

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR CAMP COURT ABBOTTABAD.

Appeal No. 1790/2023

Waseem AhmedAppellant

VERSUS

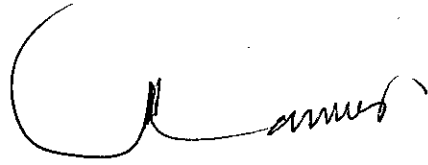
Director E&SE, Peshawar and Others.....Respondents


PARA WISE COMMENTS ON BEHALF OF RESPONDENTS NO. 01 & 02

INDEX

Sr.No	Description	Page Nos	Annexures
1	Comments alongwith affidavit	01 to 04	
2	Copy of minutes of DPC meeting dated 08-05-2023	05	"A"
3	Copy of Promotion Order dated 26-03-2024	06	"B"
4	Copy of Charge Report	07	"C"
5	Copy of Judgment of Supreme Court of Pakistan CP No. 225-P of 2023	08 to 09	"D"

Dated: 15-04-2024


Muhammad Tanveer
District Education Officer (M)
Abbottabad
(Respondent No. 02)

The case was fixed
on 25/03/2024 at Camp
Court Atef, The Honble bench
was postponed due to
Ramadan. No date has been
given to the Respondents.
Next date of hearing 
24.06.2024

A. Abbael

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Khyber Pakhtunkhwa
Service Tribunal

Respectfully Sheweth:-

Diary No. 12812

Dated 16-05-24

Comments on behalf of Respondents are submitted as under:-

Preliminary objection:-

1. That this Honorable Tribunal has got no jurisdiction to entertain the present appeal as per judgment reported as 2013-SCMR-99.
2. That the appeal is hopelessly time barred hence, liable to be dismissed.
3. That the instant appeal is hit by the **Principal of Latches**.
4. That the instant appeal is not maintainable in its present form.
5. That the appellant has no locus standi to file instant appeal.
6. That the appellant has filed the present appeal just to pressurize the respondents.
7. That the appellant has been promoted vide Office Order Endstt: No. 1834-42 dated 26-03-2024 and appellant took over the charge against the promoted post of PET on 29-03-2024 hence, instant appeal becomes **infructuous**.
8. That the appellant has not come to this Honorable Tribunal with clean hands hence, not entitled for any relief.
9. That the appellant is estopped to sue due to his own conduct.
10. That the instant appeal is not maintainable due to mis-joinder and non-joinder of necessary parties.

11. That the instant appeal is against the Law, Rules and Policy hence, liable to be dismissed.
12. That it is the sole prerogative of the Executive Authorities to frame policy are amend rules in accordance with the exigencies of service to cope up with the ever changing requirements and the cannot substitute its views in the decision of the government with regard to the policy matters.

Factual Objections:-

1. That the Para No. 1, of the instant appeal relates to the service record.
2. That the Para No. 2, of the instant appeal relates to service record.
3. That the Para No. 3, of the instant service appeal also relates to service record of the appellant hence, denied.
4. That the Para No. 4, of the instant service appeal relates to academic record.
5. That the Para No. 5, of the instant service appeal relates to record.
6. That the Para No. 6, of the instant service appeal is correct to the extent of promotion order dated 11-05-2023 while rest of the Para as composed is incorrect hence, denied. A meeting of DPC was held on 08-05-2023 and appellant was not eligible for promotion due to lack of required qualification i-e JDPE. However, in pursuance of Judgment of Supreme Court of Pakistan in Civil Petition No. 225-P of 2023 titled (Govt of Khyber Pakhtunkhwa & Others Vs Amjad Ur Rehman) dated 11-12-2023, appellant has been promoted vide Office Order Endstt: No. 1834-42 dated 26-03-2024 and appellant took over the charge against the post of PET BPS-15 on 29-03-2024 without raising any objection. Hence, instant appeal becomes **infructuous**. (Copy of minutes of meeting dated 08-05-2023, Promotion order dated 26-03-2024, Charge report and judgment dated 11-12-2023 is annexed as **Annexure "A", "B", C & D** respectively)
7. That the Para No. 7, of the instant service appeal as composed is incorrect hence, denied.

Grounds:

- a. That ground a, is as composed is incorrect, hence, denied.
- b. That ground b, is as composed is incorrect, hence, denied. Comprehensive reply has already been given in Para No 6 of the Factual Objections.
- c. That ground c, is as composed is incorrect, hence, denied.
- d. That ground d, is as composed is incorrect, hence, denied.
- e. That ground e, is as composed is incorrect, hence, denied.
- f. That ground f, is as composed is incorrect hence, denied.
- g. That ground g, as composed is incorrect hence, denied.

That the respondents seek leave of this Honorable Tribunal to raise additional grounds at the time of arguments.

Under the circumstances, it is humbly prayed that the instant appeal is meritless against the Law, Rules, Policy and facts hence, liable to be dismissed without further proceedings.


Samina Altaf

**Director (E&SE) Khyber Pakhtunkhwa
Peshawar
(Respondent No. 01)**



**Muhammad Tanveer
District Education Officer (M)
Abbottabad
(Respondent No. 02)**

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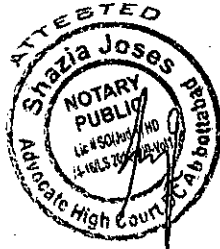
Director E&SE, Peshawar and Others.....Respondents

PARA WISE COMMENTS ON BEHALF OF RESPONDENTS NO. 01 & 02

AFFIDAVIT

I, Mr. Muhammad Tanveer, District Education Officer (M) Abbottabad, do hereby affirm and declare on oath that the contents of forgoing comments are correct and true according to the best of my knowledge and belief and nothing has been suppressed from this Honorable Tribunal.

It is further stated that the answering respondents have neither been placed ex-parte nor their defence has been struck off.



16/4/24

(Signature)
DEPONENT

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR CAMP COURT ABBOTTABAD**

SA No.1790 /2023

Waseem Ahmed

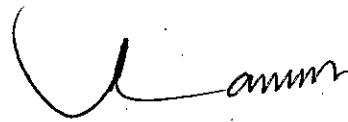
.....Petitioner

VERSUS

Director Elementary & Secondary Education & OthersRespondents.

AUTHORITY LETTER

Mr. Sohail Ahmed Zeb, Litigation Officer, District Education Officer (Male) Abbottabad is hereby authorized to submit Para Wise Comments on behalf of District Education Officer (M) Abbottabad in Service Appeal No. 1790/2023 Waseem Ahmed Vs Director E&SE.



(Muhammad Tanveer)

District Education Officer (M)

Abbottabad

Respondent No. 02)

**MINUTES OF THE MEETING OF DEPARTMENTAL PROMOTION COMMITTEE FOR
PROMOTION OF PSHT TO THE POST OF PET (BPS-15)**

A meeting of the Departmental Promotion Committee was held on 08-05-2023 at 10:00 A.M under the chairmanship of District Education Officer (Male) Abbottabad to discuss the promotion of PSHT TO PET (BPS-15) in the Elementary & Secondary Education Department. The following attended the meeting:

1. Mr. Muhammad Tanveer In chair.
District Education Office (Male)
Abbottabad
2. District Education Officer (F)
Abbottabad (Rep: of Director E&SE KPK Peshawar)
3. Mr. Naseer Ahmed
Dy: District Education Officer
Abbottabad

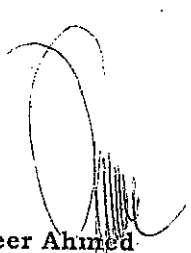
The meeting started with recitation from the Holy Quran. The Chair welcomed the participants and apprised that the following share for promotion policy have been reserved.

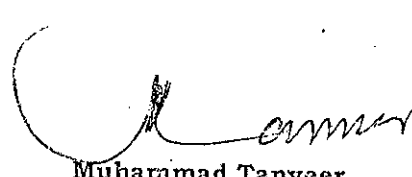
S. No	CT 40%	DM 20%	PET 20%
1	41	04	02

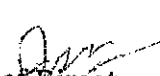
Therefore as per share for promotion from PSHT BPS-15 to PET BPS-15 is 02 posts, Hence on seniority cum fitness, DPC may recommend to senior most PSHTs with the relevant qualification.

S. No	Sn: No.	Name of Official/ Designation	Name of School	Date of Birth	Date of Appointment as Regular PST	Qualification		Remarks
						Acad:	Prof:	
1.	461	Waseem Ahmed	GPS Khairagali Neergoal	28-04-1979	09-04-2005	MA	PTC/HPE	Not Eligible due to Lack of required qualification i.e JDPE
2.	506	Afraiz Ahmed	GPS Dhaka Malkot	03-04-1978	15-04-2005	MA	PTC/HPE	Not Eligible due to Lack of required qualification i.e JDPE
3.	510	Waheed Ahmed	GPS Badhiar	15-05-1975	16-11-1996	MA	PTC/JDPE /CT	Refused for Promotion
4.	524	Qasir Khan	GPS Saman Payeen	03-03-1983	16-04-2005	MA	PTC/JDPE /B.ed	Refused for Promotion
5.	619	Sohail Mehboob	GPS Bacha Sani	02-02-1990	21-12-2010	BA	PTC/JDPE	Recommended
6.	625	Imtiaz Ur Rehman	GPS Narwara	14-01-1979	21-12-2010	MA	PTC/JDPE /B.ed	Recommended

The meeting ended with a vote of thanks to and from the Chair.


Naseer Ahmed
Dy: District Education Officer (M)
Abbottabad


Muhammad Tanveer
District Education Officer (M)
Abbottabad


(Rep: of Directorate)
District Education Officer-F
Abbottabad


Assistant District
Education Officer (M)
Abbottabad

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) ABBOTTABAD.

OFFICE ORDER

Am-B

06

In the light of Judgment of Supreme Court of Pakistan in Civil Petition No.225-P/2023, and consequent upon the recommendations of Departmental Promotion Committee and in pursuance of the Govt of Khyber Pakhtunkhwa E&SE Department Notification issued vide Endst: No.SO (B&A)/1-18/E&SE/2012 Dated 11-07-2012 and Finance Dept Endst No. SO(FR/FD/10-22/2010 dated 16-7-2012, No. SO PE 4-5/SSRC/ Meeting/ 2012/Teaching Cadre dated 13-11-2012 and No. SO PE4-5/SSRC/Meeting/2012/Teaching Cadre/2017 dated 30-01-2018 the following PSHTs are hereby promoted to the post of PET BPS-15 (Rs.23920-1980-83320) plus usual allowances as admissible under the rules on regular basis under the existing policy of the Provincial Government on the terms & conditions given below and hereby further posted against vacant post of PET in the schools noted against their names with immediate effect.

S. No	SEN No	Name of Teacher	Name of School	Date of Birth	D/O Regular Apptt: AS PST	Place of Posting	Remarks
1	461	Waseem Ahmed	GPS Khaira Gali Neergol	28.04.1979	09.04.2005	GHS Khaira Gali	Against Vacant Post
2	506	Afraiz Ahmed	GPS Dhaka Malkot	03.04.1978	09.04.2005	GMS Malkot	Against Vacant Post

Terms & Conditions:

1. On their promotion the teachers concerned will be on probation for a period of one year in terms of section-6 (2) of Khyber Pakhtunkhwa Civil Servant Act 1973 read with the rule 15 (1) of Civil Servant (Appointment, Promotion and Transfer) Rules 1989.
2. They will be governed by such rules and regulations as may be issued from time to time by the Government.
3. Their services can be downgraded at any time; in case their performance is found unsatisfactory during probationary period. In case of misconduct, they will be proceeded under the rules framed from time to time.
4. Charge report shall be submitted to all concerned.
5. Their inter-se-seniority on lower post will remain intact.
6. No. TA/DA is allowed for joining their duty.
7. They will give an undertaking to be recorded in their service books to the effect that if any over payment is made to them in the light of this order, will be recovered and if they are wrongly promoted, their order will be reversed.
8. They should join their post their posts within 15 days of the issuance of this notification. In case of failure to join their posts within 15 days of the issuance of Notification, their promotion will expire automatically and no subsequent appeals will be entertained.
9. Charge Report should be submitted immediately to all concerned.
10. Checking of verification of all the documents shall be ensured by the DDO concerned.

MUHAMMAD TANVEER
DISTRICT EDUCATION OFFICER (M)
ABBOTTABAD

Endst: No. 1834-42 /Sports/Promotion PSHT to PET

Dated A.Abad the 26/03 /2024

Copy forwarded to the:

1. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
2. All the Principals/Headmasters of concerned Schools.
3. District Comptroller of Accounts Abbottabad.
4. District Monitoring Officer(IMU) Abbottabad.
5. Sub Divisional Education Officer(M) Abbottabad.
6. PS to Secretary to Govt: of Khyber Pakhtunkhwa, E&SED Peshawar.
7. Budget & Accounts Officer local office.
8. Assistant Director EMIS branch local office:
9. Teachers concerned.

Assistant District
Education Officer (M)
Abbottabad

DISTRICT EDUCATION OFFICER (M)
ABBOTTABAD

GOVERNMENT OF KHYBER PAKHTUNKHAWA.
CERTIFICATE OF TRANSFER OF CHARGE.

07

Certified that Mr. Waseem Ahmad has this day Fore noon taken over/relinquished charge of the post of PET at GHS Khairagali Abbottabad with reference to promotion order of District Education Officer (Male) Abbottabad vide Endst. No.1834-42/sports/Promotion PSHT to PET, dated A/Abad the 26-03-2024 vice S: No:01.

Signature of relieved Mahmood

Government Servant _____

Designation PET

Station: - GHS Khairagali Abbottabad.

Signature of Government Waseem

Servant receiving Charge Waseem Ahmad

Designation PET

Dated: - 29/03/2024 (F.N.)

Copy for information to: -

1. District Education Officer (Male) Abbottabad.
2. District Account Officer Abbottabad.
3. Office order file.

Assistant District Education Officer (M)
Abbottabad

Principal

PRINCIPAL
GHS KHAIRAGALI
ABBOTTABAD

PRINCIPAL
Govt High School
Khairagali Abbottabad

Amr - D

68

THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Justice Qazi Faez Isa, C.J.
Justice Amin-ud-Din Khan
Justice Athar Minallah

Civil Petition No.225-P of 2023

*(Against the judgment dated 22.02.2023
of the Peshawar High Court, Mingora
Bench (Dar-ul-Qaza) Swat passed in WP
No.657-M of 2020)*

*Government of Khyber Pakhtunkhwa through
Secretary,, Elementary & Secondary Education
Department, Peshawar and others*

...Petitioners

Versus

Amjad ur Rahman and others

...Respondents

For the petitioners: Mr. Sultan Mazhar Sher Khan, Additional Advocate
General, Khyber Pakhtunkhwa a/w
Mr. Mehmood Ghaznavi, D.E.O. (Male) Chitral


Respondent No.1: In person.

Date of hearing: 11 December 2023

ORDER

Qazi Faez Isa, CJ. This is yet another prime example of frivolous litigation being initiated by a provincial government. The petitioners had advertised in the year 2018 for the selection of two computer teachers in basic pay scale of 12 and had prescribed the minimum qualification as Intermediate with one year diploma in computer sciences. The respondent No.1 held a B.Sc. and M.Sc. degree in computer science and came on the top of the merit list but still was not appointed for the reason that he was over-qualified. It appears that those in charge of educating the children of the province were bereft of common sense by disqualifying a person who was more qualified and thus better placed to impart computer science education and favoured one less qualified. Not only the respondent No.1 was made to suffer but the children, who would have benefited from his knowledge, were condemned.

2. There is no reason to interfere with the impugned judgment. Leave to appeal is declined and this petition is dismissed with costs incurred by the respondent No.1, that is two hundred thousand rupees to be paid to the respondent No.1 on or before 31 December 2023. Needless to state the judgment regarding appointment of respondent No.1 will also be implemented by or before such date, and if it is not complied with, the Secretary, Elementary & Secondary Education, Government of Khyber


Assistant District
Education Officer (M)
Abbottabad

09

Pakhtunkhwa may be proceeded against for contempt of Court. A copy of this order be sent to the petitioners and the respondents, to the Advocate General, Chief Secretary and Secretary Law of Khyber Pakhtunkhwa who will undoubtedly ensure that the government does not generate such unnecessary litigation and then, for no valid legal reason, challenge the decisions of the High Court which also drains the resources of the government, paid for by the taxpayers.

Chief Justice

Judge

Judge

Islamabad
11.12.2023
M. Ashar Malik*

APPROVED FOR REPORTING

~~Assistant District
Education Officer (M)
Abbottabad~~