


FORM OF ORDER SHEET

Court of _____

Appeal No. 730/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	30/05/2024	<p>The appeal of Mst. Zubeda Khatoon presented today by Mr. Mir Zaman Safi Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar 03.06.2024. Parcha Peshi given to the counsel for the appellant.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

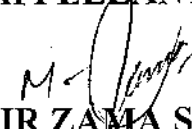
APPEAL NO. 730/2024

MST; ZUBEDA KHATOON VS EDUCATION DEPTT:

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APPELLANT

THROUGH: 
MIR ZAMA SAFI
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. 730 /2024

Mst; Zubeda Khatoon, Ex-SST (BPS-16),
GGHS Kotha, District Swabi.....APPELLANT

VERSUS

- 1- The Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Director, (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The District Education Officer (F), District Swabi.

.....RESPONDENTS

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED NOTIFICATION DATED 16.01.2024 WHEREBY PROMOTION NOTIFICATION TO THE POST OF THE SST (G) (BPS-16) DATED 16.10.2017 HAS BEEN WITHDRAWN AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS

PRAYER:

That on acceptance of this service appeal the impugned Notification dated 16.01.2024 may very kindly be set aside and restored the Notification dated 16.10.2017 and as such issue the retirement order of the appellant as SST (BPS-16) instead of SCT (BPS-16) with all consequential benefits. Any other relief which this august Tribunal deems appropriate may also be granted in favor of the appellant.

R/SHEWETH:

ON FACTS:

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

- 1- That the appellant was the employee of Education Department and was serving as SST (BPS-16) at GGHS Kotha, District Swabi, quite efficiently and upto the entire satisfaction of her superiors.
- 2- That the appellant while performing her duty as SCT (BPS-16) at GGHS Kalabat, Swabi was in the promotion zone to the post of SST (BPS-16) but she was refused from promotion with the observation that the degree acquired from Al-Khair University is not recognized.
- 3- That appellant feeling aggrieved from the inaction of the authority concerned by refusing the appellant from promotion to the post of SST (BPS-16) filed writ petition No. 2766-P/2017 before the Peshawar High Court, Peshawar which was decided in favor of the appellant vide judgment dated 11.09.2017. Copy of the judgment is attached as annexure.....A.

- 4- That in implementation of the judgment of Honourable Peshawar High Court, Peshawar the respondent department promoted the appellant to the post of SST (BPS-16) vide Notification dated 16.10.2017 and subsequently adjusted by the District Education Officer (F) District Swabi at GGMS Kotha now GGHS Kotha, District Swabi vide order dated 23.11.2017. That in pursuance of the order dated 23.11.2017 the appellant took over charge against the said post at the concerned station and started performing her duty with devotion and with all zeal and zest. Copies of the promotion Notification dated 16.10.2017 and adjustment order dated 23.11.2017 are attached as annexure.....**B & C).**
- 5- That the appellant while performing her duty at GGHS Kotha, District Swabi, astonishingly her promotion order dated 16.10.2017 has been withdrawn by the respondent No.2 vide impugned Notification dated 25.01.2022. Copy of the Notification dated 25.01.2022 is attached as annexure.....**D).**
- 6- That the respondent department was withdrawn the promotion of the appellant on the basis of judgment passed by the Honourable Supreme Court of Pakistan in C.P. No. 2070 of 2017 dated 12.06.2019 against the judgment in writ petition No. 2766-P/2016 dated 19.04.2017 of the Peshawar which was filed by the petitioner for his up-gradation, therefore, the judgment on the basis of which the promotion of appellant has been withdrawn is not related to the appellant. Copy of the judgment is attached as annexure.....**E).**
- 7- That feeling aggrieved from the Notification dated 25.01.2022 the appellant preferred departmental appeal before the respondent No.1 which was accepted and the Notification dated 16.10.2017 regarding promotion of the appellant to the post of the SST (G) (BPS-16) alongwith her other colleagues was restored vide Notification dated 17.03.2022. Copies of the departmental appeal & Notification dated 17.03.2022 are attached as annexure.....**F & G).**
- 8- That astonishingly at the verge of retirement of the appellant the respondent No.2 has been withdrawn the promotion Notification of the appellant dated 16.10.2017 through impugned Notification dated 16.01.2024 on the basis of an illegal inquiry and as such the appellant has been retired on superannuation basis (60 years) from government service on 04.05.2024. copies of the impugned Notification and other documents are attached as annexure.....**H).**
- 9- That the appellant feeling aggrieved from the impugned Notification dated 16.01.2024 preferred the instant Departmental appeal before the respondent No.1 but no reply has been received so far. That it is pertinent to mention that during pendency of the departmental appeal the respondent department issued letter dated 26.04.2024 to the District Education Officer (F), Swabi for preparing pension case of the appellant against the post of SCT (BPS-16) which illegal and unlawful. Copies of the departmental appeal and letter dated 26.04.2024 are attached as annexure.....**I & J).**

10- That the appellant feeling aggrieved and having no other remedy but to file the instant appeal on the following grounds amongst the others.

GROUND:


- A- That the impugned Notification dated 16.01.2024 is against the law, facts, norms of natural justice and materials on the record, hence not tenable and liable to be set aside.
- B- That the appellant has not been treated by the respondent department in accordance with law and rules on the subject noted above and as the authority concerned violated Article-4 and 25 of the Constitution of Islamic Republic of Pakistan, 1973.
- C- That the respondent department withdrew the promotion notification of the appellant on miss-interpretation of the judgment in C.P No. 2070 of 2017 which is not relevant to the case of appellant, therefore, the impugned Notification dated 16.01.2024 is not tenable and liable to be set aside.
- D- That the authority concerned acted in arbitrary and malafide manner while issuing the impugned Notification dated 16.01.2024 which is not tenable in the eye of law, hence liable to be set aside.
- E- That the similarly placed employees have not been disturbed while the promotion Notification of the appellant has been withdrawn by the authority concerned unilaterally which is based on discrimination.
- F- That the impugned Notification dated 16.01.2024 has been issued by the authority in violation of Article-38(e) of the Constitution of Islamic Republic of Pakistan, 1973.
- G- That the appellant was at the verge of retirement and the respondent department without any lawful justification withdrawn the promotion notification of the appellant which is clear violation of the principle of natural justice.
- H- That the impugned Notification dated 16.01.2024 has been issued in utter disregard of law and prevailing rules and as such the same has been issued in violation of the judgment of the Apex Court, therefore, the same is not tenable and liable to be set aside.

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

Dated: 29.05.2024

APPELLANT

ZUBEDA KHATOON

THROUGH: 
MIR ZAMAN SAFI
ADVOCATE

CERTIFICATE:

It is, certified that no other earlier appeal was filed between the parties.


DEPONENT

LIST OF BOOKS:

- 1- CONSTITUTION OF PAKISTAN, 1973
- 2- SERVICES LAWS BOOKS
- 3- ANY OTHER CASE LAW AS PER NEED

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____/2024

ZUBEDA KHATOON

VS

EDUCATION DEPTT:

AFFIDAVIT

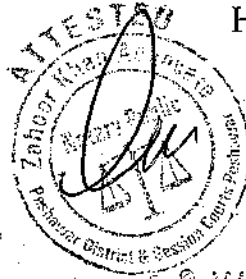
I **Mir Zaman Safi**, Advocate High Court, Peshawar on the instructions and on behalf of my client do hereby solemnly affirm and declare that the contents of this **service appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.



MIR ZAMA SAFI

Advocate

High Court, Peshawar



9 MAY 2024

①

A-⑥

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

W.P.No. 2766 P /2017



1. Maqsad Hayat S/o Umar Hayat, Certified Teacher, District Peshawar.
2. Zubada Khatoon W/o Alam Zeb SCT District Swabi.
3. Haseena Sultan W/o Asghar Khan SST District Swabi.
4. Rehana Kausar W/o Sultan Akbar SET District Mardan.
5. Hayat Gul S/o Rehman Gul Senior Drawing Master District Buner.
6. Sabroon W/o Naseeb Gul SCT District Buner.

.....Petitioners

VERSUS

- 1) Government of Khyber Pakhtunkhwa, through Secretary, Elementary & Secondary Education, Civil Secretariat, Peshawar.
- 2) Director Education, Government of Khyber Pakhtunkhwa, Peshawar.
- 3) District Education Officer District Peshawar.
- 4) District Education Officer District Mardan.
- 5) District Education Officer District Swabi.
- 6) District Education Officer District Buner.
- 7) Higher Education Commission of Pakistan, Islamabad.

M-Q

.....Respondents

FILED TODAY
Deputy Registrar
06 JUL 2017

ATTESTED
EXAMINER
Peshawar High Court
16 SEP 2017

i) To direct the respondents to accept/treat their educational certificates obtained from Al-Khair University, as valid; and

ii) To direct the respondents not to treat their educational certificates/degrees obtained from Al-Khair University as hindrance/obstacle in the way of their promotions."

3. As per averments in the writ petition, the petitioners are serving in Education Department on various positions i.e. CTs, SETs and DMs etc. They besides having obtained the qualifications of M.A, BA and BSc etc from various University, have obtained Certificates/degrees of BA, M.Ed, B.Ed, etc from Al-Khair University. Their grievance is that they were eligible to promotions as SSTs, but on refusal of the respondents to recognize their degrees/certificates from Al-Khair University as valid, refused them promotion, hence, the action of the respondents being against the law and justice is liable to be struck down.

4. Respondents have filed their para-wise comments wherein they have averred that as per letter dated 13.04.2015, issued by the Higher Education Commission (HEC) Al-Khair University has failed to register itself with HEC, as such it cannot offer Associate Degree in Education (ADE). They further averred that during scrutiny of the educational testimonials of the petitioners, these were found obtained from Al-Khair University, hence, could not be considered as valid.

ATTESTED
EXAMINER
Higher Education Commission
18 SEP 2017

Received By: *[Signature]*
 Date of Delivery of Copy: *18/08/17*
 Date Given For Delivery: *16/08/17*
 Date of Preparation of Copy: *16/08/17*
 Total: *2000*
 Present Fee: *2000*
 Copying fee: *2000*
 No of Pages: *10*
 Date of Presentation of Application: *15/08/17*
 No: *6557*

[Handwritten mark]

[Signature]
 CREATED TO BE TRUE COPY
 16 SEP 2017
 District Court
 District Court
 District Court
 District Court
 District Court



MUHAMMAD YOUNIS THAHEM
 JUSTICE

[Signature]
 ROOH-UL-AMIN KHAN
 JUSTICE

11.09.2017
 Announced:

8. This petition is disposed of accordingly, in light of the above observations.
 respondents.
 considered as valid for all intents and purposes by the

8/A



**Directorate of Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar**

PH No. 091-9225340-9225341,
9225338, 9225339
Fax 091-9225345
E-mail rafiq_kk851@yahoo.com

B-9

Notification

Consequent upon the recommendations of the Departmental Promotion Committee and in pursuance of the Government of Khyber Pakhtunkhwa Elementary and Secondary Education Notification NoSO(PE)/4-5/SSRC/Meeting/2013/Teaching Cadre dated 24th July, 2014, the following SCTs/CTs, SDMs/DMs, SATs/ATs, STTs/TTs, Senior Qarias/Qarias, PSHTs/SPSTs/PSTs are hereby promoted to the post of SST (Bio-Chem), SST (Phy-Maths), SST (General) noted against each BPS-16 (Rs. 18910-1520-64510) plus usual allowances as admissible under the rules on regular basis under the existing policy of the Provincial Government, on the terms and condition given below with immediate effect and further they will be posted by the District Education Officer concerned.

A. SST (General)

1. PROMOTION OF SCT/CT TO SST (General) BPS-16.

Total No. of SST General (F) Posts vacant Posts	20
25% share initial recruitment	05
75% share for Promotion.	15
20 % Share of promotion of SCT/CT	07
Already Promoted as SST General	03
Posts available for promotion	04
Promoted through this order	02

S.No	S.L No	Name of Official & Present Place of Posting	Date of Birth	Date of Appoint: as Regular SQari	Qualification	Remarks
5	40	Zubeda Khatoon GGHSS kalabat	05-05-1964	01-11-1995	MA/M.Ed	Services placed at the disposal of DEO (F) Swabi for further posting against SST (General) post.
6	50	Rehana Kausar GGHSS Gar Munara	15-04-1972	23-06-1997	MA/M.Ed	-----do-----

2. PROMOTION OF PSHT/SPST/PST TO SST (General) BPS-16.

Total No. of SST General (F) Posts vacant Posts	20
25% share initial recruitment	05
75% share for Promotion.	15
20 % Share of promotion of PSHT/SPST/PST	04
Posts available for promotion	01
Promoted through this order	01

S.No	S.L No	Name of Official & Present Place of Posting	Date of Birth	Date of Appoint: as Regular PST	Qualification	Remarks
1	148	Raida Begum GGPS Kunda	02-10-1966	07-8-1985	BA/B.Ed	Services placed at the disposal of DEO (F) Swabi for further posting against SST (General) post.

m/b

(10)

Terms and conditions:-

- 1 They would be on probation for a period of one year extendable for another one year.
- 2 They will be governed by such rules and regulations as may be issued from time to time by the Govt.
- 3 Their services can be terminated at any time, in case their performance is found unsatisfactory during probationary period. In case of misconduct, they shall be preceded under the rules framed from time to time.
- 4 Charge report should be submitted to all concerned.
- 5 Their Inter-Se- seniority on lower post will remain intact.
- 6 No TA/DA is allowed for joining his duty.
- 7 They will give an under taking to be recorded in their service book to the effect that if any over payment is made to him in light this order will be recovered and if he/she is wrongly promoted he/She will be reversed.
- 8 They will be governed by such rules and regulations as may be issued from time to time by the Govt.
- 9 Before handing over charge once again their document may be checked if they have not the required relevant qualifications as per rules, they may not be handed over charge of the post.

(Muhammad Rafiq Khattak)

Director

Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar.

Endst: No. 2851-55 / File No.2/Promotion SST B-16: Dated Peshawar the/10/2017.

Copy forwarded for information and necessary action to the: -

1. Accountant General Khyber Pakhtunkhwa Peshawar.
2. District Education Officer concerned
3. District Accounts Officer concerned
4. Official Concerned.
5. IS to the Secretary to Govt: Khyber Pakhtunkhwa E&SE Department.
6. PA to the Director E&SE Khyber Pakhtunkhwa, Peshawar
7. M/File

Dy: Director (Estab)

Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar

M. B.



DISTRICT EDUCATION OFFICER (FEMALE) SWABI
 Phone & Fax NO 0938-280339, Email: emisfswabi@yahoo.com

C-11

ADJUSTMENT ORDER (PROMOTION TO SST)

Consequent upon the Notification issued by the Director E&SE Khyber Pakhtunkhwa Peshawar Endst:No 6263-68/File No.2/Promtion SST B-16 dated Peshawar the 30-10-2017 the following female PSHTs/ SPSTs/PSTs promoted to the post of SST (Bio-Chemistry / General) are hereby adjusted at the school noted against each BPS-16 (Rs.18910-1520-64510) plus usual allowances as admissible under the rules on regular basis under the existing policy of the provincial Government on the terms and conditions given below with effect from their taking over charge.

SST Bio-Chemistry

S#	S.L. No	Name of Teacher	Present place of posting	Name of school where adjusted	Remarks
1	1381	Haseena Sultan PSHT/SPST	GGPS No.1 Kotha Swabi	GGHS Bamkhel	Adjusted against SST (Bio-Chem)

SST General

S#	S.L. No	Name of Teacher	Present place of posting	Name of school where adjusted	Remarks
1	40	Zubeda Khatoon S.CT	GGHSS Kalabat	GGMS Kotha	Adjusted against SST (Gen)
2	50	Rehan Kausar S.CT	GGHSS Gar Munara	GGHS Yousof	Adjusted against SST (Gen)
3	118	Rafida Begum PSHT/SPST	GGPS Kunda	GGHS Tothar	Adjusted against SST (Gen)

Terms and conditions:
 1. She has passed B.A from Al-Farooq University. She was deferred for promotion to the post of SST General (BPS-16) in previous time for want of vacancies. She is now considered for promotion in pursuance of judgement of Peshawar High Court Peshawar dated 11.09.2017 in writ petition No2756-P/2017 with CM No 1793-P/2017. She is promoted conditionally subject to the judgement of Supreme Court in CPLA.
 2. She would be on probation for a period of one year extendable for another one year.
 3. She will be governed by rules and regulations as may be issued from time to time by the Govt.
 4. Her services can be terminated at any time, in case their performance is found unsatisfactory during probationary period. In case of misconduct, they shall be proceeded until the rules framed from time to time.
 5. Charge report should be submitted to all concerned.
 6. Her inter-Sr. seniority on lower post, will remain intact.
 7. No TA/DA is allowed for joining his duty.
 8. She will give an undertaking to be entered in their service book to the effect that any overpayment is made to him in this order will be recovered and if she is promoted, she will be reversed.
 9. Before handing over charge, one copy of her documents may be checked if she has not the required relevant qualifications as per rules, she may not be handed over charge of the post.

(NAGHMANA SARDAR)
 DISTRICT EDUCATION OFFICER
 (FEMALE) SWABI

Endst:No. 5228-9 /SST Adjustment/ Dated Swabi the 23-11 /2017

Copy of the above is forwarded for information and n/action to the:-

mth



**DIRECTORATE OF ELEMENTARY & SECONDARY
EDUCATION KHYBER PAKHTUNKHWA PESHAWAR**

NOTIFICATION

D-12

In compliance of the judgment of the august Supreme Court of Pakistan rendered in the C.P. No. 2070 of 2017 dated 12-06-2019 against the judgment rendered in W.P. No. 2766-P/2016 dated 19-04-2017 of the Peshawar High Court, Peshawar and consequent upon approval of the Competent Authority, the promotion orders issued vide this office Endst. No. 2854, SST No.02 Promotion SST H-16 dated 16-10-2017, Endst. No. 6269-72/F.No.02/Promotion SST H-16 dated 30-10-2017 and Endst.No.6263-68/F.No.02/Promotion SST H-16 dated 30-10-2017 and adjustment order of D/O (F) Swabi vide Endst. No. 5228-G dated: 23-11-2017 respectively in respect of the following SST teachers are hereby withdrawn with immediate effect in the best interest of public

1. Zubeda Khatoon w/o Alma Zeb SST District Swabi.
2. Rehana Kamsar w/o Sultan Akbar SST District Mardan.
3. Sabroon w/o Naseeb Gul SST District Buner.
4. Haseena Sultan D/O Sultan Mehmood SST District Swabi.

**Director
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar**

Endst. No. 2854 73 F.No. W.P. No. 2766/2016-CP 2070/2017/Litigation-I. Dated 25/01/2022

Copy of the above is forwarded to the:-

1. Registrar, Supreme Court of Pakistan, Islamabad.
2. Additional Registrar, Judiciary, Peshawar High Court, Peshawar.
3. Advocate General, Peshawar High Court, Peshawar, Khyber Pakhtunkhwa.
4. District Education Officers (Female) Swabi, Mardan and Buner.
5. District Accounts Officers Swabi, Mardan and Buner.
6. Section Officer, Litigation-I, ESED, Khyber Pakhtunkhwa Peshawar.
7. Teachers concerned.
8. PA to Director (E&SE) Local Office.
9. Master file.

**Assistant Director Establishment (F)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar**

[Signature]
25/1/22

[Signature]

E-13 52

Judgment Sheet

IN THE PESHAWAR HIGH COURT,
PESHAWAR

Judicial department



JUDGMENT

Writ Petition No.2766-P/2016

Date of hearing.....19.04.2017

Maqsad Hayat

Vs

The Secretary, Government of KPK & others

Petitioner(s) by: Mr. Muhammad Asif Yousafzai, Advocate

Respondent(s) by: Mr. Rab Nawaz Khan, AAG.

MUHAMMAD YOUNIS THAHEEM, J:-

Petitioner invoked the constitution jurisdiction of this Court under Article 199 of the Constitution of Islamic Republic of Pakistan 1973, with the following relief:-

"On acceptance of this writ petition, the respondents may be directed to up-grade the petitioner to BPS-14 on the basis of considering MA qualification for up gradation w.e.f 15.09.1997 with all consequential benefits, with further direction for fixation of pay accordingly. Any other remedy which this august Court deems fit and appropriate that may also be awarded in favour of the petitioner."

3/2/17

ATTESTEL
EXAMINER
Peshawar High Court

14

§ 3

2. Brief facts of present petition are that petitioner was initially appointed as CT Teacher in BPS-9 vide appointment order dated 13.05.1990, thereafter petitioner also obtained Master degree i.e M.A, and the Provincial Government vide notification dated 07.08.1991 upgraded various posts in which the CT posts were included in which those CT Teachers, who had BA, BSC qualification in second division were upgraded in BPS-14 with 1/3rd Selection Grade in BPS-15, however petitioner was not upgraded due to 3rd division in BA. However, upon obtaining B.Ed decree was awarded graded pay of CT post vide order dated 17.10.1993. Afterward vide notification dated 26.01.2008 CT Teacher with BA/BSC qualification plus experience/training were upgraded to BPS-15 w.e.f 01.10.2007 and in consequence of that notification petitioner was also upgraded to BPS-15 on 08.07.2008. The main stance of the petitioner is that he has not been upgraded in BPS-15 due to BA 3rd division, whereas despite M.A decree in 2nd division on 15.09.1997 was not given same up-gradation to

Ijaz

ATTESTED
EXAMINER
Ghawar High Court

(15)

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BPS-14 vide notification dated 07.08.1991, when he was upgraded vide notification dated 26.01.2008. He also contended that up-gradation on the basis of his higher qualification of M.A was not granted which is injustice to him.

3. Comments were called from the respondents No.2 to 4, who while responding in para No.5 of the petition responded as below:-

"That in reply of para No.5, it is submitted that all CT Teachers who had 10 years service as CT Teacher were upgraded to BPS-15 in the year 2007 and petitioner was also upgraded on the same analogy. It is pertinent to mention here that the petitioner was appointed in BPS-9 as CT Teacher while having 3rd division bachelor degree (B.A), therefore, he remained in BPS-9 till the up gradation under the notification No.FD (PRC)1-1/89 dated 07.08.1991, wherein it is clearly mention that all the present and future Elementary and Secondary School Teachers who possess the qualification of B.A/BSc (2nd division) plus existing prescribed professional training shall be placed in BPS-14 with 1/3rd in selection grade BPS-15.

All other teachers who do not possess higher qualification shall continue getting existing pay scale with selection grade accordingly. However, the higher scales/grade allowed to these teachers will be personal

Signature

ATTESTED
EXAMINER
Achawat High Court

16

SS

to them and the inter-seniority will remain intact."

4. Arguments heard and record perused.

5. From the perusal of up-gradation Rules notified as No. FD (PRC)1-1/89 dated 07.08.1991, the requirement of up-gradation in Rule-2 of the above notification was provided as such that the CT Teacher who possess the qualification of BA/BSc second division plus existing prescribed professional training shall be placed in BPS-14 with 1/3rd in selection grade BPS-15, so petitioner having 3rd division in BA was rightly not upgraded and thereafter was upgraded vide notification dated 26.01.2008 vide office order dated 08.07.2008 on the basis of BA/BSc and as trained teacher to the upgraded scale in BPS-15 one time only.

6. In view of above discussed position, the petitioner was previously not upgraded due to having 3rd division in BA and later on vide order dated 08.07.2008 was upgraded due to his qualification mentioned in the notification dated 26.01.2008, so he is barred to claim up-gradation either w.e.f 15.09.1997 and 01.10.2007, as vide

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ATTESTED
EXAMINER
Bachchan High Cour

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notification dated 07.08.1991 then rule was BA second division, hence petitioner having deficiency in qualification at relevant period, so was not upgraded then, hence petitioner has no case in his favour. No injustice has been caused to the petitioner.

7. Thus in view of above, this petition is admitted and being bereft of merit is dismissed.

Announced
19.04.2017.

Asad Khan
JUDGE

27/5/24
JUDGE

46062

.....
Date of Presentation of Application 22-05-2024
No of Pages 11-P
Copying fee.....
Total 44-00
Date of Preparation of Copy 27-05-2024
Date of Delivery of copy 27-05-2024
Received By [Signature]

CERTIFIED TRUE COPY
EXHIBIT
In the Court of the District Judge, District Court, Prayagraj
Authorized Under Article 89 of
the Constitution of India
27 MAY 2024

Done
29/4/17





(18)

DIRECTORATE OF ELEMENARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR

NOTIFICATION

The following inquiry committee is hereby nominated to conduct inquiry in the service appeals C.P No. 2070 of 2017 dated: 12-06-2019 (copies enclosed).

- 1 Mr.Abdus Samad, Deputy Director (Legal) local Directorate (Chairman).
- 2 Dr.Hayat Khan, Assistant Director Litigation-II local Directorate (Member).

The inquiry officers should inquire the matter and submit detail report along with clear findings and recommendations within one week time positively.

Note: Till then, this office order issued vide Endst: No. 8864-72 dated: 25-01-2022 will remain suspended.

Director
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

Endst.No. 9489-88 /F.No. W.P No. 2766/2016-CP 2070/2017/Litigation-I.

Dated Peshawar the 26/06/2019

Copy of the above is forwarded to the:-

1. Mr.Abdus Samad, Deputy Director (Legal) local Directorate.
2. Dr.Hayat Khan, Assistant Director Litigation-II local Directorate.
3. District Education Officers (Female) Swabi and Buner.
4. District Accounts Officers Swabi and Buner.
5. Teachers concerned.
6. PA to Director (E&SE) Local Office.
7. Master file.

e/c

Assistant Director (Establishment) (E)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

To,

The Secretary (E&SE) Department,
Khyber Pakhtunkhwa, Peshawar.

F-19

Subject: DEPARTMENTAL APPEAL AGAINST THE IMPUGNED NOTIFICATION DATED 25.01.2022 WHEREBY PROMOTION NOTIFICATION DATED 16.10.2017 OF THE APPLICANT TO THE POST OF SST (BPS-16) HAS BEEN WITHDRAWN BY WRONGLY INTERPRITTED THE JUDGMENT OF HONOURABLE SUPREME COURT OF PAKISTAN

Respected Sir,

Brief facts of the present departmental appeal are as under:-

- 1- That the applicant is the employee of your good self-Department and is serving as SST (BPS-16) at GGHS Kotha, District Swabi, quite efficiently and upto the entire satisfaction of her superiors.
- 2- That the applicant while performing her duty as SCT (BPS-16) at GGHSS Kalabat, Swabi was in the promotion zone to the post of SST (BPS-16) but she was refused from promotion with the observation that the degree acquired from Al-Khair University is not recognized.
- 3- That applicant feeling aggrieved from the inaction of the authority concerned by refusing the applicant from promotion to the post of SST (BPS-16) filed writ petition No. 2766-P/2017 before the Peshawar High Court, Peshawar which was decided in favor of the applicant vide judgment dated 11.09.2017.
- 4- That in implementation of the judgment of Honourable Peshawar High Court, Peshawar the authority concerned promoted the applicant to the post of SST (BPS-16) vide notification dated 16.10.2017 and subsequently adjusted by the District Education Officer (F) District Swabi at GGMS Kotha now GGHS Kotha, District Swabi vide order dated 23.11.2017. That in pursuance of the order dated 23.11.2017 the applicant took over charge against the said post at the concerned station and started performing her duty with devotion and with all zeal and zest. Copies of the promotion Notification dated 16.10.2017 and adjustment order dated 23.11.2017 are attached as annexure.....A & B).
- 5- That the applicant while performing her duty at GGHS Kotha, District Swabi, astonishingly her promotion order dated 16.10.2017 has been withdrawn by the Worthy Director Elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar vide impugned Notification dated 25.01.2022. Copy of the Notification dated 25.01.2022 is attached as annexure.....C).
- 6- That the authority concerned has withdrawn the promotion of the applicant on the basis of judgment passed by the Honourable Supreme Court of Pakistan in C.P. No. 2070 of 2017 dated 12.06.2019 against the judgment in writ petition No. 2766-P/2016 dated 19.04.2017 of the Peshawar which was filed by the petitioner for his up-gradation, therefore, the judgment on the basis of which the promotion of applicant has been withdrawn is not related

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to the applicant. Copy of the judgment of Supreme Court is attached as annexure.....D).

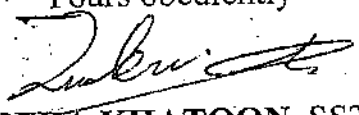
- 7- That the judgment in writ petition No. 2766-P/2017 was decided on 12.09.2017 in favor of the applicant and till date the same judgment is in field which has not been challenged by the authority before the Supreme Court of Pakistan.
- 8- That the applicant feeling aggrieved from the impugned Notification dated 25.01.2022 preferred the instant Departmental appeal before your good self on the following grounds.

GROUND:

- A- That the impugned Notification dated 25.01.2022 is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B- That the applicant has not been treated by the authority concerned in accordance with law and rules on the subject noted above and as the authority concerned violated Article-4 and 25 of the Constitution of Islamic Republic of Pakistan, 1973.
- C- That the authority concerned withdrew the promotion notification of the applicant on miss-interpretation of the judgment in C.P No. 2070 of 2017 which is not relevant to the case of applicant, therefore, the impugned Notification dated 25.01.2022 is not tenable and liable to be set aside.
- D- That the authority concerned acted in arbitrary and malafide manner while issuing the impugned Notification dated 25.01.2022 which is not tenable in the eye of law, hence liable to be set aside.
- E- That the similarly placed employees have not been disturbed while the promotion Notification of the applicant has been withdrawn by the authority concerned unilaterally which is based on discrimination.
- F- That the impugned Notification dated 25.01.2022 has been issued by the authority in violation of Article-38(e) of the Constitution of Islamic Republic of Pakistan, 1973.

It is, therefore, most humbly prayed that on acceptance of this Departmental appeal the impugned Notification dated 25.01.2022 may very kindly be set aside and restore the Notification dated 16.10.2017 with all back benefits.

Dated: 27.01.2022 Note:- Copy forwarded to Director E & JE Deptt. for information:
Yours obediently



MRS. ZUBEDA KHATOON, SST (BPS-16),
GGHS Kotha, District Swabi.





G-21

**DIRECTORATE OF ELEMENARY & SECONDARY
EDUCATION KHYBER PAKHTUNKHWA PESHAWAR**

NOTIFICATION

Consequent upon approval of the Competent Authority, the Notification issued vide this office bearing Endst: No. 8864-72/F.No. W.P No. 2766/2016-CP 2070/2017/Litigation-I dated: 25-01-2022, in respect of the following SST teachers are hereby withdrawn with effect from the date of its issuance, in the best interest of public.

1. Zubeda Khatoon w/o Alam Zeb SST District Swabi.
2. Rehana Kausar w/o Sultan Akbar SST District Swabi.
3. Sabroon w/o Naseeb Gul SST District Buner.
4. Haseena Sultan D/O Sultan Mehmood SST District Swabi.

Consequent upon the above, the DEO (F) Swabi and Buner are hereby by directed to correct/rectified the term and Condition falling at S.No.01 of their adjustment orders through a corrigendum by deleting/removing the words, "Conditional Promotion".

**Director
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar**

Endst.No 1075-80 /A-17/Inquiry Report/Judgment dated: 12-06-2019/CPLA 2070/17.

Dated 17/03/2022

Copy of the above is forwarded to the:-

1. Registrar, Supreme Court of Pakistan, Islamabad.
2. Additional Registrar, Judiciary, Peshawar High Court, Peshawar.
3. Advocate General, Peshawar High Court, Peshawar, Khyber Pakhtunkhwa.
4. District Education Officers (Female) Swabi and Buner.
5. District Accounts Officers Swabi and Buner.
6. Section Officer, Litigation-I, ESED, Khyber Pakhtunkhwa Peshawar.
7. Teachers concerned.
8. PA to Director (E&SE) Local Office.
9. Master file.

**Deputy Director Establishment (F)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar**

17/3/22



**DIRECTORATE OF ELEMENARY & SECONDARY
EDUCATION KHYBER PAKHTUNKHWA PESHAWAR**

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H-22

NOTIFICATION

Consequent upon approval of the Competent Authority, the Notification issued bearing Fndst. No. 2851-55/A-17/File.No/02/Promotion/SST/B-16 Dated: 16-10-2017 in respect of Mst. Zubeda Khatoon SST-G BS-16 and Mst. Rehana Kausar SST-G District Swabi is hereby withdrawn ab initio in the light of the inquiry report vide No.7855 dated: 18-12-2023 in the best interest of public.

**Director
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar**

File No 5514-16 /A-17/Inquiry Report/Judgment dated:120-06-2019/CPLA 2070/17

Dated 16/04/2024

Copy of the above is forwarded to the:-

1. District Education Officer (Female) Swabi
2. District Accounts Officer Swabi
3. Teacher concerned.
4. PA to Director (E&SE) Local Office
5. Master file.

**Deputy Director Establishment (F)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar**

mb

BY DISTRICT

[Handwritten signature]

1. Director of NSI (NSI) ...
2. ...
3. ...
4. ...

2-1-73

DISTRICT

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NSI ...
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NSI ...

NSI

(23)

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ATTESTED

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**DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR**

NO. 71169

/A-17/Inquiry Report/Judgment dated 12/06/2019 Maqсад Hayat VS Govt:

Dated Peshawar the 08/03/2024

To

The District Education Officer
(Female) Swabi.

SUBJECT:- ADJUSTMENT

Memo:-

I am directed to refer to the subject cited above and to state that due to withdrawal of the promotion order in respect of Mst. Zubeda Khatoon SST-G BS-16 and Mst. Rehana Kausar SST-G BS-16 vide this Notification Endst: No.5514-16 dated 16/1/2024 they may be retained against their original position at their own schools under intimation to this Directorate.

Deputy Director Establishment (F)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

Copy forwarded for information to the:-
PA to Director E&SE Local office.

Deputy Director Establishment (F)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

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GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
Block- "A" Opposite M PA's Hostel, Civil Secretariat
Peshawar
Phone No. 091-9223540

25/A

SO (P/F)/E&SED/5-1/Gen: Misc/Zubaida Khatoon /2024
Dated Peshawar the, 5th March, 2024

To,

3-3-24

The Director,
E&SE Khyber Pakhtunkhwa,
Peshawar.

Subject: - APPEAL FOR ILLEGAL INQUIRY AND NOT TO TAKE ACTION.

I am directed to refer to your letter No. 7860/A-17/Inquiry Report/Judgment Dated 20.06.2019/CPLA 7070/17 dated 25.01.2024 on the subject noted above and to say to furnish detailed report dilating upon the Judgment of the Court dated 11.09.2017 (copy enclosed) in the case of Mst. Zubaida Khatoon SST (G) and the plea taken by the Directorate in withdrawing the notification touching upon the promotion case of applicant at the earliest, please.

Encl as above

SECTION OFFICER (PRIMARY/F)

o/c
Copy forwarded to the PS to Secretary, E&SE Department Khyber Pakhtunkhwa.

o/c

SECTION OFFICER (PRIMARY/F)

m/b

**DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR**

NO 1609 /A-17/Retirement/Swabi/Vol-03

Dated Peshawar the 26/4/2024

To

The District Education Officer
(Female) Swabi

SUBJECT:- RETIREMENT SANCTION

Memo:-

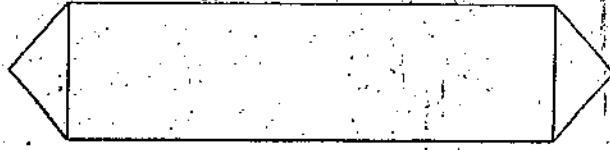
I am directed to refer to your letter of No. 889 dated: 15-04-2024 on the subject cited above and to return herewith (original) In respect of Mst: Zubaida Khatoon SST GGHS Kotha Swabi and to ask you that the promotion of SST is not restored yet but this office direct you to retain her at her own school/station. Hence her case may be prepared against her SCT post and submit this office to proceed further into the matter.

26/4/24
Assistant Director Establishment (F)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

Copy forwarded for information to the:-
PA to Director E&SE Local Office.

Assistant Director Establishment (F)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

بعدالت حصر محضو اسروس ٹرڈ مارکیٹ



2 مخانبس
صاحب مزیدہ کاٹون بنام محکمہ

مورخہ

مقدمہ

دعویٰ

جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے بیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام کے لیے مسٹر زحان صدیق اور مسٹر سید
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم بیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی
اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و بیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت
مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے
تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے
اور اس کا ساختہ پر داخستہ منظور قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے
سبب سے وہ ہوگا۔ کوئی تیار بیٹھی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابندیوں
گے۔ کہ بیروی مذکور کریں۔ لہذا وکالت نامہ لکھد یا کہ سند رہے۔

2024

مئی

ماہ

29

الرقوم

العہدہ

کے لئے منظور ہے۔

مقام

عدالت مشفقہ ماریٹ
چوک مشفقہ انڈیا ٹی ڈون: 2220193
Mob: 0345-9223239

Accepted by
Mr. Zaman Sarfo
Advocate

M

مستحقین
Zaman Sarfo