

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR**

SCANNED  
KPST  
Peshawar

Appeal No. 636/2018

Muhammad Asif (Ex-Assistant Professor).....APPELLANT.:

**VERSUS**

Government of Khyber Pakhtunkhwa through Chief Secretary,  
Khyber Pakhtunkhwa and others.....RESPONDENTS

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**REPLY ON BEHALF OF RESPONDENTS**

Respectfully Sheweth:

**PRELIMINARY OBJECTIONS:**

- A- That the appeal is badly time barred
- B- That the appellant has no cause of action.
- C- The appellant has not come to the Tribunal with clean hands.
- D- The appeal is bad for non-joinder and mis joinder of parties.
- E- That the Directorate General of Technical Education and Manpower Training Khyber Pakhtunkhwa has, by law, been converted into the head office, and brought under the control of, Khyber Pakhtunkhwa Technical Education and Vocational Training Authority (K P TEVTA), with Managing Director as its administrative head. The name of respondent No. 4, therefore, needs to be changed in the appeal accordingly.
- F- The appellant is legally estopped for his own conduct.

**ON FACTS**

- 1) It is incorrect. The perusal of the personal file of the appellant transpires that he was appointed as Trade Instructor BPS-11 on 14.11.1978, having 03 years post matric Diploma of Associate Engineering. He was further allowed BPS-14 on 4.11.1980. He was later on allowed selection grade in BPS-16 and then promoted to BPS-17 on 7.10.1989.
- 2) It pertains to record.
- 3) It is an incorrect and misleading statement. After passing the B-tech honor Degree course, the appellant forwarded a request through proper channel that his name may be included in the seniority list of Technical Degree holder cadre Annexure-A. His request was honored by the department and accordingly his name was included in the engineering cadre. It is pertinent to state that the appellant was promoted to the post of Assistant Professor BPS-18 on the basis that Technical cadre. The appellant availed his promotion without any objection.

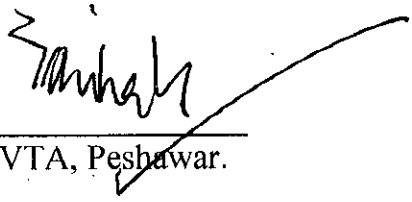
- 4) As explained in above para-3 ibid.
- 5) It is correct with further clarification that after improving his qualification the appellant submitted an application for the inclusion of his name in the seniority list of Engineers (Degree holders), as stated in the preceding para.
- 6) It is absolutely incorrect and misleading. The respondents had no mala fide intention by preparing list of promotion to the post of Assistant Professor on the basis of degree holder as explained in the preceding paras. The appellant's seniority was changed from diploma holder to degree holder on his own request. In his 2<sup>nd</sup> application he requested to include his name in diploma holder panel as it seemed to be un-beneficial for him to have his name in the panel of Degree holder at the time of promotion. The mala fide intentions of the appellant are evident and proved here.
- 7) As per the request of appellant his cadre was changed and he was accordingly promoted in that cadre. The seniority position of the appellant was placed accordingly.
- 8) It pertains to record.
- 9) It is absolutely incorrect. The appellant's application for the inclusion of his name in the seniority list of engineers available on record evidently shows that his name was included in the said list on his own request and not by the department wrongly or with mala fide intention.
- 10) It is incorrect. While retiring from service on 19.9.2016, the service length of the appellant was 03 years and 06 months in BPS-18, while there is mandatory requirement of 07 year service in BPS-18 for further promotion to BPS-19 as prescribed in the Service Rules concerned for this reason his case was not matured even on acting charge basis after availing promotion in BPS-18 on 26.3.2013, he was placed at Sr: No.40 of the seniority list of assistant professor (degree holder) BPS-18.

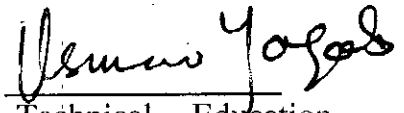
It is pertinent to mention that only degree holder can be promoted to BPS-19 if otherwise eligible while for diploma holder there is no line for promotion to BPS-19.

**ON GROUNDS**

- A) Ground "A" of the appeal, is incorrect. The appellant was treated according to law.
- B) Regarding ground "B" of the appeal proves the mala fide intention of the appellant himself. The promotion Rules which has been annexed by the appellant is for the engineering cadre where there is a line of promotion from BPS-18 to BPS-19. Whereas, the appellant is also lamenting that his name is wrongly included in the seniority list of engineering cadre.
- C) Ground "C" of the appeal is absolutely incorrect. The appellant has been promoted will in time. Moreover, it is pertinent to mention that there is no line of promotion to BPS-19 for the Diploma holders.
- D) Ground "D" of the appeal as explained in the preceding paras.
- E) Ground "E" of the appeal as explained in the preceding paras.
- F) Ground "F" of the appeal is also incorrect. All the application have been answer and communicated to the appellant at Annexure-.
- G) Ground "G" of the appeal as explained in the preceding paras.
- H) Ground "H" of the as explained in the preceding paras.
- I) The respondents seek permission to raise additional ground at the time of arguments.

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

  
**RESPONDENT NO.2)** \_\_\_\_\_  
Managing Director KP-TEVTA, Peshawar.

  
**RESPONDENT NO.4)** \_\_\_\_\_  
Secretary Industries, Technical Education  
Khyber Pakhtunkhwa, Peshawar.

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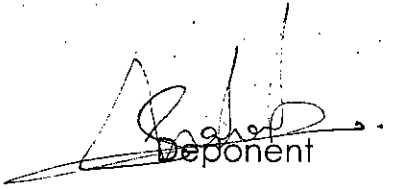
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**AFFIDAVIT**

I Shahab-ud-Din Khattak, Legal coordinator, KP-TEVTA, on behalf of respondents do hereby solemnly affirm and confirm that the contents of the connected reply is true and correct to the best of my knowledge and belief and nothing has been concealed from this august court.

  
Deponent

17301-6527091-5

OFFICE OF THE PRINCIPAL,  
GOVERNMENT COLLEGE OF TECHNOLOGY,  
PESHAWAR.

Annex A

No. GCT/Pesh/PF/ 245

Dated 23 th February/2009

To

The Director General,  
Technical Education & Manpower Trg.,  
NWFP., Peshawar.

Subject:- PASSED RESULT OF B.TECH(HONS) ANNUAL  
EXAM: 2009.

Enclosed please find herewith an application  
submitted by Mr. Muhammad Asif, Lecturer (Electrical) of this  
college which is self explanatory for further necessary action.

*Muhammad*  
PRINCIPAL.

DD Adm  
Ⓟ Check under Rules.  
①  
24/2

1133  
1132  
24-2-09

*[Signature]*  
28/2

3.226

To

Director General  
Manpower & Technical Education  
NWFP Peshawar

Subject: PASSED RESULT OF B-TECH (HONOURS) ANNUAL  
EXAMINATION 2009

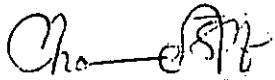
R/Sir

Respectfully it is stated that I have passed the B-tech (Hons) degree course. The result declared on dated 11 Feb 2009. There fore my name may kindly be included in the seniority list of Engineers. My B-tech (Hons) provisional certificate is herewith attached for ready reference.

Thank you

Dated 19 Feb 2009

Yours Truly,

  
Muhammad Asif

Lecturer (Electrical)

Government College of Technology Peshawar.