


FORM OF ORDER SHEET

Court of _____

Appeal No. 839/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	12/06/2024	<p>The appeal of Mr. Muhammad Siddique presented today by Mr. Noor Muhammad Khattak Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 14.06. 2024. Parcha Peshi given to counsel for the appellant.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

SERVICE APPEAL No. 839 /2024

MR. MUHAMMAD SIDDIQUE

V/S

EDU: DEPTT:

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APPELLANT

THROUGH:

NOOR MUHAMMAD KHATTAK
ADVOCATE SUPREME COURT

.1-

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL No. 839 /2024

Mr. Muhammad Siddique, C.T (BPS-15),
GMS Gawaki District Kurram

..... APPELLANT

VERSUS

- 1- The Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
- 2- The District Education Officer (M), District Kurram.

..... RESPONDENTS

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE INACTION OF THE RESPONDENTS BY NOT GRANTING SENIORITY W.E.F. THE DATE OF INITIAL APPOINTMENT AS CERTIFIED TEACHER (BPS-15) I.E. 15/01/2013 AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD

Prayer:-

That on acceptance of the instant service appeal, the appellant may kindly be granted/allowed Seniority from the date of initial appointment i.e. w.e.f. 15/01/2013 as per Rule 17(5) of the APT Rule, 1989. Any other remedy which this august Tribunal deem fit may also be awarded in favour of the appellant.

R/SHEWETH:

ON FACTS:

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

- 1- That the appellant was initially appointed as C.T Teacher (BPS-15) in the year, 2013 after fulfilling all the legal and codal formalities. Copy of advertisement is attached as annexure.....**A**
- 2- That after appointment, the appellant started performing his duties in the concerned school with zeal and zest. Copy of appointment order & arrival report are attached as annexure.....**B & C**

- 3- That the service book of the appellant is also been prepared by the respondents and proper entry regarding the appointment of the appellant has been made by the respondents in the said service book of the appellant. That astonishingly right from appointment the salaries of the appellant has been with held by the respondents without assigning any reason and clear justification.

- 4- That the appellant while performing his duties, the respondents astonishingly issued the termination order dated 11/12/2015 whereby the services of the appellant has been terminated with retrospective effect without conducting regular inquiry and without assigning any reason/clear justification, that feeling aggrieved form the said impugned order, the appellant filed departmental appeal followed by Service Appeal No 294/2016 before this Honourable Tribunal, which was allowed in favour of the appellant and the termination order dated 11/12/2015 was set aside through judgment dated 31/05/2018 and the appellant was re-instated with immediate effect. Copies of termination order and judgment dated 31/05/2018 of this Honourable Tribunal are attached as annexure.....**D&E**

- 5- That the respondents later on reinstated the appellant against the vacant post from 22/11/2018, according to the ibid judgment of this Honourable Tribunal. Copy of the Office Order is attached as annexure.....**F**

- 6- That the respondent department filed CPLA No 692-P/2018 before the august Supreme Court of Pakistan, challenging the judgment dated 31/05/2018 of this Honourable Tribunal, but the same has been dismissed vide order dated 06/10/2022. Copy of the judgment of Supreme Court is attached as annexure.....**G**

- 7- That the appellant feeling aggrieved from the inaction of the respondents by not granting/allowing seniority to the appellant from the date of initial appointment i.e. w.e.f. 15/01/2013 for the filed Departmental appeal before the respondent, but the same has not been decided within the stipulated period, hence the present appeal on the following grounds amongst the others. Copy of the Departmental appeal is attached as annexure..... **H**

GROUNDS:

- A- That action and inaction of the respondents by not counting the service of the appellant for the purpose of seniority is against

the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be modified/rectified.

- B- That appellant has not been treated by the respondent Department in accordance with law and rules 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 treatment meted out to the appellant is clearly based on discrimination and malafide and as such the respondents violated the principle of natural justice.
- D- That similar nature cases on the same point of law has been decided by the august High Court as well as this august Tribunal, therefore under the principle of consistency the appellant may also be granted similar relief. Copy of the judgment is attached as annexureI
- E- That the name of the appellant is liable to be incorporated in the final seniority list of CT from the date of his regular appointment i.e. 15/01/2013 as per Rules 17(5) of APT Rules, 1989.
- F- That the respondents violated the Rule-17 of the APT Rules.
- G- 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 very graciously be accepted as prayed for, please.

[Signature]
APPELLANT

THROUGH:

[Signature]
NOOR MUHAMMAD KHATTAK
ADVOCATE SUPREME COURT
 & *[Signature]*
MAHMOOD JAN
ADVOCATE HIGH COURT

AFFIDAVIT

I, Mr. Muhammad Siddique, C.T (BPS-15), GMS Gawaki District Kurram, do hereby solemnly affirm on oath that the contents of the above appeal are true and correct to the best of my knowledge and believe and nothing has been concealed from this Honorable Tribunal.

[Signature]
DEPONENT



"B"
-5-

ADD: AGENCY EDUCATION
OFFICE SADDA KURRAM AGENCY.
PHONE. 0926-520674 FAX 0926520674
No. _____/Edu:
Dated Sadda: the ____/____/2013

APPOINTMENT.

Consequent upon the approval by the Selection Committee, the appointment of the following CT teachers are hereby ordered in the school noted against their names against vacant CT posts purely on Regular contract basis in BPS No 9 Plus usual allowances as admissible under the rules with effect from 01.03.2013

S #	Name of Candidate	Father Name	School where Appointed	Remarks
1	Ishaq Khan	Malik Jan	GMS Ossai	Against Vacant Post
2	Muhammad Haleem	Muhammad Nazir	GHS Paloseen	----do----
3	Ayaz Khan	Noor Hussain	GHS Minatoo	----do----
4	Abdur Rehman	Eida Khan	GMS Samkhakak	----do----
5	Hussain Ahmad	Muhammad Rafiq	GMS Jilamy CK	----do----
6	Syed Hassan	Muhammad Hassan	GMS Tarai	----do----
7	Ismail Khan	Abdul Habib	GHS Badama	----do----
8	Ferooz Khan	Gul Zam Khan	GHS Baza	----do----
9	Taj Ahmad	Lal Muhammad	GMS Gandaw	----do----
10	Farooq Muhammad	Arab Gul	GMS Taudy Oby	----do----
11	Sabir Gul	Noor Gul	GMS Samkhakak	----do----
12	Aziz ur Rehman	Sayed Rehman	GMS Jilamy CK	----do----
13	Muhammad Ayaz	Gul Karim	GHS Paloseen	----do----
14	Ajab Khan	Gul Muhammad	GHS Baza	----do----
15	Muhammad Saeed	Zar Bat Khan	GHS Baza	----do----
16	Muhammad Siddique	Abdul Rashid	GMS Ossai	----do----
17	Latif Hussain	Inam Hussain	GHS Anguri	----do----

TERMS/CONDITIONS.

1. They are directed to produce their Medical certificate from the Medical Supdt:AHQ Hospital Sadda Kurram Agency
2. Their age should be between 18-35 years .
Their appointment is purely made on temporary and Regular contract basis and liable to termination at any time without assigning any notice, in case they wants to resign their post, they will have to give one month prior notice or forfeit one month pay in lieu thereof.
3. No payment will be made to the appointee until and unless their academic and professional certificate are got verified from the Issuing Authorities concerned.
4. If they failed to take over charge within 15 days, their appointment will automatically be considered as cancelled.
5. Charge reports should be submitted to this office.
- 7: Their appointment will be consider as regular but without Pension/gratuity on the term of section-15 of the KPK Civil Servant Act 1973 as amended with civil servants amendment Act: 2003 but will be entitled to contribution Provident Fund at such rate as may be prescribed by the govt.


Add: Agency Education Officer
Lower & Central Kurram Sadda.

No 156-77 / Edu Dated 15/1 /2013

Copy forwarded to the.

1. Director of Education FATA KPK Peshawar.
2. Agency Account officer Parachinar.
3. Political Agent Kurram Parachinar.
4. Asstt:Political Agent Central Kurram .
5. Teachers Concerned.

"C" -6-

CHARGE REPORT.

Certified that Mj/s/Mr Muhammad Siddique have taken over charge of
this day 16-01-2013 fore Noon of the office of C.T post at GMS Dssai C.
Kurram Agency vide Add. Agency Education Officer Satta Endst. No 156-77 / dated 15/01/2013

Name Mohd Siddique
Signature of Receiving
Govt. Servant M. Siddiq

HEAD MASTER
GMS DSSAI C.
CERTIFIED
a
Add. Agency Education Officer
Satta Kurram Agency.

CHARGE REPORT

Certified that Mj/s/Mr Muhammad Siddique have taken over charge of
this day 16-01-2013 fore noon of the office of C.T post at GMS Dssai C.
Kurram Agency vide Add. Agency Education Officer Satta Endst No 156-77 / dated 15/01/2013

Name Mohd Siddique
Signature of Receiving
Govt. Servant M. Siddiq

Add. Agency Education Officer
Satta Kurram Agency

Lower & Central Kurram Agency

NO 2987-93 /Edu

Dated 11/ 12 /2015

TERMINATION ORDER.

Consequent upon the direction by the competent authority, Director of Education FATA Peshawar vide his No 12228 dated 07.12.2015, on the decision of oversight committee the following in-eligible teaching/Non teaching appointees (M/F) BPS (7-9) appointed during January 2013 in Lower & Central Kurram are hereby terminated with effect from the date of their appointments. If salaries paid to them will be recovered from them accordingly.

S #	Name	Father Name	Desg:	B P S	Name of Institution	Remarks
1	Aqib Zaman	Said Amir Shah	CT	9	GHS Bagan	Terminated due to excess in sub divisional quota.
2	Muhammad Asif	Syal Khan	CT	9	GHS Makhizai	Terminated due to excess in sub divisional quota & advance appointment against on fill post.
3	Sara Bibi	Sakhi Mar Jan	DM	9	GGMS Bagan	DM diploma found fake & bogus.
4	Shahid Mehmood	Haji Sher Shah	PET	9	GMS Sraghurga	Diploma of JDPE found fake & bogus.
5	Muhammad Usman	Haji Shah Wazir	PET	9	GMS Arawali	Having no professional qualification.
6	Muhammad Alan Khan	Salam Khan	J/C	7	GHS Makhizai	Failed in typing test & rejected by enquiry officers.
7	Zubair Khan	Ghafoor Khan	J/C	7	GGDC Bagan	Rejected by PA enquiry.
8	Muhammad Sadiq	Gul Mar Jan	J/C	7	GGDC Alizai	Failed in typing test as per advertisement & rejected by enquiry officers.
9	Sakhi Akbar	Sadiq Akbar	J/C	7	GHS Kochi	Failed in typing test as per advertisement & rejected by enquiry officers.
10	Sadia Batool	Abid Alam Jan	Lab/A-sstt	7	GGDC Alizai	Documents not provided for verification.
11	Muhammad Saeed	Zar Bat Khan	CT	9	GHS Baza	Terminated due to excess in sub divisional quota.
12	Muhammad Sadiq	Abdul Rasheed	CT	9	GMS Ossai	Terminated due to excess in sub divisional quota.
13	Latif Hussain	Inam Hussain	CT	9	GHS Angori	Domicile holder of upper kurram.
14	Wahid Zaman	Zawta Khan	CT	9	GHS Dogar	Terminated due to excess in sub divisional quota.
15	Farooq Muhammad	Arab Gul	CT	9	GMS Taudy Oby	Out of merit (M.Ed has wrongly been considered in place of MA)
16	Ajmal Akbar	Akbar Khan	CT	9	GGMS Dogar No-2	Terminated due to excess in sub divisional quota.

TERMINATION ORDER

Consequent upon the direction by the competent authority, Director of Education FATA, Peshawar vide his No 12228 dated 07/12/2015 on the decision of oversight committee the following in-eligible teaching/non-teaching appointee (M/F) BPS (7-9) appointed during January 2013 in Lower & Central Kurram are hereby terminated with effect from the date of their appointments. If salaries paid to them will be recovered from them accordingly.

S No	Name	Father Nam	Desg:	BPS	Name of Institution	Remarks
1)	Aqib Zaman	Said Amir Shah	CT	9	GHS Bagan	Terminated due to excess in Sub Divisional quota
2)	Muhammad Ashraf	Syal Khan	CT	9	GHS MAkizai	Terminated due to excess in sub Divisional quota & advance appointment against on fill post
3)	Sara Bibi	Sakhi Mar Jan	DM	9	GGMS Bagan	DM diploma found fake & bogus
4)	Shahid Mehmood	Haji Sher Shah	PET	9	GMS Sraghugra	Diploma of JDPE found fake & bogus
5)	Muhammad Usman	Haji Shah Wazir	PET	9	GMS Arawali	Having no professional qualification
6)	Muhammad Alam Khan	Salman Khan	J/C	7	GHS MAkhezai	Failed in typing test and rejected by enquiry officers
7)	Zubair Khan	Ghafoor Khan	J/C	7	DGC Bagan	Rejected by PA inquiry
8)	Muhammad Sadiq	Gul Mar Jan	J/C	7	GGDC Alizai	Failed in typing text as per advertisement & rejected by enquiry officers
9)	Sakhi Akbar	Sadiq Akbar	J/C	7	GHS Kochi	Documents not provided for verification
10)	Sadia Batool	Abid Alam Khan	Lab/Asstt	7	GGDC Alizai	Terminated due to excess in sub divisional quota
11)	Muhammad Saeed	Zar Bat Khan	CT	9	GHS Baza	Terminated due to excess in sub divisional quota
12)	Muhammad Sadiq	Abdul Rasheed	CT	9	GMS Ossai	Terminated due to excess in sub divisional quota
13)	Latif Hussain	Inam Hussain	CT	9	GHS Angori	Domicile holder of upper Kurram
14)	Wahid Zaman	Zawata Khan	CT	9	GHS Dogar	Terminated due to excess in sub divisional quota
15)	Farooq Muhammad	Arab Gul	CT	9	GMS Taudy Oby	Out of merit (M.Ed has wrongly ben considered in place of MA)
16)	Ajmal Akbar	Akbar Khan	CT	9	GGMS Dogar No 2	Terminated due to excess in sub divisional quota

-8-

19	Sakina		CT	9	GGMS Tabi Khonikhel	Terminated due to ex in sub divisional quot
20	Sareen		DM	9	GGMS Tarifi	Documents not provide for verification
21	Ahmad Bibi		DM	9	GGMS Dogar NO-2	Having no DM certificate & has not provide BA degree for verification
22	Parveen Bibi		DM	9	GGMS Ossai	Having no DM certificate & has not provide BA degree for verification
23	Bibi Jamila	Niaz Bahadar Khan	DM	9	GGMS Tabi khonikhel	Having no DM certificate/diploma
24	Sajid Rehman	Haji Haider Khan	PET	9	GMS Dappa	JDPE diploma found false & bogus.
25	Zia ul Alam	Nobr Khan	PET	9	GMS Khazeena	JDPE diploma found false & bogus.
26	Gul Hassan	Khan Bahadar	PET	9	GMS Jilamai	JDPE diploma found false & bogus.
27	Kifayatullah	Mir Jehan	PET	9	GMS Kumal Baza	Having no professional documents.
28	Sar Taj Bibi	Haji Amir Khan	PET	9	GGMS Ossai	Having no professional documents & Lower Kurram domicile holder while she was appointed in Central Kurram, also appeared in CT (LK) while appointed as PET (CK).
29	Sajid Rehman	Said Aslam Khan	I/C	7	GHS Paloseen	Has been excluded by PA enquiry.
30	Siraj U Din	Walayat Khan	I/C	7	GHS Manatoo	Failed in typing test as per advertisement & rejected by enquiry officers.

Add: Agency Education Officer
Lower & Central Kurram, Sadda.

No. 2987-93 /Edu: Dated 11 / 12 / 2015

Copy for information to the:-

1. Director of Education FATA Peshawar.
2. Political Agent Kurram Agency.
3. Additional Political Agent Kurram Agency.
4. Agency Account Officer Kurram Agency.
5. Assistant Political Agent Lower Kurram.
6. Assistant Political Agent Central Kurram.
7. Principals/Headmasters concerned for similar action.

Add: Agency Education Officer
Lower & Central Kurram, Sadda.


17)	Sakina		CT	9	GGMS Tabi Khonikhel	Terminated due to excess in sub divisional quota
18)	Naureen Iqbal		DM	9	GGMS Tarali	Documents not provided for verification
19)	Salma Bibi	Spin Gul	DM	9	GGMS Dogar No 2	Having no DM certificate & has not provide B.A degree for verification
20)	Parveen Bibi	Spin Gul	DM	9	GGMS Ossai	Having no DM certificate & has not provide B.A degree for verification
21)	Bibi Lamila	Niaz Bahadar Khan	DM	9	GGMS TABi Khonikhel	Having no DM certificate & has not provide B.A degree for verification
22)	Sajid Rehman	Haji Haider Khan	DM	9	GMS Dappa	JDPE diploma found fake & bogus
23)	Zia Ul Alam	Noor Alam	PET	9	GMS Khazeena	JDPE diploma found fake & bogus
24)	Gul Hassan	Khan Bahadar	PET	9	GMS Jillamai	Having no professional documents
25)	Kifayat Ullah	Mir Jehan	PET	9	GMS Kimal Baza	Having no professional documents
26)	Zar Taj Bibi	Haji Aitabar Khan	PET	9	GGMs Ossai	Having no professional documents & lower Kurram domicile holder while she was appointed in Central Kurram also appeared CT (LK) while appointed as PET (OK)
27)	Sajid Rehman	Said Alam Khan	J/C	7	GHS Paloseen	Has been excluded by PA inquiry
28)	Siraj Ud Din	Walayat Khan	J/C	7	GHS Manatoo	Failed in typing test as per advertisement & rejected by inquiry officers

Addl: Agency Education Officer
Lower & Central Kurram

No 2987-93/Edu

Dated 11/12/2015

"E"

Sr. No	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	<p style="text-align: center;">"A" - B - 9 -</p> <p style="text-align: right;">3</p> 
		<p style="text-align: center;"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u></p> <p style="text-align: center;">Service Appeal No. 298/2016</p> <p style="text-align: center;">Date of Institution ... 28.03.2016 Date of Decision ... 31.05.2018 ✓</p> <p>Mr. Wahid Zaman Ex: CT, Kurram Agency. Appellant</p> <p style="text-align: center;">Versus</p> <ol style="list-style-type: none"> 1. The Additional Chief Secretary FATA, FATA Secretariat Warsak Road Peshawar. 2. The Director of Education FATA, FATA Secretariat Warsak Road Peshawar. 3. The Additional Agency Education Officer, Lower and Central Kurram Agency at Sadda. 4. The Agency Account Officer, Kurram Agency. <p style="text-align: right;">Respondents</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p>31.05.2018</p> <p style="text-align: center;"><u>MUHAMMAD HAMID MUGHAL, MEMBER:-</u> - Learned counsel for the appellants and Mr. Kabir Ullah Khattak, Additional Advocate General for the respondents present.</p> <p>2. This single/common judgment shall dispose of the above captioned Appeal filed by (1) Wahid Zaman (Ex. CT) as well as (2) Service appeal No.294/2016 filed by Muhammad Siddique (Ex. CT), (3) Service appeal bearing No.299/2016 filed by Muhammad Saced (Ex. CT), (4) Service appeal bearing No. 300/2016 filed by Aqib Zaman (Ex. CT), (5) Service appeal bearing No.302/2016 filed by Lateef Hussain (Ex. CT), being identical in nature.</p>

ATTESTED



EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar.

3. The appellants (Ex-CTs), have filed the present appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 11.12.2015 whereby the appellants were terminated w.c.f the date of their appointments.

4. Learned counsel for the appellants argued that the respondent No.3 through advertisement published in the newspaper advertised various posts in Education Department Kurram Agency including the posts of CT and the appellant having the requisite qualification for the posts of CT applied for the same; that after participation in the test and interview the appellants were declared successful in the selection process and consequently the appellants were offered the said post through issuance of appointment order. Further argued that in response to the appointment of the appellants they started performing their duties at the stations/schools concerned. Further argued that astonishingly the respondent No. 3 issued the impugned order dated 11.12.2015 whereby the services of the appellants were terminated with retrospective effect. Further argued that the appellants have not been treated in accordance with law. Further argued that the appellants were appointed in the light of Appointment, Promotion & Transfer Rules. Further argued that the appellants were terminated without any regular inquiry and issuance of show cause notice. Further argued that no chance of personal hearing was given to the appellants before the issuance of impugned order. Learned counsel for the appellants strenuously argued that the impugned order is against the law, facts and norms of natural justice

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

hence liable to be set aside.

5. As against that learned Additional Advocate General while opposing the present appeal argued that the respondent department inquired the anomalies carried out in the recruitment process in Kurram Agency and for that purpose constituted oversight committee to trace out illegal appointees; that the committee submitted its report and thereby clearly picked out those candidates who had applied through fake and bogus degrees and were appointed illegally.

6. Arguments heard. File perused.

7. It is not disputed that the posts of C.T were advertised through advertisement in the newspaper and that the appellants having been fully qualified and eligible to apply for the same, participated in the recruitment process. Perusal of the impugned order dated 11.12.2015 would show that the appellants were terminated not for the reason that they were not eligible or duly qualified for posts of C.T rather their services were terminated simply on the ground that appointments of appellants Wahid Zaman (Ex. CT), Muhammad Siddique (Ex. CT), Muhammad Saeed (Ex. CT) and Aqib Zaman (Ex. CT) were found in excess to Sub Divisional quota and appellant Lateef Hussain (Ex. CT) is domicile holder of upper Kurram. In the written reply submitted by the respondent department is has not been explained that indeed for the posts of C.T there was a Sub Divisional quota, similarly in the written reply there is no mention of number of vacant posts of C.T

ATTESTED

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

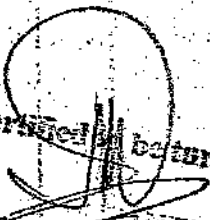
- 1 -

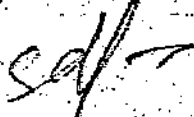
- 15 -

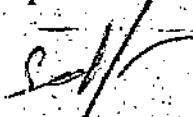
12-

in each Sub Division neither the total number of candidates posted against the posts of C.T in each Sub Division was given. It may also be mentioned that in the advertisement available on file it was simply mentioned that the candidate should be the permanent resident of Kurram Agency hence no distinction of upper Kurram or lower Kurram was there in the advertisement. Similarly the respondent department has not furnished any report of the committee declaring the appointments of the appellants as illegal. During the course of arguments learned Additional Advocate General failed to bring to the notice of this Tribunal any record/report justifying the issuance of the impugned order.

8. In the light of above discussion this Tribunal is constrained to issue direction to the respondent department to adjust/reinstare the appellants at the posts C.T with immediate effect without back benefits. The present service appeals bearing No.298/2016, 294/2016, 299/2016, 300/2016 and 302/2016 are accepted in the above terms. Parties are left to bear their own costs. File be consigned to the record room after its completion.

Certified by signature copy

 MEMBER
 Kurram Appellate
 Services Tribunal
 Peshawar


 Ahmed Hassan
 Member


 Muhammad Hamid Mughal
 Member

Date of Presentation of Application 7-6-18
 Number of Files 2400
 Copying Fee 14
 Urgent 2
 Total 16
 Name of Copyist Haris
 Date of Completion 7-6-18
 Date of Delivery of Copy 7-6-18



"F"

13

**OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) DISTRICT KURRAM**

Phone Number: - 0926 520674

Email:- educationsadda@gmail.com



NO: 347-52

/Edu:

Dated:

19

/ 01

/2024

REINSTATEMENT

Consequent upon the decision of Honorable Service Tribunal Khyber Pakhtunkhwa Peshawar vide service appeal No 298/16 dated 31.05.2018 & order announced by the Honorable Service Tribunal KPK Peshawar dated 01.01.2024 titled Mr. Wahid Zaman Ex-CT Kurram Agency, rejection of CPLA against service appeal No.298/2016 dated 06.10.2020 endorsed by Director E&SE Khyber Pakhtunwa Peshawar vide letter No.11542 dated 29.07.2021 & this office reinstatement order No.4300-05/Edu dated 30.12.2023. The following PST in service teachers are hereby reinstated against the CT post BPS-15 with effect from 22.11.2018 in the school noted against their names.

S#	Name	Father Name	School	Remarks
1	Wahid Zaman	Zawta Khan	GMS Ossai	AVP
2	Muhammad Siddiq	Abdul Rasheed	GMS Gawaki	AVP

Note: Charge report should be submitted to all concerned.

sd
District Education Officer
(Male) District Kurram

Endst:No & date even.

Copy to the:-

1. Director of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
2. Registrar Khyber Pakhtunkhwa Service Tribunal, Peshawar.
3. Deputy District Education Officer Male Lower & Central Kurram.
4. District Account Officer Kurram.
5. District Monitoring Officer (EMA) Kurram.
6. Teachers Concerned.
7. Office Record.

sd
District Education Officer
(Male) District Kurram

11/11/14 9/9 49/14

IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

PRESENT:

MR. JUSTICE GULZAR AHMED, HCJ
MR. JUSTICE FAISAL ARAB
MR. JUSTICE IJAZ UL AHSAN

CIVIL PETITION NO.689-P TO 693-P OF 2018

(Against the judgment dated 31.05.2018 of the
KPK Service Tribunal, Peshawar passed in
Service Appeal No.298/2016, 299/2016,
300/2016 & 302/2016)

Additional Chief Secretary PATA, PATA Secretariat, Warsal Road,
Peshawar and others

...Petitioner(s)
(in all cases)

VERSUS

Muhammad Siddique
Wahid Zaman
Muhammad Saeed
Aaqib Zaman
Lateef Hussain

In C.P.689-P/2018
in C.P.690-P/2018
In C.P.691-P/2018
In C.P.692-P/2018
In C.P.693-P/2018

...Respondent(s)

For the Petitioner(s): Barrister Qasim Wadood, Addl.A.G. KPK
Mian Saadullah Jandoli, AOR

For the Respondents: Not represented

Date of hearing: 06.10.2020

ORDER

GULZAR AHMED, CJ. Civil Petitions No.689-P to
691-P/2018 are barred by 35 and Civil Petitions No.692-P and
693 P/2018 are barred by 61 days. The applications for
condonation of delay have been filed. The reasons assigned in the
same are late supply of documents, process of completion of
attested copies of the impugned judgment and lengthy
correspondence. Such reasons are not accepted by this Court as
sufficient cause for condoning the delay. Further, each day's delay
has not been explained in the applications and no affidavit of
ATTESTED.

IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

PRESENT

MR. JUSTICE GULZAR AHMAD, HCJ

MR. JUSTICE FAISAL ARAB

MR. JUSTICE IJAZ UL AHSAN

CIVIL PETITION NO 689-P TO 693-P OF 2018

(Against the judgment dated 31/05/2018 of the KPK Service Tribunal,
Peshawar passed in Service appeal NO 398/2016, 299/2016, 300/2016 &
302/2016)

Additional Chief Secretary FATA, FATA Secretariat, Warsak Road,
Peshawar & others.....Petitioners

(in all cases)

VERSUS

Muhammad Siddique

in CP No 689-P/2018

Wahid Zaman

in CP No 690-P/2018

Muhammad Saeed

in CP No 691-P/2018

Aqib Zaman

in CP No 692-P/2018

Latif Hussain

in CP No 693-P/2018

.....Respondents

For petitioner (s):

Barriser Qasim Wadood, AddL: A.G KPK

Mian Saadulalh Jandoli, AOR

For the respondents:

Nor represented

Date of hearing:

06/10/2020

ORDER

GULZAR AHMAD, CJ. Civil Petitions No 689-P to 691-P/2018 are
barred by 35 and Civil Petitions No 692-P and 693-P/2018 are barred by 61
days. The applications for Condonation of delay have been filed. The reasons
assigned in the same are late supply of documents process of completion of

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official of petitioners has been filed except that of an AOR. The applications thus merit no consideration. The same are, therefore, dismissed with the result that the main petitions are dismissed as time barred.

Sd- Gulzar Ahmed, HCJ
Sd- Faisal Arab, J
Sd- Ijaz ul Ahsan, J



Certified to be true copy

Assistant Registrar
Supreme Court of Pakistan
Peshawar.

15/10/20

Peshawar, the
6th of October, 2020
Not Approved For Reporting
Waqas Naseer/*

[Handwritten signature]
7/10/20

B. copy p. 15

attested copies of the impugned judgment and lengthy correspondence, such reasons are not accepted by this court as sufficient cause of condoning the delay. Further case days delay has not been explained in the applications and no affidavit of officials of petitioners has been filed except that of an AOR. The applications thus merit no consideration. The same are, therefore, dismissed with the result that the main petitions are dismissed as time barred.

Sd/- Gulzar Ahmad, HCJ
Sd/- Faisal Arab, J
Sd/- Ijaz Ul Ahsan, J

Peshawar, the
6th of October, 2020
Not approved for reporting
Waqas Naseer/*

"H" 16-

To

Director Elementry & Secondary Education
Khyber Pakhtunkhwa, Peshawar.

Subject: - DEPARTMENTAL APPEAL AGAINST THE INACTION OF THE DEPARTMENT BY NOT GRANTING SENIORITY W.E.F. THE DATE OF INITIAL APPOINTMENT AS CERTIFIED TEACHER (BPS-15) I.E. 15/01/2013

Respected Sir!

- 1) That the appellant was initially appointed as C.T Teacher (BPS-15) in the year, 2013 after fulfilling all the legal and codal formalities and after appointment, he started performing his duties in the concerned school with zeal and zest.
- 2) That the service book of the appellant also been prepared by the department and proper entry regarding the appointment of the appellant has been made by the department in the said service book.
- 3) That astonishingly right from appointment the salaries of the appellant has been withheld by the department without assigning any reason and clear justification and also the department issued Termination Order dated 11/12/2015 whereby the services of the appellant has been terminated with retrospective effect without conducting any regular inquiry and without assigning any reason/clear justification.
- 4) That feeling aggrieved form the said impugned order, the appellant filed departmental appeal followed by Service Appeal No 294/2016 before the Honourable Service Tribunal, which was allowed in favour of the appellant and the termination order dated 11/12/2015 was set aside through judgment dated 31/05/2018 and the appellant was re-instated with immediate effect.
- 5) That later on the departmental reinstated the appellant against the vacant post from 22/11/2018, according to the ibid judgment of the Honourable Servcie Tribunal.
- 6) That the respondent department filed CPLA No 692-P/2018 before the august Supreme Court of Pakistan, challenging the judgment dated 31/05/2018 of the Honourable Service Tribunal, but the same has been dismissed vide order dated 06/10/2022.
- 7) That now the appellant feeling aggrieved from the inaction of the department by not granting/allowing seniORITY to the appellant from the date of initial appointment i.e. w.e.f. 15/01/2013 preferred the instant Departmental appeal before your honor inter alia on the following grounds:-

Grounds:

- A- That action and inaction of the department by not counting the service of the appellant for the purpose of seniority is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be modified/rectified.
- B- That, the treatment meted out to the appellant is clearly based on discrimination and malafide and as such the respondents violated the principle of natural justice.

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- C- That similar nature cases on the same point of law has been decided by the august High Court as well as this august Tribunal, therefore under the principle of consistency the appellant may also be granted similar relief.
- D- That the name of the appellant is liable to be incorporated in the final seniority list of CT from the date of his regular appointment i.e. 15/01/2013 as per Rules 17(5) of APT Rules, 1989.
- E- That the respondents violated the Rule-17 of the APT Rules.
- F- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

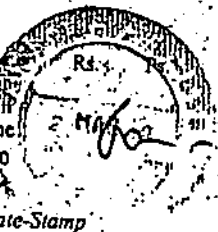
It is, therefore, most humbly prayed that on acceptance of the instant service appeal, the appellant may kindly be granted/allowed Seniority from the date of initial appointment i.e. w.e.f. 15/01/2013 as per Rule 17(5) of the APT Rule, 1989.

Dated: 28.02.2024

Yours Obediently
Muhammad Siddique
Muhammad Siddique
C.T (BPS-15),
GMS Gawaki
District Kurram.

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For India RGL124282183
Stamps ~~will be~~ except in case of
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Registered* _____
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Date-Stamp

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Insurance fee Rs. _____ Ps. _____
Name and address of sender _____
Weight (in words) _____ Kilo _____ Grams _____

"I" - 19-

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

W.P No. 228-M/2014
With Interim Relief

*Mst. Husna Razzaq d/o Abdur Razzaq, r/o Village Morani Payeen,
Tehsil Balabat, District Dir Lower.*

(Petitioner)

Versus

*Government of Khyber Pakhtunkhwa through Secretary (E & SE)
Department, Khyber Pakhtunkhwa, Peshawar and 17 others*

(Respondents)

Present: *Nemo for petitioner.*

*Mr. Rafiq Ahmad, Assistant A.G. alongwith
Muhammad Shoaib, A.D.O, Dir Lower for official
respondents.*

Date of hearing: **16.10.2017**

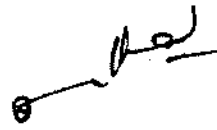
JUDGMENT

IJAZ ANWAR, J.- Vide our detailed judgment in the connected W.P No. 227-M/ 2014, we allow this petition with direction to the official respondents to allow appointment of the petitioner against the post of P.E.T by considering her professional qualification of S.D.P.E and M.Sc in Health and Physical Education into her accumulative score. Needless to observe that the petitioner shall be appointed w.e.f the date her other colleagues were appointed pursuant to the same advertisement. The petitioner shall be entitled to seniority but not to arrears of salaries. Moreover, the candidates/private

-20-

respondents, if any, already appointed shall not be disturbed.

Announced
Dt: 16.10.2017



Mohammad Ibrahim Khan
JUDGE



Ijaz Anwar
JUDGE

Office
19/10

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

W.P No. 227-M/2014
With Interim Relief

Mst. Saima Gul w/o Fayaz Ali Shah r/o Bambolai Payeen, Tehsil Adenzai, District Dir Lower.
(Petitioner)

Versus

Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education, Civil Secretariat Peshawar and 04 others.
(Respondents)

Present: *Abdul Qayum, Advocate for petitioner.*

Mr. Rafiq Ahmad, Assistant A.G. alongwith Muhammad Shoaib, A.D.O, Dir Lower for official respondents.

W.P No. 228-M/2014
With Interim Relief

Mst. Husna Razzaq d/o Abdur Razzaq, r/o Village Morani Payeen, Tehsil Balabat, District Dir Lower.
(Petitioner)

Versus

Government of Khyber Pakhtunkhwa through Secretary (E & SE) Department, Khyber Pakhtunkhwa, Peshawar and 17 others
(Respondents)

Present: *Nemo for petitioner.*

Mr. Rafiq Ahmad, Assistant A.G. alongwith Muhammad Shoaib, A.D.O, Dir Lower for official respondents.

W.P No. 251-M/2014
With Interim Relief

Rabia Gul d/o Gul Sharif Khan r/o Mayar, Tehsil Samar Bagh, District Dir Lower.
(Petitioner)

Versus

Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education, Civil Secretariat Peshawar and 04 others
(Respondents)

Present: *Mr. Abdul Qayum, Advocate for petitioner.*

Mr. Rafiq Ahmad, Assistant A.G. alongwith Muhammad Shoaib, A.D.O, Dir Lower for official respondents.

W.P No. 263-M/2014
With Interim Relief

*Mst. Aneela Sarwat w/o Waleed Zaman r/o Mohallah
Akhunzaddgan, Mayar, Tehsil Samar Bagh, District Dir Lower.*
(Petitioner)

Versus

*Government of Khyber Pakhtunkhwa through Secretary
Elementary and Secondary Education, Civil Secretariat Peshawar
and 04 others*
(Respondents)

Present: *Mr. Abdul Qayum, Advocate for petitioner.*

*Mr. Rafiq Ahmad, Assistant A.G. alongwith
Muhammad Shoaib, A.D.O, Dir Lower for official
respondents.*

Date of hearing: 16.10.2017

JUDGMENT

IJAZ ANWAR, J.- Through this single judgment we intend to dispose of this petition i.e W.P No. 227-M/2014 as well as the connected petitions bearing W.P No. 228-M/2014, W.P No. 251-M/2014 and W.P No. 263-M/2014, as common questions of law and facts are involved in all these petitions.

2. As per assertions of petitioner in the instant writ petition, the respondent department advertised various posts including the post of Physical Education Teacher (P.E.T BPS-15) in G.G.M.S Bambolai, Dir Lower through advertisement on 5th January, 2014 published in daily "Aaj". Petitioner, being an active player of different games in her educational career and also an

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athlete besides, having the requisite qualification of M.Sc and Senior Diploma in Physical Education (S.D.P.E) alongwith experience applied for the said post. She secured 51/100 marks in NTS and obtained accumulative score of 104.34 and was optimistic for her appointment but astonishingly private respondent No.5 Mst. Lubnaz Begum was appointed as P.E.T in the mentioned school and the petitioner was ignored.

3. Petitioner Mst. Husna Razzaq in W.P No. 228-M/2014 has averred that she applied for the post of P.E.T having the requisite qualification and experience in the advertisement published on 05.01.2014 in daily "Aaj". She scored 107.24 marks in the NTS and stood 2nd amongst the candidates for the said post but private respondents No.4 to 18 were appointed and the petitioner was ignored despite she was higher in qualification than the candidates appointed vide order dated 03.05.2014.

4. Mst. Rabia Gul, who has filed W.P No. 251-M/2014, has asserted that she applied for the post of P.E.T in five different schools as per policy. After passing the N.T.S, the petitioner scored

(9/8) (9/8)

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first position in G.G.M.S Shontala with accumulative score of 97.4 marks. She also signed an offer letter dated 29.04.2014 issued by Respondent No.3 for her appointment in G.G.H.S Badin but private respondents No. 4 and 5 were appointed as P.E.Ts in the mentioned schools and the petitioner was not considered for her appointment.

5. Similarly, petitioner Mst. Aneela Sarwat in W.P No. 263-M/2014 has averred that the respondent department advertised the posts of P.E.T (female) vide advertisement dated 04.01.2014 published in Daily Express. Petitioner having Senior Diploma in Physical Education and Master degree in Health and Physical Education, applied for five schools through N.T.S. and remained successful in the said test. Thereafter she was called for interview. Grievance of the petitioner is that she obtained accumulative score of 81.34, however, her Senior Diploma in Physical Education was not considered, hence, private respondents No. 4 & 5 were selected and the petitioner was ignored despite she was higher in qualification.

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6. Arguments heard. Record perused.

7. The common issue involved in all the cases is that petitioners are holders of the qualification of Senior Diploma in Physical Education (S.D.P.E) while the pre-requisite qualification for the post of P.E.T (BPS-15) has been mentioned in the advertisement as B.A/B.Sc from a recognized university with one year Junior Diploma in Physical Education (JDPE) or equivalent certificate from Army or other equivalent qualification. Admittedly, the petitioners have found their place in the appointment zone through their merit, however, they were denied appointment for not holding the qualification of Junior Diploma in Physical Education.

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8. The learned counsel for the petitioners has referred to different judgments of this Court whereby the same issue has repeatedly been decided in a number of cases and many a time it was maintained by the apex Court and it was held therein that Senior Diploma in Physical Education (S.D.P.E) is a higher diploma and the candidates possessing higher qualification cannot be deprived of their

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appointment against the posts of P.E.T. We have noticed that despite the decisions of this Court which have been maintained upto the apex Court, the respondents are continuously not adhering to the judgments of this Court that is why the candidates are approaching this Court again and again for this issue. The august Supreme Court of Pakistan in a celebrated judgment rendered in the case titled "Hameed Akhtar Niazi V/s. The Secretary, Establishment Division, Government of Pakistan and others" (1996 SCMR 1185) held that:-

"We may observe that if the Tribunal or this Court decides a point of law relating to the terms of service of a civil servant which covers not only the case of the civil servant who litigated, but also of other civil servants, who may have not taken any legal proceedings, in such a case, the dictates of justice and rule of good governance demand that the benefit of the above judgment be extended to other civil servants, who may not be parties to the above litigation instead of compelling them to approach the Tribunal or any other legal forum".

The same view was followed by the apex Court in another judgment in the case titled "Government of Punjab, through Secretary Education, Civil Secretariat, Lahore and others V/s.

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Sameena Parveen and others" (2009

SCMR 1).

8. We have also noticed from perusal of the record that petitioners in all these writ petitions were not allowed the marks by respondents for holding the degree of Master of Health and Physical Education and they have also not considered their Senior Diploma in Physical Education. We, thus, are left with no other choice but to allow all these petitions with direction to the official respondents to allow appointment of petitioners against the posts of P.E.T by considering their respective professional qualification of S.D.P.E and M.Sc in Health and Physical Education into their accumulative scores. Needless to observe that the petitioners shall be appointed w.e.f the date their other colleagues were appointed pursuant to the same advertisement. They shall be entitled to seniority but not to arrears of salaries. Moreover, the candidates/private respondents, if any, already appointed shall not be disturbed.

9. Before parting with this judgment we may observe that this Court in judgment dated

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16.05.2013 rendered in the case titled "*Naqib Sultan V/s. Govt. of Khyber Pakhtunkhwa*" (W.P No. 264-M/2011), judgment dated 31.03.2004 in the case titled "*Jan Muhammad and others V/s. Govt. of NWFP and others*" (W.P No.1472/2003), judgment dated 28.06.2016 in the case titled "*Ijaz-ul-Haq V/s. Govt. of Khyber Pakhtunkhwa and others*" (W.P No. 644-P/2016), judgment dated 24.02.2009 in case titled "*Taj Pari V/s. Govt. and others*" (W.P No. 864/2007), judgment dated 28.05.2004 in case titled "*Masood Khan V/s. Govt. of NWFP and others*" (W.P No. 1484/2003) and judgment dated 02.05.2000 in case titled "*Muhammad Azam and others V/s. Govt. of NWFP and others*" (W.P No. 652-M/1999) discarded the objections of respondent department regarding non considering the qualification of S.D.P.E for the post of P.E.T and those judgments were either maintained by the apex Court or no appeal has been filed thereagainst and attained finality. For ready reference one judgment is referred which was delivered on 27.06.2006 by the apex Court in the case titled i.e "*Umair Wahid V/s. Govt of NWFP*" (C.P No. 193-P/2006) but

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despite this the department is repeating this objection. We, therefore, direct the Director of Elementary and Secondary Education to circulate this judgment to all the District Officers of Education Department of the Province with strict directions to consider the holders of higher qualification of S.D.P.E and M.Sc in Physical Education for the posts of P.E.T and not to force the candidates for approaching the Courts again and again for the decided issue.

Announced
Dt: 16.10.2017

Mohammad Ibrahim Khan
JUDGE

Ijaz Anwar
JUDGE

Office
19/10

VAKALATNAMA
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No. 12024

M. Siddique

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Govt

(RESPONDENT)
(DEFENDANT)

I/We M. Siddique

Do hereby appoint and constitute **Noor Mohammad Khattak Advocate Supreme Court** 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. ___/___/202

Client
CLIENT

ACCEPTED

NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT

WALEED ADNAN

UMAR FAROOQ MOHMAND

&

MAHMOOD JAN
ADVOCATES