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### KHYBER PAKHTUN SERVICE TRIBUNAL, PESHAWAR

EXECUTION NO	
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# MUHAMMAD ZAHTR VS EDUCATION

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Muharir Compilation

WIL Incharge Judicial Branch

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The Accountant General Khyber Pakhtunkhwa Peshawar,

16 -

The Registrar Peshawar High Const Peshawar,

The Director, Elementary and Secondary Education, Knyber Pakhtunkhwa Peshawar, The Director of Education (FATA) Peshawar. \$.

9. The Director, Curriculum and Teacher Education Khyber Pakhtunkhwa Abbottabad. 10. The Director, (PITE) Khyber Pakhtunkhwa Peshawar.

11. The Director, ESRU Elementary and Secondary Education Department Khyber Pakhtunkhwa Peshawar. 12. Manager Government Printing Press Khyber Pakhtunkhwa Peshawar.

3. The Deputy Director, EMIS (E&SE) Department Khyber Pakhtunkhwa Peshawar.

14. All District Education Officers (Male & Female) in Khyber Pakhtunkhwa. 15. All District Accounts Officers in Khyber Pakhtunkhwa.

16. All Agency Education Officer in FATA

17. All Agency Accounts Officers in FATA.

18. All the Principal/Head Master/Head Mistress concern. 19. PS to Governor Khyber Pakhtunkhwa, Peshawar,

20. PS to Chief Minister Khyber Pakhtunkhwa, Peshawar,

21. PS to Chief Secretary Khyber Pakhtunkhwa. Peshawar,

22. PS to Minister E&SE Khyber Pakhtunkhwa. Peshawar,

23. PS to Secretary E&SE Khyber Pakhtunkhwa. Peshawar,

24. Master file

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YASTR QATTEM) STREET RECEIPTION SEL

28.03.2024 1. Junior to learned counsel for the appellant present. Mr. Muhammad Jan learned District Attorney for the respondents present.

File to come up alongwith connected service appeal No.
 930/2020 on 04.06.2024 before D.B at camp court, Swat. P0.P given to parties.



)4<sup>th</sup> June, 2024

13 per Instruction &

R

(Fareeha Paul) Member (E)

(Rashida Bano) Member (J)

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

2. Learned counsel for the appellant requested for withdrawal of the instant service appeal. As a token of admission of his submission, he signed he margin of order sheet. Dismissed as withdrawn. Consign.

3. Pronounced in open court at camp court Swat and given under our hand and seal of the Tribunal on this  $04^{th}$  June, 2024.

A CARACTER STATE

(Muhammad A Member (E) Camp Court Swat



(Rashida Bano) Member (J) Camp Court Swat 4<sup>th</sup> August, 2023 1.

1. Learned counsel for the appellant present. Mr. Fazal Shah Mohmand, Additional Advocate General alongwith Syed Alamzeb Shah, ADO (Lit) 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 04.12.2023 before the D.B. PP given to the parties.

(Fareeha Paul) Member (E)

(Rashida Bano) Member (J)

04.12.2023

Kaleemullah



Learned counsel for the appellant present. Syed Alamzeb Shah, ADEO alongwith Mr. Asad Ali Khan, Assistant Advocate General for the respondents present.

Learned counsel for the appellant again requested for further time for preparation of arguments. Adjourned. To come up for arguments on 28.03.2024 before the D.B. Parcha Peshi given to the parties.

(Fareeha Paul) Member (E)

(Salah-yd-Din) Member (J)

\*Naeem Amin\*

S.A No. 932/2020

09<sup>th</sup> March, 2023

Junior of learned counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General alongwith Mr. Gohar Ali, Assistant for the respondents present.

Junior of learned counsel for the appellant seeks adjournment on the ground that learned counsel for the appellant has proceeded to his native village due to some domestic engagement. Adjourned. To come up for arguments on 18.05.2023 before the D.B. Parcha Peshi given to the parties.

(Salah-ud-Din)

Member (J)

(Kalim Arshad Khan) Chairman

18.05.2023

Junior of learned counsel for the appellant present. Syed Alamzeb Shah, ADEO alongwith Mr. Asad Ali Khan, Assistant Advocate General for the respondents present.

SCANNED KPST Reshawar

kamranullah

File to come up for alongwith connected Service Appeal No. 930/2020 on 04.08.2023 before D.B. Parcha Peshi given to the

parties.

(Muhammad Akbar Khan) Member (E)

(Salah-ud-Din) Member (J)



Counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

arguments on 16.12.2022 before the D.B.

(Fareeha Paul) Member (E)

### (Kalim Arshad Khan) Chairman

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

3rd Nov. 2022

Counsel for the appellant present. Mr. Naseerud Din Shah, Assistant Advocate General for the respondents present. Mrs. Rozina Rehman, learned Member (J) is on leave, therefore, D.B is incomplete. The case is adjourned to 09.03.2023 for arguments before the D.B.

(Fareeha Paul) **Member(E)** 

24.11.2021

3-3-22

Proper D.B is not available, therefore, case is adjourned to 3-3-2021 for the same.

READER Due to hetrement of The Hor Hon ble Chairma The case is adjourned on 14-6-22 Render

14.06.2022

Clerk of counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for respondents present. Syed Alamzeb Shah, Legal Advisor for respondents No. 4 present.

Clerk of counsel for the appellant stated that learned counsel for the appellant is unable to attend the Tribunal today due to strike of Lawyers. Adjourned. To come up for arguments before the D.B on

16.08.2022.

(MIAN MUHAMMAD) MEMBER (EXECUTIVE)

16.8, 22

Any to bummer valations The base is adjourned to 3.11-22 for the frame.

(SALAH-UD-DIN) MEMBER (JUDICIAL)

08.03.2021

Junior to counsel for the appellant present. Addl: AG for respondents present.

Written reply not submitted. Learned Additional Advocate General seeks time to contact the respondents for submission of written reply/comments.

Adjourned to 18.05.2021 before S.B.

(Mian Muhammad) Member (E)

18.05.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 05.07.2021 for the same as before.

05.07.2021

Junior to counsel for the appellant present. Mr. Adeel Butt, Additional Advocate General alongwith Mr. Ahmad Hassan, Litigation Officer respondents present.

submitted have not Respondents They are required to submit reply/comments. reply/comments within 10 days in office, positively. In respondents have not submitted the case reply/comments within stipulated time, office shall put up the appeal with a report of non-compliance. To come up for arguments on 24.11.2021 before D.B.

22.04.2020

Due to COVID19, the case is adjourned to 23.07.2020 for

the same as before.



(MUHAMMAD JAMAL KHAN) MEMBER

23.07.2020

Appellant is absent. The legal fraternity is observing strike today therefore, no proceedings could be conducted. The case is adjourned to 06.10.2020. To come up for previous proceedings before S.B.

06.10.2020

Junior to counsel for the appellant present.

r d. d.

Learned senior counsel for the appellant is not in attendance today due to general strike on the call of Khyber Pakhtunkhwa Bar Council. The matter is adjourned to 8.12.2020 for hearing before S.B.

Chairman

08.12.2020

Appellant present through counsel. Preliminary arguments heard. File perused.

Points raised need consideration. Admitted to regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to respondents for written reply/comments. To come up for written reply/comments on 08.03.2021 before S.B.





Form- A

### FORM OF ORDER SHEET

Court of /2020 Case<sup>\*</sup>No.-Order or other proceedings with signature of judge S.No. Date of order proceedings 3 1 2 The appeal of Mr. Muhammad Zahir resubmitted today by Mr. 11/02/2020 Noor Muhammad Khattak Advocate may be entered in the Institution ST. Register and put up to the Worthy Chairman for proper order please. awa decrease REGISTRAR 2-. This case is entrusted to S. Bench. for preliminary hearing to be put up there on 20/03/2020 CHAIRMAN Nemo for the appellant. Lawyers community is on 20.03.2020 strike on the call of Khyber Pakhtunkhwa Bar Council. Adjourn. To come up for preliminary hearing on 22.04.2020 before S.B. Member

The appeal of Mr. Muhammad Zahir PST GPS Doon Payeen Sheringal District Dir Upper received today i.e. on 09.01.2020 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

Copy of Judgment attached with the appeal is illegible which may be replaced by legible/better one.

<u>47</u> /s.t, No. \_\_\_\_/2020.

GISTRAR SERVICE TRIBUNAL

KHYBER PAKHTUNKHWA PESHAWAR.

Mr. Noor Muhammad Khattak Adv. Pesh.

In, pel the objections was been removed. Hence resubmitted today dated. 11/2/2020. Af x g

### **BEFORE THE KHYBER PAKTHUNKHWA SERVICE TRIBUNAL,** PESHAWAR

10

SCAMNED KPST Peshawar

### 932 /2019 APPEAL NO.

### **MUHAMMAD ZAHIR**

VS

### EDUCATION DEPTT:

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3	Second appointment order	В	5.
4	Judgment	C	6- 11.
5	Appointment order	D	12- 13.
6	Medical certificate	E	14
7	Departmental appeal	F.,>	15.
· <b>8</b> ., ·	Vakalat nama	•••••	16.

APPELLANT

### **THROUGH:** NOOR MOHAMMAD KHATTAK, ADVOCATE

Flat No. 3, Upper Floor, Islamia Club Building, Khyber Bazar, Peshawar 0345-9383141

### BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

hyber Pakhtukhwa Service Tribunaj

APPEAL NO.

32/2019

Diary No.

Mr. Muhammad zahir, PST BPS-12, .. APPELLANT GPS Doon Payeen, Sheringal District Dir Upper

### VERSUS

- 1- The Secretary, E&SE Department, Khyber, Pakhtunkhwa, Peshawar.
- 2- The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Director, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
- 4- The District Education Officer, District Dir Upper.

..RESPONDENTS

**APPEAL UNDER SECTION- 4 OF THE KHYBER PAKHTUNKHWA** SERVICE TRIBUNAL ACT, 1974 FOR FIXATION OF PAY IN BPS-12 w.e.f. 10-09-1995 I.E. FROM THE DATE OF INITIAL APPOINTMENT TO THE POST OF PST AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

**PRAYER:** 

That on acceptance of this appeal the appellant may kindly be allowed/granted pay fixation w.e.f. 10-09-1995 with all back benefits. Any other remedy which this august Service hedto-day Tribunal deems fit that may also be awarded in favor of the appellant.

Legistrar 09 01 1 20 R/SHEWETH:

Re-submitted **ta** and filqd.

**ON FACTS:** 

### Brief facts giving rise to the present appeal are as under:

- 1-That the appellant was initially appointed in the respondent Department as PTC now PST vide order dated 10-09-1995 as stop gap arrangement. (Copy of the appointment order is attached as annexure..... .....A)
  - That later on the appellant was appointed against regular post 2vide order dated 31/12/1995 w.e.f. the date of his first appointment i.e. 10/09/1995. (Copy of second appointment order
  - 3-That it is worth mentioning here, that in 1997 the services of the appellant along with others were dispensed with on the ground that their services were no more required to the Department.

12

- 7- That feeling aggrieve and having no other remedy the appellant filed the instant appeal on following grounds inter alia.

### **GROUNDS:**

- A- That the inaction of respondents by not allowing pay fixation to the appellant w.e.f. 10-09-1995 is against the law, facts, norms of natural justice and materials on the record.
- B- That appellant 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 the respondents acted in arbitrary and mala fide manner by not allowing pay fixation to the appellant w.e.f. 10-09-1995 and as such the inaction of the respondents is violative of law and rules.
- D- That the inaction of the respondents is discriminatory and against the norms of natural justice, therefore not tenable in the eye of law.
- E- That under Article 38 (e) of the Constitution of Pakistan, 1973 state is bound to reduce disparity in the income and earning of the individuals including persons in the various services of Pakistan, therefore in light of the above mentioned Article the appellant is fully entitle for the grant of pay fixation w.e.f. the date of initial appointment.

- F- That promulgation of Sacked Employee Act, 2012 established that dismissal of appellant along with others from services was against the law, hence the appellant is entitled to pay fixation from date of his first appointment.
- G- That in light of Rule 2.3 of the West Pakistan, Pension Rules, 1963 the appellant is fully entitle for the grant of pay fixation from the date of initial appointment.
- H- 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 ZAHIR THORUGH: NOOR MOHAMMAD KHATTA SHAHZULLAH YOUSAFZAI & MIR ZAMAN-SAFI ADVOCATES

BETTER COPY PAGE NO. 4

### **OFFICE ORDER:-**

Due to non availability of trained PTC, in the constituency of P.F.73 Dir 1, Mr, Mohammad Zahir, S/O Abdul Ghafar GPS Gusadand, should continue as stop gap arrangement in the school as noted against his name with effect from 1.8.1995 to 31.12.1995

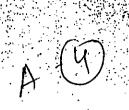
> (|FAZLE NAEEM KHAN) DISTT: EDUCATION OFFICER(M) PRY: DIR AT TIMARGARA.

OFFICE TO THE DISTT: EDUCATION OFFICER (M) PRY: DIR AT TIMERGARA.

Endst: No. 2714-16/PED/ESTAB:/

Dated Timergara the 10.9.1995

Copy forwarded to:-



#### OFFICE ORDER 1-

Due to non availability of itrained PTC, in the constituancy of P.F.73 Dir 1, Hr, <u>Mohammad Zahir</u>, 3/O Abdul Ghafar <u>x</u> UPS, <u>Gusadand</u>, should contanue as stop gap arrangement in the school as noted against him name with effort from <u>1-8-1995</u> to 31/12/95

> (FAZLI NAIM "HAN) DISTTIEDUCATION (OFFICER (H) PRY: DIR AT. TIMERGARA.

DEFICE OF THE DISTTIEDUCATION OFFICER (M) PRYL DIR AT TIMERGARA. Endating. 9714-16 /PED/Estabi/ALI Dated Timergury the/9/95

Copy forwarded tot-

1. The SDEO(H) Dir forinformation with ref; to his NO. 1657 dated

7. The Distil Accounts Officer Dir at Timergara for information. 3. The Tri concerned for compliance.

 $\langle \rangle$ 

<u>H.Anvar/</u>

ATTESTED

DISTTIFOURATION DEFICER (") PRY DIR AT INERGARA

e e

OFFICE ORDER: -Consequent upon the non-availability of duly verified trained PTCs, in the merit list, continious appointment of Mr, Mehammae S/O Abdul Ghaffar, village, Shaheer. Zahir\_ Distt: Dir as PTC, untrained teacher in the BPS, NO.7 Rs, 1480-81/2695 is hereby ordered with effect from the date of his Ist: appointment. 1. His appointment is purely temporary and can be terminamed any time without notice. 2. Other conditions are the same as given in his Ist: appointment order. (FAZLI NAEEM KHAN) DISTT:EDUCATION OFFICER (M) PRY: DIR AT TIMERGARA. OFFICE OF THE DISTT: EDUCATION OFFICER (M) PRY: DIR AT TIMERGARA. Endst: NO. 6491-94 /PED/Estab: Dated Timergara the 31/12/95 Copy forwarded to:-1. The Director of Pry: Education, NWFP Peshawar for information please 2. The SDEU(M) \_\_\_\_\_ for information. 3. The DAO, Dir at Timergara for information. 4. The candidate concerned for information, DISTT: EDUCATION AFFICER (M) PRY: DIR AT TIMERGARA. M.Anwar 31/12.

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### JUDGMENT SHEET IN THE PESHAWAR HIGH COURT MINGORA BENCH (DAR-UL-QAZA, SWAT (Judicial Department)

### W.P No. 327-M/2016

Muhammad Din and others.....Petition

Versus

Present: Syed Abdul Haq Advocate for petitioners Mr. Sabir Shah, A.A.G for respondents

Date of hearing: 11.04.2017

#### JUDGMENT

5.

ABDUL SHAKOOR, J:- Through this writ petition, the petitioners herein have prayed this Court for issuance of an appropriate writ directing the respondents to reinstate them on the posts of primary school teacher.

2. Initially the petitioners were appointed as primary school teachers in 1995 on stopgap arrangement but subsequently they were declared as continuous against their respective posts. It was in 1997 when services of the petitioners were dispensed with on the ground that their service were no more required to the department on arrival of trained teachers. As per assertions of the petitioners, on promulgation of the Khyber Pakhtunkhwa Sacked Employees Act, 2012, they submitted applications for their re-instatement being covered under the said law but the same were not considered, hence, the instant writ petition.

3. Respondents on the notice of this Court filed their Para-wise comments whereby the denied the assertions of the petitioners.

4. We have heard learned counsel for the petitioners as well as the learned A.A.G for the respondents and gone through the record.

No doubt, the petitioners had been appointed as primary school teachers as stopgap arrangements but later on their services have been extended from time to time. Copies of the extension orders of the petitioners are available on record which reveals that continuous appointments of the petitioners have been ordered with effect from the dates of their first appointment. The term "continuous appointment" mentioned in the orders issued by respondents signified that the petitioners were inducted in the department on regular basis form the dates of their initial appointment. When confronted with the above; the learned A.A.G. could not defend the stance of the respondents that the petitioners were performing their duties on temporary basis not could he assist this that the department had used the said term in some other meanings. Thus, we have no hesitation in holding that the petitioners were regular employees of the Education Department and they are entitled to be benefitted under the Khyber Pakhtunkhwa Sacked Employees Act, 2012.

The respondents have also alleged that the petitioners have not moved applications for their re-instatement within the prescribed time. This stance or respondents does not carry weight In the face of their own record copies of which are annexed with petition under the heading "List of scrutiny sacked Employees during the year 1996 to 1998 (PST male) District Dir Upper". Perusal of the said list shows that names of the petitioners have been mentioned therein. In means that respondents have entertained the applications of petitioners for their re-instatement and a paper work was done in this regard. Therefore, there is no force in the contention of the learned A.A.G. that the petitioners have not submitted applications for their re-instatement.

In light of the foregoing discussion, this writ petition is disposed of with directions to the respondents to consider the petitioners for their reinstatement under the Khyber Pakhtunkhwa Sacked Employees Act, 2012 on their turn. The petitioners will be bound to furnish an undertaking to the effect that they will complete PTC training and basic academic qualification i.e. intermediate after taking charge of their duties, if not already so qualified. In case of not acquiring the said professional and academic qualification within a period to be specified by the department in the appointments will be considered as cancelled after expiry of that period.

Announced 11.04.2017

6

BEFORE THE PESHAWAR HIGH COURT MINGORA BENCH / DARULQAZA SWAT W. 5 32-7- -M/2016 1. Muhammad Din (Ex-PTC) Son of Roz Amin Resident of Palam UC Palam Tehsil & District Dir Upper. 2. Muhammad Zahir (Ex-PTC) Son of Abdul Ghaffar khan Resident of Duro Tehsil and District Dir Upper. 3. Bacha Uddin (Ex-PTC) son of Asfandyar Khan Resident of Osherai Almas Tensil & District Dir Upper 4. Aziz Ullah Khan (Ex-PTC) Son of Nadar Khan Resident of Shengara Baala Tehsil Barawal District Dir Upper 5. Fazal Qadim' (Ex-PTC) Son of Sarbiland Khan Resident of Umralai payeen Tehsil Wari District ......Petitioners VERSUS Government of Khyber Pakhtunkhwa through Secretary L&SE 1) Civil Secretariat at Peshawar. Secretary Elementary and Secondary Education Civil 2) Secretariat at Peshawar. Director Elementary and Secondary Education Civil Secretariat 3) at Peshawar.. District Education Officer (Male) at District Dir Upper Respondents . 4) PETITIONER UNDER ARTICLE 199 OF THE WRIT CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN 1973 Respectfully Sheweth; The facts of the instant are as under. 11128 235 M S (BPS-Dir upper \_\_\_\_ . . . Ten be considered as VIII CITE

09. The appointees will be governed by such rules and regulations/policies as prescribed by the Government from time to time.

1.9 JÜÜGMEN IN THE PESHAWAR HIG MINCORA BENCH (DAR-L Judicial Depa P.No. 327-N.T. Mahammad Din and others fersus Gast. of Rhyber Pakhtianklissa and Need Abdul May Present: Mr. Subir S 11.04.2017 Dute of hearing <u>YUDGMENT</u> ABDUL, SHAKOOR, J.- Through this writ petition, the petitioners herein have prayed this Court for issuance of an appropriate writ directing the respondents to reinstate them on the posts of primary school teacher. Initially the petitioners were appointed as primary school teachers in 1995 2. on stopgep arrangement but subsequently they were declared as continuous against their respective posts. It was in 1997 when services of the petitioners were dispensed with on the ground that their services were no more a gris waterman for the others Val Gent De unite M ed UHSdul-09. The appointees will be governed by such rules and regulations/policies as prescribed by: مر appointment shall be considered as

required to the department on arrival of trained teachers. As per assertions of the petitioners, on promulgation of the Khyber Pakhtunkhwa Sacked Employees Act. 2012, they submitted applications for their reinstatement being covered under the said law but the same were not considered, hence, the instant writ petition.

20

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AL CLOUG Marking of the

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21

respondents 6. The have alleged that the petitioners have not moved applications for their reinstatement-within the prescribed time. This stance of respondents does not carry weight in the face of their own

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227-44 of 2015 /

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22

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09. The appointees will be governed by such rules and regulations/policies as prescribed by the Government from time to time.

7.P. Ha 321-10 et 2016 10

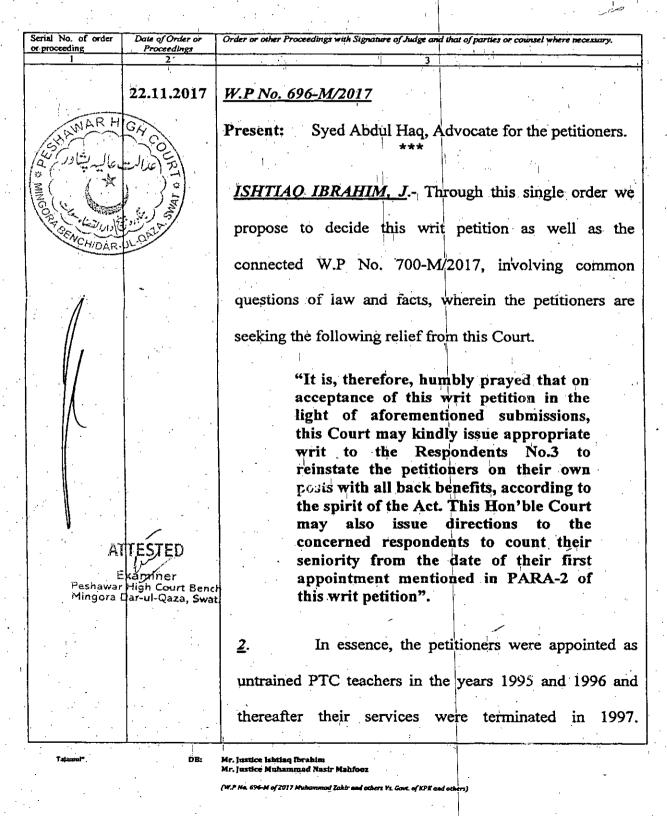
qualified. In case of not acquiring the said. professional and academic qualification within? a period to be specified by the department in the appointment forders, their appointments will be considered as cancelled aften expiry of. that period. Sd. Ikramullah Khan-Sd.Abd+1 ShakoodJ <u>Announced</u> 11.04.2017 JUDGE 18. FT14,12-07 : - . . Configent to be true copy ta sur. ģir upper wintment. appointment shall be considered as 09. The appointees will be governed by such rules and regulations/policies as prescribed by.

### PESHAWAR HIGH COURT, MINGORA BENCH (DAR-UL-QAZA), SWAT

1

<u>FORM OF ORDER SHEET</u>

Court of .....



JAR H. 1/DAR her Court Bench Mingora Dar-ul-Qaza, Swot.

3.

Petitioners have asserted that on promulgation of the Khyber Pakhtunkhwa Sacked Employees (Reinstatement) Act, 2012, they filed applications for their reinstatement in accordance with the Act ibid but the respondent department is not willing to consider them for their reinstatement despite they went from pillar to post in this regard. Hence, these writ petitions.

Arguments heard and record perused.

4. Admittedly, the Provincial Government has promulgated the Khyber Pakhtunkhwa Sacked Employees (Reinstatement) Act, 2012 with the object to redress the grievances of the sacked employees by allocating 30% quota for them in fresh recruitment. Section 2 (g) of the Act *ibid* defines those sacked employees who can get benefit of the Act whereas Section 7 thereof prescribes 30 days period after promulgation of the Act for submission of applications for reinstatement. Learned counsel for the petitioners submitted at the bar that the petitioners fulfill all the conditions laid down in the Act.

5. The issue of reinstatement of the sacked employees has already been resolved by Superior Courts through various judgments wherein it has been held that the sacked employees are entitled to their reinstatement

Mr. Justice Ishtiaq Ibrahim Mr. Justice Muhammad Nasir Mahfe SHAWAR HIGH COURTS

Date of Delivery of Copies-

Date of Completion of Copi

Date of Presentation of Applicat

ertified to be true copy

EXAMINER Pethawar High Court, Mingora/Dar-ul-Qaza, Swat Surported Under Article IV of Dampon e-Shahadat (Kierr

No of Copi Urgent Fee provided they fulfill the criteria laid down in the Act. The issue of training of the sacked employees also arose before the august Supreme Court in C.P No. 401-P, 427-P and 431-P which were decided vide judgment dated 24.05.2017 with the following observations.

> "We have been apprised by the learned counsel for the respondents that according to the advertisement and appointment letters issued to the respondents, two kinds of candidates could be appointed. (i) those who have the requisite academic qualifications and training, (ii) those who have the requisite academic qualifications but do not possess the necessary training. As regards the second category, such persons would be provided with an opportunity to complete the training within a specific period".

<u>6.</u> Since, benefits of the Act *ibid* have already been extended to similarly placed persons, therefore, the petitioners are also entitled to the same relief. Resultantly, these writ petitions are disposed of with the directions to respondents to consider the petitioners for their reinstatement against 30% quota provided they fulfill the criteria laid down in the Khyber Pakhtunkhwa Sacked Employees (Reinstatement) Act, 2012. Respondents are further directed to complete the process within 30 days after receipt of this judgment.

ĎGR TUDGE

Mr. Justice Ishtizq Ibrahim Mr. Justice Muhammad Nasir Mahfooz (W.P.No. 696-M of 2017 Muhammad 2011

<u>Announced</u> 22.11.2017

# Appointment Order PST (M) Sacked Employees District Education Officer Male District Dir Upper PH No. 0944-881400-Fax-880411 E-mail demisdirupper@gmail.com

As per Decision of Hororable Peshawar High Court Mingora Bench/Dar-ul-Qaza Swat W-P 327-M/2016 Announced on 11.04.2017 & Letter, Vide No.317/AD/(Litigation) Dated Peshawar the 02-08-2017 Director Elementary & Secondary Education Peshawar in the light of sacked employees (appointment) Act,2012(Khyber Pakhtunkhwa Act NO.XVII-2012 and @ of 30% share from the available vacant Posts. The following Sacked employees are hereby ordered against the post of Primary School Teachers (PST) Male School based in BPS-12 (Rs.13320-960-42120) Plus usual allowances as admissible under the rules & the existing policy of the Provincial Government, in Teaching Cadre on the terms and condition given below with effect from the date of taking over charge 🚓

S.#	Name	Enelly 1 an	· · · · · · · · · · · · · · · · · · ·	
01	Muhammad Din	Father's Name Roz Amin	Place of Posting	Union Council
<b>A</b> 2	Muhammad Zahir		GPS Palam	Palam
03	Bacha Uddin	Asfandyar Khan	GPS Doon Payeen	Sheringal
04	Aziz Ullah Khan	Nadar Khan	GFS Tarpatar No.1	Tarpatar
05	Fazal Qadim	Sarbiland Khan	GPS Marano	Darikand
<u>_</u>	± + + + + 5 €		GPS Batali	Chapper

TERMS AND CONDITIONS.

OINTMEN

- 01. Appointment of Sacked employees shall be made through only regular basis to a civil post who possessed the prescribed qualification and experience required for the said post during the period from 1<sup>st</sup> day of November, 1993 to the 30<sup>th</sup> day of November 1996(both days inclusive) and were dismissed/removed, or terminated from service during the period from 1<sup>st</sup> day of November, 1996 to 31<sup>st</sup> day of December, 1998 on various grounds.
- 02. They will be on probation for a period of one year.
- 03. Appointment of Sacked employees subject to section 7 may be appointed in their respective cadre of their concerned Department, in which they occupied civil posts
- before their dismissal, removal and termination from service. 04. The Sacked employees shall be appointed against thirty percent of the available
- 05. As per court decision if the appointees fail to acquire the training PTC and the required
- qualification (FA/FSC) within three years, their appointments will be considered as 06. The appointees will provide undertaking that they will be completed the requisite
- 07. They should obtain Medical Fitness certificate from Medical Superintendent Concerned. 08. The Sacked employees shall not be entitled to claim seniority and other back benefits. A sacked employee appointed under section 3 shall not be entitled to any claim of seniority, promotion or other back benefits and his appointment shall be considered as
- 09. The appointees will be governed by such rules and regulations/policies as prescribed by the Government from time to time.

# Appointment Order PST (M) Sacked Employees

- 10. If the appointees fail to take over charge with in fifteen days after issuance of this order, his appointment will be deemed as automatically cancelled.
- 11. Charge report should be submitted to all concerned.
- 12. All the drawing & Disbursing Officer are directed to verify their Academic and Professional Certificate/degree etc from the quarter concerned before starting their salaries otherwise the will be held responsible for the consequences if occurred in this regard.
- 13. The errors and omissions etc if found at any stage shall be rectified. In case of termination of said candidate, he will have no right to claim the order already issued in any court.
- 14. No. TA/DA is allowed.

### (MOIN-UD-DIN KHATTAK) District Education Officer, Male dir Upper

28

Endst: No. 5725 / File No.123/Apptt:/DEO(M)/ADO(P)Dated Dir (U) the 8 /08/2017.

Copy forwarded for information and necessary action to the: -

- 1. Director of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
- 2. District Accounts Officer Dir Upper
- 3. Dy: District Education Officer Male Dir Upper.
- 4. Sub: Divisional Education Officer Male Dir.
- 5. Sub: Divisional Education Officer Male Wari.
- 6. A.P EMIS Local Office.
- 7. Official Concerned.
- 8. M/File

District Education Officer, Male dir Upper

G STOD-NWI 12-596 1.5.	2,000	${\boldsymbol{\mu}}_{i}$	of	100-19.9.91(14)	
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MEDICAL CERTIFICATE.

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N.W.F.P. Med. No.4	GAUD-NALE-396 1.5. 2.000 Pr of 100-19.9.91(14)
N.W.F.P. Med. No.4	
MEDI	CAL CERTIFICATE.
	-
than an ann an Arran an Arra ann an Ar	
Name of Official Mr. Mohann	ad Zahir
Caste or race	<b></b>
Father's Name In. Abdul	Ghaffar %han
Residence Village Duro P.	O. Savni District Dir.
a la la 000	
Date of birth	· · · · · · · · · · · · · · · · · · ·
Fract height by measurement	. 51/9"
	A brown mole on the Right side of Face ne
Personal mark of identification	Nose.
Signature of the Official	Nose.
Signature of head of office	· · · · · · · · · · · · · · · · · · ·
	· ·
	Seal of Office
	••
	a candidate
I do hereby certify that	I have examined Mr. Mond Zahir a candidate
for employment in the office of	f the Maucation Department.
	had any disease communicable or other constitu-
and can not discover that he	NIT_
tional effection or bodily in	Firmity except
I do not consider this a	as disqualification for employment in the office
Education	His age according to his own statement.
S OF LDC . THE LEASE	- Seven
years and by appearance about	Twiching Seven
ATTESTED	Min
	15-
	Medical meningendent.
	Civil Hospitani Civil

The Director, E&SE Department, Khyber Pakhtunkhwa, Peshawar.

### DEPARTMENTAL APPEAL FOR FIXATION OF PAY IN BPS-12 w.e.f. 10-09-1995 i.e. FROM THE DATE OF INITIAL APPOINTMENT

### Respected Sir,

It is most humbly stated that was appointed before your good self Department as PTC vide order dated 10-09-1995 as stop gap arrangement later on I was regularly appointed against the said post vide order dated 31.12.1995 w.e.f. the date of my first appointment i.e. 10-09-1995. That in year 1997 the services were dispensed with on the ground that his services was no more required to the Department. That on promulgation of KP Sacked Employee Act, 2012 I was submitted an application for reinstatement being covered under the said law but the same was not considered. Feeling aggrieved I was filed writ petition before the Peshawar High Court Mingora Bench, which was allowed. Dear Sir, 1 was appointed as PST w.e.f. taking over charge in light of Peshawar High Court Darul Qaza Bench judgment. That in response I have submitted my charge report and started duty quite efficiently and up to the entire satisfaction of my superiors. That I am entitle for fixation of pay from the date of my initial appointment i.e. 10-09-1995 but the concerned authority has been appointed me with immediate effect i.e. from the date of taking over charge. Sir, I am feeling aggrieved preferred this Departmental appeal before your good self.

It is therefore, most humbly prayed that on acceptance of this Departmental appeal I may kindly be allowed for 'pay fixation w.e.f. 10-09-1995 with all consequential benefits. Any other remedy which your good self deems fit that may also be awarded in my favor

Dated: 18.09.2019

Sincerely

MUHAMMAD ZAHIR, PST GPS Doon Payen, Dir Upper

CANNEL VAKALATNAMA KPST peshawar ICP OF 2019 (APPELLANT) Tohammed Zahir (PLAINTIFF) (PETITIONER) VERSUS (RESPONDENT) Johnen Dep FT. (DEFENDANT) I/We mohammed Zabir 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. m Filter Dated. / /2019 Mohammad hahir

CLIENT

ACCEPTED NOOR MOHAMMAD KHATTAK

SHAHZULLAH YOUSAFZAI

MIR ZAMAN SAFI **ADVOCATES** 

OFFICE: Flat No.3, Upper Floor, Islamia Club Building, Khyber Bazar, Peshawar City. Mobile No.0345-9383141