

# INDEX

## KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

EXECUTION NO

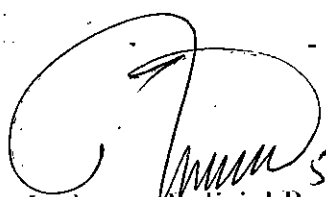
APPEAL NO	INSTITUTION	ORIGINAL INSTITUTION	DECISION	PAGES
12950/20		07.10.2020	29.04.24	75

Mr. Muhammad Shuaib v.s Education

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Muhafir/Compilation

  
Incharge Judicial Branch

Lady Reading Hospital, MTI Peshawar  
 Lady Reading Hospital, MTI Peshawar. Phone: 091-9211430, Fax: -  
 Email: lrh@lrh.edu.pk, Website: www.lrh.edu.pk  
**DISCHARGE SUMMARY**

21



Medical Record Number :	K0200006031591	Admission No :	K0223000130272
Name :	Habib Khan	Admission Date :	21-OCT-2023 17:16:02
Gender :	Male	Admission Status :	Emergency
Age :	60 Year(s)	Discharge No :	23000119711
Address :	House # , Street # , Sector/Area Peshawar Pakistan	Discharge Date :	25-OCT-2023 07:14:10
City :	Peshawar , Pakistan	Discharge Status :	Died
Person Phone :		Primary Consultant :	
Home Phone :		Admitting Consultant :	ADIL NDAT BANGASH

**Diagnosis During This Admission :**

**Background Medical Problem(s) (List any chronic medical conditions that the patient may have, such as diabetes mellitus, asthma, hypertension etc.):**

ca stomach

**Significant Physical Findings on Admission :**

ca stomach

**Management During Admission :**

conservative management

**Diagnostic & Therapeutic Procedures Performed :**

conservative management



(1)

**KHYBER PAKHTUNKHWA**  
**SERVICE TRIBUNAL, PESHAWAR**

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281  
Fax:- 091-9213262

No. 1097-99 /ST Dated 8 / 5 /2024

To

01. The District Education Officer (Male),  
District Mardan
02. The District Education Officer (Male),  
District Peshawar
03. The District Education Officer (Male),  
District Dir Lower

Subject

**JUDGMENT IN SERVICE APPEAL NO's. 12450, 12452/2020 AND 922/2021, TITLED MUHAMMAD SHOAIB & (02) OTHERS -VERSUS- THE SECRETARY ELEMENTARY AND SECONDARY EDUCATION, GOVERNMENT OF KHYBER PAKHTUNKHWA, PESHAWAR AND OTHERS**

Dear Sir,

I am directed to forward herewith a certified copy of judgment dated 29.04.2024, passed by this Tribunal in the above mentioned service appeals for compliance.

*Encl. As above.*

**(PIR MUHAMMAD KHAN AFRIDI)**  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL,  
PESHAWAR.

2

Service Appeal No.12450/2020 titled "Muhammad Shoaib Vs. Education Department" and two other similar cases.

ORDER

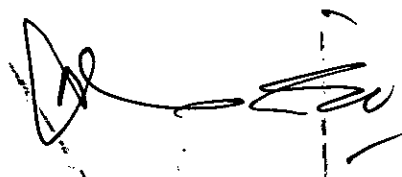
29<sup>th</sup> Apr. 2024

**Kalim Arshad Khan, Chairman:** Through this single order this appeal and other two similar nature appeals i.e. Service Appeal No.12452/2020 and 922/2021, are being decided together as all are of similar nature

2. Learned counsel for the appellants and Mr. Muhammad Jan, District Attorney alongwith Mr. Muhammad Shahab ASDEO for the respondents present.

3. The appellants have challenged the Notification No. SO(PE)4-5/SSRC/meeting/2013/Teaching Cadre dated 24<sup>th</sup> July, 2014 to the extent, whereby Second Class Bachelor Degree from a recognized University has been mentioned as first requirement for initial recruitment as well as promotion to the post of Secondary School Teacher (BPS-16). The appellants have alleged that as they have obtained Master Degrees in various subjects, therefore, they were eligible to have been considered and promoted to the post of SST (BPS-16) particularly, when other colleagues of the appellants have been granted the same relief by August Peshawar High Court, Peshawar. The appellants availed departmental remedy through filing of departmental appeals, which were not responded, therefore, they have now invoked the jurisdiction of this Tribunal for redressal of their grievance.

4. During the course of arguments, attention of the bench was drawn to a consolidated judgment passed in Service Appeal No.8647/2016 titled "Wisal Muhammad & others Vs. Education



SCANNED  
KPST  
Peshawar

29.01.2024

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

Learned counsel for the appellant stated that similar nature Service Appeal bearing No. 654/2022 titled "*Umer Dad Versus Education Department*" is fixed for arguments on 15.03.2024, therefore, the appeal in hand may also be fixed on the said date. Adjourned. To come up for arguments on 15.03.2024 before the D.B. Parcha Peshi given to the parties.

SCANNED  
KF BT  
Peshawar

  
(Fareeha Paul)  
Member (E)


  
(Salah-ud-Din)  
Member (J)

\*Naem Amin\*

15.03.2024 1. Learned counsel for the appellant. Mr. Asif Masood Ali Shah, Deputy District Attorney alongwith Muhammad Shahab, ADO for the respondents present.

2. Learned counsel for the appellant is directed to produce attested copy of writ petition No.73-B of 2014 decided 28.01.2016 on the next date. To come up for arguments on 29.04.2024 before the D.B. P.P given to the parties.

  
(Fareeha Paul)  
Member (E)

  
(Rashida Bano)  
Member (J)

SCANNED  
KF BT  
Peshawar

(4)

Service Appeal No.12450/2020 titled "Muhammad Shoaib Vs. Education Department" and two other similar cases.

Department" wherein the Tribunal has already dismissed the appeals similar in nature. Relevant paragraph of the judgment is reproduced below:

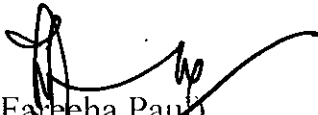
"9. We have observed that the requirement of 2nd Division/Class Bachelor Degree for promotion to the post of Secondary School Teacher (BPS-16) is not person specific and would be applicable for promotion as well as initial recruitment to the post of SST (BPS-16). While going through the contents of the appeal, we have observed that no allegation of any mala-fide has been raised by the appellants. It is a settled proposition that the Government is entitled to make service rules in the interest of expediency of service and to remove anomaly in service rules, which in the absence of demonstrable mala-fide could not be assailed. August Supreme Court of Pakistan in its judgment reported as 2004 SCMR 1427 has graciously held as below:-


"The government is always empowered to change the promotion policy and the domain of the government to prescribe the qualification for a particular post through amendment in the relevant rules, is not challengeable. This is also a settled law that notwithstanding fulfillment of the required qualification and other conditions containing the rules, the promotion cannot be claimed as a vested right."

10. In view of the above discussion, the appeal in hand as well as connected Service Appeals No. 8648/2020, 8649/2020, 8650/2020, 8651/2020, 8652/2020, 8653/2020, 8655/2020, 8656/2020, 8657/2020 and 8658/2020, being devoid of merit stands dismissed. Parties are left to bear their own costs. File be consigned to the record room."

5. Being similar in nature to the above mentioned case, instant service appeals are also dismissed. Costs shall follow the event. Copy of this order be placed in files of connected cases. Consign.

6. Pronounced in open Court at Abbottabad given under our hands and seal of the Tribunal on this 29<sup>th</sup> day of April, 2024.

  
(Faheha Paul)  
Member (E)

  
(Kalim Arshad Khan)  
Chairman

\*Mutazem Shah\*

SCANNED  
SCANNED  
KPST  
Peshawar


19.01.2024

Learned counsel for the appellant present.

Mr. Muhammad Shahab, ASDEO alongwith Mr. Asad Ali Khan, Assistant Advocate General for the respondents present.

Learned counsel for the appellant stated that similar nature Service Appeal bearing No. 654/2022 titled "Umer Dad Versus Education Department" is fixed for arguments on 29.01.2024, therefore, the appeal in hand may also be fixed on the said date. Adjourned. To come up for arguments on 29.01.2024 before the D.B. Parcha Peshi given to the parties.

(Muhammad Akbar Khan)  
Member (E)

  
(Salah-ud-Din)  
Member (J)

\*Naeem Amin\*




11.09.2023

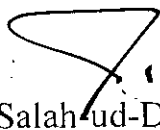
Learned counsel for the appellant present. Mr. Asad Ali Khan, Assistant Advocate General for the respondents present.

The appeal in hand received through order of today passed by D.B comprising of worthy Chairman and learned Member (Executive) Mr. Muhammad Akbar Khan.

Learned counsel for the appellant requested for adjournment on the ground that he is not feeling well today. Adjourned. To come up for arguments on 29.09.2023 before the D.B. Parcha Peshi given to the parties.

SCANNED  
KPST  
Peshawar

  
(Fareeha Paul)  
Member (E)


  
(Salah-ud-Din)  
Member (J)


\*Naeem Amin\*

29.09.2023

On account of 12<sup>th</sup> Rabi Awal (Eid Milad-un-Nabi) as public holiday, the case is adjourned to 19.01.2024 before D.B. Office is directed to notify next on notice board as well website of the Tribunal.

SCANNED  
KPST  
Peshawar

  
(Muhammad Akbar Khan)  
Member (E)

  
(Rashida Bano)  
Member (J)

\*KaleemUllah





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

1. Learned counsel for the appellant present. Mr. Fazal Shah Mohmand, learned Assistant Advocate General alongwith Muhammad Shahab, ASDEO alongwith Waheed Ullah, Junior Clerk for the respondents present.

2. Learned counsel for the appellant requested for adjournment in order to prepare the brief. Adjourned. To come up for arguments on 11.09.2023 before D.B. P.P given to the parties.

SCANNED  
KPST  
Peshawar

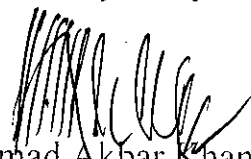
  
(Fareeha Paul)  
Member (E)


  
(Rashida Bano)  
Member (J)

\*Kaleem Ullah  
11<sup>th</sup> Sept. 2023

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

2. Learned District Attorney produced copy of judgment of the Tribunal dated 14.09.2022, whereby, a Division Bench of the Tribunal comprising Mr. Salah Ud Din, Hon'ble Member (Judicial) and Mr. Miān Muhammad, the then Member (Executive), whereby, similar issue was decided and author of the judgment is Mr. Salah Ud Din, Hon'ble Member (Judicial). Therefore, we deem it appropriate to place this case before the Bench of which, Mr. Salah Ud Din is a Member. Learned counsel for the appellant requests that Mr. Salah Ud Din is heading a Bench today, therefore, the matter may be placed before the concerned Bench for today. Be placed today before the bench of Mr. Salah Ud Din Hon'ble Member (Judicial). Parties are directed to appear before the concerned Bench by today. P.P given to the parties.

  
(Muhammad Akbar Khan)  
Member (E)

  
(Kalim Arshad Khan)  
Chairman

2<sup>nd</sup> Feb, 2023

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

Lawyers are on strike, therefore, the case is adjourned. Office is directed to notify the next date on the notice board as well as on the website of the Tribunal. To come up for arguments on 08.05.2023 before D.B.

SCANNED  
K. ST  
Peshawar



(Muhammad Akbar Khan)  
Member (E)



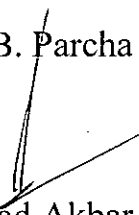
(Kalim Arshad Khan)  
Chairman

08.05.2023

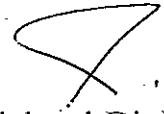
Learned counsel for the appellant present. Mr. Asad Ali Khan, Assistant Advocate General for the respondents present.

Learned counsel for the appellant seeks adjournment for preparation. Adjourned. To come up for arguments on 18.07.2023 before the D.B. Parcha Peshi is given to the parties.

SCANNED  
K. ST  
Peshawar



(Muhammad Akbar Khan)  
Member (E)



(Salah-ud-Din)  
Member (J)

\*Naeem Amin\*

04.01.2023

Mr. Kamran Khan, Advocate for the appellant present. Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

In view of the order dated 07.11.2022, the appeal in hand may be placed before Worthy Chairman for further appropriate order. Learned counsel for the parties shall appear before the Worthy Chairman at 12:15-pm today.

(Mian Muhammad)  
Member (E)

(Salah-ud-Din)  
Member (J)

Order  
04/1/23

Let it be fixed for arguments before me on 02-02-23. Notices to the learned counsel for the appellant & learned AAG be issued for the date fixed

Noted.  
26/1/23  
learned AAG & counsel was put on notice

07.11.2022

Appellant present through counsel.

Naseer Ud Din Shah learned Assistant Advocate General alongwith Muhammad Hayat Ullah ASDEO and Waheed Ullah Assistant for the respondents present.

An application was submitted seeking correction of the address of respondents No. 5 as District Education Officer (Male) Dir Lower which was inadvertently written as District Education Officer (Male) Mardan. This application is allowed; necessary correction be made in the relevant register and memo of appeal.

Another application was submitted on behalf of appellant for placing the appeal in hands before the Hon'ble Chairman for constitution of larger bench. In view of written request of the learned counsel for appellant this case be placed before the Hon'ble Chairman for further appropriate orders. Parties are directed to appear before the said court on 04.01.2023.

SCANNED  
KPST  
Peshawar

(Fareeha Paul)  
Member (E)

(Rozina Rehman)  
Member (J)

*[Faint handwritten notes and scribbles at the bottom of the page]*

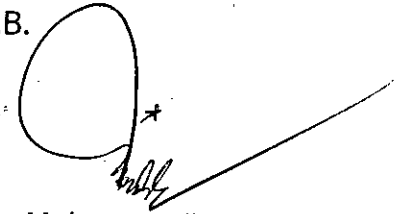
17.08.2022

11

Learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Naseeb Khan Section Officer and Mr. Touseef Ahmed, Litigation Officer for the respondents present.

Learned counsel for the appellant submitted an application for correction in address of respondent No. 5 as District Education Officer (Male) Dir Lower which has erroneously been written as District Education Office (Male) Mardan and further requested that the address of respondent No. 5 may kindly be corrected as District Education Office (Male) Dir Lower instead of District Education Officer (Male) Mardan. Application is allowed and the office is directed to make necessary correction in the heading of appeal with red ink.

Reply/comments on behalf of respondents submitted which are placed on file and copy thereof is handed over to learned counsel for the appellant. Adjourned. To come up for rejoinder, if any, and arguments on 07.11.2022 before D.B.



(Mian Muhammad)  
Member (E)

SCANNED  
KPST  
Peshawar

12

07.02.2022

Due to retirement of the Hon'able Chairman, the case is adjourned to 07.04.2022 before S.B for the same.

Reader

07.04.2022

Counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl; AG for respondents present.

Written reply/comments not submitted. Notices be issued to the respondents for submission of written reply/comments. To come up for written reply/comments on 28.06.2022 before S.B.

(MIAN MUHAMMAD)-  
MEMBER(E)

28.06.2022

Counsel for the appellant present. Naseeb Khan, SO on behalf of respondents No.3 present. No one present on behalf of respondents No. 1, 2, 4 and 5. Mr. Kabir Ullah Khattak, Additional AG present.

Written reply not submitted. Learned AAG seeks time for submission of written reply/comments. Request accepted by way of last chance. To come up for written reply/comments on 17.08.2022 before S.B.

SCANNED  
KPST  
Peshawar

(Fareeha Paul)  
Member (E)


12450/20

14.07.2021

Counsel for the appellant present and submitted an application for extension of time to deposit security and process fee.

Application is allowed and appellant is required to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, or extension of time is not sought through written application with sufficient cause, the office shall submit the file with a report of non-compliance. File to come up for arguments on 02.12.2021 before the D.B.


Appellant Deposited Security & Process Fee  
20/9/21

  
Chairman

02.12.2021

Counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl: AG for respondents present.

Written reply/comments on behalf of respondents not submitted. Learned AAG seeks time to submit the same. Adjourned. To come up for written reply/comments on 07.02.2022 before S.B.

  
(MIAN MUHAMMAD)  
MEMBER (E)

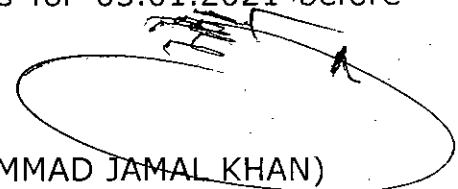
30.11.2020

Mr. Mir Zaman Safi, Advocate, for appellant is present.

Appellant has sought modification in impugned Service Rules dated 24.07.2014 to the extent that the stipulated condition of 2<sup>nd</sup> Division/Class may be deleted from column No. 3 (i) B as highlighted in the respective table by directing respondents to consider appellant for promotion to the post of Secondary School Teacher with effect from that very date when his comrades and juniors were promoted with all consequential back benefits including seniority

The points so agitated at the bar need consideration. The appeal is admitted for regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments for 03.01.2021 before S.B.

01.03.2021



(MUHAMMAD JAMAL KHAN)  
MEMBER (JUDICIAL)

01.03.2021

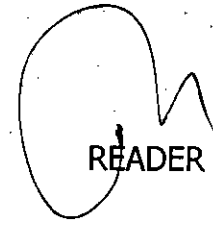
The learned Member Judicial Mr. Muhammad Jamal Khan is on leave, therefore, the case is adjourned. To come up for the same before S.B on 06.04.2021.

  
**Reader**

**SCANNED  
KPST  
Peshawar**

06.04.2021

Due to demise of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 14.07.2021 for the same as before.

  
**READER**



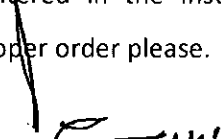

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Form- A

FORM OF ORDER SHEET

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

Case No.- 12450 /2020 20

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	21/10/2020	<p>The appeal of Mr. Muhammad Shuaib resubmitted today by Mr. Noor Muhammad Khattak 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;"> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>30/11/2020</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
2-	<u>11/11/20</u>	


16

The appeal of Mr. Muhammad Shuaib PSHT GPS Shinkat District Dir Lower received today i.e. on 07.10.2020 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

1- Annexures-C, D and F of the appeal are illegible which may be replaced by legible/better one.

No. 2873 /S.T,

Dt. 08/10 /2020.


  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Noor Muhammad Khattak Adv. Pesh.

*Note:*

*Sir,*

*Better copies of annexures - C & F have been prepared, while annexure - D is readable, hence re-submitted today dated 21/10/2020.*

  
21/10/2020

17

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

APPEAL NO. 12450/2020

SCANNED  
KFST  
Peshawar

**MUHAMMAD SHUAIB**

**VS**

**EDUCATION DEPTT:**

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4	Judgments	<b>C &amp; D</b>	13- 19.
5	Departmental appeal	<b>E</b>	20.
6	Notification	<b>F</b>	21.
7	Vakalat nama	.....	22.

**APPELLANT**

**THROUGH:**

  
**NOOR MOHAMMAD KHATTAK**  
**ADVOCATE**

18

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR**

**APPEAL NO. 12450 / 2010**

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 11321

Dated 07/10/2020

Mr. Muhammad Shuaib, PSHT (BPS-15),  
GPS Shinkat, District Dir Lower.

**APPELLANT**

**VERSUS**

- 1- The Secretary Elementary & Secondary Education Department, Khyber Pakhtunkhwa Peshawar.
- 2- The Secretary Establishment Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
- 4- The Director Elementary & Secondary Education Department, Khyber Pakhtunkhwa Peshawar.
- 5- The District Education Officer, (male) District Mardan.

**RESPONDENTS**

**APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE INACTION OF THE RESPONDENTS BY NOT CONSIDERING THE APPELLANT FOR PROMOTION TO THE POST OF S.S.T (BPS-16) ON THE BASIS HAVING BACHELOR DEGREE IN 3<sup>RD</sup> DIVISION AND AGAINST THE SERVICE RULES NOTIFIED ON 24.7.2014 WHEREBY THE CONDITION OF BACHELOR 2<sup>ND</sup> DIVISION HAS BEEN INSERTED IN SERIAL NO.1B, COLUMN NO.3(i) OF THE TABLE AND AGAINST NOT TAKING ACTION ON DEPARTMENTAL APPEAL OF APPELLANT WITHIN STATUTORY PERIOD OF NINETY DAYS**

**PRAYER:**

That on acceptance of this appeal the impugned service Rules dated 24.7.2014 may kindly be modified to the extent that the condition of Second Division/Class be expunged from Column No.3 (i), serial No.1B of the table and the respondents may kindly be directed to consider the appellant for promotion to the post of Secondary School Teacher (BPS-16) from the date when his Colleagues and junior colleagues were promoted with all consequential back benefits including seniority. Any other remedy which this august Tribunal deems fit that may also be awarded in favour of the appellant.

**R/SHEWETH:**

**ON FACTS:**

Filed to-day  
Registrar  
07/10/2020  
Re-submitted to-day  
and filed.  
Registrar  
24/10/20

Brief facts giving rise on the present appeal are as under:

- 1- That appellant was initially appointed as Primary School Teacher and right from appointment till date the appellant is serving the respondents department quite efficiently and of to the entire satisfaction of his superiors.
- 2- That appellant is higher qualified having master in history and master in Arts in second division. Copies of academics documents are attached as annexure.....**A.**
- 3- That it is pertinent to mention here that the respondents issued the impugned notification dated 24/07/2014 whereby the post of secondary school teacher was restructured and 20 % promotion quota to the aforementioned post was reserved for primary school teachers. That according to the said notification required qualification for initial recruitment as well as promotion was mentioned as second class bachelor degree. copy of impugned notification dated 24/07/2014 is attached as annexure.....**B.**
- 4- That it is pertinent to mention here that the respondents denied promotion to some colleagues of the appellant to the post of SST due to having third class bachelor degree. That feeling aggrieved some colleagues filed writ petitions which were allowed in favor of petitioners vide judgment dated 05/04/2016 and 28/01/2016 and consequently they were promoted to the post of SST. Copies of the judgments dated 28/1/2016 and 05/04/2016 are attached as annexure.....**C&D.**
- 5- That it is worth mentioning that appellant was also denied promotion due to having third class bachelor degree despite the fact that appellant is having second division in higher qualification i.e master in pushto and master in education
- 6- That appellant being a similar placed employee approached the respondents to extend him the benefits of above mentioned judgments, but sll in vain.
- 7- That it is also pertinent to mention that establishment department issued a notification dated 15/12/2011 whereby amendment has been made in PMS rules 2007 by providing that a candidate who has obtain 3<sup>rd</sup> division in bachelor degree will be eligible for the examination in cases where he/she has obtained a higher division in Master's degree. Copy of notification is attached as annexure .....**F.**

- 8- That feeling aggrieved and having no other remedy the appellant filed the instant appeal on the following grounds amongst the others.

**GROUND:**

- A- That the impugned notification dated 24/07/2014 to the extent of second class bachelor degree for promotion is against the law facts and judgment of Peshawar high court, hence not tenable and liable to be modified and the words second class be expunged only for promotion purpose.
- B- That the petitioner has not been treated in accordance with law and rules by the respondent Department on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That appellant is entitled to be promoted to the post of SST from due date in light of judgments of Peshawar high court by attracting principle of consistency as mentioned in 2009 SCMR 1.
- D- That appellant has second division in higher qualification i.e master and entitle to be promoted from due date in light of notification dated 15/12/2011.
- E- That the appellant has been discriminated on the subject noted above and as such the respondents violated the principle of natural justice.
- F- That appellant seeks permission to advance other 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 SHUAIB**

**THROUGH:**

  
**NOOR MOHAMMAD KHATTAK**

**&**

  
**MIR ZAMAN SAFI  
ADVOCATES**

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

# University of Peshawar (Pakistan)

Session ANNUAL 1986

MOHAMMAD SHUAIB SON OF MOHAMMAD ARIF and a student  
of DIR DISTRICT having passed the prescribed examination  
in OCTOBER 19 86, is this day admitted by the University of Peshawar  
to the Degree of

## Bachelor of Arts

in the THIRD Division

The examination was taken as ~~as a whole~~ in parts.

Serial No. 004137

Registered No. 83-TD-497

Roll No. 8568

6TH APRIL 1987



*Attested*  
*Fazal M. M. M.*  
FAZAL MOOD  
SST, G... MANG  
DIST... LOWER

*[Signature]*  
Registrar

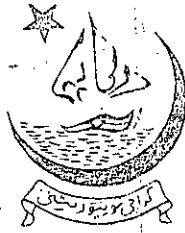
Countersigned

*[Signature]*  
Vice-Chancellor

ATTESTED

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کراچی یونیورسٹی

University of Karachi

FACULTY OF ARTS

Master of Arts

کلیۃ فنون

ایم۔ اے

Whereas MUHAMMAD SHAID ۹/۷۰

MUHAMMAD ARIF

عارف محمد

برگاہ شعبہ تعلیمات اسلامیہ

has pursued a course of study proscribed by this University for the Degree of Master of Arts in EDUCATION in the Faculty of Arts and has passed the requisite examination, held in 19 ۹۲ having been placed in SECOND class.

It is hereby certified that he/she has been duly admitted to the degree of Master of Arts in this University.

نے کلیۃ فنون کے مضمون تعلیمات میں ایم۔ اے کی سند کے لیے اس جامعہ کے منظورہ نصاب کی تکمیل کرنی ہے اور مطلوبہ امتحان منعقدہ ۱۹۹۲ میں کامیاب ہو کر دسم درجہ حاصل کر لیا ہے۔ لہذا تصدیق کی جاتی ہے کہ انھیں اس جامعہ میں ایم۔ اے کے درجہ پر فارغ کیا گیا۔

Registrar

S. Farooq ul Haque

Vice-Chancellor

Dated Karachi, the 29TH JULY 1993

19۹۳

کراچی بتاریخ ۲۹ جولائی

Note: Detailed transcripts of examination results have been issued separately.

امتحان کے مضامین اور حاصل کردہ نفاذات کو تفصیلات علیحدہ جاری کی گئی ہیں۔

Attested

Attestation  
FAZAL MENGOO  
SST, QAS TOORMANG  
DIST. DIR LOWER

ATTESTED





# UNIVERSITY OF MALAKAND

PAKISTAN

S.No A 040366

## DETAILED MARKS CERTIFICATE

Name: MOHAMMAD SHOAB

Private Candidate District Dir Lower

Father's Name: MOHAMMAD ARIF

Registration No. 2005730937

Roll Number 11214

M.A (ISLAMIYAT) PREVIOUS COMPART ANNUAL EXAMINATION 2007

Subject Name	Total Marks	Marks Obtained	Remarks
Paper: I AL-QURAN TRANSLATION 1st HALF & COMMENTATOR & PRINCIPLES OF TAFSEER	100	53	PASSED
Paper: II HADITH & PRINCIPLES OF HADITH	100	41	PASSED
Paper: III ISLAMIC JURISPRUDENCE "TEXT"	100	40	PASSED
Paper: IV SEERAT UN NABI & HISTORY OF ISLAM	100	46	PASSED
Paper: V ARABIC GRAMMER & LITERATURE	100	40	PASSED
	500	220	

Examination Held From Sep 05 To Sep 29, 2007

Result Declared on 31-Jan-2008

Roll Number 13801

M.A (ISLAMIYAT) FINAL COMPART ANNUAL EXAMINATION 2010

Subject Name	Total Marks	Marks Obtained	Remarks
Paper: VI AL-QURAN TRANSLATION 2nd HALF AND COMMENTARY ALONG WITH GRAMMAR	100	54	PASSED
Paper: VII PRINCIPLES OF ISLAMIC JURISPRUDENCE	100	45	PASSED
Paper: VIII ISLAM AND OTHER WORLD RELIGIONS	100	47	PASSED
Paper: IX ISLAM AND CONTEMPORARY MUSLIM WORLD	100	49	PASSED
Paper: X ISLAMIC ECONOMICS	100	40	PASSED
VIVA VOCE	100	40	PASSED
	600	275	

Examination Held From Sep 28 To Oct 16, 2010

Result Declared on 02-Feb-2011

Total Result Status: Maximum Marks: 1100 Result: 495



Errors and Omissions are subject to subsequent rectification

Date of Issue 02-Feb-2011

FAZAL MEHMOOD  
ASST. GHS TOORMANG  
DISTT. DIR LOWER

Controller of Examinations  
University of Malakand

**ATTESTED**



B-7

GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Peshawar, dated the 24<sup>th</sup> July, 2014.

NOTIFICATION

No.SO(PE)4-5/SSRC/Meeting/2013/Teaching Cadre:- In pursuance of the provisions contained in sub rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Elementary and Secondary Education Department in consultation with the Establishment Department and the Finance Department hereby directs that in this Department's Notifications No.SO(G)S&LD/1-28/2003/Vol-II dated, 09-04-2004, Notification No.SO(G)S&L/1-69/06/Vol-1/DPE/LIB dated, 13-11-2007, and Notification No.SO(PE)4-5/SSRC/Meeting/2012/Teaching Cadre, dated, 13.11.2012, the following further amendments shall be made, namely:

AMENDMENTS

In the Appendix,-

(i) Serial No. 1 shall be renumbered as 1B and before Serial No. 1B, as so renumbered, the following new entries shall be inserted in respective columns, namely:

1	2	3	4	5
1	Subject Specialist (BPS-17)	i. At least second class Master's Degree or four years BS Degree in the relevant subject; and  ii. Bachelor of Education or Master of Education (Industrial Art or Business Education) or M.A Education or equivalent qualification from a recognized University.	23 to 35 years	(a) Fifty per cent by promotion, on the basis of seniority-cum-fitness, for the relevant subject from amongst the Secondary School Teachers (BPS-16), with at least five years service as such and having qualification mentioned in column No. 3.  <b>Note:</b> If no suitable candidate is available in the relevant subject the post falling in their promotion quota shall be filled by initial

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*[Signature]*

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8				recruitment; and (b) fifty percent by initial recruitment.
1A	Director Physical Education (BPS-17)	At least second class Master's Degree in Physical Education from a recognized University.	22-35 years	<p>(a) Fifty percent by promotion, on the basis of seniority-cum-fitness, from amongst Senior Physical Education Teachers (BPS-16), with at least five years service as Senior Physical Education Teacher and Physical Education Teacher and having qualification mentioned in column No. 3:</p> <p>Provided that if no suitable person is available from amongst Senior Physical Education Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst the Physical Education Teachers, with at least five years service as such and having qualification mentioned in column No. 3;</p> <p><b>Note:-</b> If no suitable candidate is available in the relevant cadres of the above teachers, the post falling in their promotion quota shall be filled by initial recruitment; and</p> <p>(b) fifty percent by initial recruitment; and</p>

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(ii) against Serial No. 1B, as so renumbered, for the existing entries, the following shall be substituted, in respective columns, namely:

1	2	3	4	5
1B.	Secondary School Teacher (BPS-16)	<p>I. At least second class Bachelor Degree's from a recognized University on need basis from the following groups with two subject</p> <p>(a) (Chemistry, Botany or Zoology), Or (b) (Physics, Maths "A" or "B" or Statistics) Or (c) (Humanities and other equivalent groups at degree level with English as compulsory subject;</p> <p>and</p> <p>II. Bachelor of Education or Master of Education (Industrial Art or Business Education) or M.A Education or equivalent qualifications from a recognized University.</p>	21 to 35 years.	<p>1. Seventy Five per cent by promotion, on the basis of seniority-cum-fitness, from the district concerned in the following manner:</p> <p>(a) forty per cent from amongst the Senior Certified Teachers (BPS-16), with at least five years service as Senior Certified Teacher and Certified Teacher and having qualification mentioned in column No.3:</p> <p>Provided that if no suitable candidate is available from amongst Senior Certified Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst Certified Teachers, with at least five years service as such and having qualification mentioned in column No. 3;</p> <p>(b) four per cent from amongst the Senior Drawing Masters (BPS-16), with at least five years service as Senior Drawing Masters and Drawing Masters and having qualification mentioned in column No.3:</p>

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Provided that if no suitable candidate is available from amongst Senior Drawing Masters for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst Drawing Masters with at least five years service as such and having qualification mentioned in column No. 3;

- (c) four per cent from amongst the Senior Arabic Teachers(BPS-16), with at least five years service as Senior Arabic Teachers and Arabic Teachers, and having qualification mentioned in column No.3:

Provided that if no suitable candidate is available from amongst Senior Arabic Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from Arabic Teachers with at least five years service as such and having qualification mentioned in column No. 3;

- (d) four per cent from amongst the Senior Theology Teachers(BPS-16), with at least five years service as Senior Theology Teachers and Theology Teachers and having qualification mentioned in column No.3;

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Provided that if no suitable candidate is available from amongst Senior Theology Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst Theology Teachers with at least five years service as such and having qualification mentioned in column No. 3;

- (e) three per cent from amongst the Senior Qaris (BPS-16), with at least five years service as Senior Qari and Qari and having qualification mentioned in column No.3:

Provided that if no suitable candidate is available from amongst the Senior Qaris then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from Qaris with at least five years service as such and having qualification mentioned in column No. 3;

- (f) twenty per cent from amongst the Primary School Head Teachers (BPS-16), with at least seven years service as Primary School Head Teachers and Senior Primary School Teachers and Primary School Teachers and having qualification mentioned in column No. 3:

Provided that if no suitable candidate is available from amongst

ATTESTED



**SECRETARY TO GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT**

**Endst : of even No & date:**

1. The Secretary to Government of Khyber Pakhtunkhwa, Establishment and Administration Department Peshawar.
2. The Secretary to Government of Khyber Pakhtunkhwa, Finance Department Peshawar.
3. The Secretary to Government of Khyber Pakhtunkhwa, Law Department Peshawar
4. The Secretary Khyber Pakhtunkhwa, Public Service Commission Peshawar.
5. The Accountant General Khyber Pakhtunkhwa Peshawar.
6. The Director, Elementary and Secondary Education Department Khyber Pakhtunkhwa Peshawar.
7. The Director of Education (FATA) Peshawar.
8. The Director, Curriculum and Teacher Education Khyber Pakhtunkhwa Abbottabad.
9. The Director, (PITE) Khyber Pakhtunkhwa Peshawar.
10. The Director, ESRU Elementary and Secondary Education Department Khyber Pakhtunkhwa Peshawar.
11. Manager Government Printing Press Khyber Pakhtunkhwa Peshawar.
12. The Deputy Director, EMIS (S&SE) Department Khyber Pakhtunkhwa Peshawar.
13. All District Education Officer (M&F) in Khyber Pakhtunkhwa.
14. All District Account Officer in Khyber Pakhtunkhwa.
15. All Agency Education Officer in FATA
16. All Agency Account Officer in FATA.
17. PS to Governor Khyber Pakhtunkhwa. Peshawar.
18. PS to Chief Minister Khyber Pakhtunkhwa. Peshawar.
19. PS to Chief Secretary Khyber Pakhtunkhwa. Peshawar.
20. PS to Minister E&SE Khyber Pakhtunkhwa. Peshawar.
21. PS to Secretary E&SE Khyber Pakhtunkhwa. Peshawar.
22. Master file

(ZAMIN KHAN MOMAND)  
SECTION OFFICER:(PRIMARY)

**ATTESTED**



PESHAWAR HIGH COURT BANNU BENCH

FOR OF ORDER SHEET

Date of order or other proceedings	Order or other proceedings with signature of judge(s)
(1)	(2)
28/01/2016	<p>W.P No. 73-B-2014, Present: Mr. Ali Jan Khan advocate for petitioner</p> <p><b>MUHAMMAD GHAZANFAR KHAN (J):-</b> The petitioner namely Mumtaz Khan S/O Guli Jan, through the instant Constitutional petition under Article 199 of the Constitution of Islamic Republic of Pakistan 1973, seeks issuance of directions to the respondents/department to consider him for promotion in the post of SST in BPS-16 in view of the Departmental Promotion Committee meeting held on 18.01.2014.</p> <p>2. We have heard learned counsel for the petitioner and gone through the available record of the case.</p> <p>3. Perusal of record transpires that the petitioner has passed BA in third division while as per Notification bearing No. SO(III)S/SSR(Y)III, dated 18.1.2011, the minimum qualifications for the post of SST (BPS-16) are Second Class Bachelor's degree or MA in Education or Bachelor's Degree in Education. The record further shows that the petitioner has also passed M.Ed during the year 2000 in second division and M.A History and Pak Study during the session 2003 in second division and M.A. History and Pak Study during the session 2003 in second division.</p> <p>4. In wake of the above, we direct the respondents to consider the petitioner for promotion to the post of SST (BPS-16) in the next Departmental Promotion Committee meeting on the basis of his degree in MA. History and Pak Study coupled with M.ED qualifications. The writ petition is disposed of in the above terms.</p> <p>ANNOUNCED 28.01.2016</p>



FORM OF ORDER SHEET

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Date of order or other proceedings (1)	Order or other proceedings with signature of Judge(s) (2)
28/01/2016	<p>WP No.73-B-2014. Present: Mr. Ali Jan Khan advocate for petitioner.</p> <p><u>MUHAMMAD SHAZANWAR KHAN</u> The petitioner, namely, <u>Munirul Khan</u> son of Gull Jan, through the instant Constitutional petition under Article 199 of the Constitution of Islamic Republic of Pakistan 1973, seeks issuance of directions to the respondents/department to consider him for promotion to the post of SST in BPS-16 in view of the Departmental Promotion Committee meeting held on 18-01-2014.</p> <p>2. We have heard learned counsel for the petitioner and gone through the available record of the case.</p> <p>3. Perusal of record transpires that the petitioner has passed BA in third division while as per notification bearing No.80(P) of 5/SS/ECY/0111 dated 18/12/2011, the minimum qualifications for the post of SST (BPS-16) are second class Bachelor's degree, or MA in Education or Bachelor's degree in Education. The</p>

ATTESTED  
PESHAWAR HIGH COURT  
BANNING BENCH

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record further shows that the petitioner has also passed M.Ed during the year 2000 in second division and M.A. History and Pak Study during the session 2003 in second division.

4. In wake of the above, we direct the respondents to consider the petitioner for promotion to the post of SST (BPS-16) in the next Departmental Promotion Committee meeting on the basis of his degree in MA History and Pak Study coupled with M.Ed qualifications. The writ petition is disposed of in the above terms.

Sd/-Kranullich Khan, J

ANNOUNCED  
28/01/2016.

Sd/-Muhammad Ghuzanfar Khan, J

*Handwritten signature and date: 15/2/16*

CERTIFIED TO BE TRUE COPY

*Handwritten signature and date: 15/2/16*

Examiner  
Peshawar High Court-Bannu Bench  
Authorized Under Article 87 of  
The Constitution of Pakistan Order 1283

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D-15

Judgment Sheet

IN THE PESHAWAR HIGH COURT, ABBOTTABAD BENCH  
JUDICIAL DEPARTMENT

Writ Petition No. 1041-A/2015.

JUDGMENT

Date of hearing 5-4-16

Petitioner Mohammad Bari by Mr. Asad Sabir

Respondents Govt. by AAB Adver

\*\*\*\*\*

IKRAMULLAH KHAN, J. Through the instant writ petition under Article 199 of the Islamic Republic of Pakistan, 1973 the petitioner seeks declaration to the effect that the act of respondent No.3 whereby the promotion notification dated 28.10.2014 was withdrawn vide impugned notification dated 24.04.2014 on the ground of having qualification of B.Sc (3<sup>rd</sup> division) is illegal and without lawful authority and against the judgment of this court passed in W.P.No. 58-B of 2014.

2. In essence, the petitioner was initially appointed as Certified Teacher and, as per entitlement, later on promoted to the post of Senior Certified Teacher (BPS-16) vide notification dated 28.10.2014 whereafter the petitioner assumed the charge of the said post on 30.10.2014 and after performing his duties to the satisfaction of his competent authority, on 24.04.2015 respondent No.3 has passed the impugned notification and, as

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*[Signature]*

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such, the promotion order of the petitioner was withdrawn on the ground of having B.Sc in third division.

3. Comments were called from respondent No.3, who filed the same, averring therein that though petitioner was promoted to the post of SST vide notification dated 28.10.2014 by respondent No.2 but on scrutinizing his qualification documents, it was found that petitioner was not eligible for promotion to the post of SST being B.Sc third divisioner, hence, his promotion order was de-notified by the Director Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar and on the direction of Director the promotion order of the petitioner was withdrawn vide impugned notification dated 24.04.2015.

4. It has further been averred in the comments that promotion order of the petitioner was withdrawn on the ground of B.Sc third division and it was done in light of policy circulated vide Notification No.SO(PE)4-5 / SSRC / meeting / 2013 / teaching cadre dated 24.07.2014 according to which the method of recruitment of SST was specified with a first condition of at least second class BA / B.Sc from a recognized University on need basis with two relevant subjects alongwith second condition of MA Education or B.Ed from the recognized University. Further averred that it is the prerogative of the government to enhance, modify or alter the promotion

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criteria / policy for the civil servants and a civil servant is not supposed to be treated with a set of rules of his own choice.

5. In response to Para-6 of the petition, respondent No.3 averred in the comments that the judgment of this court was announced on 04.06.2015 whereas the withdrawal order of the petitioner was passed on 24.04.2015, prior to the announcement of the judgment.

6. The main contention of learned counsel for the petitioner is that this court has already declared the condition of having third division as null and void in its judgment dated 04.06.2015 and the case of the petitioner is on better footing for the reason that in the referred judgment the petitioner had not been appointed but so far as the case of the petitioner is concerned, he was duly promoted rather received its benefits from 28.10.2014 to 24.04.2015 and thus, the impugned order is illegal, without lawful authority and jurisdiction.

7. Admittedly, the petitioner was duly promoted to the post in question on 28.10.2014 after the departmental promotion committee evaluated his case / PERs.

8. Now the question for determination before this court would be that when the petitioner actually performed his duties on the promoted post and that too for six long months, then how the respondent No.3 could withdraw the earlier promotion order only on the pretext of having B.Sc third division.

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E. S. S. Court  
Mumbai

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unlawful

8. It appears from the record that a Division Bench of this had already declared the condition of having third division as null and void in its judgment dated 04.06.2015 which fact has also been affirmed by the respondent No.3 in his comments by stating that they were not aware of that judgment at the time of withdrawal of the impugned promotion of the petitioner and when the case of the present petitioner is at par with that of the petitioner therein, rather on better footing because the petitioner was not only promoted to the post in question but he performed his duties for six long months and received its benefits, the impugned notification passed by respondent No.3 is required to be set at naught.

9. It is also a well settled principle of law that once a benefit is granted to a civil servant, cannot be taken back from him and, if so, very stringent strong reasons are required for the same, which are not available in the case in hand, moreso, when the promotion order of the similarly placed teachers having B.Sc third division have not been so far withdrawn which is clearly violation of Article 25 of the Constitution of Pakistan.

10. For the reasons mentioned above, this petition is accepted and the impugned notification dated 24.04.2015 issued by respondent No.3 whereby the promotion order of the petitioner was withdrawn is declared to be without lawful

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 SUBMITTED TO  
 THE  
 HIGH COURT  
 UNDER SECTION 5  
 OF THE  
 PUNJAB  
 GOVT. ACTS  
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authority and, as such, the promotion notification dated  
28.10.2014 is hereby restored.

Announced:  
05.04.2016.

Self/Judge,  
Self/Judge,

/\*Snif\*/

Certified to be True Copy  
E. W. Z. Court  
29/11/16

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E - 20

To,

The Secretary,  
E&SE Department,  
Khyber Pakhtunkhwa, Peshawar

Subject:

**DEPARTMENTAL APPEAL AGAINST THE INACTION OF THE RESPONDENTS BY NOT CONSIDERING THE APPELLANT FOR PROMOTION TO THE POST OF SST (BPS-16) ON THE BASIS OF HAVING BACHELOR DEGREE IN 3<sup>RD</sup> DIVISION AND AGAINST THE SERVICE RULES NOTIFIED ON 24.07.2014 WHEREBY THE CONDITION OF BACHELOR 2<sup>ND</sup> DIVISION HAS BEEN INSERTED IN SERIAL NO.1B, COLUMN NO.3(i) OF THE TABLE.**

Respected Sir,

With due respect it is stated that I was initially appointed as Primary School Teacher in the respondent Department and right from the date of my 1<sup>st</sup> appointment I am performing my duties quite efficiently and upto the entire satisfaction of his superiors. I have the higher qualification of Master in Arts in second Division but the authorities issued the impugned Notification dated 24.07.2014 whereby the post of SST was restricted and 20% promotion quota to the aforementioned post was reserved for Primary School Teachers. That according to the said Notification required qualification for initial recruitment as well as promotion was mentioned as second class bachelor degree. That the concerned authority denied promotion of my some colleagues to the post of SST due to having third class bachelor degree. They were feeling aggrieved filed writ petitions which were allowed in favor of petitioners vide judgment dated 05.04.2016 and 28.01.2016 and consequently they were promoted to the post of SST. That I was also denied promotion due to having third class bachelor degree despite the fact that I am having second division in higher qualification of Master in education. That being a similar placed employee approached the concerned authority to extend the same benefit of the above mentioned judgments but in vain. That the establishment Department issued a Notification dated 15.12.2011 whereby amendment has been made in PMS rules 2007 by providing that a candidate who has obtain 3<sup>rd</sup> division in bachelor degree will be eligible for the examination in cases where he/she has obtained a higher division in Master's degree. That feeling aggrieved from the inaction of the concerned authority by not considering me for promotion to the post of SST (BPS-16) filed the instant Departmental appeal before your good self.

It is therefore, most humbly prayed that on acceptance of this Department appeal I may very kindly be considered for promotion to the post of SST (BPS-16) from the date when my colleagues and junior colleagues were promoted with all consequential benefits including seniority. Any other remedy which your good self deems fit that may also be awarded in my favor.

Dated: 23.06.2020

APPLICANT  


MUHAMMAD SHUAIB, PSHT (BPS-15),  
GPS Shinkat, District Dir Lower



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BETTER COPY OF PAGE-21

GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT

Dated Peshawar the December, 15 of 2011

NOTIFICATION

No. SOE-II (ED) 2(14)2011:-In exercise of the powers conferred by Section 26 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No.XVIII of 1973), the Chief MINISTER OF THE Khyber Pakhtunkhwa is pleased to direct that in the Khyber Pakhtunkhwa Provincial Management Service Rules 2007, the following further amendment, shall be made, namely:

AMENDMENT

In Schedule-I, against Sr. No.1, in Column No.3, the full stop appearing at the end shall be replaced by colon and thereafter that following proviso shall be added, namely:

“Provided that a candidate who has obtained a 3<sup>rd</sup> Division or D-Grade in Bachelor's Degree will be eligible for the examination in cases where he/she has obtained a higher Division in Master's Degree”.

CHIEF SECRETARY  
KHYBER PAKHTUNKHWA



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT

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*(Handwritten mark)*

Dated Peshawar the December, 15, 2011

Annex (F)

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NOTIFICATION

No. SOE-II (ED) 2011/2011.- In exercise of the powers conferred by Section 26 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973), the Chief Minister of the Khyber Pakhtunkhwa is pleased to direct that in the Khyber Pakhtunkhwa Provincial Management Service Rules, 2007, the following further amendment, shall be made, namely:

AMENDMENT

In Schedule-I, against Sr. No.1, in Column No. 3, the full-stop appearing at the end shall be replaced by colon and thereafter the following proviso shall be added, namely:

"Provided that a candidate who has obtained a 3<sup>rd</sup> Division or D-Grade in Bachelor's Degree will be eligible for the examination in cases where he/she has obtained a higher Division in Master's Degree."

CHIEF SECRETARY  
KHYBER PAKHTUNKHWA

Endst. No. & date even

Copy of the above is forwarded to:-

1. Additional Chief Secretary, Khyber Pakhtunkhwa.
2. Secretary to Governor, Khyber Pakhtunkhwa.
3. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
4. Senior Member Board of Revenue, Khyber Pakhtunkhwa.
5. All Administrative Secretaries, Khyber Pakhtunkhwa.
6. Secretary (Administration & Coordination) Civil Secretariat FATA.
7. Chairman, Khyber Pakhtunkhwa Public Service Commission.
8. Accountant General, Khyber Pakhtunkhwa, Peshawar.
9. Director, STI, E&A Department.
10. Secretary Khyber Pakhtunkhwa Public Service Commission.
11. PS to Chief Secretary, Khyber Pakhtunkhwa.
12. PS to Secretary Establishment.
13. PAs to Additional Secretary (Estt)/Deputy Secretary (Estt) Establishment Department.
14. Office order file.

*(Handwritten signature)*

(PARVAL KAZIMI)  
SECTION OFFICER (E.II)

UNCLASSIFIED

ATTESTED

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ATTESTED

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Before The KP Service Tribunal Reshwar  
M Shrivastava v/s Govt

Application for the grant of  
permission for deposit of Security  
Process fee.

---

R/Sr,

- 1) That the above titled appeal is pending adjudication before this H/Tribunal which is fixed for today.
- 2) That, due to unavoidable circumstances the Security process fee was not deposited well in time.

Therefore, permission may kindly be granted to deposit Security process fee and oblige.

14/07/2021

Appellant  
Through  
Noor Mahamud Khattak  
Case No. 1234

(42)

Before The KP Service Tribunal, Peshawar.

Put up to the Hon'ble Service Appeal No. 12450/2020  
lawyer with relevant app.



Readw 17/9/21. Muhammad Shoaib (1) others v/s Govt

Application for grant of permission to deposit security process fee

Allowed as requested. Respectfully Sheweth;

26/9/2021

That the above titled appeal is pending adjudication before this Honourable Tribunal and is fixed for hearing on 02/12/2021

2) That, due to unavoidable circumstance the security process fee was not deposited well in specified time.

It is, therefore, most kindly requested that permission may be granted to deposit the same.

16th Sep 2021

Appellant.  
Through  
Noor Mohammad Khattak  
A/c, Pesh.



43

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

**Service Appeal No: 12450/2016**

SCANNED  
KPST  
Peshawar


Mr. M.Shuaib, PSHT (BPS-15) GPS Shinkat ,District Dir  
Lower.....Appellant.

**VERSUS**

**Secretary E&SE Department, Khyber Pakhtunkhwa & others.....Respondents**

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District Education Officer (M)  
Dir Lower  
(Respondent: No.5)

44

①

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

**Service Appeal No: 12450/2016**

Mr. M.Shuaib, PSHT (BPS-15) GPS Shinkat ,District Dir  
Lower.....Appellant.

**VERSUS**

Secretary E&SE Department, Khyber Pakhtunkhwa & others.....Respondents

**JOINT PARAWISE COMMENTS FOR & ON BEHALF OF RESPONDENTS No: 1 to 5.**

*(Signature)*

**Respectfully Sheweth :-**

The Respondents submit as under:-

**Preliminary Objections**

- 1 That the instant appeal is badly time barred.
- 2 That the appellant has got no cause of action / locus standai.
- 3 That the appellant has not come to this Honorable Tribunal with clean hands.
- 4 That the appeal is not maintainable in its present form.
- 5 That the appellant has concealed important material facts from this Honorable Tribunal.
- 6 That the appellant has filed this appeal with malafide motives.
- 7 That instant appeal has been filed to pressurize the respondents.
- 8 That the present appeal is bad for mis-joinder / non-joinder of the necessary parties.
- 9 That the appellant is not competent to file the instant appeal against the Respondents.
- 10 That the appellant is not entitled for the relief he has claimed.
- 11 That the notification has been issued since 2014, while the departmental appeal has been filed dated 23-06-2020, hence the instant appeal is time barred and the appeal is liable to be dismissed.

**ON FACTS**

- 1 That Para-I needs no comments being pertains to the appointment/Service record of the appellant.
- 2 That Para-2 is pertains to record, hence need no comments.
- 3 That Para-3 correct and further stated that after issuing the notification dated 24-07-2014, the criteria for promotion is second class bachelor degree from any recognized university while the appellant is having 3<sup>rd</sup> class bachelor degree , so not eligible for promotion as per rules and policies.
- 4 That Para -4 is also correct that the respondents denied for promotion as the appellant is having bachelor degree with 3<sup>rd</sup> Division while in the rules the criteria for promotion to SST Cadre is for those candidates who have bachelor degree with 2<sup>nd</sup> Division , furthermore the appellant seeks promotion to the SST Cadre by challenging the notification vide dated 24-07-2014, which is not the prerogative of the appellant as the notification was issued generally with the interest of public and there is no any law or rules to modify any rules or policies for individual . However the said rules has been amended in the year 2018.so far to the judgment of the Honorable Court is concerned, it is also pertinent to mention here that each and every case have their own merits, and in the same nature case the August Supreme Court of Pakistan set aside the judgment rendered in favor of the petitioner in Civil Appeal No. 2039/2019 vide judgment dated 06-04-2022.(Copy of the notification dated 24-07-2014 is attached as "A", Copy of Notification dated 30-01-2018 is attached as "B" and Copy of judgment in C.A No.2039/2019 dated 06-04-2022 is attached as "C".
- 5 That in Para-5 it is further added that the appellant was not eligible for promotion to higher scale post i.e. SST because of 3<sup>rd</sup> division degree in bachelor , however to the extent of the master in Pashto and master in education it is further stated that the respondents being a responsible



government officers acted accordance with law ,and there is no any specification mentioned in the notification ,which seeks that any incumbents having 2<sup>rd</sup> divisions in his master degree would be considered for promotion to higher grade .


- 6 That Para-6 is incorrect & denied, details has been submitted in the facts above.
- 7 That Para-6 is incorrect & denied, as the appellant intend to mislead the Honorable KPK, Service Tribunal Peshawar on the basis of the amendments which pertains only to the management cadre while the appellants belongs to Teaching Cadre.
- 8 That para-8 is incorrect, hence denied. However the Respondents submit on the following grounds inter alia :-


#### **GROUNDS**


- A. That ground-A is Incorrect, baseless and against the facts, hence denied. And further stated that the appellant was inducted on the post of PST and will be promoted to the post of SST Cadre if he provide a 2<sup>nd</sup> class bachelor degree from a recognized university. While the appellant is having 3<sup>rd</sup> Class bachelor degree, hence not entitled for promotion as per rules.
- B. That ground-B is Incorrect & not admitted. And further stated that the appellant has been treated in the instant case as per law, rules & policy by the competent authority.
- C. That ground-C is Incorrect & not admitted. Reply has been given in the above mentioned facts & grounds of the instant reply, hence no further comments.
- D. That ground-D is incorrect & not admitted. The appellant is not entitled for promotion on the basis of 3<sup>rd</sup> class bachelor degree. However the notification dated 15-12-2021 is for management cadre officers while the appellants relates to Teaching cadre. Hence denied.


- E. That ground-E is Incorrect & not admitted. Hence denied.
- F. That ground-F is legal, needs no comments, however the respondents also seeks permission for additional grounds during arguments

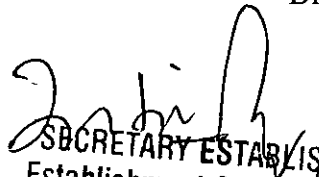
**In view of the above made submissions, it is requested that this Honorable Tribunal may very graciously be pleased to dismiss the instant service appeal with cost in favor of the Respondent Department.**

  
**SECRETARY**  
 E&SE Department Khyber  
 Pakhtunkhwa, Peshawar.  
**(Respondent No: 1)**

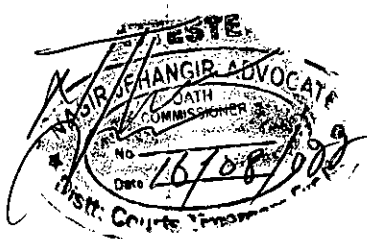
  
**DIRECTOR**  
 E&SE Department Khyber  
 Pakhtunkhwa, Peshawar.  
**(Respondents No: 4)**

  
**SECRETARY**  
 Govt. of Khyber Pakhtunkhwa  
 Finance Deptt:  
**(Respondent No. 3)**

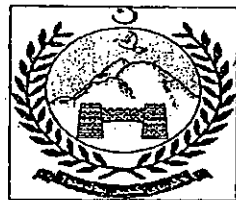
  
 District Education Officer (M)  
 Dir Lower  
**(Respondent: No.5)**

  
**SECRETARY ESTABLISHMENT**  
 Establishment & Administration  
 Department.  
**AFFIDAVIT**

I, Shahid Anwar Head Master /Litigation officer o/o the DEO(M) Dir Lower do hereby solemnly affirm and declare that the contents of the instant Para wise Comments are true & correct to the best of my knowledge & belief.

  
 ESTE  
 ADVOCATE  
 OATH COMMISSIONER  
 No. \_\_\_\_\_  
 Date: 26/08/2009  
 Dist: Courts Peshawar

  
**Deponent**



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Peshawar, dated the 24<sup>th</sup> July, 2014.

**NOTIFICATION**

No.SO(PE)4-5/SSRC/Meeting/2013/Teaching Cadre:- In pursuance of the provisions contained in sub rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Elementary and Secondary Education Department in consultation with the Establishment Department and the Finance Department hereby directs that in this Department's Notifications No.SO(G)S&LD/1-28/2003/Vol-II dated, 09-04-2004, Notification No.SO(G)S&L/1-69/06/Vol-1/DPE/LIB dated, 13-11-2007, and Notification No.SO(PE) 4-5/SSRC/Meeting/2012/Teaching Cadre, dated, 13.11.2012, the following further amendments shall be made, namely:

**AMENDMENTS**

**In the Appendix,-**

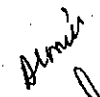
- (i) Serial No. 1 shall be renumbered as 1B and before Serial No. 1B, as so renumbered, the following new entries shall be inserted in respective columns, namely:

1	2	3	4	5
1.	Subject Specialist (BPS-17)	i. At least second class Master's Degree or four years BS Degree in the relevant subject; and  ii. Bachelor of Education or Master of Education (Industrial Art or Business Education) or M.A Education or equivalent qualification from a recognized University.	23 to 35 years	(a) Fifty per cent by promotion, on the basis of seniority-cum-fitness, for the relevant subject from amongst the Secondary School Teachers (BPS-16), with at least five years service as such and having qualification mentioned in column No. 3.  <b>Note:</b> If no suitable candidate is available in the relevant subject the post falling in their promotion quota shall be filled by initial

Almi  
Assistant Director (Miscellaneous)  
Directorate of Elementary & Secondary Education  
Khyber Pakhtunkhwa Peshawar

1A	Director Physical Education (BPS-17)	At least second class Master's Degree in Physical Education from a recognized University.	22-35 years	<p>recruitment; and                  (b) fifty percent by initial recruitment.</p> <p>(a) Fifty percent by promotion, on the basis of seniority-cum-fitness, from amongst Senior Physical Education Teachers (BPS-16), with at least five years service as Senior Physical Education Teacher and Physical Education Teacher and having qualification mentioned in column No. 3:</p> <p>Provided that if no suitable person is available from amongst Senior Physical Education Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst the Physical Education Teachers, with at least five years service as such and having qualification mentioned in column No. 3;</p> <p>Note:- If no suitable candidate is available in the relevant cadres of the above teachers, the post falling in their promotion quota shall be filled by initial recruitment; and</p> <p>(b) fifty percent by initial recruitment"; and</p>
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6/7

  
 Assistant Director  
 Director of Secondary & Elementary Education  
 Khyber Pakhtunkhwa Peshawar

(ii) against Serial No. 1B, as so renumbered, for the existing entries, the following shall be substituted, in respective columns, namely:

1	2	3	4	5
1B.	Secondary School Teacher (BPS-16)	<p>I. At least second class Bachelor Degree's from a recognized University on need basis from the following groups with two subject</p> <p>(a) (Chemistry, Botany or Zoology), Or (b) (Physics, Maths "A" or "B" or Statistics) Or (c) (Humanities and other equivalent groups at degree level with English as compulsory subject;</p> <p style="text-align: center;">and</p> <p>II. Bachelor of Education or Master of Education (Industrial Art or Business Education) or M.A Education or equivalent qualifications from a recognized University.</p>	21 to 35 years.	<p>1. Seventy Five per cent by promotion, on the basis of seniority-cum-fitness, from the district concerned in the following manner:</p> <p>(a) forty per cent from amongst the Senior Certified Teachers (BPS-16), with at least five years service as Senior Certified Teacher and Certified Teacher and having qualification mentioned in column No.3:</p> <p style="text-align: center;">Provided that if no suitable candidate is available from amongst Senior Certified Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst Certified Teachers, with at least five years service as such and having qualification mentioned in column No. 3;</p> <p>(b) four per cent from amongst the Senior Drawing Masters(BPS-16), with at least five years service as Senior Drawing Masters and Drawing Masters and having qualification mentioned in column No.3:</p>

Almir  
Assistant Director (Elementary & Secondary Education)  
Khyber Pakhtunkhwa Peshawar

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				<p>Provided that if no suitable candidate is available from amongst Senior Drawing Masters for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst Drawing Masters with at least five years service as such and having qualification mentioned in column No. 3;</p>
				<p>(c) four per cent from amongst the Senior Arabic Teachers(BPS-16), with at least five years service as Senior Arabic Teachers and Arabic Teachers, and having qualification mentioned in column No.3:</p> <p>Provided that if no suitable candidate is available from amongst Senior Arabic Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from Arabic Teachers with at least five years service as such and having qualification mentioned in column No. 3;</p> <p>(d) four per cent from amongst the Senior Theology Teachers(BPS-16), with at least five years service as Senior Theology Teachers and Theology Teachers and having qualification mentioned in column No.3:</p>

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Amir  
 Assistant Director (Administration)  
 Directorate of Elementary & Secondary Education  
 Khyber Pakhtunkhwa Peshawar

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			<p>Provided that if no suitable candidate is available from amongst Senior Theology Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst Theology Teachers with at least five years service as such and having qualification mentioned in column No. 3;</p> <p>(e) three per cent from amongst the Senior Qaris (BPS-16), with at least five years service as Senior Qari and Qari and having qualification mentioned in column No.3:</p> <p>Provided that if no suitable candidate is available from amongst the Senior Qaris then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from Qaris with at least five years service as such and having qualification mentioned in column No. 3;</p> <p>(f) twenty per cent from amongst the Primary School Head Teachers (BPS-16), with at least seven years service as Primary School Head Teachers and Senior Primary School Teachers and Primary School Teachers and having qualification mentioned in column No. 3:</p> <p>Provided that if no suitable candidate is available from amongst</p>
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*A. Iqbal*  
*AJ*  
 Assistant Director (General) /  
 Directorate of Primary & Secondary Education  
 Khyber Pakhtunkhwa Peshawar

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Primary School Head Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst Senior Primary School Teachers with at least seven years service as Senior Primary School Teachers and Primary School Teachers and having qualification mentioned in column No.3:

Provided further that if no suitable candidate is available from amongst Senior Primary School Teachers for promotion then the post shall be filled from amongst Primary School Teachers with at least seven years service as such and having qualification mentioned in column No. 3; and

- (ii) twenty Five percent by initial recruitment.

**Note:**

- I. If no suitable candidate is available in the relevant cadre of the above teachers, the post falling in their promotion quota shall be filled by initial recruitment.
- II. Posts of General SST and SSTs-1 Science and SST-2 Science shall be filled by promotion or initial recruitment, each on need basis separately.

Ali Amir  
Assistant Director (Literature)  
Director of Secondary & Secondary Education  
Khyber Pakhtunkhwa Peshawar



**SECRETARY TO GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT**

**Endst : of even No & date:**

1. The Secretary to Government of Khyber Pakhtunkhwa, Establishment and Administration Department Peshawar.
2. The Secretary to Government of Khyber Pakhtunkhwa, Finance Department Peshawar.
3. The Secretary to Government of Khyber Pakhtunkhwa, Law Department Peshawar
4. The Secretary Khyber Pakhtunkhwa, Public Service Commission Peshawar.
5. The Accountant General Khyber Pakhtunkhwa Peshawar.
6. The Director, Elementary and Secondary Education Department Khyber Pakhtunkhwa Peshawar.
7. The Director of Education (FATA) Peshawar.
8. The Director, Curriculum and Teacher Education Khyber Pakhtunkhwa Abbottabad.
9. The Director, (PITE) Khyber Pakhtunkhwa Peshawar.
10. The Director, ESRU Elementary and Secondary Education Department Khyber Pakhtunkhwa Peshawar.
11. Manager Government Printing Press Khyber Pakhtunkhwa Peshawar.
12. The Deputy Director, EMIS (S&SE) Department Khyber Pakhtunkhwa Peshawar.
13. All District Education Officer (M&F) in Khyber Pakhtunkhwa.
14. All District Account Officer in Khyber Pakhtunkhwa.
15. All Agency Education Officer in FATA
16. All Agency Account Officer in FATA.
17. PS to Governor Khyber Pakhtunkhwa. Peshawar.
18. PS to Chief Minister Khyber Pakhtunkhwa. Peshawar.
19. PS to Chief Secretary Khyber Pakhtunkhwa. Peshawar.
20. PS to Minister E&SE Khyber Pakhtunkhwa. Peshawar.
21. PS to Secretary E&SE Khyber Pakhtunkhwa. Peshawar.
22. Master file

(ZAMIN KHAN MOMAND)  
SECTION OFFICER (PRIMARY)

(7)

*Ali Aslam*  
Assistant Director (M&F)  
Directorate of Elementary & Secondary Education  
Khyber Pakhtunkhwa Peshawar



**GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT**

Annex - Page no 12

**NOTIFICATION**

Peshawar, dated the 30<sup>th</sup> January, 2018.

**No.SO(PE)4-5/SSRC/Meeting/2012/Teaching Cadre/2017:-** In pursuance of the provisions contained in sub rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Elementary and Secondary Education Department, in consultation with the Establishment Department and the Finance Department hereby directs that, in this Department's Notification No.SO(PE)4-5/SSRC/Meeting/2012/Teaching Cadre, dated 13-11-2012, the following further amendments shall be made, namely:-

**AMENDMENTS**

In the Appendix,-

(i) against Serial No.1, in columns No.3 and 4, for the existing entries, the following shall be substituted, namely:

3	4
(i) At least Second Class Bachelor's Degree or four (4) years BS Degree in the relevant subject; and  (ii) nine months in service mandatory professional training at Regional Institute for Teacher Education (RITE) or Provincial Institute for Teacher Education (PITE).	21 to 35 years";

*Suppl  
ADSE  
For Compliance  
as forwarded*

(ii) against Serial No.1B, in columns No.3 and 4, for the existing entries, the following shall be substituted, namely:

3	4
(i) At least Second Class Bachelor's Degree from a recognized University from the following groups with two subject on need basis.  (a) Chemistry, Botany or Zoology; or	19 to 35 years";

*17/2/18*

*As per*  
**Assistant Director (Litigation)**  
Directorate of Elementary & Seco  
Khyber Pakhtunkhwa

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(b) Physics, Maths or Statistics; or (c) Humanities and other equivalent groups at degree level with English as subject; and (ii) nine months in service mandatory professional training at Regional Institute for Teacher Education (RITE) or Provincial Institute for Teacher Education (PITE).	
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(iii) against Serial No. 10, in columns No.3 and 4, for the existing entries, the following shall be substituted, namely:

3.	4.
(i) At least Second Class Master's Degree in Arabic from a recognized University; or at least Second Class Bachelor's Degree from a recognized University with Shahadatul Alamia Fil Uloomul Arabia wal Islamia from a recognized Tanzimuatul Wafaqul Madaris; or Darul Uloom Saidu Sharif Swat, Darul Uloom Charbagh Swat, Darul Uloom Chitral, Darul Uloom Darosh Chitral and any other Government run Darul Uloom, as notified by Government from time to time; and (ii) nine months in service mandatory professional training at Regional Institute for Teacher Education (RITE) or Provincial Institute for Teacher Education (PITE).	19 to 35 years";

(iv) against Serial No. 11, in columns No.3 and 4, for the existing entries, the following shall be substituted, namely:

3.	4.
(i) At least Second Class Master's Degree in Islamiyat from a recognized University; or at least Second Class Secondary School Certificate from a recognized Board with Shahadatul Alamia from a recognized Tanzimuatul Wafaqul Madaris; or Darul Uloom Saidu Sharif Swat, Darul Uloom Charbagh Swat, Darul Uloom Chitral, Darul Uloom Darosh Chitral and any other Government run Darul Uloom, as notified by Government from time to time; and (ii) nine months in service mandatory professional training at Regional Institute for Teacher Education (RITE) or Provincial Institute for Teacher Education (PITE).	19 to 35 years";

*Alianza*  
Assistant Director (University)  
Director of Elementary & Secondary Education  
Khyber Pakhtunkhwa Peshawar

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(v) against Serial No. 13, in columns No.3 and 4, for the existing entries, the following shall be substituted, namely:

3.	4.
(i) Bachelor's Degree from a recognized University; and (ii) nine months in service mandatory professional training at Regional Institute for Teacher Education (RITE) or Provincial Institute for Teacher Education (PITE).	19 to 35 years";

(vi) against Serial No. 17, in columns No.3 and 4, for the existing entries, the following shall be substituted, namely:

3.	4.
(i) Bachelor's Degree from a recognized University; and (ii) nine months in service mandatory professional training at Regional Institute for Teacher Education (RITE) or Provincial Institute for Teacher Education (PITE).	19 to 35 years";

(vii) against Serial No. 18, in columns No.3 and 4, for the existing entries, the following shall be substituted, namely:

3.	4.
(i) Bachelor's Degree from a recognized University; and (ii) nine months in service mandatory professional training at Regional Institute for Teacher Education (RITE) or Provincial Institute for Teacher Education (PITE).	19 to 35 years";

(viii) against Serial No. 21, in columns No.3 and 4, for the existing entries, the following shall be substituted, namely:

3.	4.
(i) Bachelor's Degree from a recognized University; and (ii) nine months in service mandatory professional training at Regional Institute for Teacher Education (RITE) or Provincial Institute for Teacher Education (PITE).	19 to 35 years"; and

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*Ali Raza*  
 Assistant Director (Administrative)  
 Directorate of Elementary & Secondary Education  
 Khyber Pakhtunkhwa, Peshawar

(ix) against Serial No.22, in columns No.3 and 4, for the existing entries, the following shall be substituted, namely:


3	4
(i) Bachelor's Degree from a recognized University and Qirat Sanad from registered Institution; and  (ii) nine months in service mandatory professional training at Regional Institute for Teacher Education (RITE) or Provincial Institute for Teacher Education (PITE).	19 to 35 years

SECRETARY TO  
GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION  
DEPARTMENT.

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Endst: of even No & date:

1. The Secretary to Government of Khyber Pakhtunkhwa, Establishment and Administration Department Peshawar.
2. The Secretary to Government of Khyber Pakhtunkhwa, Finance Department Peshawar.
3. The Secretary to Government of Khyber Pakhtunkhwa, Law Department Peshawar
4. The Secretary Khyber Pakhtunkhwa, Public Service Commission Peshawar.
5. The Accountant General Khyber Pakhtunkhwa Peshawar.
6. The Director, Elementary and Secondary Education, Khyber Pakhtunkhwa Peshawar.
7. The Director of Education (FATA) Peshawar.
8. The Director, Curriculum and Teacher Education Khyber Pakhtunkhwa Abbottabad.
9. The Director, (PITE) Khyber Pakhtunkhwa Peshawar.
10. The Director, ESRU Elementary and Secondary Education Department Khyber Pakhtunkhwa Peshawar.
11. Manager Government Printing Press Khyber Pakhtunkhwa Peshawar.
12. The Deputy Director, EMIS (E&SE) Department Khyber Pakhtunkhwa Peshawar.
13. All District Education Officers (M&F) in Khyber Pakhtunkhwa. *A/1/16000*
14. All District Accounts Officers in Khyber Pakhtunkhwa.
15. All Agency Education Officers/ Agency Accounts Officers in FATA.
16. PS to Governor Khyber Pakhtunkhwa. Peshawar.
17. PS to Chief Minister Khyber Pakhtunkhwa. Peshawar.
18. PS to Chief Secretary Khyber Pakhtunkhwa. Peshawar.
19. PS to Minister E&SE Khyber Pakhtunkhwa. Peshawar.
20. PS to Secretary E&SE Khyber Pakhtunkhwa. Peshawar.

*A/1/16000*  
  
 Assistant Director  
 Directorate of Elementary & Secondary Education  
 Khyber Pakhtunkhwa Peshawar

SECTION OFFICER (Primary)

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**PRESENT:**

Mr. Justice Ijaz ul Ahsan  
Mr. Justice Munib Akhtar  
Mr. Justice Sayyed Mazahar Ali Akbar Naqvi

**CIVIL APPEAL NO.2039 OF 2019 AND CIVIL PETITIONS NO.91-P AND 92-P OF 2016**

(Against the judgments dated 13.02.2017/04.06.2015/08.12.2015 of the Peshawar High Court, Abbottabad Bench, Abbottabad/Peshawar High Court, Bannu Bench, Bannu passed in Writ Petitions No.559-A/2016, 58-B/2014 and 87-B/2014)

Government of KPK through Secretary (E & S) Education, Peshawar etc.

...Appellant(s)/Petitioner(s)  
(In all cases)

**Versus**

Fazal Qadeem etc.  
Waris Khan  
Yasmin

In C.A.2039/2019  
In C.P.91-P/2016  
In C.P.92-P/2016  
...Respondent(s)

For the Appellant(s)/  
Petitioner(s):

Mr. Zahid Yousaf Qureshi, Addl.A.G.  
Mr. Sharafat Khan, DDEO  
Mr. Muhammad Idrees, Litigation  
Officer  
Mr. Ashraf Ullah Khan, Legal Officer  
(In all cases)

For Respondent No.1 & 3:

Mr. Misbah Ullah Khan, ASC  
(In C.A.2039/2019)

For Respondent No.2:

Nemo  
(In C.A.2039/2019)

For the Respondent(s):

Not represented  
(In C.Ps.91-P & 92-P/2016)

Date of Hearing:

06.04.2022

**ORDER**

Ijaz ul Ahsan, J. Civil Appeal No.2039/2019 by leave of the Court arises out of a judgment of the Peshawar High Court dated 13.02.2017. Through the impugned judgment, the learned High Court by relying on two other judgments of the same High Court rendered in Writ Petition No.1041-A/2015 and a Division

**ATTORNEY**

Senior Counsel Associate  
Supreme Court of Pakistan

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Bench judgment dated 04.06.2015 has directed the appellants to promote the respondents to the post of SST and not to refuse their due right of promotion from PSHT to SST on the ground of having passed their BA examination in the 3<sup>rd</sup> division.

2. At the very outset, we have asked the learned counsel for the respondents as to how the petitions were maintainable before the learned High Court in view of the fact that admittedly the respondents are civil servants and the stance taken by the appellants that the respondents are not qualified for such promotion. The learned High Court has erroneously proceeded on the premise that the matter relates to fitness of the respondents and, therefore, the Tribunal lacked jurisdiction to adjudicate the matter. We are unfortunately unable to agree with the said view. It is clear and obvious to us that lack of qualification does not have any nexus to fitness for promotion. Consequently the matter being of qualification or lack thereof relates to terms and conditions of service fell within the purview of jurisdiction of the Federal Service Tribunal and the bar on the jurisdiction on the High Court in terms of Article 212 of the Constitution of Islamic Republic of Pakistan was fully attracted.

3. In this view of the matter, the judgment of the learned High Court is unsustainable. It is accordingly set aside. The appeal is accordingly allowed.

4. We note that Civil Petition No.92-P/2016 has been filed against a judgment of the Peshawar High Court dated 08.12.2015 in Writ Petition No.87-B/2014 titled "Mst. Yasmin Vs. Government of Khyber Pakhtunkhwa etc." and Civil Petition No.91-P/2016 against a judgment of the Peshawar High Court dated 04.06.2015 in Writ Petition No.58-B/2014 titled "Waris Khan Vs. Govt. of Khyber Pakhtunkhwa and 05 others". We have also been informed that the judgment in the case titled "Muhammad Baqi Vs. Government of Khyber Pakhtunkhwa through Secretary (Elementary &

**ATTESTED**

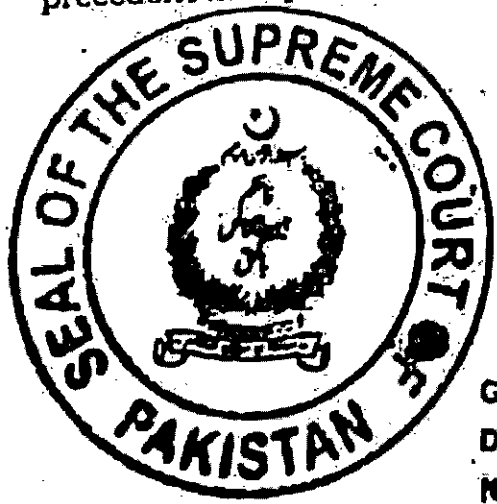
61

18

Secondary Education), Peshawar and 02 others" which has been relied upon by the Peshawar High Court in the impugned judgment was challenged before this Court but was dismissed on account of limitation and was not decided on merits.

5. Civil Petitions No.91-P and 92-P/2016 have been filed beyond the period of limitation. The applications for condonation of delay (C.M.As.No.149-P and 151-P/2016) do not disclose any sufficient cause that may constitute basis within the contemplation of the Limitation Act, 1908 for condonation of delay. Consequently, the applications for condonation of delay are dismissed. The petitions are dismissed as barred by time. It is, however, clarified that the judgment dated 08.12.2015 rendered in Writ Petition No.87-B/2014 titled "Mst. Yasmin Vs. Government of Khyber Pakhtunkhwa etc.", judgment dated 04.06.2015 rendered in Writ Petition No.58-B/2014 titled "Waris Khan Vs. Govt. of Khyber Pakhtunkhwa and 05 others" and the judgment dated 05.04.2016 rendered in Writ Petition No.1041-A/2015 titled "Muhammad Baqi Vs. Government of Khyber Pakhtunkhwa through Secretary (Elementary & Secondary Education), Peshawar and 02 others" shall not be used as precedent in any other case.

Certified to be true  
Senior Court Appellate  
Supreme Court of Pak  
Islamabad



Islamabad, the  
6th of April, 2022  
Not approved for reporting  
Waqas Naseer/  
[Signature]

GR No:	7287/22	Civil/Crim:
Date of Presentation:	6-4-22	
No of Words:	900	
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Delivery of Copy:		



Before the Khyber Pakhtunkhwa Service Tribunal  
Peshawar. (62)

CM

in

AP. No. 12452/2020

~~Application For P2~~

Muhammed choib & others vs. Education Deptt.

Application for placing the Titled Appeals  
before the Hon'ble Chairman for constitution  
of larger bench

---

R/shewell:

- 1) That the titled appeals are pending adjudication before this Tribunal <sup>07/11/2022</sup> and are fixed for today.
- 2) That some of the similar nature cases having same questions of law and facts are remanded by the Apex court of Pakistan for their adjudication however, some of the appeals were dismissed by another bench of this Tribunal. However, judgment in that cases have not been scribbed yet.
- 3) That these cases along with the remanded ones are required to be decided on fresh issues under the directions of the Apex court given in the mentioned cases for which larger is indispensable to be constituted. For this very reason these cases may kindly be placed before the chairman.

It is therefore, requested that on acceptance of this application these appeals be placed before the chairman for constitution of larger bench.

Applicant / Appellant  
through / by  
Nadir Muhammad Khattak

(63)

Before The Honorable Service Tribunal K.P Peshawar.

Muhammed Shoab

vs

Education depp

SCANNED  
KPST  
Peshawar

Subject:- Application for the correction of the address of the Respondent No 5 as District Education Officer (male) Dir Lower which is wrongly written as District Education Officer (male) Mandan.

R/S

- ① That the above titled appeal is pending adjudication before this Honorable Tribunal and is final for today i.e. 17/8/2022.
- ② That the correct address of the respondent No 5 is wrongly mention as district education officer (male) Mandan instead of district education officer (male) Dir Lower.
- ③ That the above mention mistake is not identity but clerical mistake.
- ④ That there is no legal bar on acceptance of this application as it is transfer hubly project that on acceptance of this application the address of the respondent No 5 may kindly be corrected as district education officer (male) Dir Lower instead of district education officer (male) Mandan.

Dated = 17/8/2022.

Appellant  
Ismail Ahmad  
Mansoor Farooq Khan  
D

(64)

**VAKALATNAMA**

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

SCANNED  
KPST

12450

OF 2020 Peshawar

Muhammad Shoaib

(APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

**VERSUS**

Education Deptt.

(RESPONDENT)  
(DEFENDANT)

I/We Muhammad Shoaib

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. \_\_\_\_/\_\_\_\_/2020

[Signature]

CLIENT

ACCEPTED

NOOR MOHAMMAD KHATTAK

KAMRAN KHAN

MIR ZAMAN SAFI

&

AFRASIAB KHAN WAZIR  
ADVOCATES

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Plaza, near FATA Secretariat,  
Warsak Road, Peshawar.  
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