merit list, and recommended her reinstatement into service. The respondent-department also did not contest her appeal in the manner they contested appeals of other appellants. Therefore, her appeal deserves to be accepted.

ATTESTED

- (d) Regarding the remaining cases, the respondents have resisted the appeals on the grounds that neither the posts on which appointments of the appellants were made were sanctioned before advertisement, nor the appellants qualified or were eligible for the posts, and codal formalities like test and interview, preparation of merit list and approval of competent authority were not observed; but these assertions of the respondents are belied by the available record as well as some documents produced by the appellants/ counsel for the appellants alongwith a joint affidavit by Muhammad Ayub Khan, SET GHS Panyala and Abdullah TT GHS Panyala who performed duty during test and interview of the appellants on 24<sup>th</sup>, 25<sup>th</sup> and 26<sup>th</sup> April 2007, during the course of arguments, showing constitution of committees for conducting test and interview, preparation of merit list after test and interview, besides revealing some cases in which the candidates other than those claimed by the respondents to have been appointed on merit secured more marks than the latter. So far sanction prior to advertisement/publication is concerned, it was duty of the authority to secure the requisite sanction prior to advertising/publicizing the posts for inviting applications, and the appellants can, by no stretch of imagination, be held responsible for any fault/lapse in this respect on the part of the authority i.e. EDO D.I.Khan. Notwithstanding the fact that appellants have placed on file verification of the certificates/testimonials of some of the appellants by the respondent-department, even if some irregularity was found in the appointments, the appellants/appointees should

ATTESTED

not be made to suffer for such lapses on the part of the appointing authority (1996 SCMR 411 (Supreme Court of Pakistan), 2004 SCMR 303 (Supreme Court of Pakistan), 2006 SCMR 678 (Supreme Court of Pakistan), PLJ 2006 SC 81 (Appellate Jurisdiction), PLJ 2011 Lahore 736 (Multan Bench Multan), and last but not the least 2011 SCMR 1581 (Supreme Court of Pakistan).

(e) It is a matter of record that not in a single inquiry out of so many inquiries by the department, the then EDO D.I.Khan has been confronted with his signatures on appointment letters, so conveniently termed by the respondent-department as bogus and fake. When the 'authority' has never and no-where disowned his signatures on such appointment letters, how the same can be held as bogus and fake. No-doubt, the record shows departmental proceedings against the then EDO, and major penalty of compulsory retirement has been imposed upon him, but only after causing colossal loss to the national exchequer, for which he must be made accountable and also made to make good the loss so caused to the public money, and also landing hundreds of jobless persons in deep trouble by forcing them to engage in protracted litigation, during which they have not only been robbed of whatever money was left with them after securing the jobs; while he himself enjoying post retirement life with all perks and privileges. In view of implications/consequences of the acts on the part of the then EDO D.I.Khan, the penalty imposed on him does not appear commensurate with the gravity of his guilt, but since that matter is

**ATTESTED**

not before us, we would stop short of making any order with respect to the departmental proceedings against him, but would, indeed, direct the respondent-department to recover the pay/salary paid to the illegally/irregularly appointed persons from the pension etc. of the then EDO instead of burdening the public exchequer for illegal/irregular acts on the part of the then EDO D.I.Khan.

- (f) No-doubt, an illegal/irregular and an order void ab-initio would not confer a right on the holder of such order, but an order passed by a competent authority in the discharge of his duty after observance of codal formalities does confer right on the holder of such order to be heard in support of order in his favour and his case decided on merit instead of a general order on the direction of some outside authority. If authorities are needed, one can readily refer to a number of cases including cases reported as 1995 PLC(C.S) 419 (Lahore High Court), 2005 SCMR 1814 (Supreme Court of Pakistan), 2006 PLC (C.S) 1140(Northern Areas Chief Court), 2005 SCMR 85 (Supreme Court of Pakistan), 1987 PLC (C.S) 868 (b), 2007 SCMR 330 (Supreme Court of Pakistan), 2008 PLC (C.S) 582 (Northern Areas Chief Court), and 2007 MLD 703 (Lahore). Undoubtedly, notices were not issued to the appellants prior to the impugned order by the DCO D.I.Khan, and they were never provided opportunity of hearing either by the 'authority' prior to passing of the impugned order or during inquiry/ scrutiny proceedings by several committees during the pre and post period of impugned order. As such, the principle of audi-alteram partem was violated at all levels and at all stages, rendering the impugned

ATTESTED



order void and invalid, in respect of those who were found eligible for the posts after observance of codal formalities.

- (g) There is no dispute that in the case of appointments, in BPS-1 to BPS-10, the appointing authority, in view of notification of the Provincial Government dated 7<sup>th</sup> October 2005, was EDO and thus also competent authority for disciplinary matters, whereas the District Coordination Officer was appointing authority for officials in BPS-11 to 15; therefore, the impugned order in respect of the appellants issued by the DCO D.I.Khan was an order by an incompetent authority and not sustainable in law as held in cases reported as 1983 PLC (C.S) 354 (Service Tribunal Punjab), 2001 PLC (C.S) 1097, 2008 PLC (C.S) 949 (Lahore High Court) and 1985 PLC (C.S) 1002. The contention of the respondents was that the competent authority i.e. EDO D.I.Khan not only endorsed the impugned order issued by the DCO D.I.Khan and issued a letter for implementation of termination order but also issued corrigendum thereby terminating the services of the appellants. Apart from the fact that endorsement of the order of an incompetent authority by the competent authority and follow up letter by him would not validate a void order issued by an incompetent authority, the corrigendum issued after more than 8 months of the impugned order would also not serve any useful purpose in view of PLD 2000 SC 104, as after issuance of termination order the department had become functus-officio.
- (h) It was urged on behalf of the respondents that recommendations of the Standing Committee of the Provincial Assembly assumed legal

**ATTESTED**



status following judgment/order dated 11.6.2009 of the Peshawar High Court, D.I.Khan Bench, whereby a clear direction was issued to act upon the inquiry report, but they lost sight of the fact that no direction of any authority could absolve the departmental authority from following the law/rules on the subject and fulfill necessary legal requirements before passing the impugned order.

9. As a sequel to the foregoing discussion, we would make the following orders:-

- (i) All the appeals of Junior Clerks, Lab. Assistants and Assistant Store Keeper(M) are dismissed with costs, being devoid of merit.
- (ii) The appeal of Ms. Shahana Niazi (Service Appeal No. 2177/10) is accepted, and by setting aside the impugned order, she is reinstated in service with consequential/back benefits.
- (iii) The appeals of the rest of the appellants including PSTs(M&F), CTs(M&F), PETs(M&F), DMs(M&F), ATs(M&F), TTs(M&F) and Qaris (M&F) are also accepted and impugned termination order in their cases set aside, but instead of their outright reinstatement, their cases are remanded/sent back to the Secretary, Elementary & Secondary Education Department, Peshawar (Respondent No.1) for reconsideration of the cases in the light of above observations for reinstatement of the qualified appellants and a speaking order in respect of those who are not found qualified, by the competent authority, after affording opportunity of hearing to the said appellants through an efficient and fair mechanism to be evolved for the purpose by him so as to ensure compliance with the mandatory legal requirements on the one hand

ATTESTED

(A)



and integrity of the proceedings on the other. Since the matter has already been delayed inordinately, it is expected that the proposed exercise should not take more than three months, whereafter a progress report be submitted to the Registrar of the Tribunal.

- (iv) The respondent-department should also look into claim of those appellants who have alleged performance of duty for considerable time after their appointments, and if they are found to have actually performed duty for certain period, and, as such, entitled to pay/salary for the period of the duty, legal procedure should be adopted for recovery of their claims from the then EDO D.I.Khan who has already been held responsible for appointments in question as a consequence of departmental proceedings against him.

ANNOUNCED  
27.10.2011 (S)

**ATTESTED**



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**BEFORE THE SERVICE TRIBUNAL K.P.K., PESHAWAR**

Service Appeal No. 2600 /2010

N.W.F. Province  
Service Tribunal  
Discy No. 2759  
Dated 1-11-10

Muhammad Ramzan (Ex-PTC)  
GPS T. Well Noor Alam  
Tehsil & District D.I.Khan.....Appellant

**Versus**

1. Govt. of K.P.K., through Secretary Elementary & Secondary Education, Peshawar.
2. Director Elementary & Secondary Education K.P.K., Peshawar.
3. District Coordination Officer, D.I.Khan.
4. Executive District Officer (Elementary & Secondary Education) D.I.Khan

.....Respondents

Filed to-day  
*[Signature]*  
Registrar  
11/11/10

**Appeal u/s 4 of the NWFP Service Tribunal Act, 1974 against the impugned order dated 04.09.2009, whereby the services of the appellant has been terminated**

**Prayer**

On acceptance of this appeal this Honourable Tribunal may be pleased to set-aside the impugned order dated 04.09.2009 and the appellant be reinstated to his service with all his back benefits

**ATTESTED**

*[Signature]*

27.10.2011

Counsel for the appellant, M/S Hidayatullah, S.O, Abbas Ali, S.O, Mashal Khan, L.O, Miss Nadia, A.D and Muhammad Nawaz, ADO on behalf of the respondents with AAG present. Arguments heard and record perused.

Vide detailed judgment of today, placed on connected appeal No.1407/2010 titled 'Abdul Salam-vs-Province of KPK through Secretary, E&SE, Peshawar etc.', the appeal of the appellant is accepted and impugned termination order in his/her case set aside, but instead of his/her outright reinstatement, his/her case is remanded/sent back to the Secretary, Elementary & Secondary Education Department, Peshawar (Respondent No.1) for reconsideration of the case in the light of observations made in the judgment, for reinstatement of the qualified appellants and a speaking order in respect of those who are not found qualified, by the competent authority, after affording opportunity of hearing to the appellant(s) through an efficient and fair mechanism to be evolved for the purpose by him so as to ensure compliance with the mandatory legal requirements on the one hand and integrity of the proceedings on the other hand. Since the matter has already been delayed inordinately, it is expected that the proposed exercise should not take more than three months, where-after a progress report be submitted to the Registrar of the Tribunal.

The respondent-department should also look into claim of appellants who have alleged performance of duty for considerable time after their appointment, and if they are found to have actually performed duty for certain period, and, as such, entitled to pay/salary for the period of the duty, legal procedure should be adopted for recovery of their claims from the then EDO D.I.Khan who has already been held responsible for appointments in-question as a consequence of departmental proceedings against him. There shall, however, be no order as to costs.

**ATTESTED**  

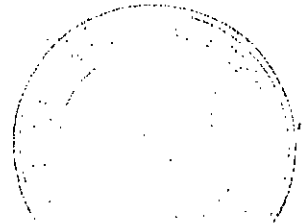

ANNOUNCED  
27.10.2011

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR.

Execution Petition No. 197 /2016  
In Service Appeal No.2600/2010

Muhammad Ramzan, Ex.PTC  
GPS T, Well Noor Alam  
Tehsil & District D.I Khan.



PETITIONER

VERSUS

1. The Secretary, Education (E&SE), Department, Government of Khyber Pakhtunkhwa, Peshawar.
2. The Director, Education (E&SE), Department, Government of Khyber Pakhtunkhwa, Peshawar.
3. The Executive District Officer (E&SE), D.I Khan.

RESPONDENTS

EXECUTION PETITION FOR DIRECTING THE  
RESPONDENTS TO IMPLEMENT THE  
JUDGMENT DATED: 27.10.2011 OF THIS  
HONOURABLE TRIBUNAL IN LETTER AND  
SPIRIT.

24.02.2017

Muhammad Ramzan petitioner with counsel and Mr. Khalid Said Akbar, ADO alongwith Mr. Muhammad Adeel Butt, Additional AG for respondents present. R representative of respondent-department produced implementation order according to which in compliance of order of this Tribunal dated 27.10.2011 the services of present petitioner and many others have been terminated. Copy of the documents is handed over to learned counsel for petitioner. To come up for detail arguments on 14.04.2017 before F&D

Order  
24.02.2017  
Muhammad Adeel Butt  
Additional AG for  
Respondents  
Peshawar

*Muhammad Adeel Butt*

*Attested*

**ATTESTED**

*[Signature]*

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OFFICE OF THE EXECUTIVE DISTRICT OFFICER (E&SE) D.I.Khan

ORDER:

In pursuance of c dated 27-10-2011 of the KFK Service Tribunal in service appeal No. 1407/2010 and other connected appeals, committee headed by the Secretary to Govt. of Khyber Pakhtunkhwa (E&SE) Department considered the cases of the appellants and similar placed persons and came to the conclusion that the appointment of the following PSTs (Male) was illegal, irregular and void ab-initio in terms of rule 10(2) of the NWFP Civil Servants (Appointment, Promotion and Transfer) Rules 1989 and prescribed method of recruitment. On the recommendation of the committee contained at page 103-104 of the enquiry report, their so called services are hereby terminated.

S. No.	Appeal No/year	Name of appellant	Father's Name	School
1	2528/10	Ariq Hussain	Ghulam Qazi	GPS Ghumsan
2	Nil	Malik Abdur Rashid	Haji Malik Rashid	GPS Sakhani
3	Nil	Shoukat Inran	Muhammad Nawaz	GPS Um. Buba
4	2391/10	Muhammad Saifdar	Muhammad Azam	GPS Kot Mehsudan Band Kurai
5	2036/10	Atta Muhammad	Allahdad	GPS Muga
6	3102/10	Abdul Ghafar	Sher Muhammad	GPS Udwal
7	2648/10	Abdul Saeed Khan	Ahmad	GPS Asghan Khel
8	2372/10	Muhammad Asif	Faiz Rasool	GPS No.1 Kaich Kiri Baz Muhammad
9	2052/10	Muhammad Naem	Muhammad Ibrahim	GPS Jhoke Dar/Din Pur
10	1893/10	Asif Mehmood	Abdul Aziz	GPS Jhoke Balal
11	2090/10	Saifur Rehman	Sona Khan	GPS No. 4 Kulach/GPS No.2 Maddi
12	Nil	Khalid Mehmood Kha	Chaudry Nigun Din	GPS Jaudhin Abdul Sattar
13	2114/10	Muhammad Shahid	Falik Sher	GPS Talgai
14	2066/10	Muhammad Aslam	Muhammad Karzan	GPS Jhoke Sakhani
15	2626/11	Ghulam Abid Shah	Ghulam Abbas Shah	GPS Audwal/GPS Joke Dar
16	1755/10	Mumtaz Ahmad	Ghulam Akbar	GPS Jhoke Dar / Abdul Khel
17	1494/10	Muhammad Javed	Malik Allah Nawaz	GPS Aslam Abad/Kala Gorh
18	1721/10	Kifayatullah	Sarfraz	GPS Jhock Daar
19	2724/10	Muhammad Ali	Malik Allah Wasaya	GPS Sheesha / GPS Rora
20	2101/10	Muhammad Khalilur Rehman	Haji Fazal Rehman	GPS Noor Pur Paliyar
21	1455/10	Ghulam Abbas	Maula Dad	GPS Jok An in DIK/No.1 Kot Essa Khan
22	Nil	Muhammad Javed	Muhammad Iqbal	GPS Saicallian/Khanu Khel
23	Nil	Muhammad Ishfaq	Muhammad Mushtaq	GPS Umer Khel
24	2640/10	Sheikh Muhammad Zahid	Sheikh Ghulam Akber	GPS Bait Keheri/GPS Malik Mir/Dhapanwali
25	1989/10	Syed Muhammad Abdullah Shah	S.Nazar Hussain	GPS Kachi Khasore
26	2853/10	Qamar Ali	Jan Muhammad	GPS Kachi Kach Garh
27	Nil	Karam Elahi	Khuda Baksh	GPS Basti Zangadaa Wali
28	1451/10	Umar Hayat Ki	Khan Muhammad	GPS Buzdar / Kiri Malang
29	1425/10	Muhammad Aslam	Muhammad Hussain	GPS Jhoke Rind/GPS Wanda Buchra
30	2377/10	Muhammad Ismail	Muhammad Hayat	GPS Wanda Nadir Shah

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				Chah Pai Wala
693	2127/10	Mazhar Abbass	Sohna Khan	GPS Chah Hussain Khan
694	Nil	Asmat Ullah Lashari	Atta Muhammad	GPS Sakandar Junabi
695	Nil	Muhammad Aslam	Haq Nawaz	GPS Shala Sharif/Moga
696	2045/10	Muhammad Amjad Khan	Shoukat Hayat	GPS Muchi Wal/ Gandhi Ashiq
697	1797/10	Ishfaq Ahmad Faiz	Paizullah	GPS Bali Wala/Katta Kulachi
698	3087/10	Munawar Hussain	Ghulam Qasim	GPS Kiara Besharat. Appointed by Transfer
699	2305/10	Tariq Hussain	Allah Nawaz	GPS Kalu Qalander
700	Nil	Shoukat Ali	Rustam Khan	GPS Hassani
701	Nil	Muhammad Taqi Shah	Zawar Hussain Shah	GPS Kachi Baqar
702	2525/ 0	Muhammad Rashid	Muhammad Bakhsh	GPS Teekan/Kurai
703	2806/10	Ghulam Baho	Ghulam Hussain	GPS Wanda Shesha / No.1 Paharpur
704	Nil	Mehmoob Elahi	Raza Muhammad	GPS Haji Khel
705	188/ 10	Muhammad Imran	Mumtaz Khan	GPS No.3 DHE Khan
706	2015/10	Muhammad Ibrahim	Muhammad Nawaz	GPS Aman Abad
707	26 00/ 0	Muhammad Kamran	Muhammad Ayaz	GPS Tube Well Floor Alam
708		Ghulam Abbas	Fazal Elahi	GPS Mithpur Khurd
709	14. 4	Muhammad Gulzar	Ghulam Sarwar	GPS Gaudi Ashiq

EXECUTIVE DISTRICT OFFICER  
(E&SE) D.I.Khan

Ends No. 001-7131

Dated D.I.Khan the 08/2/2012

Copy for information to:

1. P.S to Secretary (E&SE) KPK.
2. P.A to Director (E&SE) Peshawar.
3. District Coordination Officer D.I.Khan.
4. District Officer (E&SE) (M/F) D.I.Khan
5. All concernee

EXECUTIVE DISTRICT OFFICER  
(E&SE) D.I.Khan

ATTESTED

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4. That the respondents department conducted one sided inquiry by violating the direction of the KPK Service Tribunal, Peshawar and issued judgment dated 08.2.2012 which was communicated to the appellant on 24.2.2017 through execution in petition no. 197/2016. Without giving personal hearing to the appellant which is against the law and rules of Court.

3. That the petitioner was terminated from service by the DCO, DI Khan vide order dated 04.09.2009 under the colour of compliance to the directive of the Chief Minister, KPK. Then appellant filed appeal No.2600/2010 in KPK service tribunal Peshawar, which was decided on 27.10.2011 and the said appeal was accepted and disposed of the appeal in same manner as according to Appeal No. 1042/2007 and 545/2011 decided on 28.1.2010 and 23.4.2011 and directed the respondent-department shall ascertain that the present appellant are similar placed persons to the appellant in Appeals No. 1042/2007 and 545/2011. (Copy of judgment dated 27/10/2011 is attached).

2. That the appellant applied for the post of PST through proper channel and the appellant was transferred/posted as PST on 1.2.2008 vide order dated 30.01.2008. (Copy of appointment order, NOC and charge report are attached).

1. That the appellant was appointed as Driver (BPS-6) in District Officer Agriculture Tank for last more than 16 year. The appellant performed his duty up to the entire satisfaction of his superiors and no complaint has been filed against him.

Most humbly it is submitted that:

Respected Sir,

ON ACCEPTANCE OF THIS DEPARTMENTAL APPEAL AND IMPUGNED ORDER DATED 08.02.2012 MAY BE SET ASIDE AND REINSTATED THE APPELLANT WITH ALL BACK AND CONSEQUENTIAL BENEFITS OR MAY BE APPELLANT REPATRIATED TO HIS PARENT DEPARTMENT.

PRAYER:

FROM SERVICE  
APPELLANT WAS TERMINATED FROM SERVICE  
EXECUTION PETITION NO. 197/2016 WHEREBY THE  
APPELLANT ON 24.2.2017 THROUGH EXECUTION IN  
DATED 08.02.2012, COMMUNICATED TO THE  
DEPARTMENTAL APPEAL AGAINST THE ORDER

The Director Education  
Khyber Pakhtunkhwa, Peshawar.

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5. That now the appellant files the departmental appeal on grounds.

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**GRSND S:**

- A) That the impugned order dated 08.02.2012 is against the law, rules and material on record, therefore liable to be set aside.
- B) That no regular inquiry was conducted against the appellant before imposing major penalty of termination from service which is not permissible in law.
- C) That no codal formalities were followed by the department before imposing the penalty which is violation of Superiors courts judgment and also violation of the directions of the KPK Service Tribunal given on the judgment dated 27.10.2011.
- D) That no opportunity of personal hearing was provided to the appellant which is violation of Law and Rules.
- E) That the attitude and conduct of the Department shows that they were bent upon to remove the appellant at any cost.
- F) That the appellant has 16 years service in agriculture department and the penalty imposed by the education department is so harsh.
- G) That the appellant was reinstated in to service or repatriated to his Parent department.
- H) That the appellant was condemned un-heard which is violation of law.

It is therefore, most humbly requested that impugned order dated 08.02.2012 may be set aside and reinstated the appellant with all back and consequential benefits or may be appellant repatriated to his parent department.

Appellant M. Ramzan  
Ex. PST Muhammad Ramzan  
GPS Tube-well Noor Alam Di-khan.  
Cell No. 0346-7844940

Date: 1-03-2017

**ATTESTED**

*[Signature]*

*[Signature]*  
Attested

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**BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA,  
SERVICE TRIBUNAL PESHAWAR**

Execution Application No. 118 /2012

389  
02/05/12

Akhtar Zaman S/O Alamgir Khan R/O Garra Hayat, Dera Ismail Khan.

Petitioner



**Versus**

1. Secretary to Government of Khyber Pakhtunkhwa Elementary and Secondary Education Department, Peshawar.
2. Deputy Inspector General of Police, D.I.Khan Region, D.I.Khan.

Respondents

**Application under section 7 (2) (d) of  
the Khyber Pakhtunkhwa Service  
Tribunal Act, 1974 for execution of  
order dated 27-10-2011 passed in  
service appeal No. 1407/2010.**

**RESPECTFULLY SHEWETH,**

Short facts giving rise to the present execution application are as under:-

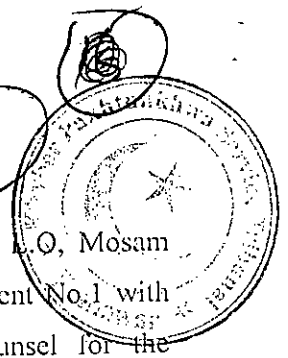
1. That the petitioner was appointed as Constable (B-5) in the Police Department, D.I.Khan Region on 27-07-2007 (copy Annex-A). He applied through proper channel for the post of Primary School Teacher (PST, B-7) in the Education Department (Copy Annex-B & C). He was selected as PTC teacher on 1-9-2007 (Copy Annex-D). After relieving from the Police Department, he assumed

**ATTESTED**  
  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

**ATTESTED**

*Appeal*

E.P. No. 51/118/2012



04 28.05.2012

Counsel for the petitioner, M/S Mashal Khan, L.O, Mosam Khan, A.D and Muhammad Nawaz, ADO for respondent No.1 with AAG for the respondents present. The learned counsel for the petitioner explained that the petitioner applied for the post in-question through proper channel and was inducted by the respondent-department; and in case his appointment order was found illegal/irregular, he should have been reverted/sent back to his parent department i.e. Police Department instead of dispensing with his services. The representatives of the respondents are, therefore, directed to furnish implementation report, in the light of above submission of the learned counsel for the petitioner, positively, on 25.6.2012.

*[Signature]*  
CHAIRMAN

05 25.6.2012

Counsel for the petitioner, M/S Mashal Khan, L.O, Mosam Khan, A.D and Muhammad Nawaz, ADO for respondent No.1 with AAG for the respondents present. Representatives of respondent No.1 furnished implementation report/order dated 12.6.2012, whereby the petitioner has been reverted/sent back to his parent department i.e. Police Department. Learned counsel for the petitioner is satisfied with the said order, and requested for disposal of the petition.

In view of the above, the implementation/execution petition is disposed of as having served the purpose. File be consigned to the record.

ANNOUNCED  
25.6.2012

*[Signature]*  
MEMBER

*[Signature]*  
CHAIRMAN

Certified to be true copy

Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

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*[Signature]*  
Attested

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Date of Presentation 14-4-72  
Number of 800  
Copying Fee 6  
Urgent 2  
Total 8  
Name of Copyright [Signature]  
Date of Completion of Copy 14-4-72  
Date of Delivery of Copy 14-4-72

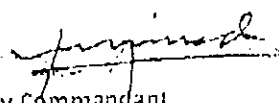
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ORDER 16/10/14

Add: IGP/Commandant FRP Khyber Pakhtunkhwa is pleased to adjust Akhtar Zaman S/o Alamgir Ex-Constable of District Dikhan as constable according to judgment dated 27.10.2011, execution petition No.118/2012 of Service Tribunal Khyber Pakhtunkhwa.

Akhtar Zaman S/o Alamgir is hereby adjusted as constable in FRP Dikhan Range Dikhan, benefits of service be given according to judgment dated 27.10.2011.

  
Deputy Commandant  
Frontier Reserve Police  
Khyber Pakhtunkhwa Peshawar

No. 448 /EC

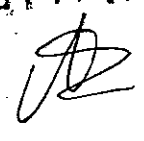
Dated 20/10/2014.

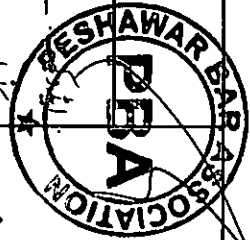

SP FRP Dikhan Range

Encl: (31)

  
Attest

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پشاور بار ایسوسی ایشن، خیمبر پکس، منو خانہ	
رابطہ نمبر:	
پاکوئیل ایسوسی ایشن نمبر:	
رابطہ نمبر:	

بعد اات جناب:

جناب: محمد رؤف خان	دوئی: اسٹیٹ
محمد رؤف خان	علاقہ نمبر: 987/2077
بنام	مورخہ:
الحکمر سنیٹر ڈسٹریکٹ ایٹک	م: _____
	تھانہ: _____

### بابت تحریر آٹک

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کا روانی معلقہ

آن مقام سٹیٹ لور کیلئے سنیٹر ضلعی کلکٹر ایٹک کو مکمل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کا روانی کا کامل اختیار ہوگا، نیز مکمل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دہی اقبال و دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری کی طرف یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل گمرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور مکمل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر واضح منظور و پتہ اختیار ہوگا اور صاحب دوران مقدمہ میں جو خرچہ ہر جائزہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا مقدمہ Attested باہر ہو تو مکمل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لگھ دیا تاکہ سنیٹر Syed Noman Ali Bukh Advocate

الموقع: \_\_\_\_\_

المواہد: \_\_\_\_\_

مقام \_\_\_\_\_ کے لیے منظور ہے۔

نوٹ: اس وکالت نامہ کی ذمہ داری ناقص قرار دی گئی۔

Appellant



Syed Noman Ali Bukh  
Advocate  
Attorney  
at Law

56

Original.

SCANNED  
KPST  
Peshawar

20/11/23

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR**

*Service appeal No. 987/2017*

*Muhammad Ramzan .....Appellant*

**Versus**

Govt. of Khyber Pakhtunkhwa through Secretary (E & SE) &  
others..... Respondents

**INDEX**

S#	Description of documents	Annexure	Page No
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3.	Service appeal		4-6

*[Signature]*  
Deponent



20/11/23

1/ Page

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL, PESHAWAR**Khyber Pakhtunkhwa  
Service Tribunal

Entry No. 9220

Date: 20/11/2023

Service Appeal No. 987 /2017

**Muhammad Ramzan** son of Muhammad Ayaz r/o Madina Colony Dera Ismail Khan Ex-PST, GPS Tube well Noor Alam D.I.Khan.

**(Appellant)****VERSUS**1. **Secretary (E& SE) KPK & Others**..... **(RESPONDENTS)****PARAWISE COMMENTS BY RESPONDENT # 3*****Respectfully Sheweth;***

The Para-wise comments in the above noted Service Appeal are as under:-

1. That the petitioner is law abide citizen of Pakistan and is enjoying well reputation in the society and is educated person having domicile of District D.I.K. Copies of educational record are enclosed herewith.

**REPLY ON FACTS**

1. N/A, Para#1 of the service appeal it relates to the service record of the appellant.
2. Para#2 is correct
3. Para#3 is correct.
4. Para#4 is incorrect.

5. Para # 5 is correct

6. N/A.

**REPLY ON GROUNDS**

A. Incorrect and not accepted.

B. Incorrect and not accepted.

C. Incorrect, not admitted.

D. Incorrect. Not admitted.

E. Para is correct.

F. Incorrect.

G. A/A

***It is therefore, requested that appeal of the appellant may please be dismissed.***

Date: 03 /10/2023

Your Humble Respondent # 3

**Musarat Hussain**

**DEO(M), DIKhan**

**(Respondent No. 3)**

  
**DEO(M) E&S D.I.Khan**

Through counsel

**District Education Officer  
(M) Dera Ismail Khan**

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

Service Appeal No. 987 of 2017

Muhammad Ramzan **VERSUS** Secretary E&SE KPK etc

**SERVICE APPEAL**

**AFFIDAVIT**

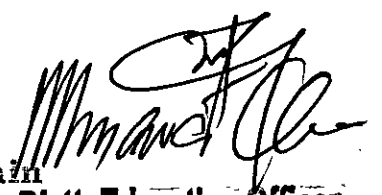
I, **Musarat Hussain** , District Education Officer (Male) District Dera Ismail Khan, the respondent No. 3, do hereby solemnly affirm and declare on oath, that contents of the above said **Parawise Comments** are true and correct to the best of my knowledge and belief; and nothing has been deliberately concealed form this Hon'ble Tribunal.

Deponent

Musarat Hussain

DEO(M), DIKhan

(Respondent No. 3)



**Dist: Education Officer  
(M) D.I.Khan**



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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.

Service Appeal No. \_\_\_\_\_ 2017

Muhammad Ramzan Ex-PST  
GPS tube well Noor Alam DI. Khan

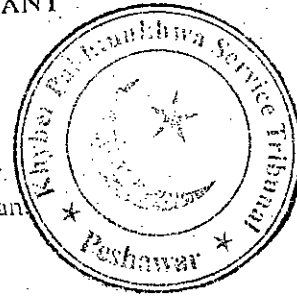
Khyber Pakhtunkhwa  
Service Tribunal

Case No. 826  
Dated 21-7-2017

APPELLANT

VERSUS

1. The Secretary (E&SH) F.P.K. Peshawar.
2. The Director Education Khyber Pakhtunkhwa Peshawar.
3. Executive District Officer, Schools & Literacy DI. Khan.
4. DG Agriculture Extension, Wing Tank, DI. Khan.



RESPONDENT

APPEAL UNDER SECTION-4 OF THE KHYBER  
PAKHTUNKHWA, SERVICE TRIBUNAL ACT, 1974  
AGAINST THE ORDER DATED 08.02.2012  
COMMUNICATED TO THE APPELLANT ON  
24.02.2017 THROUGH EXECUTION IN EXECUTION  
PETITION NO. 197/2016 WHEREBY THE APPEAL  
WAS TERMINATED FROM SERVICE AND  
AGAINST NOT TAKING ACTION ON THE  
DEPARTMENTAL APPEAL OF THE APPELLANT  
WITHIN STATUTORY PERIOD OF 90 DAYS.

PRAYER:


THAT ON ACCEPTANCE OF THIS APPEAL, THE  
ORDER DATED 08.02.2012 MAY BE DECLARED AS  
ILLEGAL AND MAY BE SET ASIDE. AND  
REINSTATED THE APPELLANT WITH ALL BACK  
AND CONSEQUENTIAL BENEFITS OR MAY BE  
REPATRIATED TO HIS PARENT DEPARTMENT.  
ANY OTHER REMEDY, WHICH THIS AUGUST  
TRIBUNAL DEEMS FIT AND APPROPRIATE THAT  
MAY ALSO BE AWARDED IN FAVOUR OF  
APPELLANT.

RESPECTFULLY SHEWETH:

FACTS:

1. That the appellant was working as driver (BPS-6) in District  
officer Agriculture tank for last more than 16 years. The  
appellant performed his duty up to entire satisfaction of his  
superiors and no complaint has been filed against him

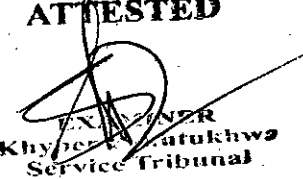
ATTESTED

  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

- 2. That the appellant was applied for the post of PST through proper channel and the appellant was transferred/posted as PST on 1.2.2008 vide order dated 30.01.2008. (Copy of Appointment order, NOC and charge report is attached as Annexure-A, B & C).
- 3. That the appellant was terminated from service by the DCO, DI Khan vide order dated 04.09.2009 under the colour of compliance to the Chief Minister, KPK. Then appellant filed appeal NO. 2600/2010 IN KPK Service Tribunal Peshawar, which was decide in 27.10.2011 and the said appeal was accepted and disposed of the appeal in same manner as according to appeal no 1042/2007 and 545/2011 decided on 28.1.2010 and 28.04.2011 and directed the respondents shall ascertain that the present appellant are similar placed person to the appellant in appeal no. 1042/2007 and 545/2011. Copy of judgment is attached as Annexure-D
- 4. That the respondent conducted one sided inquiry by violating the direction of KPK service Tribunal Peshawar and issued impugned termination order dated 08.02.2012, communicated to the appellant on 24.02.2017 through execution in execution petition no. 197/2016, without giving personal hearing to the appellant which is against the law and rules. Furthermore appellant has right to repatriated to his department Copy of orders is attached as Annexure E & F.
- 5. That the appellant filed an appeal against the order dated 28.02.2012 communicated to the appellant on 24.02.2017 through execution in execution petition no. 197/2016 which was not replied by the respondents within statutory period of 90 days.
- 6. That now the appellant comes to this Honourable Tribunal on the following grounds amongst the others.

GROUNDS:

- A) That the impugned order dated 28.04.2012 is against the law, facts, material on record and norms of justice and liable to be set aside.
- B) That no regular inquiry was conducted against the appellant before imposing major penalty of termination from service which is not permissible in law.
- C) That the no codal formalities was fulfilled by the department before imposing major penalty which is violation of superior court judgment and also violation of the directions of the

**ATTESTED**  
  
 EXAMINER  
 Khyber Pakhtunkhwa  
 Service Tribunal  
 Peshawar

KPK Service Tribunal given on the judgment dated 27.10.2011.

D) That neither the regular enquiry was conducted nor the appellant was heard in person which amounts to *AUDI ALTERM PALTERM*.

E) That the appellant have more than 16 years' service in agriculture department and applied through proper channel and the penalty imposed by the education department is too harsh and also discriminated the appellant. There is some person repatriated to his parent department so the appellant is also entitled for the same relief. Copy of the order is attached as Annexure-G

F) That the appellant has not been treated according to law and rules.

G) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

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

*M. Ramzan*  
APPELLANT  
Muhammad Ramzan

THROUGH:

*Syed Noman Ali Bukhari*  
Certified & future copy (SYED NOMAN ALI BUKHARI)  
ADVOCATE, PESHAWAR.

*[Signature]*  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

**OFFICE OF THE DISTRICT EDUCATION OFFICER  
(MALE) DERA ISMAIL KHAN**



**AUTHORITY LETTER**

Mr. **Khalid Saeed Akbar** is hereby authorized to attend the Honourable Service Tribunal Court of Peshawar in connection with the Service Appeal No. 987/2017 in r/o Muhammad Ramzan VS Govt: of KPK Ex-Driver in Agriculture-Education Department on behalf of respondent District Education Officer (Male) Dera Ismail Khan till the decision of the said Service appeal.

**DISTRICT EDUCATION OFFICER  
(MALE) DERA ISMAIL KHAN**

**District Education Officer  
(Male) Dera Ismail Khan**

for

KHALID MEHMOOD

Advocate  
bc-15-5415  
Date of issue: October 2020  
Valid upto: October 2023



Secretary  
KP Bar Council

کورٹ فیس

بعدالت جناب خیر کنو جواہ سرمد لبریل کمار  
منجانب اسٹیلٹ  
نام گو عبد کمال  
مدرسہ رفان  
دعویٰ یا جرم  
تفصیل دعویٰ یا جرم

باعث تحریر آنکہ

مقدمہ مندرجہ بالا عنوان میں اپنی طرف واسطہ بیرونی وجوہات ہی براہ کوشش یا تصفیہ مقدمہ بمقام ح/ہ کیلئے  
حالیہ طور پر وکیل مقرر کیا ہے

کو حسب ذیل شرائط پر وکیل مقرر کیا ہے، کہ میں ہر پیشی پر خود بذریعہ اختیار خاص رو برو عدالت حاضر ہوتا رہوں گا۔ اور ہر وقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دیکر حاضر عدالت کروں گا، اگر پیشی پر مظہر حاضر نہ ہوں۔ اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور پر میرے برخلاف ہو گیا۔ تو صاحب موصوف اسکے کسی طرح ذمہ دار نہ ہوں گے، نیز وکیل صاحب موصوف صدر مقام بکھری کے علاوہ کسی جگہ یا بکھری کے اوقات سے پہلے یا پیچھے یا بروز تعطیل بیرونی کرنے کے ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام بکھری کے علاوہ کسی جگہ یا بکھری کے اوقات سے پہلے یا پیچھے یا بروز تعطیل بیرونی کرنے کے ذمہ دار نہ ہوں گے۔ اور مقدمہ صدر مقام بکھری کے علاوہ اور جگہ سماعت ہونے یا بروز تعطیل یا بکھری کے اوقات کے آگے پیچھے پیش ہونے پر مظہر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطہ کسی حاضری کے ادا کرنے یا بخانہ واپس کرنے کے بھی موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پر داخلہ صاحب موصوف مثل کردہ ذات خود رو بنول ہوگا۔ اور صاحب موصوف کو عرضی دعویٰ، یا جواب دعویٰ یا درخواست اجراء کے ذمہ داری اور نظر ثانی اپیل نگرانی و ہر قسم درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا۔ اور کسی حکم یا ڈگری کرانے اور ہر قسم کا روپیہ وصول کرنے اور رسید دینے اور داخل کرنے اور ہر قسم کے بیان دینے اور اس پر جانشی یا راضی نامہ و فیصلہ بر حلف کرنے، اقبال دعویٰ کا بھی اختیار ہوگا۔ اور بصورت مقرر ہونے تاریخ پیشی مقدمہ مذکورہ بیرون از بکھری صدر بیرونی مقدمہ مذکورہ نظر ثانی و اپیل نگرانی و ہر قسم کی اور تمام ساختہ پر داخلہ صاحب موصوف مثل کردہ ذات خود منظور و قبول ہوگا۔ اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہوگا کہ مقدمہ مذکورہ یا اسکے کسی جزو کی کارروائی یا بصورت درخواست نظر ثانی اپیل یا نگرانی یا دیگر معاملہ مقدمہ مذکورہ کسی دوسرے وکیل یا بیرونی کو اپنے بجائے یا اپنے ہمراہ مقرر کریں۔ اور اپنے شیر قانون کو بھی ہر امر میں وہی اور ویسے اختیارات حاصل ہوں گے، جیسے صاحب موصوف کو حاصل ہیں، اور دوران مقدمہ میں جو کچھ ہر جائے التزام پڑے گا، وہ صاحب موصوف کا حق ہوگا۔ مگر صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا۔ تو صاحب موصوف کو پورا اختیار ہوگا کہ وہ مقدمہ کی بیرونی نہ کریں اور ایسی صورت میں ہر کوئی مطالبہ کسی حکم کا صاحب موصوف کے برخلاف نہیں ہوگا۔

لہذا وکالت نامہ کھنڈا ہے۔ تاکہ سند رہے

تاریخ 10 مارچ 2023

مضمون وکالت نامہ من لیا ہے۔ اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

Accepted

Handwritten signature

اسٹیلٹ کمر رفان  
M-R



OFFICE OF THE DISTRICT EDUCATION OFFICER  
(MALE) DERA ISMAIL KHAN

No. 23308

65

Dated DIKhan the: 25/10/2021

To

The District Accounts Officer  
Dera Ismail Khan

**SUBJECT: Transfer of GPF.**

Memo:

It is inform to your kind honour that one Mr. Muhammad Ramzan S/O Muhammad Ayaz bearing CNIC No. 12101-09468519-7, Personal No. 00292050 and GP Fund Number IV-Edu/DIK/8841/css was terminated in the case of 1613 (well known illegal appointment case) in 2010.

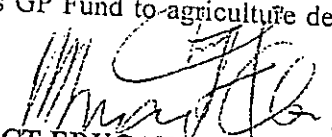
1. Before this, he was a vehicle Driver in Agriculture Department in District Tank.
2. After termination from the Elementary and secondary department, he remained no longer in this department.

3. In the termination decision, it was reflected that, "those who were working on lower post and were appointed on higher posts in other categories; they may be reversed to their original post.

4. The decision of the Honourable court under Execution Petition No.197/2016, is as quoted as, " Irrespective of the merits of the execution petition there is a point for consideration in view of the particular submission made by the petitioner in relation to his service in Agriculture Department and Education Department as Driver before his switching over to the PST Post from where he was terminated alongwith hundreds of other employees on account of fake appointment. If he had validly served in the Agriculture Department and the Education Department against the post of Driver, both the departments are supposed to consider his claim for those benefits which may accrued to him on account of subscription from his salary let it be the GP Fund or Group Insurance. The learned additional advocate General shall get report from the concerned department and submit the same on next date". (Copy attached as annexure B)

5. After termination from this department from illegal/irregular appointment case, he must be returned to his parent department, which is Agriculture department.

Therefore it is requested to calculate and transfer all his GP Fund to-agriculture department being, the parent department of said employee.

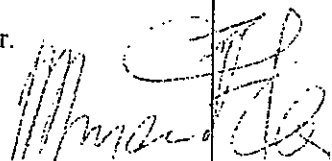
  
DISTRICT EDUCATION OFFICER  
(MALE) DERA ISMAIL KHAN

Endst: No. 23308-14

Dated the DIKhan 25/10 /2021

Copy for information & necessary action to the-

1. PS to Secretary Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
3. Director Agriculture Extension Peshawar
4. District Officer Agriculture Tank with the request that honour and process his claim being parent department.
5. Registrar Honourable Service Tribunal Peshawar.
6. Official Concerned.

  
DISTRICT EDUCATION OFFICER  
(MALE) DERA ISMAIL KHAN

66

IN THE SUPREME COURT OF PAKISTAN  
(APPELLATE JURISDICTION)

PRESENT:

MR. JUSTICE GULZAR AHMED, HCJ  
MR. JUSTICE IJAZ UL AHSAN  
MR. JUSTICE QAZI MUHAMMAD AMIN AHMED

CIVIL PETITIONS NO.2-P and 3-P OF 2017.

*(Against the judgment dated 08.11.2016 passed by the  
Khyber Pakhtunkhwa Service Tribunal, Peshawar in  
Service Appeals No.948 & 959 of 2013.*

Mst. Basreen Bibi.  
(in CP.2-P/2017)

Mst. Samreena Bibi.  
(in CP.3-P/2017)

...Petitioner(s)

Versus

District Education Officer and others. ...Respondent(s)

For the Petitioner(s): Haji M. Zahir Shah, AOR/ASC.  
(via video link from Peshawar)( in both cases)

For the Respondent(s): N.R.

Date of Hearing: 21.08.2020.

ORDER

GULZAR AHMED, CJ.- We have heard learned  
ASC for the petitioner in both listed petitions. The petitioner  
has filed a Service Appeal before Khyber Pakhtunkhwa  
Service Tribunal, Peshawar ("the Tribunal") praying that she  
be granted salaries with effect from 21.12.2009, the date  
when she claimed to have been appointed as a Primary  
School Teacher. Such appeal of the petitioner was dismissed  
by the Tribunal vide impugned judgment dated 08.11.2016. It  
was observed by the Tribunal that appointment letter on  
which the petitioner relies on is a fake and fictitious one. We  
have asked the learned counsel to show us the material on

**ATTESTED**

*[Signature]*

Superintendent  
Supreme Court of Pakistan  
Islamabad

*Fact  
appointment*

record including advertisement, test and interview relating to appointment of the petitioner. He states that the petitioner does not possess any such document. The only letter of appointment (available at page 18 of the paper book) has been relied upon by the petitioner's counsel which itself is insufficient to prove the appointment of the petitioner when the same is altogether denied by the Respondents. The Tribunal has also given a finding that letter of appointment of the petitioner is fictitious and fabricated and nothing has been shown to us by the learned counsel for the petitioner on the basis of which her letter of appointment could be found to be a genuine one.

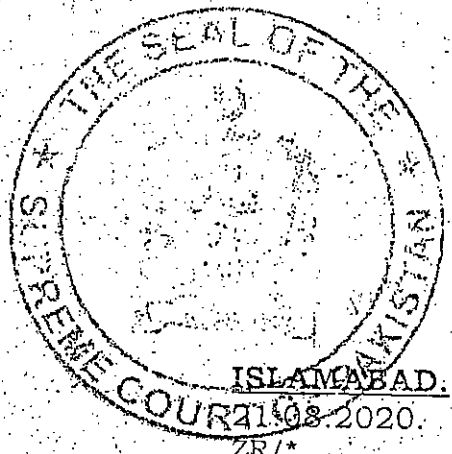
2. These petitions are therefore lacking in merit stand dismissed and leave refused. All pending CMAs are also disposed of.

Sd/-HCJ  
Sd/-J  
Sd/-J

Certified to be True Copy

*[Handwritten Signature]* 21/9/2020

Court Associate  
Supreme Court of Pakistan  
Islamabad



ISLAMABAD.  
21/08/2020.

ZR/\*  
'Not Approved For Reporting'

31/3/20

156 103

departmental Selection Committee after the vacancies have been advertised in the newspapers"

- 6. In case of appointment of the applicants the vacancies were not advertised and Departmental Selection Committee has not recommended the applicants for the appointment.
- 7. Appeals being merit less deserve to be dismissed on the analogy of the decision of the Khyber Pakhtunkhwa Services Tribunal decision under Para-9 (i) read with Para-3(b).


RECOMMENDATIONS

The Committee heard personally and scrutinized the record and appeals of terminated PST (M&F), CT (M&F), DM (M&F), PET (M&F), AT (M&F), TT (M&F), Qari (M&F) teachers/officials lying in the office of the Executive District Officer (E&SE, D. I. Khan on case to case basis in accordance with Khyber Pakhtunkhwa Services Tribunal order dated 27.10.2011, and segregated /check/scrutinize their cases on the basis of different categories of Teachers/officials from 19.12.2011 to 24.12.2011.


All the appointments of the appellants against the posts of PST (M&F), CT (M&F), DM (M&F), PET (M&F), AT (M&F), TT (M&F), Qari (M&F) appended under various categories from S.No 1 to 41 have been made without observing codal formalities/procedure, Government Policy and Merit and in violation of Rule 1C(2) of the NWFP (now Khyber Pakhtunkhwa) Civil Servants (Appointment, Promotion and Transfer Rules 1989. The appointments of the appellants are declared illegal and irregular. Cases being merit less deserves to be terminated. The following steps are recommended to be taken,

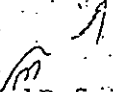
- a. Executive District Officer Elementary and Secondary Education D I Khan is required to issue proper termination orders of the above appellants and similar cases listed above under various categories PST (M&F), CT (M&F), DM (M&F), PET (M&F), AT (M&F), TT (M&F), Qari (M&F) teachers in the findings from S.No.1-41 [excepts those who were working on lower posts and were appointed on higher posts in other categories, they may be reversed to their original posts]
- b. Executive District Officer Elementary and Secondary Education D I Khan is further required to release/activate the pay of those PST Male who were appointed on merit included in the joint appointment order of 309 candidates dated 02.07.2007 and PST Female who were appointed on merit included in the joint appointment order of 131 candidates dated 02.07.2007. (Annexure- E-1),
- c. Executive District Officer Elementary and Secondary Education D I Khan is required to advertise the vacant posts immediately and complete the recruitment process before 15 March, 2012 and the terminated teachers may be provide opportunity to compete if otherwise they have the qualification required for the post and further they may be awarded extra 2 marks per year of span of service rendered if they actually performed duty after appointment.
- d. District Coordination Officer D I Khan is required to recover the claim of appellants who have alleged performance of duty for the considerable

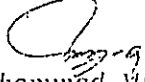
69  
104/57  
time after their appointment and they have actually performed duty for certain period to be calculated by Executive District Officer Elementary and Secondary Education D I Khan through legal procedure in accordance with Khyber Pakhtunkhwa Services Tribunal order dated 27.10.2011.

  
1. Syed Feroz Hussain Shah  
Executive District Officer  
E & SE D I Khan (Member)

2. Ghulam Qasim  
Executive District Officer  
E & SE Tank (Member)

  
3. A. Wali Khan  
Dy Director E&SE  
Khyber Pakhtunkhwa  
(Member)

  
4. (Muhammad Rafiq Khattak)  
Director,  
Elementary and Secondary Education  
Khyber Pakhtunkhwa Peshawar  
(Member)

  
5. Muhammad Mushtaq Jadoon  
Secretary  
Elementary and Secondary Education  
Khyber Pakhtunkhwa Peshawar  
(Chairman)



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**EXECUTIVE DISTRICT OFFICER**  
**(ELEMENTARY & SECONDARY) EDUCATION**  
**DERA ISMAIL KHAN**

**ORDER:**

Consequent upon report / findings / recommendations of the committee with reference to Secretary to Govt. of KPK-Elementary & Secondary Education Department notification No. SO (Litigation)/E&SE/1-3/2011/D.I.Khan, dated 29-11-2011 in pursuance of Khyber Pakhtunkhwa Service Tribunal order dated 27-10-2011 on service appeal no. 1407/2010 and other connected appeals, the following appellants are hereby adjusted with immediate effect to the posts noted against their names in the schools given below:

S.No	Name of Appellant with Address	Post	School	Remarks
1	Ishfaq Ahmed-Faiz S/O Faizallah, Ex-PST GPS Ratta Kulachi	Teacher	GIS Shero Kohna	Against Vacant Post
2	Ghulam Farid S/O Fateh Khan Ex-PST, GPS No.2 Dhallah	Sweeper	GIS Takwara	Against Vacant Post
3	Ahmed Hussain S/O Ghulam Raza, Ex-PST GPS Riaz Abad (Paharpur)	Chowkidar	GPS Buchri	Against Vacant Post
4	Gul Nawaz S/O Imam Bakhsh, Ex-CT.	Chowkidar	GGPS Chah Wala	Against Vacant Post
5	Ghulam Bahoo S/O Ghulam Hussain, Ex-PST, GPS Wanda Shesha	Cook	GIS Shero Kohna	Against Vacant Post
6	Nazir Ahmed S/O Allah Bakhsh, Ex-PST, GPS Kandi Abad	Bahisht	GIS Paroa	Against Vacant Post

**Note:**

1. Charge report should be submitted to all concerned.
2. No TA/DA is allowed to any one.
3. Previous appointment order against the above said vacancies is deemed as cancelled ab initio, if any.

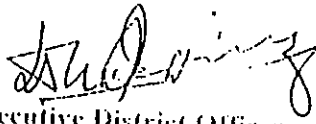
sd/-  
Executive District Officer  
(E&SE) D.I.Khan

Ends No. 11086-911

Dated D.I.Khan the 15/08/2012

Copy to the:

1. Director (E & S) Education Khyber Pakhtunkhwa Peshawar.
2. District Coordination Officer D.I.Khan.
3. District Officer (M/F) E&SE D.I.Khan
4. District Accounts Officer D.I.Khan
5. Principal / Headmaster/ Dy. DO (M/F) concerned along with original service book.
6. Official concerned.

  
Executive District Officer  
(E&SE) D.I.Khan

BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL, PESHAWAR.

R.A NO: 357 /2023  
IN

APPEAL NO.987/2017

SCANNED  
KPST  
Peshawar


Muhammad Ramzan

V/S

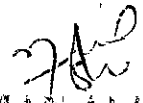
Education Deptt.

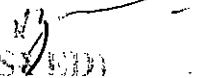
INDEX

S.No.	Documents	Annexure	Page No.
1.	Memo of Application	----	01-02
2.	Copy of sine-die	- A -	03-04
3.	Copy of execution order	-B-	05-06
4.	Vakalat Nama	----	07

  
PETITIONER  
Muhammad Ramzan

THROUGH:

  
SYED NOMAN ALI BUKHARI  
ADVOCATE, HIGH COURT

&  
  
(UZMA SIDDIQI)  
ADVOCATE, PESHAWAR

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BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL,  
PESHAWAR.

R.A NO: 357 /2023  
IN

APPEAL NO.987/2017

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 5804

Dated: 5/6/2023

Muhammad Ramzan Ex-PST  
GPS tube well Noor Alam Di Khan

APPELLANT

VERSUS

1. The Secretary (E&SE) KPK Peshawar.
2. The Director Education Khyber Pakhtunkhwa Peshawar.
3. Executive District Officer, Schools & Literacy DI. Khan.
4. DG Agriculture Extension Wing Tank, DI. Khan..

RESPONDENTS

APPLICATION FOR RESTORATION OF APPEAL NO.  
987/2017 WHICH WAS ADJOURNED SINE-DIE VIDE ORDER  
DATED 31-10-2019.

RESPECTFULLY SHEWETH:

1. That the instant appeal No. 987/2017 was filed before this Honorable Tribunal against the order dated 08/02/2012.
2. That the instant appeal was in preliminary hearing stage, at principle Bench Peshawar, the said appeal of the appellant was adjourned Sine-Die vide order dated 31/10/2019 due to reason that the execution petition no.197/2017 was pending in this respect. **Copy of the order is attached as annexure-A.**
3. That now the execution petition no 197/2017 was consigned vide order dated 15/05/2023 the appellant filed application on 15/09/2022 for copy of the order, which was handed over to the counsel for appellant on same date. **Copy of the order is attached as annexure-B.**



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2

4. That it is in the interest of justice that the appeal of the appellant may be restore.

It is therefore, most humbly prayed, that the instant appeal No. 987/2017 may be restore on the acceptance of this application.

*M*  
APPELLANT  
Muhammad Ramzan

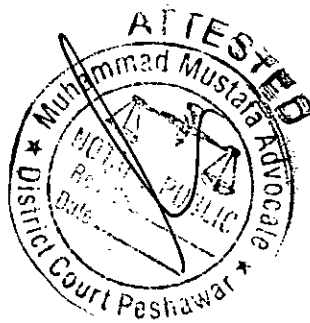
Through:

*N.A.*  
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.

*Y*  
DEPONENT



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Amended - A

(3)



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 987 2017

Khyber Pakhtunkhwa Service Tribunal

Muhammad Ramzan Ex-PST  
GPS tube well Noor Alam DI. Khan

Entry No. 826

Dated 21-7-2017

APPELLANT

VERSUS

1. The Secretary (E&SE) KPK Peshawar.
2. The Director Education Khyber Pahtunkhwa Peshawar.
3. Executive District Officer, Schools & Literacy DI. Khan.
4. DG Agriculture Extension Wing Tank, DI. Khan.

RESPONDENT

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 08.02.2012 COMMUNICATED TO THE APPELLANT ON 24.02.2017 THROUGH EXECUTION IN EXECUTION PETITION NO. 197/2016 WHEREBY THE APPEAL WAS TERMINATED FROM SERVICE AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN STATUTORY PERIOD OF 90 DAYS.

PRAYER:

THAT ON ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 08.02.2012 MAY BE DECLARED AS ILLEGAL AND MAY BE SET ASIDE. AND REINSTATED THE APPELLANT WITH ALL BACK AND CONSEQUENTIAL BENEFITS OR MAY BE REPATRIATED TO HIS PARENT DEPARTMENT. ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

Filed to day  
Registrar  
21/7/17

Re-submitted to -day  
and filed.

Registrar

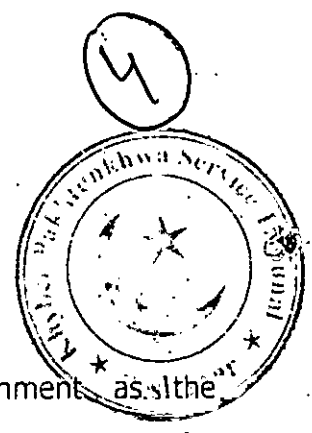
31/8/17

RESPECTFULLY SHEWETH:  
FACTS:

Certified to be true copy

Registrar  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

1. That the appellant was working as driver (BPS-6) in District officer Agriculture tank for last more than 16 years. The appellant performed his duty up to entire satisfaction of his superiors and no complaint has been filed against him.



17.09.2019 Counsel for the appellant present.

Learned counsel requests for adjournment as the appellant has not provided all the documents necessary for submission of amended appeal.

Adjourned to 31.10.2019 before S.B.

Chairman

31.10.2019 Counsel for the appellant present.

Learned counsel requests for adjournment of instant appeal sine-die in order to avail the outcome of execution petition No. 197/2016.

Order accordingly. The appellant may apply for restoration of the appeal, if need be.

Chairman

Date of Presentation of Application 31-5-23  
 Number of ~~the~~ page 2  
 Copying Fee 10/-  
 Urgent 5/-  
 Total 15/-  
 Name \_\_\_\_\_  
 Date of \_\_\_\_\_  
 Date of Delivery of Copy 31-5-23  
31-5-23

**Certified to be true copy**  
  
**Khyber Pakhtunkhwa Service Tribunal**  
 Peshawar

85  
Annexure

E.P. No. 197/2016

M. Ramzan vs Govt



15<sup>th</sup> May, 2023

01. Petitioner in person present. Mr. Fazal Shah Mohmand, Addl. Advocate General alongwith Mussarrat Hussain, DEO (Male) D.I.Khan (respondent No. 3) in person present.

02. Respondent No. 3 submitted a detailed report, wherein, after passage of the judgment dated 27.10.2011, (sought to be implemented through this execution petition) an enquiry was held and vide order dated 08.02.2012 bearing Endst.: No. 001-713, the services of a number of employees including the petitioner were terminated, on the recommendations of the report of the committee, wherein name of the petitioner appeared at S.No. 707. The petitioner was asked whether the above order of his termination, made on 08.02.2012, was challenged by him as a number of his other colleagues, terminated vide the same 'order' had so challenged the same and although the appeals were dismissed vide consolidated judgment dated 14.09.2018 of this Tribunal in Service Appeal No. 943/2012, titled "Mst. Mehnaz Begum Vs. the Government of Khyber Pakhtunkhwa through Secretary, E&SE, Peshawar and two others", and the appellants of those appeals had preferred C.Ps No. 2238/2018 to 2263/2018 and 2499, 2682, 2778 to 2781/2018 and 2505/2018 to 3514/2018, before the august Supreme Court of Pakistan, which were also

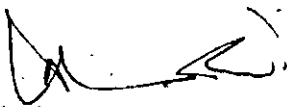
ATTESTED  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

E. P No. 197/2016, Continued order dated 15.05.2023

**SCANNED  
KPST  
Peshawar**

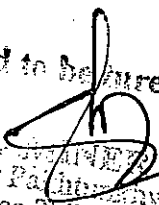
dismissed on 19.09.2018, refusing leave to appeals, to this the petitioner stated that he had not challenged this termination order dated 08.02.2012. As the petitioner has not challenged the order of his termination dated 08.02.2012, admittedly passed after the judgment (sought to be implemented through this execution petition), therefore, this petition could not run further and is filed. The petitioner is, however, at liberty to challenge the order dated 08.02.2012, if he so desires, which, if challenged, has to be decided on its own merits. Consign.

03. *Pronounced in open Court at Camp Court, D.I.Khan and given under our hands and the seal of the Tribunal on this 15<sup>th</sup> of May, 2023.*

  
(Kalim Arshad Khan)  
Chairman  
(Camp Court, D.I.Khan)

\*Fazle Subhan, P.S\*

Certified to be true copy

  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Date of Presentation of Application 26/5/23  
Number of Words 270  
Copying Fee 10/-  
Urgent \_\_\_\_\_  
Total 10/-  
Name of \_\_\_\_\_  
Date of Completion of Copy 26/5/23  
Date of Delivery of Copy 26/5/23