

2

IN THE PESHAWAR HIGH COURT, BENCH MINGORA /
DAR-UL-QAZA, SWAT

WRIT PETITION NO. 873-m OF 2020

Muhammad Azhar etc vs Govt. of W.P.

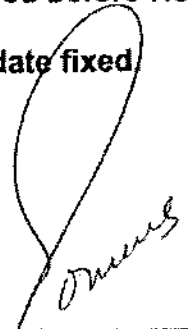
This petition had been presented by M.r. Syed Abdul Haq Advocate

On behalf of the petitioner /petitioners.

The petition is in proper form, copies of all the relevant documents have been attached.

Three (01) spare copies of writ petition have also been attached.

Petition be entered in the relevant register and placed before Hon'able court (D.B) for further orders on 15-09-2020 the date fixed



READER

Dated: 02-09-2020

COUNTERSIGNED


Additional Registrar,
Peshawar High Court, Bench
Mingora/Dar-ul-Qaza, Swat.

Dated: 02-09-2020

08/3/2021 WP 873/2020(M) adjourned from 15-09-2020
and is fixed before HDB on 27-4-2021
Inform petitioner & his Counsel
AR

20/11/21 WP 873/2020(M) deleted from 27/04/2021
(Deleted due to Covid-19) & is fixed before HDB on 09-02-2022
Inform petitioner & his Counsel
AR

15/06/22 WP 873/2020(M) adjourned from 09/04/2022
& is fixed before HDB on 08-11-22
Inform petitioner & his Counsel
AR

~~20~~ 24-11-22 WP 873/2020 (M) adjourned from 08-11-22 &
is fixed before HDB on 15-02-2023
Inform petitioner, his Counsel & AR
AR

18/09/23 W.P. 873/20 (M) adjourned from 15-02-23

& is fixed before HDB on 05-12-23

Inform petitioner, his Counsel & AAG

18/09

AR

(B)

IN THE PESHAWAR HIGH COURT, MINGORA BENCH/ DAR-UL-QAZA, SWAT
OBJECTION SLIP

Munammad Azhar & others VERSUS Govt. of Khyber Pakhtunkhwa, through Secretary (E&SE) & others

- 1 Copies of annexures/ page # 12, 15, a/w second copy are not legible.
- 2 Opening sheet has not been filled in properly.


Reader

Returned with the objections mentioned above. Case be re-submitted on or before 12-09-2020


Additional Registrar
PHC, Mingora Bench

R/S
All objection have been
removed
Cm
2-9-2020

URGENT FORM

6

.....

.....

TITLE

Muhammad Azhar & others Petitioners

VERSUS

Govt of KPK and others Respondents

- 1. Will you kindly treat the accompanying C.M as urgent and in accordance with the provisions of Rules, 9 Chapter 3-A Rules of orders of the High Court, Lahore Volume V.
- 2. The grounds of urgency are.

That the issued involved in the instant case has been resolved by the Supreme Court of Pakistan as well as by this honourable court so the Petitioners seeking alike treatment in the light of the judgment, in favour of their colleagues, so this case may kindly be fixed as earlier and be treated under the mandate of the judgment *ibid*.

Dated: 31/08/2020
 Cell No: 03110950959

FILED TODAY

31 AUG 2020

Additional Registrar



YOURS OBEDIENTLY

CHECK LIST

⑤

1.	Case Title:	Yes	No
2.	Case is duly signed.	/	
3.	The law under which the Petition preferred has been mentioned.	/	
4.	Approved file cover is used.	/	
5.	Affidavit is duly attested and appended.	/	
6.	Case and Annexures are properly paged & number according to index.	/	
7.	Copies of Annexures are legible and attested. (If not, then better copies duly attested have been annexed).	/	
8.	Certified copies of all the requisite documents have been filed.	/	
9.	Certificate specifying that no case on similar grounds was earlier submitted in this court, filed.	/	
10.	Case with in time.	/	
11.	The value for the purpose of Court fee and jurisdiction has been mentioned in the relevant column.	/	
12.	Court fee in shape of Stamp Paper is affixed, (For Writ Rs.500/- For other required).	/	
13.	Power of Attorney is in proper form.		/
14.	Memo of addresses filed.	/	
15.	List of Books mentioned in the Petition.	/	
16.	The requisite number of spare copies attached. (Writ Petition-3, Nos. Civil Appeal (SB-1, SB-2) Civil Revision (SB-1, SD-2).	/	
17.	Case (Revision/Appeal/Petition etc.) is filed on the prescribed form.	/	
18.	Power of Attorney is attached by Jail Attorney (for Jail Prisoners only).		/

It is certified that formalities/documentations required in column 2 to 18 above, have been fulfilled.

Name: Syed Abdul Haq

Signature: [Signature]

Dated: 31-08-2020

FOR OFFICE USE ONLY

Case No.

Case Received.

Complete in all respect: Yes/No (if No the ground)

.....

Date in Court.

FILED TODAY

31 AUG 2020

Additional Registrar

Signature [Signature]
 (Reader)

Dated 31-08-2020

Countersigned: [Signature]

IN THE PESHAWAR HIGH COURT, MINGORA BENCH
OPENING SHEET FOR WRIT BRANCH

Date of Filing: 31-08-2020

District: Dix (L)

Case Type: Writ Petition Nature of Original Proceeding:

Category Code:

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(Categories & Sub categories are given at the back of the opening sheet)

Review/ Contempt of Court in respect of:

Writ of:

Habus Corpus	Prohibition	Mandamus	Quo Warranto	Certiorari
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If Certiorari:

Forum which passed impugned order	Date	(I)nterlocutory/ (F)inal Order

Case Pertains to
 SB
 DB

Petitioner Name	Muhammad Azhar and others
Mobile No.	<u>0300 5914 589</u>
Address	Malakand Division
CNIC No.	<u>15306-9290487-9</u>
Email Address	NIL

Counsel for Petitioner (s)	Syed Abdul Haq
Mobile No.	<u>03110950959</u>
Address	Dar ul Qaza Swat
CNIC No.	15306-6116430-5
Email Address	<u>syedabdulhaqadvocate@gmail.com</u>

Respondents	Govt of KPK and others
Address	Peshawar

FILED TODAY


Original Order/Action/Inaction Complained of:
 NIL

31 AUG 2020

Additional Registrar

Prayer: i. It is, therefore, humbly prayed on acceptance of this writ petition in the light of aforementioned submissions the respondents be directed to reckoned their seniority from the date of their initial appointment.
 ii. to award all the annual increments as well as adhoc reliefs w.e.f 2006 to 2009.
 iii. it is further prayed that the Petitioners be held entitled for the period as they have worked from 2006 to 2009.

Law/Rules/governing the original proceedings/action/Inaction
 U/S 199 of Constitution of Pakistan.



Signature

Note: Any suggestion to improve the proforma will be appreciated.

BEFORE THE PESHAWAR HIGH COURT MINGORA BENCH /
DARULQAZA SWAT

(9)

W.P. 873 -M/2020

Service Appeal No. 1031/2024

Muhammad Azhar & others Petitioners

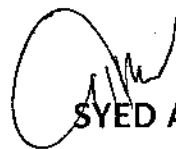
VERSUS

Govt of KPK through Secretary E&SE and others..... Respondents

INDEX

S.NO	DESCRIPTION	ANNEXURE	PAGES
1.	Copy of writ petition alongwith Certificate		1- 8
2.	Address of the parties		9- 10
3.	Copy Affidavit		11
4.	Copies of appointment orders and termination order		12 - 19
5.	Copy of the judgment	A	20 - 30
6.	Copy of judgment dated 24.2.2016	B	31 - 59
7.	Copy of the Notification dated 4.7.2016	C	60 - 61
8.	Copy of pay slips		62 - 67
9.	Copy of judgment C.P 605/2015		68 - 71
10.	Legal Notice		72
11.	Court Fee		73 - 75
12.	Wakalath Nama		76

Petitioners through Counsel



SYED ABDUL HAQ
HIGH COURT DARULQAZA
BAR ROOM SWAT
Cell No 03110950959

FILED TODAY

31 AUG 2020

Additional Registrar

Re-Filed Today

02 SEP 2020

Additional Registrar

BEFORE THE PESHAWAR HIGH COURT MINGORA BENCH /
DARULQAZA SWAT

W.P. 873 -M/2020 Service Appeal no. 1031/2024

1. Muhammad Azhar Son of Sikandar Hayat, Subject Specialist (I.T), Resident of Nasafa Tehsil Timergara District Dir Lower.
2. Rooh Ullah Jan Son of Ghulam Wahid Jan Subject Specialist (I.T) Resident of Sher Khanay Tehsil Balambat District Dir Lower.
3. Mukhtyar Son of Mehmood Zai, Subject Specialist (I.T) Resident of Kalpanai, Tehsil Daggar District Dir Buner.
4. Muhammad Khan Son of Khan Badshah Subject Specialist (I.T) Resident of Banda Tehsil Wari District Dir Upper.
5. Alim ur Rashid Son of Muhammad Afsar Khan SST (I.T), Resident of Bar Palaw, Tehsil Matta District Swat.
6. Mian Said Wahab, Son of Noor ul Wahab, (I.T), Working against Subject Specialist (I.T), Resident of Osakai, Tehsil Adenzai District Dir Lower..... **Petitioners**

VERSUS

- 1) Govt of KPK through Secretary Elementary & Secondary Education KPK at Peshawar.
- 2) Secretary Information and Technology Govt of Khyber Pakhtunkhwa, Peshawar.
- 3) Secretary to Government of KPK Finance Department at Peshawar.
- 4) Director Elementary and Secondary Education KPK Peshawar.
- 5) District Education officer District Dir Lower.
- 6) District Education officer District Dir Upper.
- 7) District Education officer District Buner.
- 8) District Education officer District Swat..... **Respondents**

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31 AUG 2020

Additional Registrar

(2)
(11)

WRIT PETITION UNDER ARTICLE 199 OF
THE CONSTITUTION OF ISLAMIC REPUBLIC
OF PAKISTAN 1973

Respectfully Sheweth;

The facts of the instant are as under.

1. That the Petitioners are law abiding citizens and belong to Malakand Division, and their addresses mentioned against their name are sufficient for service upon them.
2. That the Petitioners were appointed on the post of I.T Teachers (BPS-16) under the NWFP/Project establishment of information Technology Government of Khyber Pakhtunkhwa. as their appointments are mentioned in the proforma below on contract basis, and all the Petitioners were terminated from their services on 30.06.2009.

(Copies of appointment orders, Termination order are attached)

FILED TODAY

31 AUG 2020

Additional Registrar

S.No	Name of teacher	Date of appointment
1.	Muhammad Azhar	26.09.2006
2.	Rooh Ullah Jan	26.09.2005
3.	Mukhtyar	26.09.2006

3
12

4.	Muhammad Khan	26.09.2006
5.	Alim ur Rashid	26.09.2006
6.	Mian Said Wahab	26.09.2006

3. That the Petitioners impugned the same in W.P bearing No. 2380/2009, wherein this honourable court directed the respondents to treat the Petitioners as regular employees from the date of their services, and further directed their inter se seniority be determine strictly in accordance with law and the rules on the subject vide judgment dated 17.5.2012 (Copy of the judgment is attached as annexure-A)

4. That the respondents assailed the judgment *ibid* in civil appeal bearing No. 113-P/2013 before supreme court of Pakistan which was dismissed vide judgment dated 24.2.2016 (Copy of judgment dated 24.2.2016 is attached as annexure-B).

5. That the respondents (after dismissal of their Civil Petition), issued appointment order of Petitioners vide dated 04.07.2016 and they all were regularized against the post of I.T (Teachers) BPS-16 w.e.f 01.07.2009 without

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31 AUG 2020

Additional Registrar

back benefits. (Copy of the Notification dated 4.7.2016 is enclosed as annexure-C).

4
13

6. That the respondents only awarded annual increments from 2010 as well as awarded seniority w.e.f 24.10.2009 although all the Petitioners were regularized from 01.07.2009, so the Petitioners time and again approached the concern authority for redressal of their grievances in the light of the judgment passed by this honourable court vide dated 17.05.2012, but the respondents are reluctant to pass a proper order, so the act of respondents is based on malafide, against the spirit of the judgment, hence the Petitioners have no other efficacious remedy, except to file the instant Petition on the following grounds.

GROUNDS

- A. That after induction in service (26.09.2006) the Petitioners served the department till termination and without any fault on their part but the blunder committed by the department which is not only regrettable but against the good governance, based on malafide, highly discriminatory, hence liable to be struck down and the

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31 AUG 2020
Additional Registrar

Petitioners are entitled for back benefits from the date of initial appointment.

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M

B. That the Petitioners were regularized w.e.f 01.7.2009 while seniority have awarded from 24.10.2009 although as per law their seniority be reckoned from the date of initial appointment and not from the date of regularization, as per judgment reported as 2014 SCMR 1289 citation "d".

C. That after acceptance the claim of Petitioners vide judgment dated 17.5.2012 passed by this honourable court the respondents failed to re-instate the Petitioners although there was no suspension order passed the Supreme Court of Pakistan, the Petitioners legally entitled for the arrears/benefits, since 17.05.2012, but they were deprived without any justification, rhyme and reasons so such act of the respondents is against the mandate of constitution.

D. That as per their pay slips the length of their services have been mentioned according to their initial appointment order but on the other their seniority has been reckoned from 24.10.2009 which is against the law and liable to be

FILED TODAY

31 AUG 2020

Additional Registrar

corrected.(Copy of pay slips are attached may be considered part of this petition).

15

- E. That this honourable court directed for regularization of services of employees/Petitioners from the date of their termination (i.e. 30.06.2009) but the respondent on one hand awarded seniority to them from 24.10.2009 but on the other hand they all were deprived from national increase of their pay from the date of their appointment without any arrears, so such act amounts to discrimination and this honourable court has jurisdiction to entertain the

instant petition, However The Department benefited their colleagues, so the petitioners are entitled for alike treatment. (Copies annexed)

- F. That the respondents only granted annual increments for the year 2010, although, the Petitioners were entitled for the same relief since their date of appointments and they were deprived from their legitimate rights which affected their monthly salaries, so the case of Petitioner involved enforcement of guarantee, provided by article 25 of the constitution, so the Petitioners are entitled for annual increments i.e. 2006 to 2009 as well as other adhoc reliefs.

- G. That the Petitioners were reinstated in service from the date of termination i.e. 30.06.2009 but it is evident from

FILED TODAY

31 AUG 2020

Additional Registrar

7
16

record that the Petitioners worked with the respondents since 23.09.2006, so the Petitioners were entitled for the back benefits from intervening period i.e. from the date of their initial appointment till date of termination i.e. 30.6.2009 as per judgment bearing C.P # 605/2015 (Copy of judgment C.P 605/2015 is attached may be considered part of this petition).

H. That the petitioners seek leave of this honourable court to raise/argue any additional point at the time of arguments.


It is, therefore, humbly prayed on acceptance of this writ petition in the light of aforementioned submissions the respondents be directed to reckoned their seniority from the date of their initial appointment.

ii. to award all the annual increments as well as adhoc reliefs w.e.f 2006 to 2009.

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31 AUG 2020
Additional Registrar

iii. it is further prayed that the
Petitioners be held entitled for the period
as they have worked from 2006 to 2009.

Petitioners
Through
Counsels


Syed Abdul Haq
Advocate, High Court
0311.0950959

CERTIFICATE

As per instruction of my client no such like writ petition,
earlier has been filed by the petitioners on the subject matter before
this Hon'able Court.


ADVOCATE

LIST OF BOOKS

1. Relevant law on the subject.
2. Constitution of Islamic republic of Pakistan.


ADVOCATE

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Additional Registrar

BEFORE THE PESHAWAR HIGH COURT MINGORA BENCH /
DARULQAZA SWAT

W.P. 873 -M/2020

Muhammad Azhar & others Petitioners

VERSUS

Govt of KPK through Secretary E&SE and others..... Respondents

ADDRESSES OF THE PARTIES

PETITIONERS

1. Muhammad Azhar Son of Sikandar Hayat, Subject Specialist (I.T), Resident of Nasafa Tehsil Timergara District Dir Lower.
2. Rooh Ullah Jan Son of Ghulam Wahid Jan Subject Specialist (I.T) Resident of Sher Khanay Tehsil Balambat District Dir Lower.
3. Mukhtyar Son of Mehmood Zai, Subject Specialist (I.T) Resident of Kalpanai, Tehsil Daggar District Dir Buner.
4. Muhammad Khan Son of Khan Badshah Subject Specialist (I.T) Resident of Banda Tehsil Wari District Dir Upper.
5. Alim ur Rashid Son of Muhammad Afsar Khan SST (I.T), Resident of Bar Palaw, Tehsil Matta District Swat.
6. Mian Said Wahab, Son of Noor ul Wahab, (I.T), Working against Subject Specialist (I.T), Resident of Osakai, Tehsil Adenzai District Dir Lower

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31 AUG 2020

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CNIC 153069290487-9 MOB: 0300 5919589

RESPONDENTS

- 1) Govt of KPK through Secretary Elementary & Secondary Education KPK at Peshawar.
- 2) Secretary Information and Technology Govt of Khyber Pakhtunkhwa, Peshawar.

- 3) Secretary to Government of KPK Finance Department at Peshawar.
- 4) Director Elementary and Secondary Education KPK Peshawar.
- 5) District Education officer District Dir Lower.
- 6) District Education officer District Dir Upper.
- 7) District Education officer District Buner.
- 8) District Education officer District Swat

Petitioners, through Counsel



**SYED ABDUL HAQ
(Advocate)**

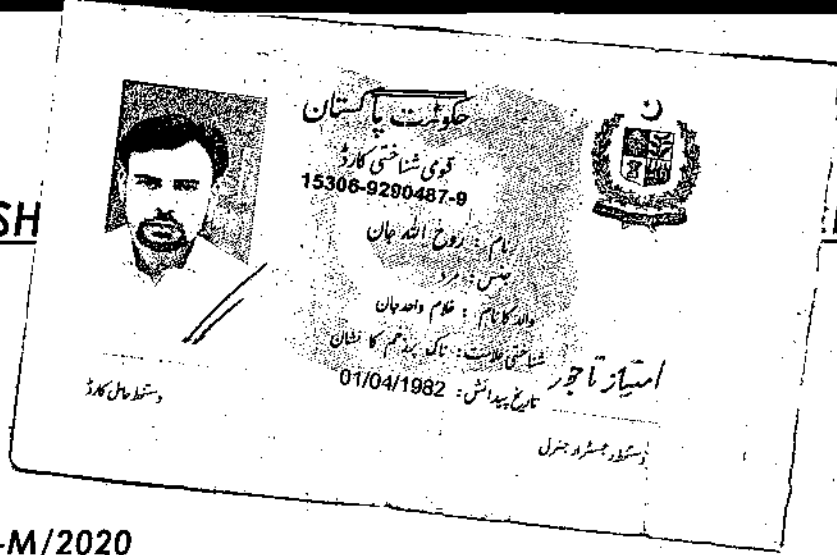
HIGH COURT DARULQAZA
BAR ROOM SWAT
Cell No 03110950959

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31 AUG 2020

Additional Registrar

BEFORE THE PESH



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W.P No. 873 -M/2020

Muhammad Azhar.....(Petitioner)

VERSUS

Govt of KPK & others..... (Respondents)

AFFIDAVIT

I, Rooh Ullah Jan S/o Ghulam Wahid Jan R/o Sherkhanay, Tehsil Balambat, District Dir Lower, (petitioner No.2), do hereby solemnly affirm and declares on oath that, all the contents of the accompanying writ petition are true and correct to the best of my knowledge and belief and nothing has been kept concealed or withheld from this august court.

DEPONENT

ROOH ULLAH JAN
CNIC:15306-9290487-9
(D)Y (L)

2969
S.No. _____
Certified that the above was verified on Solemn
affirmation before me on this 31st day
of Aug 2020 by Rooh Ullah Jan
S/o Ghulam Wahid Jan Dir who
was identified by Self

Who is personally known to me
ADDL REGISTRAR
Peshawar High Court
Mingora Bench/Dar-ul-Qaza, Swat.

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31 AUG 2020

Additional Registrar

BEFORE THE PESHAWAR HIGH COURT BENCH
MINGORA /DARUL QAZA SWAT.

(2)

WP No.873-M/2020

1. Mohammad Azhar S/O Sikandar Hayat R/O Nasafa, Tehsil
Timergara, District Dir lower and others. (Petitioners)

Versus

1. Government of KPK through Secretary Elementary and secondary
Education Khyber Pakhtunkhwa Peshawar. and others

(Respondents)

Index:


S.No	Description	Page
1	Para wise comments	1-2-3-4
2	Affidavit	5
3	Authority Letter	6



Director

Elementary and secondary education
Peshawar Khyber Pakhtoon Khwa Peshawar

RECEIVED


FILED TODAY
11 MAR 2021
INCHARGE
SUB-REGISTRY DIR (L)

①
②②

BEFORE THE PESHAWAR HIGH COURT BENCH
MINGORA /DARUL QAZA SWAT.

WP No.873-M/2020

1. Mohammad Azhar S/O Sikandar Hayat R/O Nasafa, Tehsil Timergara,
District Dir lower and others. (Petitioners)

Versus

1. Government of KPK through Secretary Elementary and secondary Education Khyber Pakhtunkhwa Peshawar.
2. Secretary Information and Technology Govt of Khyber Pakhtunkhwa, Peshawar.
3. Secretary Finance, Khyber Pakhtunkhwa Peshawar.
4. Director, Elementary and secondary Education Khyber Pakhtunkhwa Peshawar.
5. District Education Officer (M) Dir Lower at Timergara. And others

(Respondents)

PARA WISE COMMENTS ON BEHALF OF RESPONDENT No. 4

to and 8.

Respectfully sheweth:-

PRELIMINARY OBJECTIONS

FILED TODAY

11 MAR 2021

INCHARGE
SUB-REGISTRY DIR (L)

Subject to documents digest
we need to check all the documents of the Respondent
me

Advocate General
Khyber Pakhtun Khwa
Dar-ul-Qaza, Swat.
12
2020

1. That the petitioners are not the "aggrieved" persons with the Article 199 of the Constitution of the Islamic Republic of Pakistan
2. That the petitioners have got no cause of action /locus standi to file this writ petition because the petitioners did not come on merit.
3. That the petitioners have not come to this Honorable court with clean hands rather than the instant petition is mainly based on Malafide intentions just to put pressure on the respondent department for getting of back benefits.
4. That the petitioners are estopped by his own conduct.

2

5. That the instant writ petition suffers from laches, hence not maintainable in the present form.

7. That the petition in hand is barred by the relevant provision of Law/Rules/Policy in Field.

8. That the facts in issue pertains to the terms and conditions of the service, hence the jurisdiction of this court is ousted under the express provisions of Article 212 of the Constitutions.

ON FACTS

1. Para -1 pertain to record, hence needs no comments.
2. Para -2 is correct up to the extent that the petitioners were appointed in the project purely on contract/Temporary basis on fixed salary till the completion of the project, the terms and conditions of the service set forth with the petitioners clearly state that the appointment as I.T Teacher offered to the petitioners will not confer any rights of regular appointment /absorption against the said post or any post, nor will their service counted towards seniority/promotion/pension or gratuity and also the contract service can be terminated on 14 days salary in lieu thereof on winding of the project .as the service of the petitioners were terminated on 30.06.2009.
3. Para-3 is also correct and further stated that after termination the petitioners filed a W.P No.2380/2009 which was disposed off with the directions as under.

“Vide details judgment of today placed in W.P 2001/2009 .we in the circumstances has no option but to direct the respondents to treat the petitioner as regular employees from the date their service were terminated /discontinued and their inter se seniority be determined by the competent authority strictly in accordance with law and the rules on the subject. Formal orders in this regards be also issued .However they will not be entitled to back benefits as they have not served the department. This writ petition is disposed of in above terms”.

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FILED TODAY
11 MAR 2021
INCHARGE
SUB-REGISTRY DIR (L)

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24

● Para -4 is correct, hence need no comments.

5. Para-5 is also correct and as per court order the petitioners were regularized vide No.2769-78 dated 04/07/2016 with effect from 01-07-2009, without back benefits.

6. In reply to the Para-6 statement of the petitioner up to the extent of annual increments is correct, while the remaining Para is denied, and further stated that the petitioners have two alternates remedies in shape of filling of appeal/representation for redressal of their grievances (if any) and then the learned service tribunal has the exclusive domain to resolve the matter founded in terms and conditions of the service.

GROUNDS

A) Incorrect hence denied. Further stated that the petitioners were appointed to the post of I.T Teacher on fixed pay/contract base in the aforementioned project, and they all also get the benefits during the contractual period, hence not entitled for back benefits.

B) Need No Comments.

C) Detail reply has been submitted in the above Para's.

D) Correct that as per courts judgments in C.A 113-P/2013 the petitioners were reinstated w.e.f 01-07-2009 and were placed in the seniority list, in which some of the petitioners have been promoted to the post of Subject Specialist I.T BPS-17.

g,

E) Detail reply has been submitted in the above Para's.

F) Need No Comments.

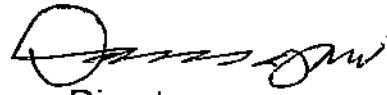
G) Detail reply has been submitted in the above Para's.

H) Legal, however, the respondents also seeks permission to submit additional grounds, case law and additional documents at the time of the arguments on the date fixed please.

FILED TODAY
11 MAR 2021
INCHARGE
SUB-REGISTRY DIR (L)

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25

It is, therefore, humbly prayed that on acceptance of the above submission, the instant writ petition may very graciously be dismissed in favor of the answering respondents with cost.



Director
Elementary and secondary education
Peshawar Khyber Pakhtoon Khwa Peshawar

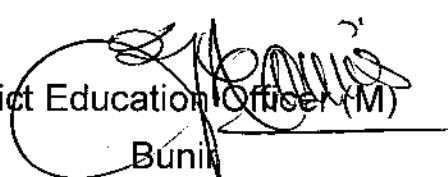
Respondent No. 40



District Education Officer (M)
Dir Lower at Timergara
Respondent No. 35



District Education Officer (M)
District Dir Upper
Respondent No. 36



District Education Officer (M)
Bunir
Respondent No. 37



District Education Officer (M)
Swat
Respondent No. 8

FILED TODAY
11 MAR 2021
INCHARGE
SUB-REGISTRY DIR (L)



PAKISTAN National Identity Card

ISLAMIC REPUBLIC OF PAKISTAN



Name
Ali Haider



Father Name
Bahadar Khan

علی حیدر

بہادر خان

Gender Country of Stay
M Pakistan

Identity Number Date of Birth
15302-5625960-7 05.01.1962

Date of Issue Date of Expiry
11.12.2019 Lifetime



Holder's Signature

سرمد ایف ڈاک خانہ تلاش، تحصیل تیرگڑہ

15302-5625960-7



سرمد ایف ڈاک خانہ تلاش، تحصیل تیرگڑہ

101081178716



Registrar General of Pakistan

گمشدہ کارڈ ملنے پر قریبی لیڈ بکس میں ڈال دیں

BEFORE THE PESHAWAR HIGH COURT BENCH
MINGORA /DARUL QAZA SWAT.

WP No.873-M/2020

1. Mohammad Azhar S/O Sikandar Hayat R/O Nasafa, Tehsil Timergara,
District Dir lower and others. (Petitioners)

Versus

- 1. Government of KPK through Secretary Elementary and secondary Education Khyber Pakhtunkhwa Peshawar.
 - 2. Secretary Information and Technology Govt of Khyber Pakhtunkhwa, Peshawar.
 - 3. Secretary Finance, Khyber Pakhtunkhwa Peshawar.
 - 4. Director, Elementary and secondary Education Khyber Pakhtunkhwa Peshawar.
 - 5. District Education Officer (M) Dir Lower at Timergara. And others
- (Respondents)

FILED TODAY
11 MAR 2021
 INCHARGE
 SUB-REGISTRY DIR (L)

Affidavit

I Mr.Ali Haider SDEO Timergara (MALE) do hereby solemnly affirm and state on oath that the whole contents of this reply are true and correct to the best of my knowledge and belief and nothing has been concealed from this August court.

Identified by
 Asst; Advocate General
 Khyber PaktunkhwaDir lower.
 DarulQaza Swat.

No 52/r
 Certified that the above was verified on solemnly affirmation before me in office, this 11 day of 03 / 2021 by Ali Haider s/o Bahadar Khan r/o Nasafa, who was identified by Self who is personally known to me.

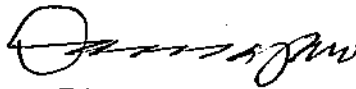
Deponent
 Oath Commissioner,
 Peshawar
 Sub-Registry Lower
Ali Haider
SDEO (Male)
Dir Lower

6
22

AUTHORITY LETTER

Mr. Ali Haider SDEO Timergara (Male) Dir Lower is hereby authorized to submit the comments /reply in the writ petition No.873-M/2020.

Title: Mohammad Azhar and others v/s Govt etc Dir Lower On behalf of the undersigned.



Director

Elementary and secondary education
Peshawar Khyber Pakhtoon Khwa Peshawar

Respondent No. 

District Education Officer (M)

Dir Lower at Timergara

Respondent No. 5



District Education Officer (M)

District Dir Upper

Respondent No. 6



District Education Officer (M) Bunir

Respondent No. 7



District Education Officer (M) Swat

Respondent No. 8

FILED TODAY

11 MAR 2021

**INCHARGE
SUB-REGISTRY DIR (L)**

28

24
M

IN THE PESHAWAR HIGH COURT, MINGORA BENCH/
DAR - U - QAZA SWAT

APPLICATION FOR ADJOURNMENT

1.	Case No.	WP 873/2022	
2.	Title	Muhammad Akbar etc vs Gvt	
3.	Case fixed for	09/02/2022	
4.	Application by	Syed Abdul Haq AN	
		For Petitioner (s)	<input checked="" type="checkbox"/>
		For Respondent (s)	<input type="checkbox"/>
5.	Reason(s)	Court for petitioner has kidney infection	
6.	Whether stay granted	YES <input type="checkbox"/>	NO <input type="checkbox"/>
7.	Stay when granted		
8.	Stay granted to	Petitioner (s) <input type="checkbox"/>	Respondent (s) <input type="checkbox"/>
9.	Previous application		
10.	Case status	Noted	

Submitted for orders, please.

(Received at 1:30 PM)

HVC 0872/22

Dear Sir,

Forwarded for Order Please.

ASSISTANT REGISTRAR

Shall Remain on Cause List

Adjourned/Allowed

ADDITIONAL REGISTRAR

29

**BEFORE HONOURABLE PESHAWAR HIGH COURT MINGORA
BENCH SWAT**

W.P 873-M/2020

Muhammad Azhar & others.....petitioners

VERSUS

Govt. of Khyber Pakhtunkhwa, through Secy. E&SE & others

..... Respondent

**APPLICATION FOR ADJOURNMENT ON BEHALF OF
PETITIONERS**

Respectfully sheweth,

1. That the above titled case is fixed for hearing on 09.02.2022 i.e. tomorrow.
2. That due to infection in kidneys, I will not be able to attend the Court.

*It is therefore humbly prayed that the case
may please be adjourned to any other convenient
date.*


SYED ABDUL HAQ

Advocate

Supreme Court of Pakistan

Dated 08.02.2022

Note: I have informed the opposite counsel 

GOVERNMENT OF NWFP
BUREAU OF INFORMATION TECHNOLOGY

2nd Floor, Block-A, PIDA Building, Phase-V, Hayatabad, Peshawar.

Tel: 0092-9217607; Fax: 0092-9217609

info@nwfp.gov.pk; www.nwfp.gov.pk

No. Dir-IT/NWFP/Comp-Lab-Recruitment/07/13/8
Dated: 3rd December 2007

1st
order of Mukhtyar

Handwritten notes: "A-S", "12", "30", "16" in circles.

To: Mr. Mukhtyar S/O Mahmood Zai,
Vill: Kulyari P/O: Diwana Baba Tehsil: Gagra Dist: Buner

Subject: APPOINTMENT AS IT TEACHER IN THE PROJECT
"ESTABLISHMENT OF ONE SCIENCE & ONE COMPUTER LAB
IN SCHOOLS/COLLEGES IN NWFP"

On the recommendation of the Departmental Selection Committee the Competent Authority has been pleased to appoint you on the subject post at a fixed pay of Rs. 6000/- PM in the Project "Establishment of One Science & One Computer Lab in Schools/Colleges in NWFP". Terms and Conditions of your service will be as under:-

- i. Your fixed pay contract appointment shall be for the remaining period of the Project i.e. till completion of the Project.
- ii. Your appointment shall be purely on contract basis and your service can be terminated on 14 days notice without assigning any reason or on payment of 14 days salary in lieu thereof or on the winding up of the project which ever is earlier.
- iii. You will produce a Medical Fitness Certificate from the Medical Superintendent, of your respective District.
- iv. Your appointment to the above post will not confer on you any right of regular appointment/absorption against the post of IT Teacher or any other post nor will your services count towards seniority/promotion/pension.
- v. You will not contribute to G.P Fund and will not be entitled to pension, gratuity benefits etc.

If the above terms and conditions are acceptable to you, you are advised to report for duty to the undersigned within 10 days of the issue of this letter, failing which this offer shall stand cancelled.

(Muhammad Sohail)
Coordinator Projects-II

Copy forwarded to the:

1. Accountant General NWFP, Peshawar.
2. Director IT, NWFP.
3. Section Officer (Estt): ST&IT Department, NWFP.
4. Principal Govt. Higher Secondary School, Amnawar, District Buner
5. Official Concerned.

Handwritten signature and stamp: "Attested to be true copy"

Attested

Section Officer (Estt),
ST & IT Department,
Government of NWFP.

Coordinator Projects-II

31

GOVERNMENT OF NWFP
DIRECTORATE OF INFORMATION TECHNOLOGY

To,

Mr. Mukhtyar S/o Mahmood Zai,
Vill: Kulyari, P/O Diwana baba Tehsil Gagra, District Buner.

Subject: APPOINTMENT AS IT TEACHER IN THE PROJECT "ESTABLISHMENT OF ONE SCIENCE COMPUTER LAB IN SCHOOLS/COLLEGES IN NWFP."

On the recommendation of the departmental selection committee the competent authority has been pleased to appoint you on the subject post at a fixed day of Rs. 6000/- PM in the project "Establishment of one science & one computer Lab in schools/colleges in NWFP terms and conditions of your service will be as under:-

- i. Your fixed pay contract appointment shall be for the remaining period of the project i.e. till completion of the project.
- ii. Your appointment shall be purely on contract basis and your service can be terminated on 14 days notice without assigning any reason or on payment of 14 days salary in lieu thereof or on the winding up of the project which ever is earlier.
- iii. You will produce a medical fitness certificate from the medical superintendent of your respective district.
- iv. Your appointment to the above post will not confer on you any right of regular appointment/absorption against the post of IT teacher or any other post nor will your services count towards seniority/promotion/pension.
- v. You will not contribute to G.P.fund and will not be entitled to pension gratuity benefits etc.

If the above terms and conditions are acceptable to you, you are advised to report for duty to the undersigned within 10 days of the issue of this letter failing which this offer shall stand cancelled.

(MUHAMMAD SOHAIL)
Coordinator Projects-II

Copy forwarded to the:

1. Accountant General NWFP, Peshawar.
2. Director IT, NWFP.
3. Section officer (Estt) ST&IT department NWFP.
4. Principal Govt. Higher secondary school, Amnawar District Buner.
5. Official concerned.

Coordinator Projects-II

Attested
True copy

**DIRECTORATE OF INFORMATION TECHNOLOGY
GOVERNMENT OF NWFP**

4th Floor, Block A, PDA Building, Phase V, Hayatabad, Peshawar.

NO. Directorate-NWFP/Projects/Appointment /06/
Dated: September 26, 2006

32
13

1st Appointment
order

TO BE SUBSTITUTED BY ORDER OF EVEN NO. AND DATE

NO. Directorate-NWFP/Projects/Appointment /06/378 Dated: September 26, 2006

On the recommendation of Departmental Selection Committee, the competent authority is pleased to appoint the following candidates as IT Teacher in the School noted against each on fixed salary (Rs:6000/-) purely on contract basis for a period of two years or till the completion of the project, whichever is earlier.

S-No	Name	Father Name	Union Council	School
District Buner				
1	Zia Ur Rehman	Atiq ur Rehman	Gagra	GHSS Jowar
2	Muhammad Tahir	Sahibzada	Nowagai	GHSS Nawagai
3	Waqar Ali Shah	Zarin Shah	Shalbandi	GHSS Amanawar
District Swat				
4	Haleem ur Rashid	Afsar Khan	Barthana	GHS Labat
5	Adnan Zeb	Altaf Hussein	Kabal	GHSS Kabal
6	Muhammad Ayaz	Said Usman	KozabaKhel	GHS TotanoBandai
7	Shah Faisal	Syed Akram Shah	Madyan	GHS Kalam
8	Imtiaz Akbar	Akbar Ali	Saidusharif	GHS Mingora
District Shangla				
9	Majeed Ullah	Ghani Rehman	Aloch Puran	GHS Sandoi
District Upper Dir				
10	Intikhab Ullah	Ghulam Nazar	Dislowr	GHS Ganori
11	Muhammad Khan	Khan Badshah	Warai	GHSS Wajai
District Lower Dir				
12	Roohullah Jan	Ghulam Wahid Jan	Hayaseri	GHSS Haya Sarai
13	Mian Said Wahab	Noor ul Wahab	Kotigram	GHS Asbanr
14	Nawsher Khan	Amir Khan	Samarbagh	GHSS Samar Bagh
15	Muhammad Azhar	Sikandar Hayat	Shahe Khela	GHSS ZiaratTalash
District Malakand				
16	Sher Zaman Khan	Qurasan Khan	Malakand	GHS Malakand
District Sawabi				
17	Sohail Irfan	Mohammad Ayub	Topi East	GHSS Zarobai

The Terms and Condition are as under:

1. Their appointment is purely on contract for a period of two years or till the completion of the project whichever is earlier. They will have no claim/right what so ever for regularization etc. and their services can be terminated at two months notice without any reason.
2. In case they wish to resign at any time, two months notice will be necessary or in lieu thereof two month's pay shall be fore-felted.
3. The offer is subject to the condition that they are the citizen of Pakistan and bonafide resident of Concerned Union Council and medically fit.
4. Their appointment to the above post will not confer on them any right of regular appointment/ absorption against the post of IT teacher or any other post under the provincial government.
5. Their appointments are subject to the verification of character and antecedents to the satisfaction of the Appointing Authority.

[Signature]
**Attested
to be true copy**

[Signature]
PRINCIPAL
Govt. High School
LABAI Distt: Swat.

[Signature]

DIRECTORATE OF INFORMATION TECHNOLOGY
GOVERNMENT OF NWFP

4th Floor, Block-A, PDA Building, Phase-V, Hayatabad, Peshawar.

NO. Directorate-NWFP/Projects/Appointment /06/
Dated: September 26, 2006

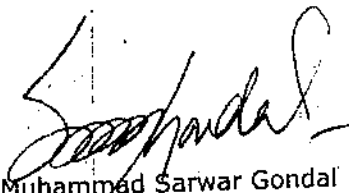
14
33


6. Their services will be liable to be terminated without any notice if their performance is not found satisfactory subsequently or found absent.
7. They will produce a medical certificate of fitness form the Civil Surgeon/ Medical Superintendent from the concerned Medical Superintendent.
8. Their services under the present contract shall not qualify for pension/gratuity.
9. They are required to report the Headmaster/Principal of School. They have appointed for.
10. Their appointments are Schools specific and non-transferable. No subsequent request for transfer etc shall be entertained in any circumstances.


DEPUTY SECRETARY
TO GOVT OF NWFP
Science & Technology and
Information Technology
Dated: 03 October, 2006

Copy for Information to:

1. The Accountant General NWFP Peshawar
2. Concerned Principals / Headmasters
3. P.S to Secretary, ST&IT Department, Govt. of NWFP
4. P.A to DS (Admin), ST&IT Department, Govt. of NWFP
5. P.A to Director, Directorate of Information Technology, NWFP
6. Official concerned.


Muhammad Sarwar Gondal
Director, Directorate of IT
091-9217607
Dated: 03 October, 2006


Attested
to be true copy


PRINCIPAL,
Govt. High School,
L4HA sit: Swat.

GOVERNMENT OF NWFP
DIRECTORATE OF INFORMATION TECHNOLOGY

Dated Peshawar, the 21st January, 2009.

Annex. #
212
Sub. 34
15

ORDER

No. DoIT/ST&IT/NWFP/Projects/CompLab/revised Salary/09/2009 The Competent authority has been pleased to extend the service contract of the following IT Teachers & Driver of the Project "Establishment of Computer Labs in Schools in NWFP" for a period from 01-07-2008 till 30th June, 2009 and revised the salaries with effect from 17-10-2008 as per detail given below:-

S#	Name	Designation	Revised Salary
1	Muhammad Azhar	IT Teacher	Rs: 15000/pm
2	Rooft Allah Jan	IT Teacher	Rs: 15000/pm
3	Muhammad Khan	IT Teacher	Rs: 15000/pm
4	Mansoor Ullah	IT Teacher	Rs: 15000/pm
5	Sohail Irfan	IT Teacher	Rs: 15000/pm
6	Mian Said Wahab	IT Teacher	Rs: 15000/pm
7	Mukhtyar	IT Teacher	Rs: 15000/pm
8	Zia Ur Rehman	IT Teacher	Rs: 15000/pm
9	Karam Ali	Driver	Rs: 8000/pm

Terms & Conditions of your Service Contract will be:

- Your fixed pay contract shall be for the remaining period (initial) i.e till June, 2009 and will be extendable till life of the project on the basis of performance / evaluation report.
- An Annual increment of 5% per year will be given as per policy of Govt. of NWFP.
- Your contract services can be terminated on 14 days notice without assigning any reason or on payment of 14 days Salary in lieu therefore on the winding up of the project which ever is earlier.
- Your contract to the above post will not confer on any right of regular appointment / absorption against the said post or any other post nor will your service count towards seniority / promotion / pension.
- You will not contribute to G.P Fund & will not be entitled to pension, gratuity benefits etc.

Director-IT
Directorate of IT NWFP

Encls: of Even No. & date.

Copy for information to:

1. Accountant General, NWFP.
2. PS to Secretary, ST&IT Department.
3. PA to Director-IT.
4. All concerned staff.

Attest
Section Officer (Estt.),
ST & IT Department,
Government of NWFP.

Director-IT
21/01/09
Assistant Director IT
Directorate of IT NWFP

38

GOVERNMENT OF NWFP
DIRECTORATE OF INFORMATION TECHNOLOGY
Dated Peshawar, the 21st January 2009.

Order:

No. DoIT/ST&IT/NWFP/Projects/CompLab/revise Salary/09/294. The competent authority has been pleased to extend the service contract of the following IT Teacher & Driver of the project establishment of computer Labs in schools in NWFP for a period from 01/07/2008 till 30th June 2009 and revised the salaries with effect from 17/10/2008 as per detail given below:-

S#	Name	Designation	Revised Salary
1	Muhammad Azhar	IT Teacher	Rs: 15000/pm
2	Rooh Ullah Jan	IT Teacher	Rs: 15000/pm
3	Muhammad Khan	IT Teacher	Rs: 15000/pm
4	Mansoor Ullah	IT Teacher	Rs: 15000/pm
5	Sohail Irfan	IT Teacher	Rs: 15000/pm
6	Mian Said Wahab	IT Teacher	Rs: 15000/pm
7	Mukhtyar	IT Teacher	Rs: 15000/pm
8	Zia Ur Rahman	IT Teacher	Rs: 15000/pm
9	Karam Ali	Driver	Rs: 8000/pm

Terms & conditions of your service contract will be:

- Your fixed pay contract shall be for the remaining period i.e. till June 2009 and will be extendable till life of the project on the basis of performance/evaluation report.
- An annual increment of 5% per year will be given as per policy of Govt. of NWFP.
- Your contract services can be terminated on 14 days notice without assigning any reason or non payment of 14 days salary in lieu therefore on the winding up of the project which ever as earlier.
- Your contract to the above post will not confer on any right of regular appointment/absorption against the said post or any other nor will your service count towards seniority/promotion/pension.
- You will not contribute to G.P Fund & will not be entitled to pension gratuity benefits etc.

Director-IT

Directorate of IT NWFP

Endst: of even No. & date.

Copy for information to:

1. Accountant general NWFP.
2. PS to secretary ST&IT department.
3. PA to Director-IT.
4. All concerned staff.

Attested
to be true copy

Assistant Director-IT
Directorate of IT NWFP



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Dated Peshawar the February 12, 2019

NOTIFICATION

NO.SO(SME&SED/1-85/SS-IT/2018/19): In pursuance of Section-2 of the Khyber Pakhtunkhwa Employees of the Elementary and Secondary Education Department (Appointment and Regularization of Services) (Amendment) Act, 2018 (Khyber Pakhtunkhwa Act No. II of 2019) read with Section-I of the Act ibid and Law Department Govt. of Khyber Pakhtunkhwa advise bearing No. ALD-III/Legis:I(4)2017/Vol-I/9888-90 dated 20/03/2017, the services of the following 44 (forty four) (Male & Female) Senior Information Technology Teachers re-designated as Subject Specialist (IT) BS-17 in Elementary & Secondary Education Department are hereby regularized in (BPS-17) from their initial appointment on the below mentioned terms and conditions:

Male					
S#	Name	Father Name	Domicile	Place of posting	Date of Initial Appointment
1	Babar	Muhammad Sarfraz	Abbottabad	GHSS Nawanshehr Abbottabad	27-08-2014
2	Muhammad Rashid	Muhammad Ashraf	Abbottabad	GHSS Birote Abbottabad	27-08-2014
3	Sana Ul Haq	Muhammad Nazif Khan	Bannu	GHSS Domel Bannu	27-08-2014
4	Bakht Bilal	Hamid Ullah	Buner	GHSS Nagrai Buner	27-08-2014
5	Hayat Muhammad	Ghulam Habib	Charsadda	GHSS Umerzai Charsadda	27-08-2014
6	Asfandia Ali	Tahir Ali	Chitral	GHSS Morilasht Chitral	27-08-2014
7	Furqan Khan Saddozai	Muhammad Hashim Khan	D.I. Khan	GHSS Kat Garh D.I. Khan	27-08-2014
8	Javed Ahmad	Ahmad Nawaz	D.I. Khan	GHSS Dhakki D.I. Khan	27-08-2014
9	Naseeb Zada	Amir Alam Khan	Dir Lower	GHSS Samarbagh Dir Lower	27-08-2014
10	Irshad Gul	Safdar Gul	Dir Lower	GHSS Ziaqndara Dir Lower	27-08-2014
11	Abid Ullah	Sahib Ur Rahman	Dir Upper	GHSS Qulandi Dir Upper	27-08-2014
12	Abdur Rauf Khan	Abdur Rashid	Hangu	GHSS Doaba Hangu	27-08-2014
13	Muhammad Saeed	Abdul Rasheed	Haripur	GHSS Bagra Haripur	27-08-2014
14	Tahir Hussain Shah	Mulazam Hussain Shah	Haripur	GCMHSS Kot Najibullah Haripur	27-08-2014

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GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

15	Naeem Ullah	Abdur Rais Khan	Karak	GHSS Shah Salim Karak	27-08-2014
16	Basir Ullah	Niaz Muhammad	Karak	GHSS Warana Karak	27-08-2014
17	Muhammad Zohaib	Muhammad Yousaf	Kohat	GHSS Chorlaki Kohat	21-10-2014
18	Muhammad Kashif	Muhammad Yousaf	Kohat	GHSS Uster Zai Payan Kohat	27-08-2014
19	Gohar Ayub	Muhammad Ayub Khan	Kohat	GHSS Lachi Kohat	27-08-2014
20	Hazratullah Khan	Nasrullah Khan	Lakki Marwat	GHSS Abba Khel Lakki Marwat	27-08-2014
21	Inam Ur Rehman	Gul Rehman	Malakand	GHSS Kot Malakand	27-08-2014
22	Muhammad Alam	Zarnosh Khan	Nowshera	GHSS Manki Sharif Nowshera	27-08-2014
23	Muhammad Khalid	Muhammad Yousaf	Peshawar	GHSS No.3 Peshawar City	21-10-2014
24	Kashif Khan	Umara Khan	Peshawar	GHSS Tehkal Peshawar	08-12-2014
25	Mushtaq Khan	Sahib Zada	Peshawar	GHSS No.1 Peshawar Cantt	27-08-2014
26	Muhammad Ishfaq	Almas Khan	Peshawar	GHSS Chaghar Matti, Peshawar	27-08-2014
Female					
27	Saadia Minhas	Haji Muhammad Hussain	Bannu	GGHSS Bannu City No.2	27-08-2014
28	Humaira Khan	Muhammad Khan	Charsadda	GGHSS Umerzai Charsadda	21-11-2014
29	Uzma Gilani	Jehanzeb	Charsadda	GGHSS Utmanzai Charsadda	27-08-2014
30	Irum Sultana Tareen	Abdur Rahim Khan	D.I. Khan	GGHSS No. 2 D.I. Khan	27-08-2014
31	Robina Parveen	Munir Ahmed Jan	D.I.Khan	GGHSS Prova D.I. Khan	27-08-2014
32	Shabnam Bibi	Wasi Ul Mulk	Dir Lower	GGHSS Mayar Dir Lower	27-08-2014
33	Noreen Begum	Umer Zada	Dir Lower	GGHSS Ouch Dir Lower	27-08-2014
34	Bibi Aisha	Shahid Islam	Karak	GGHSS Teri Karak	27-08-2014
35	Alia Nisar	Sayed Nisar	Karak	GGHSS No. 1 Karak	27-08-2014
36	Iram Afridi	Namoos Khan	Kohat	GGHSS Shakerdara Kohat	27-08-2014
37	Uzma	Wali Muhammad	Malakand	GGHSS Koper Malakand	27-08-2014
38	Qurat Ul Ain Wahab	Abdul Wahab	Mansehra	GGHSS Oghi Mansehra	27-08-2014
39	Sumayya Bibi	Qazi Shams Ul Hadi	Nowshera	GGHSS Rashaki Nowshera	21-10-2014



**GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT**

17
37

40	Gul Meena	Atta Ul Haq	Nowshera	GGHSS Khair Abad Nowshera	27-08-2014
41	Nida Ansari	Qamar Ul Islam	Peshawar	GGHSS Mathra Peshawar	27-08-2014
42	Huda Nauman	Arbab Nauman Khan	Peshawar	GGHSS Chamkani Peshawar	27-08-2014
43	Shumaila Istikhar	Istikhar	Peshawar	GGHSS Lady Grifh Peshawar	27-08-2014
44	Asma Durrani	Niaz Durrani	Peshawar	GGHSS Begum Shahab Ud Din Peshawar	27-08-2014

1/3

TERMS AND CONDITIONS:

- The employees shall have held their posts validly till 30-06-2017.
- They shall possess the same qualification and experience as required for a regular post. Their pay shall be released subject to verification of academic documents/testimonials from the concern board/university by the DEO concerned.
- Their services shall be regularized on the available post with effect from their initial appointment for the purpose of fixation of pay.
- Their services shall be governed by the Khyber Pakhtunkhwa Civil Servant Act, 1973, the Khyber Pakhtunkhwa (Appointment, Deputation, Posting and Transfer of Teachers, Lecturer, Instructor and Doctors) Regularity Act, 2011 and such rules and regulations as may be issued from time to time by the Government.
- They shall rank junior to all other employees belonging to the same Cadre, who are in service on regular basis on the commencement of this Act, and shall also junior to such other persons, if any, who, in pursuance of the recommendation of the Commission made before the commencement of this Act, are to be appointed to the Cadre, irrespective of their actual date of appointment.
- Their services will be liable to termination on one month's notice from either side. In case of resignation without notice their one month pay/allowances, shall be forfeited to Government.
- In case of misconduct, they will be proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011 and the Rules framed from time to time.

SECRETARY

C etc
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**GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT**

Copy forwarded to the:

1. Accountant General, Khyber Pakhtunkhwa Peshawar.
2. Director, E&SE Khyber Pakhtunkhwa, Peshawar
3. District Education Officers (M & F), Concerned.
4. District Accounts Officers, Concerned.
5. PS to Advisor to CM for E&SE Department, Khyber Pakhtunkhwa.
6. PS to Secretary E&SE Department, Khyber Pakhtunkhwa.
7. PS to Special Secretary E&SE Department, Khyber Pakhtunkhwa.
8. In-charge EMIS E&SE Department.
9. Officers concerned.
10. Master file.


(SHABIR KHAN)

SECTION OFFICER (SCHOOLS MALE)



18
38

**GOVERNMENT OF
KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT**

Dated Peshawar the March 29th, 2018

NOTIFICATION

NO. SO(S/FE&SED/1-85/SS-IT/2018: In pursuance of Section-3 of the Khyber Pakhtunkhwa Employees of the Elementary and Secondary Education Department (Appointment & Regularization of Services) Act, 2017 (Khyber Pakhtunkhwa Act No. 1 of 2018) read with Section-1, Sub-Section (2) of the Act and Law Department Govt. of Khyber Pakhtunkhwa advice bearing No. ALD-114/2017/Vol-1/9888-90 dated 20/03/2017, the services of the following 20 (Twenty) Male Senior Information Technology Teachers redesignated as Subject Specialist (IT) BS-17 in Elementary & Secondary Education Department are hereby regularized in (BPS-17) on the below mentioned terms and conditions:

S#	Name	Father Name	Domicile	Date of Initial Appointment
1	Shafique Ahmad	Khawas Khan	Buner	16-12-2016
2	Muhammad Arif	Zar Jamil	Buner	16-12-2016
3	Basharat Jehan	Shah Jehan	Charsadda	16-12-2016
4	Inayat Khan	Bakhti Rahman	Dir Upper	16-12-2016
5	Muhammad Adnan Sahibzada	Abdul Jamil	Hangu	16-12-2016
6	Rashid Nawaz	Habib Nawaz	Lakki Marwat	16-12-2016
7	Syed Younas Ali Shah	Syed Wilayat Shah	Lakki Marwat	20-01-2017
8	Irfan Ullah	Abdul Aziz	Lakki Marwat	16-12-2016
9	Saad Hameed	Abdul Hameed	Mansehra	16-12-2016
10	Naveed Qasim	Said Qamresh	Mardan	16-12-2016
11	Sher Afgan Khattak	Amjad Ali Shah	Nowshera	20-01-2017
12	Mahfooz Ur Rahman	Haji Habib Ur Rehman	Peshawar	20-01-2017
13	Saiman Ahmad	Akbar Khan	Swabi	16-12-2016
14	Fahad Zia	Nisar Muhammad	Swabi	16-12-2016
15	Faisal Rehman	Abdul Rehman	Swabi	16-12-2016
16	Usman Ali	Muhammad Ghauri	Swat	16-12-2016
17	Israr Ahmad	Hazrat Ahmad	Swat	20-01-2017
18	Fazal Ahmad	Nasir Ahmad	Swat	16-12-2016
19	Shafiq Hussain	Ghulam Mohammad	Tank	20-01-2017
20	Abdul Waheed Khan	Muhammad Ibrahim Khalil	Tank	16-12-2016

TERMS AND CONDITIONS:

- The employees shall have held their posts validly till the commencement of this Act.
- They shall possess the same qualification and experience as required for a regular post. Their pay shall be released subject to verification of academic documents/ testimonials from the concerned Board/ University by the DEO concerned.
- Their services shall be regularized on the available posts with effect from their initial appointment for the purpose of fixation of pay only.
- Their services shall be governed by the Khyber Pakhtunkhwa Civil Servants Act, 1973, the Khyber Pakhtunkhwa (Appointment, Deputation, Posting & Transfer of Teachers, Lecturers, Instructors & Doctors) Regulatory Act, 2011, and such rules & regulations as may be issued from time to time by the government.

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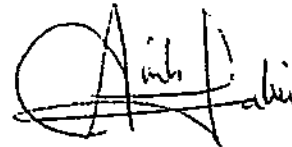
- e. Their regularization shall not affect the promotion quota of existing holders of posts in respective service cadres.
- f. They shall rank junior to all other employees belonging to the same cadre who are in service on regular basis on the commencement of this Act and shall also rank junior to such other persons if any, who, in pursuance of the recommendation of the Khyber Pakhtunkhwa Public Service Commission made before the commencement of this Act are to be appointed to the cadre, irrespective of their actual date of appointment.

SECRETARY

Endst: of even No. & date:

Copy forwarded to the:

1. Accountant General of Khyber Pakhtunkhwa Peshawar.
2. Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
3. District Accounts Officers concerned.
4. District Education Officers (Male) concerned.
5. In-charge EMIS Cell, E&SE Department for uploading at official website.
6. Principals/ Headmasters of the Schools concerned.
7. PS to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
8. PS to Minister E&SE Khyber Pakhtunkhwa, Peshawar.
9. PS to Secretary E&SE Department.
10. PS to Special Secretary. E&SE Department.
11. Official concerned.



(ANEELA FAHIM)
SECTION OFFICER (SCHOOLS FEMALE)



GOVERNMENT OF
KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY
EDUCATION
DEPARTMENT

19
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Dated Peshawar the March 29th, 2018

NOTIFICATION

NO. SO(S/F)E&SED/1-85/SS-IT/2018: In pursuance of Section-3 of the Khyber Pakhtunkhwa Employees of the Elementary and Secondary Education Department (Appointment & Regularization of Services) Act, 2017 (Khyber Pakhtunkhwa Act No. 1 of 2018) read with Section-1, Sub-Section (2) of the Act ibid and Law Department Govt. of Khyber Pakhtunkhwa advice bearing No. ALD-III/Legis:1(4)2017/Vol-I/9888-90 dated 20/03/2017, the services of the following 07 (Seven) Female Senior Information Technology Teachers redesignated as Subject Specialist (IT) BS-17 in Elementary & Secondary Education Department are hereby regularized in (BPS-17) on the below mentioned terms and conditions:

S#	Name	Father Name	Domicile	Date of Initial Appointment
1	Afshan Khan	Muhammad Khan	Buner	16-12-2016
2	Bilqees Sani	Syed Umer Shah Bukhari	Charsadda	16-12-2016
3	Sadia	Habib Ur Rehman	Dir Upper	16-12-2016
4	Salma Bano	Kamil Khan	Kohat	16-12-2016
5	Javaria Sohail	Muhammad Ajoon Khan	Mansehra	16-12-2016
6	Syeda Qurat Ul Ain	Akbar Ali Shah	Mardan	20-01-2017
7	Kalsoom Bibi	Farid Ullah Jan	Nowshera	16-12-2016

TERMS AND CONDITIONS:

- The employees shall have held their posts validly till the commencement of this Act.
- They shall possess the same qualification and experience as required for a regular post. Their pay shall be released subject to verification of academic documents/ testimonials from the concerned Board/ University by the DEO concerned.
- Their services shall be regularized on the available posts with effect from their initial appointment for the purpose of fixation of pay only.
- Their services shall be governed by the Khyber Pakhtunkhwa Civil Servants Act, 1973, the Khyber Pakhtunkhwa (Appointment, Deputation, Posting & Transfer of Teachers, Lecturers, Instructors & Doctors) Regulatory Act, 2011, and such rules & regulations as may be issued from time to time by the government.

[Handwritten signature]
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- e. Their regularization shall not affect the promotion quota of existing holders of posts in respective service cadres.
- f. They shall rank junior to all other employees belonging to the same cadre who are in service on regular basis on the commencement of this Act and shall also rank junior to such other persons if any, who, in pursuance of the recommendation of the Khyber Pakhtunkhwa Public Service Commission made before the commencement of this Act are to be appointed to the cadre, irrespective of their actual date of appointment.

SECRETARY

Endst: of even No. & date:

Copy forwarded to the:

1. Accountant General of Khyber Pakhtunkhwa Peshawar.
2. Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
3. District Accounts Officers concerned.
4. District Education Officers (Female) concerned.
5. In-charge EMIS Cell, E&SE Department for uploading at official website.
6. Principals/ Headmistress of the Schools concerned.
7. PS to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
8. PS to Minister E&SE Khyber Pakhtunkhwa, Peshawar.
9. PS to Secretary E&SE Department.
10. PS to Special Secretary, E&SE Department.
11. Official concerned.


(ANEELA FAHM)

SECTION OFFICER (SCHOOLS FEMALE)

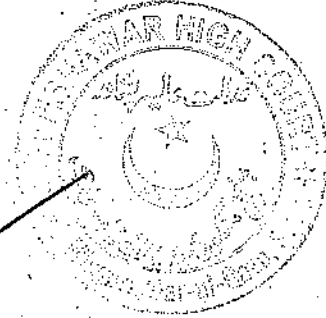

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"A"
ANNEXURE

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

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W.P.No. 2380 /2009



1. Muhammad Azhar (Ex IT) Teacher
GHS Ziarat Talash Lower Dir.
2. Rooh-ullah Jan (Ex IT) Teacher
GHS Haya Sarai Lower Dir.
3. Muhammad Khan (Ex IT) Teacher
GHS Warai Dir Upper.
4. Sohail Irfan (Ex-IT) Teacher
GHS Zarabi District Swabi.
5. Mian Said Wahab (Ex-IT) Teacher
GHS Asbanar Dir Lower.
6. Mukhtiar (Ex-IT) Teacher
GHSS Amnawar Buner
7. Haleem-ur-Rashid Ex IT) Teacher
GHSS Kabal District Swat.

.....Petitioners

Versus

1. Govt. of NWFP Secretary Information Technology
(IT) Peshawar.
2. Secretary Elementary & Secondary Education
NWFP, Peshawar.
3. Secretary to Govt. of NWFP Finance Department,
Peshawar

Attested
10-11-2009

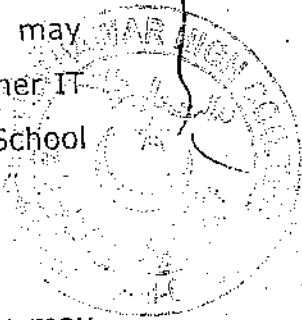
4.
10-11-2009

Director Elementary & Secondary Education
NWFP, Peshawar.

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It is therefore, prayed that on acceptance of this Writ Petition the act of the respondents through which they have terminated the contract of the petitioners being illegal unlawful without authority/jurisdiction, based on malafide intention and also being discriminatory in nature may please be set-aside and instead of terminating the contract of the petitioners the petitioners services may please be regularized accordingly as to the other IT Teachers appointed by the Directorate of School and Literacy NWFP, Peshawar



Interim Relief

It is further prayed that the respondents may please be directed not to fill the posts, upon which the petitioners were working before the expiry of their contract till the final disposal of the above noted Writ Petition.

Petitioners
Through *Ghulam Nabi*
Ghulam Nabi
Advocate, Peshawar

Certificate

Certified that no Writ Petition has earlier been filed by the petitioner on the above subject before this Honourable Court.

Attested
to be true copy

List of Books

1. Constitution of Islamic Republic of Pakistan, 1973.
2. Any other law books as per need.

Ghulam Nabi
Advocate

FILED
14 SEP 2017

PESHAWAR HIGH COURT MINGORA BENCH
(DAR-UL-QAZA), SWAT
JUDICIAL DEPARTMENT
JUDGMENT SHEET



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Writ Petition No. 2380/2009.

Date of Hearing: 17.5.2012. ✓

Petitioner: (Muhammad Azhar & Others) by Mr. Ghulam Na Aduro ca

Respondent: (Govt of NWFP & Others) by Mr. Iqbalullah B (A.A.G.)

MAZHAR ALAM KHAN MIANKHEL, J.- Vide

detailed judgment of today placed in writ petition No. 2001 of 2009. We in the circumstances have no option but to direct the respondents to treat the petitioners as regular employees from the date, their services were terminated/discontinued and their inter se seniority be determined by the competent authority strictly in accordance with law and the rules on the subject. Formal orders in this regard be also issued. However, they will not be entitled to back benefits as they have not served the department. This writ petition is

disposed of in above terms *sd- iqbalullah B*
sd- mazhar Alam Khan - J

Announced: 25/6

17.5.2012 Applicant. *Solih Jaffer*

JUDGE

Date of Presentation of Application: 23/05/12

Date of Completion of Copies: 07/06/12

No. of Copies: 3-P

Fee Charged: 6/-

Date of Delivery of Copies: 07/06/12

JUDGE

*Attested
to be true copy*

Certified to be true copy

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BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

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W.P.No. 2001 / 2009

1. Iftikhar Hussain (Ex- Veterinary Assistant)
2. Subhanullah (Ex- Veterinary Assistant)
3. Zia-ul-Haq (Ex-Veterinary Assistant)
4. Nasar Khan (Ex-Veterinary Assistant)
5. Sher Bahadar (Ex-Chowkidar)
6. Ikramullah (Ex-Chowkidar)
7. Naveed Khan (Ex-Chowkidar)
8. Nasrullah (Ex-Chowkidar).....Petitioners

Versus

1. ✓ Govt. of NWFP through Secretary Livestock and Diary Development Peshawar.
2. ✓ Govt. of NWFP through Secretary Finance Department, Peshawar.
3. Director Livestock & Diary Development NWFP, Peshawar.
4. ✓ Accountant General NWFP, Peshawar.
5. ✓ District Coordination Officer, Malakand Agency
6. District Livestock Officer at Malakand Agency at Batkhela.
7. Ihsanullah Veterinary Assistant Civil Veterinary Dispensary Mayar Sakhakot Malakand Agency.

.....Respondents

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Dated 2/12/09
13 Nov 2009

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from their posts, being illegal unlawful without authority and jurisdiction and based on the malafide intentions of the respondents departments be set-aside and the respondents be directed to allow the petitioners to carry on their services on permanent/regular basis at the posts which have been created by the Finance Department on 14.4.2009.

Interim Relief:

It is further prayed that the respondents department directed not to fill the post of the petitioners through any recruitment/appointment of transfer till the final disposal of the above noted Writ Petition and transfer order ^{of Respondent-7} dated 30.07.2009 may please be suspended.

Petitioners
Through *Ghulam Nabi*
Ghulam Nabi
Advocate, Peshawar

Certificate

Certified that no Writ Petition has earlier been filed by the petitioner on the above subject before this Honourable Court

List of Books

1. Constitution of Islamic Republic of Pakistan, 1973.
2. Any other law books as per need.

attested
2009

Ghulam Nabi
Advocate

FILED TODAY
Deputy Registrar
08 AUG-2009

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WS

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

W.P. No.2001 /2009

JUDGMENT

Date of hearing: 17.5.2012.

Appellant-Petitioner ✓ (Iftikhar Hussain & Others) by Mr. Ghulam Na
Advoc.
Respondent (Govt of NWFP & Others) by Mr. Iqbalullah
Adv.
AAG.

MAZHAR ALAM KHAN MIANKHEL, J.- Through this single judgment in writ petition No. 2001 of 2009 Iftikhar Hussain etc. versus Government of N.W.F.P through Secretary Livestock & Dairy Development, Peshawar, we also want to dispose of writ petition No. 2380 of 2009 with the title of Muhammad Azhar versus Government of N.W.F.P having the common question of law involved in both the writ petitions.

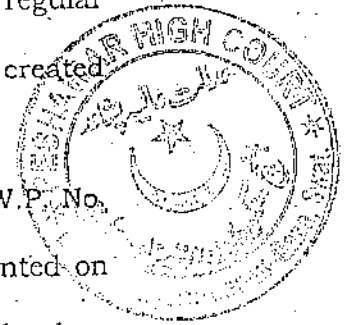
2. Petitioners in the first writ petition were appointed in the year 2007 on contract basis in a project on different posts appearing against their names in the title of writ petition. Their contracts were accordingly renewed, but the petitioners were served with a notice dated 05.06.2009 that their services would no more be required after 30.06.2009. The petitioners have asked for issuance of an appropriate writ by declaring the said notice of termination of their services to be illegal, unlawful, without lawful authority and jurisdiction having been based on malafide of the respondents/Department. They further sought direction

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that the respondents be directed to allow the petitioners to continue with their services on permanent/regular basis at their respective posts, which have been created by the Finance Department on 14.04.2009.



Whereas the petitioners in the connected W.P. No. 2380 of 2009 have alleged that they were appointed on 15.9.2006 by the Directorate of Information Technology N.W.F.P, Peshawar on contract basis as I.T. Teacher in the Project with the title of "Establishment of one Science and one Computer Lab in the School/College of N.W.F.P". Their contracts were time and again extended by the competent authority and lastly their contracts were extended from 01.07.2008 to 30.06.2009, but later on they were told that their contracts would not be renewed after 30th June, 2009. Their representations to the high-ups turned in futile. Besides their appointments, Schools & Literacy Department of Government of N.W.F.P had also appointed many I.T. and S.T. Teachers on contract basis on different projects having the same nature of job as the petitioners were performing, but the services of employees of Schools & Literacy Department were converted to regular side on contract basis till the arrival ~~selectees of N.W.F.P Public Service Commission~~ on 05.12.2007.

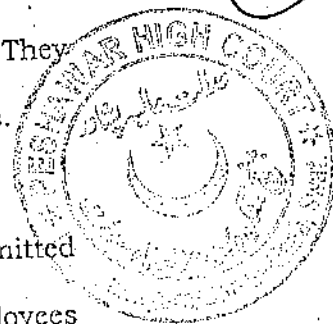
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The petitioners through their writ petition have asked for declaration to the effect that the termination of their contracts are illegal, unlawful, without lawful authority and jurisdiction having been based on malafide intention. They further alleged that their termination in

07/12/09

the circumstances is also discriminatory in nature, as the services of the similarly placed persons of the Schools & Literacy Department were regularized. They have further asked for regularization of their services.

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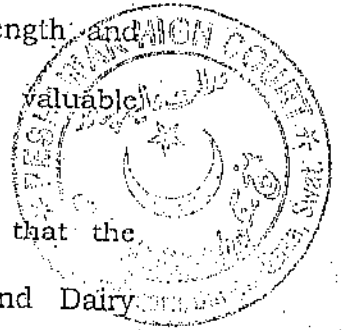
3. Learned counsel for the petitioners submitted that the services of many of the contract employees working in different projects were regularized, but the termination of the petitioners from their services is unlawful, without lawful authority and jurisdiction based on malafide which amounts to discrimination and is against the constitutional protection given to the citizen of the country. The learned counsel for the petitioners referred to many judgments of this court as well as of the Apex Court, wherein the contract employees of different projects including the projects of the petitioners in both the writ petitions were regularized.

4. As against that the learned A.A.G strongly controverted the arguments of learned counsel for petitioners by submitting that the cases of the petitioners do not fall within the provisions Section-3 of the N.W.F.P (Regularization of Services) Act, 2009 and their services thus cannot be regularized. He further argued that the petitioners were appointed against project posts on contract, cannot be said to have been appointed against regular posts entitling them to claim the benefit under Section-3 of the Act 2009 *ibid* and requested that their writ petitions being misconceived, be dismissed.

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5. Learned counsel for the petitioners and learned A.A.G for the respondents were heard at length and record of the case was perused with their valuable assistance.

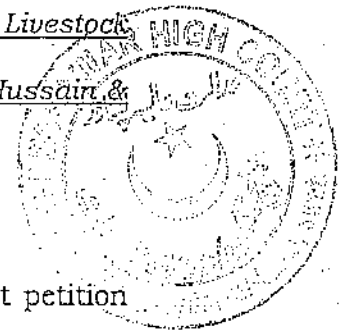
6. The record of the case would reveal that the petitioners working under the Livestock and Dairy Development Secretariat were initially appointed in April 2007 as project employees on contract basis till the life of the project under the government of N.W.F.P now Khyber Pukhtunkhwa Finance Department contract policy of the year 2002. Their contracts were renewed time to time and lastly were extended till 30.6.2009. But in the meanwhile vide notice dated 5.6.2009 they were informed that their services would no more be required after 30.6.2009. Besides the above notice, the Finance Department agreed for the creation of eight new posts of different categories, which the petitioners were already occupying and serving there-against on contract in projects and the Secretary Government of N.W.F.P Agriculture, livestock and Cooperation Department was accordingly informed vide letter dated 14.4.2009. It was further informed that the financial implications involved will be met out from the District budget account -IV during the year 2009-2010. This on the face of it would be sufficient to reflect the malafide intention of the respondents, that the above said posts will be filled by the government to adjust their own blue-eyed at the cost of petitioners, who served the department since 2007 without any complaint their against. Their services in such a situation cannot be

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terminated and they cannot be sent to home in such a manner. Besides merits of the case, services of other similarly placed persons were directed by this court to be regularized vide its judgment dated 15.9.2011 in W.P. No. 360 of 2009 "Amir Hussain etc v/s Government & others." Findings rendered by this court were upheld by the Apex Court vide judgment dated 20.03.2012 in the case of Government of Khyber Pukhtunkhwa Agriculture, Livestock & Cooperation Department, Peshawar v/s Amir Hussain & others.

As far as the petitioners of connected writ petition are concerned, they were appointed on contract, initially for a period of 2-years on 15.9.2006 on the project with the Title of "Establishment of one Science and one Computer Lab in the School/College of N.W.F.P". Latter on their services were extended from 01.07.2008 to 30.06.2009. No doubt, they were project employees on contract for a specific period appointed by Information Technology, but the Education Department had also appointed the similar staff initially on contract and latter on regularized their services by converting their services to regular budget and then regularized their services. The petitioners were also performing alike duties as the employees of Education Department were performing. Regularization of services of Education Department by refusing alike treatment to petitioners would be a discrimination of worst kind. We were also informed that the policy of conversion of I.T. Teachers into Schools &

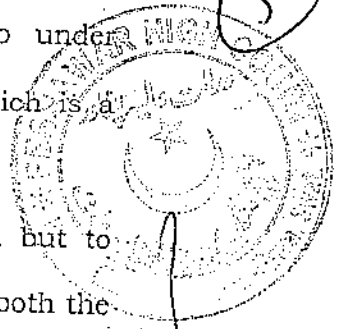


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literacy Department on regular basis is also under consideration by the provincial government which is a good gesture.

We in the circumstances have no option but to direct the respondents to treat the petitioners of both the writ petitions as regular employees from the date, their services were terminated/discontinued and their inter se seniority be determined by the competent authority strictly in accordance with law and the rules on the subject. Formal orders in this regard be also issued. However, they will not be entitled to back benefits as they have not served the department. Both the writ petitions are disposed of in above terms.

Announced.

Dated: 17.6.2012.

Sd - [Signature]
Sd - [Signature]

JUDGE

JUDGE

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Office of the
Jawahar High Court
Swat
Established Under Article 109 of the Constitution of Swat, 2009

4/6/12

S.No. 2548

Name of Applicant Sahid Iqbal

Date of Filing 23/5/12

Date of Disposal 07/06/12

Page No. 8P

Page No. 16P

Date of Disposal 07/06/12

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IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

"B"
ANNEXURE

PRESENT:

MR. JUSTICE ANWAR ZAHEER JAMALI, H.C.J.
MR. JUSTICE MIAN SAQIB NISAR
MR. JUSTICE AMIR HANI MUSLIM
MR. JUSTICE IQBAL HAMEEDUR RAHMAN
MR. JUSTICE KHILJI ARIF HUSSAIN

CIVIL APPEAL NO.134-P OF 2013

(On appeal against the judgment dated 24-03-2011 passed by the Peshawar High Court, Peshawar, in Review Petition No.103/2009 in WP. No.59/2009)

Govt. of KPK thr. Secy. Agriculture Vs. Adnanullah
and others

CIVIL APPEAL NO.135-P OF 2013

(On appeal against the judgment dated 22-09-2011 passed by the Peshawar High Court, Peshawar, in Writ Petition No.2170/2011)

Chief Secy. Govt. of KPK & others Vs. Amir Hussain and others

CIVIL APPEAL NO.136-P OF 2013

(On appeal against the judgment dated 07-03-2012 passed by the Peshawar High Court, Peshawar, in Writ Petition No.1897/2011)

Govt. of KPK and others Vs. Muhammad Younas and others

CIVIL APPEAL NO.137-P OF 2013

(On appeal against the judgment dated 13-03-2012 passed by the Peshawar High Court, Abbottabad Bench, in Writ Petition No.200-A/2012)

Govt. of KPK and others Vs. Attaullah Khan and others

CIVIL APPEAL NO.138-P OF 2013

(On appeal against the judgment dated 20-06-2012 passed by the Peshawar High Court, Mingora Bench (Dar-ul-Qaza), Swat in W.P. No.189-M/2012)

Govt. of KPK thr. Secy. Agriculture Vs. Muhammad Ayub Khan
Livestock Peshawar and others

CIVIL APPEAL NO.52-P OF 2015

(On appeal against the judgment dated 5-12-2012 passed by the Peshawar High Court, Peshawar in Writ Petition No.3087/2011)

Govt. of KPK thr. Chief Secretary Vs. Qalbe Abbas and another
and others

CIVIL APPEAL NO.1-P/2013

(On appeal against the judgment dated 10-05-2012 passed by the Peshawar High Court, Mingora Bench (Dar-ul-Qaza), Swat in Writ Petition No.2474/2011)

District Officer Community Development Department (Social Welfare) and others Vs. Ghani Rehman and others

CIVIL APPEAL NO.133-P OF 2013

(On appeal against the judgment dated 17-05-2012 passed by the Peshawar High Court, Mingora Bench (Dar-ul-Qaza), Swat, in Writ Petition No.2001/2009)

Govt. of KPK thr. Secretary Vs. Iftikhar Hussain and others

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Court Associate
Supreme Court of Pakistan
Islamabad

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(SV)

Livestock and others

CIVIL APPEAL NO.113-P OF 2013

(On appeal against the judgment dated 17-05-2012 passed by the Peshawar High Court, Mingora Bench (Dar-ul-Qaza) Swat, in Writ Petition No.2380/2009)

Govt. of KPK thr. Secretary I.T, Vs. Muhammad Azhar and others
Peshawar and others

CIVIL APPEAL NO.231 OF 2015

(On appeal against the judgment dated 24-04-2014 passed by the Peshawar High Court, D.I.Khan Bench, in Writ Petition No.37-D/2013)

Govt. of KPK thr. Secy. Agriculture, Vs. Safdar Zaman and others
Livestock, Peshawar and another

CIVIL APPEAL NO.232 OF 2015

(On appeal against the judgment dated 24-04-2014 passed by the Peshawar High Court, D.I.Khan Bench, in Writ Petition No.97-D/2013)

Govt. of KPK thr. Secy. Agriculture, Vs. Innayatullah and others
Livestock, Peshawar and another

CIVIL PETITION NO.600-P OF 2013

(On appeal against the judgment dated 06-06-2012 passed by the Peshawar High Court, Peshawar, in Writ Petition No.1818/2011)

Govt. of KPK thr. Chief Secy. and Vs. Noman Adil and others
others

CIVIL PETITION NO.496-P OF 2014

(On appeal against the judgment dated 26-06-2014 passed by the Peshawar High Court, Peshawar, in Writ Petition No.1730-P/2014)

Govt. of KPK thr. Chief Secretary Vs. Muhammad Nadeem Jan and
Peshawar and others others

CIVIL PETITION NO.34-P OF 2015

(On appeal against the judgment dated 23-09-2014 passed by the Peshawar High Court, Peshawar, in Writ Petition No.141-P/2014)

Dean, Pakistan Institute of Vs. Muhammad Imran and others
Community Ophthalmology (PICO),
HMC and another

CIVIL PETITION NO.526-P OF 2013

(On appeal against the judgment dated 12.3.2013 passed by the Peshawar High Court Peshawar, in Writ Petition No.376-P/12)

Govt. of-KPK through Chief Vs. Mst. Safia
Secretary Peshawar and others

CIVIL PETITION NO.527-P OF 2013

(On appeal against the judgment dated 12.3.2013 passed by the Peshawar High Court Peshawar, in Writ Petition No.377-P/2012)

Govt. of KPK through Chief Secy. Vs. Mst. Rehab Khattak
Peshawar and others

CIVIL PETITION NO.528-P OF 2013

(On appeal against the judgment dated 12-03-2013 passed by the Peshawar High Court Peshawar, in Writ Petition No.378-P/2012)

Govt. of KPK through Chief Secy. Vs. Faisal Khan
Peshawar and others

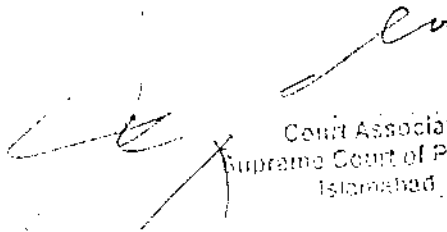
CIVIL PETITION NO.28-P OF 2014

(On appeal against the judgment dated 19-09-2013 passed by the Peshawar High Court Peshawar, in Writ Petition No.1818/2011)

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ATTESTED



Court Associates
Supreme Court of Pakistan
Islamabad

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High Court, Mingora Bench (Dar-ul-Qaza) Swat, in Writ Petition No.4335-P/2010)

Govt. of KPK through Chief Secy. Vs. Rahimullah and others
Peshawar and others

CIVIL PETITION NO.214-P OF 2014

(On appeal against the judgment dated 30-01-2014 passed by the Peshawar High Court Peshawar, in Writ Petition No.2131-P/2013)

Govt. of KPK through Chief Secy. Vs. Mst. Fauzia Aziz
Peshawar and others

CIVIL PETITION NO.621-P OF 2015

(On appeal against the judgment dated 08-10-2015 passed by the Peshawar High Court, Abbottabad Bench, in Writ Petition No.55-A/2015)

Govt. of KPK through Chief Secy. Vs. Mst. Malika Hijab Chishti
Peshawar and others

CIVIL PETITION NO.368-P OF 2014

(On appeal against the judgment dated 01-04-2014 passed by the Peshawar High Court Peshawar, in Writ Petition No.351-P/2013)

Govt. of KPK through Chief Secy. Vs. Imtiaz Khan
Peshawar and others

CIVIL PETITION NO.369-P OF 2014

(On appeal against the judgment dated 01-04-2014 passed by the Peshawar High Court Peshawar, in Writ Petition No.352-P/2013)

Govt. of KPK through Chief Secy. Vs. Waqar Ahmed
Peshawar and others

CIVIL PETITION NO.370-P OF 2014

(On appeal against the judgment dated 01-04-2014 passed by the Peshawar High Court Peshawar, in Writ Petition No.353-P/2013)

Govt. of KPK through Chief Secy. Vs. Mst. Nafecsa Bibi
Peshawar and others

CIVIL PETITION NO.371-P OF 2014

(On appeal against the judgment dated 01-04-2014 passed by the Peshawar High Court Peshawar, in Writ Petition No.2454-P/2013)

Govt. of KPK through Chief Secy. Vs. Mst. Naima
Peshawar and others

CIVIL PETITION NO.619-P OF 2014

(On appeal against the judgment dated 18-09-2014 passed by the Peshawar High Court Peshawar, in Writ Petition No.2428-P/2013)

Govt. of KPK through Chief Secy. Vs. Muhammad Azam and others
Peshawar and others

CA.134-P/2013

For the appellants(s)

Mr. Waqar Ahmed Khan, Addl. AG KPK
: Syed Masood Shah, SO Litigation.
Hafiz Attaul Mameen, SO. Litigation (Fin)
Muhammad Khalid, AD (Litigation)
Abdul Hadi, SO (Litigation)

For the Respondent(s)

: Mr. Imtiaz Ali, ASC

(Res. No.186, 188, 191)

: Mr. Ghulam Nabi Khan, ASC

(CMA.496-P/13)

: Mr. Ayub Khan, ASC

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CA.135-P/2013

For the appellant(s) : Mr. Waqar Ahmed Khan, Addl. AG KPK

For the Respondent(s) : Hafiz S. A. Rehman, Sr. ASC
Mr. Imtiaz Ali, ASC

CA.136-P/2013

For the appellant(s) : Mr. Waqar Ahmed Khan, Addl. AG KPK

For the Respondent(s) : Hafiz S. A. Rehman, Sr. ASC
Mr. Imtiaz Ali, ASC

CA.137-P/2013

For the appellant(s) : Mr. Waqar Ahmed Khan, Addl. AG KPK

For Respondents (2 to 6) : Mr. Ijaz Anwar, ASC

CA.138-P/2013

For the appellant(s) : Mr. Waqar Ahmed Khan, Addl. AG KPK

For the Respondent(s) : Not represented.

CA.52-P/2013

For the appellant(s) : Mr. Waqar Ahmed Khan, Addl. AG KPK

For Respondent No.1 : In person (Absent)

For Respondent No.2 : Not represented.

CA.1-P/2013

For the appellant(s) : Mr. Waqar Ahmed Khan, Addl. AG KPK

For Respondents (1-4, 7, 8, & 10-13) : Mr. Ghulam Nabi Khan, ASC
Mr. Khushdil Khan, ASC

CA.133-P/2013

For the appellant(s) : Mr. Waqar Ahmed Khan, Addl. AG KPK

For Respondents (1-3, 5 & 7) : Mr. Ghulam Nabi Khan, ASC

For respondents (4,8,9 & 10) : Not represented.

CA.113-P/2013

For the appellant(s) : Mr. Waqar Ahmed Khan, Addl. AG KPK

For the Respondent(s) : Ghulam Nabi Khan, ASC

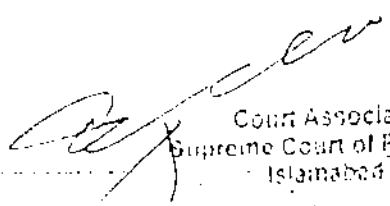
CA.231-P/2015

For the appellant(s) : Mr. Waqar Ahmed Khan, Addl. AG KPK

For Respondents (1-3) : Mr. Shoaib Shaheen, ASC

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CA.232-P/2015
For the appellant(s) : Mr. Waqar Ahmed Khan, Addl. AG KPK
For Respondent No.1 : Mr. Shoaib Shaheen, ASC

CP.600-P/2014
For the Petitioner(s) : Mr. Waqar Ahmed Khan, Addl. AG KPK
For the Respondent(s) : Mst. Sadia Rehim (in person)

CP.496-P/2014
For the Petitioner(s) : Mr. Waqar Ahmed Khan, Addl. AG KPK
: Noor Afzal, Director, Population Welfare
Department.
For the Respondent(s) : Mr. Khushdil Khan, ASC

CP.34-P/2014
For the Petitioner(s) : Mr. Shakeel Ahmed, ASC
For the Respondent(s) : Syed R. faqat Hussain Shah, AOR

CPs.526 to 528-P/2013
For the Petitioner(s) : Mr. Waqar Ahmed Khan, Addl. AG KPK
For the Respondent(s) : Mr. Ijaz Anwar, ASC

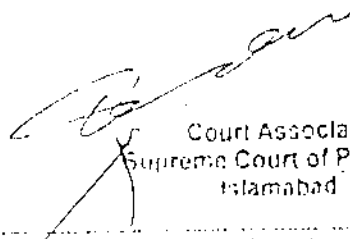
CP.28-P/2014
For the Petitioner(s) : Mr. Waqar Ahmed Khan, Addl. AG KPK
For the Respondent(s) : Mr. Ghulam Nabi Khan, ASC
: Mr. Khushdil Khan, ASC

CPs.214-P/2014, 368-
371-P/2014 and 619-
P/2014 & 621-P/2015.
For the Petitioner(s) : Mr. Waqar Ahmed Khan, Addl. AG KPK
For the Respondent(s) : Not represented.
Date of hearing : 24-02-2016

JUDGMENT

AMIR HANI MUSLIM, J.- Through this common judgment, we intend to decide the titled Appeals/Petitions, as common questions of law and facts are involved therein.

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CA.134-P/2013
On Farm Water Management Project, KPK.

2. On 27.10.2004, various posts in the "On Farm Water Management Project" were advertised. In response to the advertisement, the Respondent, Adnanullah, applied for the post of Accountant (BPS-11) for which he was selected and appointed for with effect from 31.12.2004. This appointment was initially for a period of one year and later was consistently extended from time to time on recommendation of the Petitioner. In the year 2006, a proposal was moved for creation of 302 regular vacancies to accommodate the contract employees working in different Projects. The Chief Minister KPK approved the proposal of 275 regular posts for this purpose with effect from 1.7.2007. During the interregnum, the Government of NWFP (now KPK) promulgated Amendment Act IX of 2009, thereby amending Section 19(2) of the NWFP Civil Servants Act, 1973 and NWFP Employees (Regularization of Services) Act, 2009. However, the newly created regular posts did not include the Respondent's post. Feeling aggrieved, he filed a Writ Petition which was allowed (on the conceding statement of Addl. Advocate General) with the direction that if the Respondent was eligible, his services should be regularized, subject to verification of his domicile. The Review Petition filed by the Govt. of KPK was dismissed being time barred. Thereafter, leave was granted in the Petition filed by the Government of KPK before this Court.

CA.No.135-P/2013 & Civil Petition No.600-P of 2013
On Farm Water Management Project, KPK

3. On 23.06.2004, the Secretary, Agriculture, got published an advertisement in the press, inviting Applications for filling up the posts of Water Management Officers (Engineering) and Water Management

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Officers (Agriculture) in BS-17, in the NWFP for the "On Farm Water Management Project" on contract basis. The Respondents applied for the said posts and in November, 2004 and February 2005 respectively, they were appointed for the aforementioned posts on contract basis, initially for a period of one year and later extendable to the remaining Project period, subject to their satisfactory performance and on the recommendations of the Departmental Promotion Committee after completion of requisite one month pre-service training. In the year 2006, a proposal for restructuring and establishment of Regular Offices for the "On Farm Water Management Department at District level was made. A summary was prepared for the Chief Minister, KPK, for creation of 302 regular vacancies with the recommendation that eligible temporary/contract employees working on different Projects may be accommodated against regular posts on the basis of their seniority. The Chief Minister approved the summary and accordingly, 275 regular posts were created in the "On Farm Water Management Department" at District level w.e.f 01.07.2007. During the interregnum, the Government of NWFP (now KPK) promulgated Amendment Act IX of 2009, thereby amending Section 19(2) of the NWFP Civil Servants Act, 1973 and NWFP Employees (Regularization of Services) Act, 2009. However, the services of the Respondents were not regularized. Feeling aggrieved, they filed Writ Petitions before the Peshawar High Court, praying that employees placed in similar posts had been granted relief, vide judgment dated 22.12.2008, therefore, they were also entitled to the same treatment. The Writ Petitions were disposed of, vide impugned orders dated 22.09.2011 and 06.06.2012, with the direction to consider the case of the Respondents in the light of the judgment dated

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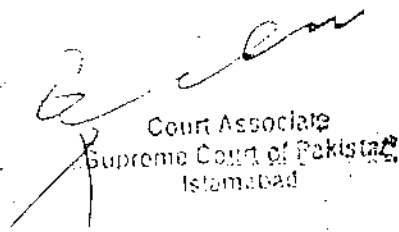
22.12.2008 and 03.12.2009. The Appellants filed Petition for leave to Appeal before this Court in which leave was granted; hence this Appeal and Petition.

C.A.No.136-P of 2013 to 138-P of 2013
On Farm Water Management Project, KPK

4. In the years 2004-2005, the Respondents were appointed on various posts on contract basis, for an initial period of one year and extendable for the remaining Project period subject to their satisfactory performance. In the year 2006, a proposal for restructuring and establishment of Regular Offices of "On Farm Water Management Department" was made at District level. A summary was prepared for the Chief Minister, KPK, for creation of 302 regular vacancies, recommending that eligible temporary/contract employees who, at that time, were working on different Projects may be accommodated against regular posts on the basis of seniority. The Chief Minister approved the proposed summary and accordingly 275 regular posts were created in the "On Farm Water Management Department" at District level w.e.f 01.07.2007. During the interregnum, the Government of NWFP (now KPK) promulgated Amendment Act IX of 2009, thereby amending Section 19(2) of the NWFP Civil Servants Act, 1973 and NWFP Employees (Regularization of Services) Act, 2009. However, the services of the Respondents were not regularized. Feeling aggrieved, they filed Writ Petitions before the Peshawar High Court, praying therein that employees placed in similar posts had been granted relief, vide judgment dated 22.12.2008, therefore, they were also entitled to the same treatment. The Writ Petitions were disposed of, vide impugned orders dated 07.03.2012, 13.03.2012 and

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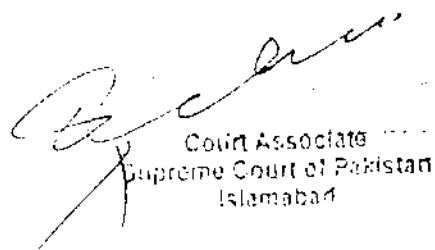

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Officers (Agriculture) in BS-17, in the NWFP for the "On Farm Water Management Project" on contract basis. The Respondents applied for the said posts and in November, 2004 and February 2005 respectively, they were appointed for the aforementioned posts on contract basis, initially for a period of one year and later extendable to the remaining Project period, subject to their satisfactory performance and on the recommendations of the Departmental Promotion Committee after completion of requisite one month pre-service training. In the year 2006, a proposal for restructuring and establishment of Regular Offices for the "On Farm Water Management Department at District level was made. A summary was prepared for the Chief Minister, KPK, for creation of 302 regular vacancies with the recommendation that eligible temporary/contract employees working on different Projects may be accommodated against regular posts on the basis of their seniority. The Chief Minister approved the summary and accordingly, 275 regular posts were created in the "On Farm Water Management Department" at District level w.e.f 01.07.2007. During the interregnum, the Government of NWFP (now KPK) promulgated Amendment Act IX of 2009, thereby amending Section 19(2) of the NWFP Civil Servants Act, 1973 and NWFP Employees (Regularization of Services) Act, 2009. However, the services of the Respondents were not regularized. Feeling aggrieved, they filed Writ Petitions before the Peshawar High Court, praying that employees placed in similar posts had been granted relief, vide judgment dated 22.12.2008, therefore, they were also entitled to the same treatment. The Writ Petitions were disposed of, vide impugned orders dated 22.09.2011 and 06.06.2012, with the direction to consider the case of the Respondents in the light of the judgment dated

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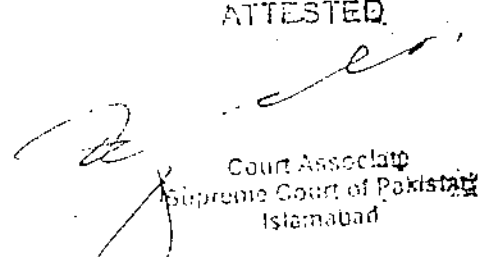
20.06.2012, with the direction to consider the case of the Respondents in the light of the judgment dated 22.12.2008 and 03.12.2009. The Appellants filed Petition for leave to Appeal before this Court in which leave was granted; hence these Appeals.

Civil Petition No. 619-P/2014

Establishment of Database Development Based on Electronic Tools (Project)

5. In the year 2010 and 2011, in pursuance of an advertisement, upon the recommendations of the Project Selection Committee, the Respondents were appointed as Data Base Developer, Web Designer and Naib Qasid, in the Project namely "Establishment of Data Base Development Based on Electronic Tools" including "MIS, Social Welfare and Women Development Department", on contract basis, initially for one year, which period was extended from time to time. However, the services of the Respondents were terminated, vide order dated 04.07.2013, irrespective of the fact that the Project life was extended and the posts were brought under the regular Provincial Budget. The Respondents impugned their termination order by filing Writ Petition No.2428 of 2013, before the Peshawar High Court, which was disposed of by the impugned judgment dated 18.09.2014, holding that the Respondents would be treated at par, if they were found similarly placed, as held in judgments dated 30.01.2014 and 01.04.2014 passed in Writ Petitions No.2131 of 2013 and 353-P of 2013. The Appellants challenged the judgment of the learned High Court before this Court by filing Petition for leave to Appeal.

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41
61

Civil Petitions No.368-P of 2014 to 371-P of 2014

Industrial Training Centre Garhi Shehsdad and Industrial Training Centre Garha Tajak, Peshawar

6. In the year 2008, upon the recommendations of the Departmental Selection Committee, after fulfilling all the codal formalities, the Respondents were appointed on contract basis on various posts in Industrial Training Centre Garhi Shehsdad and Industrial Training Centre Garha Tajak, Peshawar. Their period of contract was extended from time to time. On 04.09.2012, the Scheme in which the Respondents were working was brought under the regular Provincial Budget, but the services of the Respondents despite regularization of the Scheme were terminated vide order dated 19.06.2012. The Respondents filed Writ Petitions No.351-P, 352, 353 and 2454-P of 2013, against the order or termination and for regularization of their services on the ground that the posts against which they were appointed stood regularized and had been converted to the regular Provincial Budget, with the approval of the Competent Authority. The learned Peshawar High Court, vide common judgment dated 01.04.2014, allowed the Writ Petitions, reinstating the Respondents in Service from the date of their termination with all consequential benefits. Hence these Petitions by the Petitioners.

Civil Petition No.214-P of 2014

Welfare Home for Destitute Children, Charsadda.

7. On 17.03.2009, a post of Superintendent BS-17 was advertised for "Welfare Home for Destitute Children", Charsadda. The Respondent applied for the same and upon recommendations of the Departmental Selection Committee, she was appointed at the said post on 30.04.2010, on contractual basis till 30.06.2011, beyond which period her contract was extended from time to time. The post against which the

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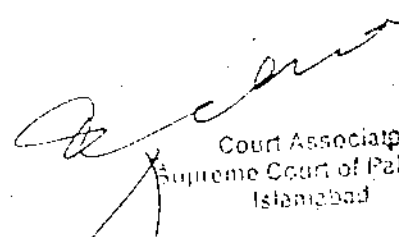
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Respondent was serving was brought under the regular Provincial Budget w.e.f 01.07.2012. However, the services of the Respondent were terminated, vide order dated 14.06.2012. Feeling aggrieved, the Respondent filed Writ Petition No.2131 of 2013, which was allowed, vide impugned judgment dated 30.01.2014, whereby it was held that the Respondent would be appointed on conditional basis subject to final decision of this apex Court in Civil Petition No.344-P of 2012. Hence this Petition by the Govt. of KPK.

Civil Petition No.621-P of 2015
Daar-ul-Aman Haripur

8. On 17.03.2009, a post of Superintendent BS-17 was advertisement for "Darul Aman", Haripur. The Respondent applied for the said post and upon recommendations of the Departmental Selection Committee she was appointed w.e.f. 30.04.2010, initially on contract basis till 30.06.2011, beyond which her period of contract was extended from time to time. The post against which the Respondent was serving was brought under the regular Provincial Budget w.e.f 01.07.2012. However, the services of the Respondent were terminated, vide order dated 14.06.2012. Feeling aggrieved, the Respondent filed Writ Petition No.55-A of 2015, which was allowed, vide impugned judgment dated 08.10.2015, holding that "we accept this writ Petition and pass same order as has already been passed by this Court in W.P.No2131-P of 2013 decided on 30.01.2014 and direct the respondents to appoint the Petitioner on conditional basis subject to final decision of the Apex Court in Civil Petition No.344-P of 2012." Hence this Petition by the Govt. of KPK.

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Civil Petition No.28-P of 2014
Darul Kafala, Swat.

9. In the year 2005, the Government of KPK decided to establish Darul Kafalas in different districts of the Province between 01.07.2005 to 30.06.2010. An advertisement was published to fill in various posts in Darul Kafala, Swat. Upon recommendations of the Departmental Selection Committee, the Respondents were appointed on various posts on contract basis for a period of one year w.e.f 01.07.2007 to 30.06.2008, which period was extended from time to time. After expiry of the period of the Project in the year 2010, the Government of KPK has regularized the Project with the approval of the Chief Minister. However, the services of the Respondents were terminated, vide order dated 23.11.2010, with effect from 31.12.2010. The Respondents challenged the aforesaid order before the Peshawar High Court, *inter alia*, on the ground that the employees working in other Darul Kafalas have been regularized except the employees working in Darul Kafala, Swat. The Respondents contended before the Peshawar High Court that the posts of the Project were brought under the regular Provincial Budget, therefore, they were also entitled to be treated at par with the other employees who were regularized by the Government. The Writ Petition of the Respondents was allowed, vide impugned judgment dated 19.09.2013, with the direction to the Petitioners to regularize the services of the Respondents with effect from the date of their termination.

Civil Petitions No.526 to 528-P of 2013
Centre for Mentally Retarded & Physically Handicapped (MR&PH), Nowshera, and Welfare
Home for Orphan Female Children Nowshera

10. The Respondents in these Petitions were appointed on contract basis on various posts upon the recommendations of the

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44
64

Departmental Selection Committee in the Schemes titled "Centre for Mentally Retarded & Physically Handicapped (MR&HP)" and "Welfare Home for Orphan Female Children", Nowshera, vide order dated 23.08.2006 and 29.08.2006, respectively. Their initial period of contractual appointment was for one year till 30.06.2007, which was extended from time to time till 30.06.2011. By notification dated 08.01.2011, the above-titled Schemes were brought under the regular Provincial Budget of the N.W.F.P. (now KPK) with the approval of the Competent Authority. However, the services of the Respondents were terminated w.e.f 01.07.2011. Feeling aggrieved, the Respondents filed Writ Petitions No.376, 377 and 378-P of 2012, contending that their services were illegally dispensed with and that they were entitled to be regularized in view of the KPK Employees (Regularization of Services Act), 2009, whereby the services of the Project employees working on contract basis had been regularized. The learned High Court, while relying upon the judgment dated 22.03.2012, passed by this Court in Civil Petitions No.562-P to 578-P, 588-P to 589-P, 605-P to 608-P of 2011 and 55-P, 56-P and 60-P of 2012, allowed the Writ Petitions of the Respondents, directing the Petitioners to reinstate the Respondents in service from the date of their termination and regularize them from the date of their appointments. Hence these Petitions.

Civil Appeal No.52-P of 2015

11. On 23.06.2004, the Secretary, Agriculture, published an advertisement in the press, inviting Applications for filling up the posts of Water Management Officers (Engineering) and Water Management Officers (Agriculture), BS-17, in the NWFP in the "On Farm Water

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Management Project" on contract basis. The Respondent applied for the said post and was appointed as such on contract basis, on the recommendations of the Departmental Promotion Committee after completion of a requisite one month pre-service training, for an initial period of one year, extendable till completion of the Project, subject to his satisfactory performance. In the year 2006, a proposal for restructuring and establishment of Regular Offices of the "On Farm Water Management Department" at District level was made. A summary was prepared for the Chief Minister, KPK, for creation of 302 regular vacancies, recommending that eligible temporary/contract employees working on different Projects may be accommodated against regular posts on the basis of their seniority. The Chief Minister approved the summary and accordingly, 275 regular posts were created in the "On Farm Water Management Department" at District level w.e.f 01.07.2007. During the interregnum, the Government of NWFP (now KPK) promulgated Amendment Act IX of 2009, thereby amending Section 19(2) of the NWFP Civil Servants Act, 1973 and enacted the NWFP Employees (Regularization of Services) Act, 2009. However, the services of the Respondent were not regularized. Feeling aggrieved, he filed Writ Petition No.3087 of 2011 before the Peshawar High Court, praying that employees on similar posts had been granted relief, vide judgment dated 22.12.2008, therefore, he was also entitled to the same treatment. The Writ Petition was allowed, vide impugned order dated 05.12.2012, with the direction to the Appellants to regularize the services of the Respondent. The Appellants filed Petition for leave to Appeal before this Court in which leave was granted; hence this Appeal.

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Civil Appeal No.01-P of 2013

Welfare Home for Female Children, Malakand at Batkhela and Industrial Training Centre at Garhi Usman Khel, Dargai.

12. In response to an advertisement, the Respondents applied for different positions in the "Welfare Home for Female Children", Malakand at Batkhela and "Female Industrial Training Centre" at Garhi Usman Khel. Upon the recommendations of the Departmental Selection Committee, the Respondents were appointed on different posts on different dates in the year 2006, initially on contract basis for a period of one year, which period was extended from time to time. However, the services of the Respondents were terminated, vide order dated 09.07.2011, against which the Respondents filed Writ Petition No.2474 of 2011, *inter alia*, on the ground that the posts against which they were appointed had been converted to the budgeted posts, therefore, they were entitled to be regularized alongwith the similarly placed and positioned employees. The learned High Court, vide impugned order dated 10.05.2012, allowed the Writ Petition of the Respondents, directing the Appellants to consider the case of regularization of the Respondents. Hence this Appeal by the Appellants.

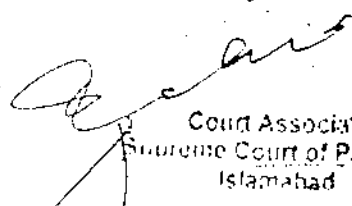
Civil Appeals No.133-P

Establishment and Upgradation of Veterinary Outlets (Phase-III)-ADP

13. Consequent upon recommendations of the Departmental Selection Committee, the Respondents were appointed on different posts in the Scheme "Establishment and Up-gradation of Veterinary Outlets (Phase-III)ADP", on contract basis for the entire duration of the Project, vide orders dated 4.4.2007, 13.4.2007, 17.4.2007 and 19.6.2007, respectively. The contract period was extended from time to time when on 05.06.2009, a

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47
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notice was served upon them, intimating them that their services were no longer required after 30.06.2009. The Respondents invoked the constitutional jurisdiction of the Peshawar High Court, by filing Writ Petition No.2001 of 2009, against the order dated 05.06.2009. The Writ Petition of the Respondents was disposed of, by judgment dated 17.05.2012, directing the Appellants to treat the Respondents as regular employees from the date of their termination. Hence this Appeal by the Appellants.

Civil Appeal No.113-P of 2013

Establishment of One Science and One Computer Lab in Schools/Colleges of NWFP

14. On 26.09.2006 upon the recommendations of the Departmental Selection Committee, the Respondents were appointed on different posts in the Scheme "Establishment of One Science and One Computer Lab in School/Colleges of NWFP", on contract basis. Their terms of contractual appointments were extended from time to time when on 06.06.2009, they were served with a notice that their services were not required any more. The Respondents filed Writ Petition No.2380 of 2009, which was allowed on the analogy of judgment rendered in Writ Petition No.2001 of 2009 passed on 17.05.2012. Hence this Appeal by the Appellants.

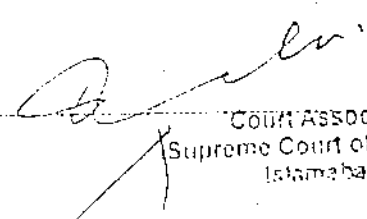
Civil Appeals No.231 and 232-P of 2015

National Program for improvement of Water Courses in Pakistan

15. Upon the recommendations of the Departmental Selection Committee, the Respondents in both the Appeals were appointed on different posts in "National Program for Improvement of Water Courses in Pakistan", on 17th January 2005 and 19th November 2005, respectively, initially on contract basis for a period of one year, which was extended

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48
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from time to time. The Appellants terminated the service of the Respondents w.e.f 01.07.2011, therefore, the Respondents approached the Peshawar High Court, mainly on the ground that the employees placed in similar posts had approached the High Court through W.Ps.No.43/2009, 84/2009 and 21/2009, which Petitions were allowed by judgment dated 21.01.2009 and 04.03.2009. The Appellants filed Review Petitions before the Peshawar High Court, which were disposed of but still disqualified the Appellants filed Civil Petitions No.85, 86, 87 and 91 of 2010 before this Court and Appeals No.834 to 837/2010 arising out of said Petitions were eventually dismissed on 01.03.2011. The learned High Court allowed the Writ Petitions of the Respondents with the direction to treat the Respondents as regular employees. Hence these Appeals by the Appellants.

Civil Petition No.496-P of 2014.
Provision of Population Welfare Programme

16. In the year 2012, consequent upon the recommendations of the Departmental Selection Committee, the Respondents were appointed on various posts in the project namely "Provision of Population Welfare Programme" on contract basis for the entire duration of the Project. On 08.01.2012, the Project was brought under the regular Provincial Budget. The Respondents applied for their regularization on the touchstone of the judgments already passed by the learned High Court and this Court on the subject. The Appellants contended that the posts of the Respondents did not fall under the scope of the intended regularization, therefore, they preferred Writ Petition No.1730 of 2014, which was disposed of, in view of the judgment of the learned High Court dated 30.01.2014 passed in Writ

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Petition No.2131 of 2013 and judgment of this Court in Civil Petition No.344-P of 2012. Hence these Appeals by the Appellants.

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Civil Petition No.34-P of 2015

Pakistan Institute of Community Ophthalmology Hayatabad Medical Complex, Peshawar

17. The Respondents were appointed on various posts in the "Pakistan Institute of Community Ophthalmology Hayatabad Medical Complex", Peshawar, in the years 2001, 2002 and from 2007 to 2012, on contract basis. Through advertisement dated 10.01.2014, the said Medical Complex sought fresh Applications through advertisement against the posts held by them. Therefore, the Respondents filed Writ Petition No.141 of 2004, which was disposed of more or less in the terms as state above. Hence this Petition.

18. Mr. Waqar Ahmed Khan, Addl. Advocate General, KPK, appeared on behalf of Govt. of KPK and submitted that the employees in these Appeals/ Petitions were appointed on different dates since 1980. In order to regularize their services, 302 new posts were created. According to him, under the scheme the Project employees were to be appointed stage wise on these posts. Subsequently, a number of Project employees filed Writ Petitions and the learned High Court directed for issuance of orders for the regularization of the Project employees. He further submitted that the concessional statement made by the then Addl. Advocate General, KPK, before the learned High Court to "adjust/regularize the petitioners on the vacant post or posts whenever falling vacant in future but in order of seniority/eligibility." was not in accordance with law. The employees were appointed on Projects and their appointments on these Projects were to be terminated on the expiry of the Project as it was stipulated that they will not

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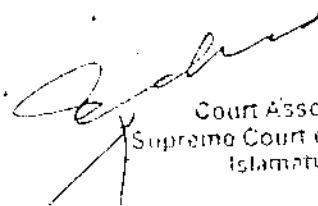
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claim any right of absorption in the Department against regular posts as per existing Project policy. He also referred to the office order dated 31.12.2004 regarding appointment of Mr. Adnanullah (Respondent in CA. No.134-P/2013) and submitted that he was appointed on contract basis for a period of one year and the above mentioned office order clearly indicates that he was neither entitled to pension nor GP Fund and furthermore, had no right of seniority and or regular appointment. His main contention was that the nature of appointment of these Project employees was evident from the advertisement, office order and their appointment letters. All these reflected that they were not entitled to regularization as per the terms of their appointments.

19. In the month of November 2006, a proposal was floated for restructuring and establishment of Regular Offices of "On Farm Water Management Department" at District level in NWFP (now KPK) which was approved by the then Chief Minister KPK; who agreed to create 302 posts of different categories and the expenditure involved was to be met out of the budgetary allocation. The employees already working in the Projects were to be appointed on seniority basis on these newly created posts. Some of the employees working since 1980 had preferential rights for their regularization. In this regard, he also referred to various Notifications since 1980, whereby the Governor KPK was pleased to appoint the candidates upon the recommendations of the KPK Public Service Commission on different Projects on temporary basis and they were to be governed by the KPK Civil Servants Act 1973 and the Rules framed thereunder. 302 posts were created in pursuance of the summary of 2006, out of which 254 posts

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57
21

were filled on seniority basis, 10 through promotion and 38 by way of Court orders passed by this Court and or the learned Peshawar High Court. He referred to the case of Govt. of NWFP vs. Abdullah Khan (2011 SCMR 898) whereby, the contention of the Appellants (Govt. of NWFP) that the Respondents were Project employees appointed on contractual basis were not entitled to be regularized, was not accepted and it was observed by this Court that definition of "Contract appointment" contained in Section 2(1)(aa) of the NWFP Employees (Regularization of Services) Act, 2009, was not attracted in the cases of the Respondent employees. Thereafter, in the case of Government of NWFP vs. Kaleem Shah (2011 SCMR 1004), this Court followed the judgment of Govt. of NWFP vs. Abdullah Khan (*ibid*). The judgment, however, was wrongly decided. He further contended that KPK Civil Servants (Amendment) Act 2005, (whereby Section 19 of the KPK Civil Servants Act 1973, was substituted), was not applicable to Project employees. Section 5 of the KPK Civil Servants Act 1973, states that the appointment to a civil service of the Province or to a civil post in connection with the affairs of the Province shall be made in the prescribed manner by the Governor or by a person authorized by the Governor in that behalf. But in the cases in hand, the Project employees were appointed by the Project Director, therefore, they could not claim any right to regularization under the aforesaid provision of law. Furthermore, he contended that the judgment passed by the learned Peshawar High Court is liable to be set aside as it is solely based on the facts that the Respondents who were originally appointed in 1980 had been regularized. He submitted that the High Court erred in regularizing the employees on the touchstone of Article 25 of the Constitution of the Islamic Republic of Pakistan as the

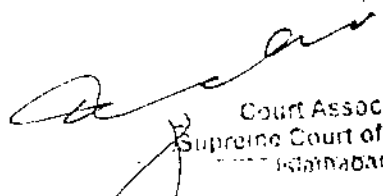
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employees appointed in 2005 and those in 1980 were not similarly placed and, therefore, there was no question of discrimination. According to him, they will have to come through fresh inductions to relevant posts if they wish to fall under the scheme of regularization. He further contended that any wrongful action that may have taken place previously, could not justify the commission of another wrong on the basis of such plea. The cases where the orders were passed by DCO without lawful authority could not be said to have been made in accordance with law. Therefore, even if some of the employees had been regularized due to previous wrongful action, others could not take plea of being treated in the same manner. In this regard, he has relied upon the case of Government of Punjab vs. Zafar Iqbal Dogar (2011 SCMR 1239) and Abdul Wahid vs. Chairman CBR (1998 SCMR 882).

20. Mr. Ghulam Nabi Khan, learned ASC, appeared on behalf of Respondent(s) in C.As.134-P/2013, 1-P/2013 and C.P.28-P/2014 and submitted that all of his clients were clerks and appointed on non-commissioned posts. He further submitted that the issue before this Court had already been decided by four different benches of this Court from time to time and one review petition in this regard had also been dismissed. He contended that fifteen Hon'ble Judges of this Court had already given their view in favour of the Respondents and the matter should not have been referred to this Bench for review. He further contended that no employee was regularized until and unless the Project on which he was working was not put under the regular Provincial Budget as such no regular posts were created. The process of regularization was started by the Government itself

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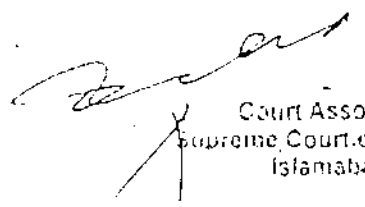
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without intervention of this Court and without any Act or Statute of the Government. Many of the decisions of the Peshawar High Court were available, wherein the directions for regularization were issued on the basis of discrimination. All the present cases before this Court are related to the category in which the Project became part of the regular Provincial Budget and the posts were created. Thousands of employees were appointed against these posts. He referred to the case of Zulfiqar Ali Bhutto Vs. The State (PLD 1979 SC 741) and submitted that a review was not justifiable, notwithstanding error being apparent on face of record, if judgment or finding, although suffering from an erroneous assumption of facts, was sustainable on other grounds available on record.

21. Hafiz S. A. Rehman, Sr. ASC; appeared on behalf of Respondent(s) in Civil Appeal Nos. 135-136-P/2013 and on behalf of all 174 persons who were issued notice vide leave granting order dated 13.06.2013. He submitted that various Regularization Acts i.e. KPK Adhoc Civil Servants (Regularization of Services) Act, 1987, KPK Adhoc Civil Servants (Regularization of Services) Act, 1988, KPK Employees on Contract Basis (Regularization of Services) Act, 1989, KPK Employees on Contract Basis (Regularization of Services) (Amendment) Act, 1990, KPK Civil Servants (Amendment) Act, 2005, KPK Employees (Regularization of Services) Act, 2009, were promulgated to regularize the services of contractual employees. The Respondents, including 174 to whom he was representing, were appointed during the year 2003/2004 and the services of all the contractual employees were regularized through an Act of legislature i.e. KPK Civil Servants (Amendment) Act, 2005 and the KPK Employees

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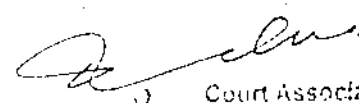
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574
74

(Regularization of Services) Act, 2009, was not applicable to present Respondents. He referred to Section 19(2) of the KPK Civil Servants Act 1973, which was substituted vide KPK Civil Servants (Amendment) Act, 2005, provides that "A person though selected for appointment in the prescribed manner to a service or post on or after the 1st day of July, 2001, till the commencement of the said Act, but appointment on contract basis, shall, with effect from the commencement of the said Act, be deemed to have been appointed on regular basis." Furthermore, vide Notification dated 11.10.1989 issued by the Government of NWFP, the Governor of KPK was pleased to declare the "On Farm Water Management Directorate" as an attached Department of Food, Agriculture, Livestock and Cooperation Department, Govt. of NWFP. Moreover, it was also evident from the Notification dated 03.07.2013 that 115 employees were regularized under section 19 (2) of the Khyber Pakhtunkhwa Civil Servants (Amendment) Act, 2005 and Regularization Act, 2009 from the date of their initial appointment. Therefore, it was a past and closed transaction. Regarding summaries submitted to the Chief Minister for creation of posts, he clarified that it was not one summary (as stated by the learned Addl. Advocate General KPK) but three summaries submitted on 11.06.2006, 04.01.2012 and 20.06.2012, respectively, whereby total 734 different posts of various categories were created for these employees from the regular budgetary allocation. Even through the third summary, the posts were created to regularize the employees in order to implement the judgments of Hon'ble Peshawar High Court dated 15.09.2011, 8.12.2011 and Supreme Court of Pakistan dated 22.3.2012. Approximately, 20-30% employees were

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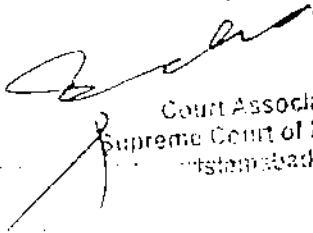
recruited through KPK Public Service Commission and the Public Service Commission is only meant to recommend the candidates on regular posts.


22. Mr. Imtiaz Ali, learned ASC, appearing on behalf of the Respondent in CA No.134-P/2013, submitted that there was one post of Accountant which had been created and that the Respondent, Adnanullah, was the only Accountant who was working there. He contented that, even otherwise, judgment dated 21.9.2009 in Writ Petition No.59/2009, was not questioned before this Court and the same had attained finality. He further submitted that his Writ Petition was allowed on the strength of Writ Petition No. 356/2008 and that no Appeal has been filed against it.

23. Mr. Ayub Khan, learned ASC, appeared in C.M.A 496-P/2013 on behalf of employees whose services might be affected (to whom notices were issued by this Court vide leave granting order dated 13.06.2013) and adopted the arguments advanced by the senior learned counsels including Hafiz S. A. Rehman.

24. Mr. Ijaz Anwar, learned ASC, appeared in C.A 137-P/2013 for Respondents No. 2 to 6, CPs.526-P to 528-P/2013 for Respondents and for Appellant in Civil Appeal No.605-P/2015 (JR) and submitted that the Regularization Act of 2005, is applicable to his case and if benefit is given to some employees then in light of the judgment of this Court titled Government of Punjab Vs. Samina Perveen (2009 SCMR 1), wherein it was observed that if some point of law is decided by Court relating to the terms and conditions of a Civil Servant who litigated and there were other who had not taken any legal proceedings, in such a case the dictates of justice

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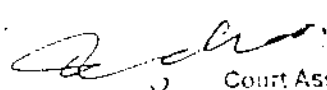

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and rules of good governance demand that the benefit of the said decision be extended to others also who may not be parties to that litigation. Furthermore, the judgment of Peshawar High Court which included Project employees as defined under Section 19(2) of the KPK Civil Servants Act 1973 which was substituted vide KPK Civil Servants (Amendment) Act, 2005, was not challenged. In the NWFP Employees (Regularization of Services) Act, 2009, the Project employees have been excluded but in presence of the judgment delivered by this Court, in the cases of Govt. of NWFP vs. Abdullah Khan (ibid) and Govt. of NWFP vs. Kaleem Shah (ibid), the Peshawar High Court had observed that the similarly placed persons should be considered for regularization.

25. While arguing Civil Appeal No. 605-P/2015, he submitted that in this case the Appellants/ Petitioners were appointed on contract basis for a period of one year vide order dated 18.11.2007, which was subsequently extended from time to time. Thereafter, the services of the Appellants were terminated vide notice dated 30.05.2011. The learned Bench of the Peshawar High Court refused relief to the employees and observed that they were expressly excluded from the purview of Section 2(1)(b) of KPK (Regularization of Services) Act, 2009. He further contended that the Project against which they were appointed had become part of regular Provincial Budget. Thereafter, some of the employees were regularized while others were denied, which made out a clear case of discrimination. Two groups of persons similarly placed could not be treated differently, in this regard he relied on the judgments of Abdul Samad vs.

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57
71

Federation of Pakistan (2002 SCMR 71) and Engineer Nariandas vs. Federation of Pakistan (2002 SCMR 82).

26. We have heard the learned Law Officer as well as the learned ASCs, representing the parties and have gone through the relevant record with their able assistance. The controversy in these cases pivots around the issue as to whether the Respondents are governed by the provisions of the North West Frontier Province (now KPK) Employees (Regularization of Services) Act, 2009, (hereinafter referred to as the Act). It would be relevant to reproduce Section 3 of the Act:

"3. Regularization of Services of certain employees.—All employees including recommendees of the High Court appointed on contract or adhoc basis and holding that post on 31st December, 2008, or till the commencement of this Act shall be deemed to have been validly appointed on regular basis having the same qualification and experience."

27. The aforesaid Section of the Act reproduced hereinabove clearly provides for the regularization of the employees appointed either on contract basis or adhoc basis and were holding contract appointments on 31st December, 2008 or till the commencement of this Act. Admittedly, the Respondents were appointed on one year contract basis, which period of their appointments was extended from time to time and were holding their respective posts on the cut-of date provided in Section 3 (*ibid*).

28. Moreover, the Act contains a non-obstante clause in Section 4A which reads as under:

"4A. Overriding effect.—Notwithstanding any thing to the contrary contained in any other law or"

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58
28

rule for the time being in force, the provisions of this Act shall have an overriding effect and the provisions of any such law or rule to the extent of inconsistency to this Act shall cease to have effect."

29. The above Section expressly excludes the application of any other law and declares that the provisions of the Act will have overriding effect, being a special enactment. In this background, the cases of the Respondents squarely fall within the ambit of the Act and their services were mandated to be regulated by the provisions of the Act.

30. It is also an admitted fact that the Respondents were appointed on contract basis on Project posts but the Projects, as conceded by the learned Additional Advocate General, were funded by the Provincial Government by allocating regular Provincial Budget prior to the promulgation of the Act. Almost all the Projects were brought under the regular Provincial Budget Schemes by the Government of KPK and summaries were approved by the Chief Minister of the KPK for operating the Projects on permanent basis. The "On Farm Water Management Project" was brought on the regular side in the year 2006 and the Project was declared as an attached Department of the Food, Agriculture, Livestock and Co-operative Department. Likewise, other Projects were also brought under the regular Provincial Budget Scheme. Therefore, services of the Respondents would not be affected by the language of Section 2(aa) and (b) of the Act, which could only be attracted if the Projects were abolished on the completion of their prescribed tenure. In the cases in hand, the Projects initially were introduced for a specified time whereafter they were transferred on permanent basis by attaching them with Provincial

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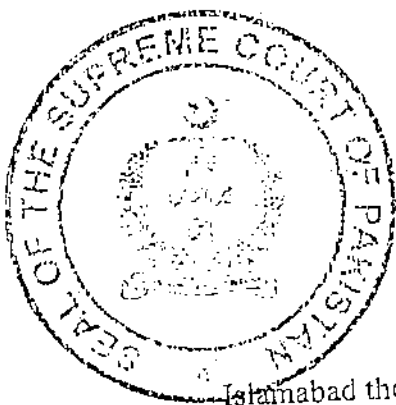
Government departments. The employees of the same Project were adjusted against the posts created by the Provincial Government in this behalf.

59
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31. The record further reveals that the Respondents were appointed on contract basis and were in employment/service for several years and Projects on which they were appointed have also been taken on the regular Budget of the Government, therefore, their status as Project employees has ended once their services were transferred to the different attached Government Departments, in terms of Section 3 of the Act. The Government of KPK was also obliged to treat the Respondents at par, as it cannot adopt a policy of cherry picking to regularize the employees of certain Projects while terminating the services of other similarly placed employees.

32. The above are the reasons of our short order dated 24.2.2016, which reads as under:-

"Arguments heard. For the reasons to be recorded separately, these Appeals, except Civil Appeal No.605 of 2015, are dismissed. Judgment in Civil Appeal No.605 of 2015 is reserved"



Istanbul the,
24-02-2016
Approved for reporting.

20.5.2016

Sd/- Anwar Zaheer Jamali, HCF
Sd/- Mian Saqib Nisar, J
Sd/- Amir Hani Muslim, J
Sd/- Iqbal Hameedur Rahman, J
Sd/- Khilji Arif Hussain, J

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[Signature]
8/6/16
Court Associate
Supreme Court of Pakistan
Islamabad

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GR No:	9042/16	Civil/Criminal
Date of Presentation:	4.5.16	
No of Words:	8400	
No of Foliost:	86	
Requisition Fee:	5.00	
Copy Fee in:	52.08	
Court Fee Stamp:	57.08	
Date of Completion of SPY:	6.6.16	
Date of delivery of Copy:	6.6.16	
Compared by/Prepared by:	<i>[Signature]</i>	
Received by:	<i>[Signature]</i>	



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11/7/2009

Directorate of Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar

PH No. 091-9210389, 9210938,
9210437, 9210957, 9210468
Fax 091-9210936, 0800-33857
E-mail rafiq_kk851@yahoo.com

Notification

Consequent upon the judgment of Peshawar High Court, Mingora Bench (DAR-UL-QAZA), Swat dated 17-05-2012 and the Supreme Court, of Pakistan dated 24-02-2016 passed in Civil Appeal No. 113 of 2013, the Services in respect of following IT (Teachers) working on contract basis various High/Higher Secondary Schools are hereby regularized against the post of IT (Teacher) BPS-16 (Rs, 12910-1035-43960) plus usual allowances as admissible under the rules and existing policy of the Provincial Government with effect from 01-07-2009 without back benefits under the Khyber Pakhtunkhwa, Employees (Regularization of service) Act, 2009 on the terms and conditions given at the end of this notification, further they will be posted by the District Education Officer (Male) concerned.

S#	Name & Designation	Place of last posting	Remarks
1	Muhammad Azhar Ex IT Teacher	GHSS, Ziarat Talash Dir Lower	Services placed at the disposal of DEO(M) Dir Lower for further posting against the vacant post of IT Teacher (BS-16)
2	Rooh-ullah Jan Ex IT Teacher	GHSS, Haya Serai Dir Lower	-----do-----
3	Mian Said Wahab Ex IT Teacher	GHS, Asbanr Dir Lower	-----do-----
4	Muhammad Khan Ex IT Teacher	GHSS, Wari Dir Upper	Services placed at the disposal of DEO(M) Dir Upper for further posting against the vacant post of IT Teacher (BS-16)
5	Mr. Sohail Irfan Ex IT Teacher	GHS, Zarabi Swabi.	Services placed at the disposal of DEO(M) Swabi for further posting against the vacant post of IT

11/7/2009

(Signature)
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			Teacher (BS-16)
6	Mr. Mukhtiar Ex IT Teacher	GHS, Annawar Buner	Services placed at the disposal of DEO(M) Buner for further posting against the vacant post of IT Teacher (BS-16)
7	Mr. Haleem-ur-Rashid Ex IT Teacher	GHSS, Kabal Swat	Services placed at the disposal of DEO(M) Swat for further posting against the vacant post of IT Teacher (BS-16)

61
81

Terms and conditions:-

1. No TA/DA etc is allowed.
2. Charge report should be submitted to all concerned in duplicate.
3. Their services will be considered as regular according to the new Act, 2013.
4. Their seniority will be determined according to Section-4 of NWFP, Employees (Regularization of Service) Act, 2009.
5. Their regularization as IT Teacher (BS-16) is subject to the condition that their Academic/Professional certificate/documents must be verified from the concerned authorities by the DEOs concerned before making payment of their salary.
6. Their services are liable to termination on one month's notice from either side. In case of resignation without notice their one month pay/allowances shall be forfeited the Government.

Director

Endst: No. 2769-78/ File No. IT Teachers (Male)/2016 Dated Peshawar the 04-07-2016
Copy forwarded for information and necessary action to the: -

1. Accountant General Khyber Pakhtunkhwa, Peshawar.
2. Registrar August Supreme Court of Pakistan Islamabad.
3. Registrar Peshawar High Court, Dar-ul-Qaza, Mingora Swat.
4. District Education Officer (M) concerned.
5. District Accounts Officers concerned.
6. Assistant Director Litigation Local Directorate.
7. Principals/Headmasters concerned.
8. Officials concerned.
9. PS to Secretary to Govt. of Khyber Pakhtunkhwa, E&SE Department, Peshawar.
10. PA to Director Local Directorate.
11. Master File.

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Dy: Director (Estab)
Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar

30/6/16

Dist. Govt. KP-Provincial
District Accounts Office Dir at Timargar
Monthly Salary Statement (July-2020)



Personal Information of Mr MUHAMMAD AZHAR d/w/s of SIKANDAR HAYAT

Personnel Number: 00349798 CNIC: 1530209926403 NTN:
 Date of Birth: 01.12.1981 Entry into Govt. Service: 21.09.2006 Length of Service: 13 Years 10 Months 012 Days

Employment Category: Active Permanent

Designation: SUBJECT SPECIALIST I.T 80001429-DISTRICT GOVERNMENT KHYBE

DDO Code: DA6034-GHSS ZIARAT TALASH

Payroll Section: 001

GPF Section: 001

Cash Center:

GPF A/C No:

Interest Applied: No

GPF Balance:

141,204.00

Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil BPS: 17

Pay Stage: 3

Wage type		Amount	Wage type		Amount
0001	Basic Pay	37,270.00	1000	House Rent Allowance	4,433.00
1210	Convey Allowance 2005	5,000.00	1644	Ph.d / M.Phil Allowance	2,500.00
1925	UAA-OTHER 20%(17-22)	2,000.00	1947	Medical Allow 15% (16-22)	1,250.00
2148	15% Adhoc Relief All-2013	700.00	2199	Adhoc Relief Allow @10%	478.00
2211	Adhoc Relief All 2016 10%	2,484.00	2224	Adhoc Relief All 2017 10%	3,727.00
2247	Adhoc Relief All 2018 10%	3,727.00	2265	Adhoc Relief All 2019 05%	1,863.00

Deductions - General

Wage type		Amount	Wage type		Amount
3017	GPF Subscription	-4,270.00	3501	Benevolent Fund	-800.00
3609	Income Tax	-579.00	3990	Emp.Edu. Fund KPK	-250.00
4004	R. Benefits & Death Comp:	-900.00			0.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance
6505	GPF Loan Principal Instal	88,000.00	-8,000.00	24,000.00

Deductions - Income Tax

Payable: 9,259.43 Recovered till JUL-2020: 579.00 Exempted: 2314.51 Recoverable: 6,365.92

Gross Pay (Rs.): 65,432.00 Deductions: (Rs.): -14,799.00 Net Pay: (Rs.): 50,633.00

Payee Name: MUHAMMAD AZHAR

Account Number: 2057-0

Bank Details: NATIONAL BANK OF PAKISTAN, 231869 NBP DIR AMLOOK DARA TALASH DIR, DIR

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address:

City: PESH

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email: azharitteacher@gmail.com

Attached to be true copy

Dist. Govt. KP-Provincial
District Accounts Office Dir at Timargar
Monthly Salary Statement (July-2020)



Personal Information of Mr ROOH ULLAH JAN d/w/s of GHULAM WAHID JAN

Personnel Number: 00343880 CNIC: 1530692904879 NTN:
 Date of Birth: 01.04.1982 Entry into Govt. Service: 23.09.2006 Length of Service: 13 Years 10 Months 010 Days

Employment Category: Active Permanent

Designation: SUBJECT SPECIALIST I.T 80001458-DISTRICT GOVERNMENT KHYBE

DDO Code: DA6064-GHSS HAYA SARAI

Payroll Section: 001

GPF Section: 001

Cash Center:

GPF A/C No: VOL 3FA P 33

Interest Applied: Yes

GPF Balance:

148,400.00

Vendor Number: 30396477 - Roohullah Jan SST

Pay and Allowances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil BPS: 17

Pay Stage: 3

Wage type		Amount	Wage type		Amount
0001	Basic Pay	37,270.00	1000	House Rent Allowance	4,433.00
1210	Convey Allowance 2005	5,000.00	1925	UAA-OTHER 20%(17-22)	2,000.00
1947	Medical Allow 15% (16-22)	1,848.00	2148	15% Adhoc Relief All-2013	700.00
2199	Adhoc Relief Allow @10%	478.00	2211	Adhoc Relief All 2016 10%	2,484.00
2224	Adhoc Relief All 2017 10%	3,727.00	2247	Adhoc Relief All 2018 10%	3,727.00
2265	Adhoc Relief All 2019 05%	1,863.00			0.00

Deductions - General

Wage type		Amount	Wage type		Amount
3017	GPF Subscription	-4,270.00	3501	Benevolent Fund	-800.00
3609	Income Tax	-508.00	3990	Emp.Edu. Fund KPK	-250.00
4004	R. Benefits & Death Comp:	-900.00			0.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance
6505	GPF Loan Principal Instal	60,000.00	-6,000.00	38,000.00

Deductions - Income Tax

Payable: 8,118.23 Recovered till JUL-2020: 508.00 Exempted: 2028.94 Recoverable: 5,581.29

Gross Pay (Rs.): 63,530.00 Deductions: (Rs.): -12,728.00 Net Pay: (Rs.): 50,802.00

Payee Name: ROOH ULLAH JAN

Account Number: 6380

Bank Details: THE BANK OF KHYBER, 080105 I.B.Br.Timergara Main Bazar I.B.Br.Timergara Main Bazar, Lower Dir

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address:

City: PESH

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email: roohullah73@gmail.com

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Dist. Govt. KP-Provincial
District Accounts Office Bunair at Dagga
Monthly Salary Statement (July-2020)



Personal Information of Mr MUKHTIAR d/w/s of MAHMOOD ZAI

Personnel Number: 00393510 CNIC: 1510173975495
 Date of Birth: 05.04.1980 Entry into Govt. Service: 01.07.2009

NTN:
 Length of Service: 11 Years 01 Months 001 Days

Employment Category: Active Permanent

Designation: SUBJECT SPECIALIST I.T 80000560-DISTRICT GOVERNMENT KHYBE

DDO Code: BD6015-

Payroll Section: 001

GPF Section: 001

Cash Center:

GPF A/C No:

Interest Applied: Yes

GPF Balance:

181,819.00

Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil BPS: 17

Pay Stage: 3

Wage type		Amount	Wage type		Amount
0001	Basic Pay	37,270.00	1000	House Rent Allowance	4,433.00
1210	Convey Allowance 2005	5,000.00	1913	Comp Allow 20%(N2,17to22)	2,000.00
1947	Medical Allow 15% (16-22)	1,500.00	2148	15% Adhoc Relief All-2013	500.00
2199	Adhoc Relief Allow @10%	430.00	2211	Adhoc Relief All 2016 10%	2,484.00
2224	Adhoc Relief All 2017 10%	3,727.00	2247	Adhoc Relief All 2018 10%	3,727.00
2265	Adhoc Relief All 2019 05%	1,863.00			0.00

Deductions - General

Wage type		Amount	Wage type		Amount
3017	GPF Subscription	-4,270.00	3501	Benevolent Fund	-800.00
3609	Income Tax	-647.00	3990	Emp.Edu. Fund KPK	-250.00
4004	R. Benefits & Death Comp:	-900.00			0.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax

Payable: 7,760.63 Recovered till JUL-2020: 647.00 Exempted: 0.29- Recoverable: 7,113.92

Gross Pay (Rs.): 62,934.00 Deductions: (Rs.): -6,867.00 Net Pay: (Rs.): 56,067.00

Payee Name: MUKHTIAR

Account Number: 2088-6

Bank Details: ALLIED BANK LIMITED, 250850 ALIED BANK LTD REGA , REGA

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address:

City: BUNER

Domicile: -

Housing Status: No Official

Temp. Address:

City:

Email: mukhtyarpk@gmail.com

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Dist. Govt. KP-Provincial
District Accounts Office Dir Upper
Monthly Salary Statement (July-2020)



65
95

Personal Information of Mr MUHAMMAD KHAN d/w/s of KHAN BADSHAH

Personnel Number: 00349821 CNIC: 1570225029765 NTN:
 Date of Birth: 01.08.1980 Entry into Govt. Service: 25.09.2006 Length of Service: 13 Years 10 Months 008 Days

Employment Category: Active Permanent

Designation: SUBJECT SPECIALIST I.T 80001915-DISTRICT GOVERNMENT KHYBE

DDO Code: DP6026-PRINCIPAL GHSS-WARI

Payroll Section: 001

GPF Section: 011

Cash Center:

GPF A/C No:

Interest Applied: Yes

GPF Balance:

181,082.00

Vendor Number: 30428645 - MUHAMMAD KHAN S/O KHAN BADSHAH

Pay and Allowances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil BPS: 17

Pay Stage: 3

Wage type		Amount	Wage type		Amount
0001	Basic Pay	37,270.00	1000	House Rent Allowance	4,433.00
1925	UAA-OTHER 20%(17-22)	2,000.00	2148	15% Adhoc Relief All-2013	500.00
2175	Medical Allowance	1,250.00	2199	Adhoc Relief Allow @10%	328.00
2211	Adhoc Relief All 2016 10%	2,484.00	2224	Adhoc Relief All 2017 10%	3,727.00
2247	Adhoc Relief All 2018 10%	3,727.00	2265	Adhoc Relief All 2019 05%	1,863.00

Deductions - General

Wage type		Amount	Wage type		Amount
3017	GPF Subscription	-4,270.00	3501	Benevolent Fund	-800.00
3609	Income Tax	-281.00	3990	Emp.Edu. Fund KPK	-250.00
4004	R. Benefits & Death Comp:	-900.00			0.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance
6501	HBA Loan Principal Instal	250,000.00	-2,084.00	243,748.00

Deductions - Income Tax

Payable: 4,486.93 Recovered till JUL-2020: 281.00 Exempted: 1121.20 Recoverable: 3,084.73

Gross Pay (Rs.): 57,582.00 Deductions: (Rs.): -8,585.00 Net Pay: (Rs.): 48,997.00

Payee Name: MUHAMMAD KHAN

Account Number: 4510-7

Bank Details: NATIONAL BANK OF PAKISTAN, 231323 WARI, DIR UPPER WARI, DIR UPPER., DIR UPPER

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address:

City: PESH

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email: akmam881@gmail.com

(Signature)
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Dist. Govt. KP-Provincial
District Accounts Office SWAT
Monthly Salary Statement (May-2020)



Personal Information of Mr HALIMUR RASHEED d/w/s of MUHAMMAD AFSAR AKHAN

Personnel Number: 00813774 CNIC: 1560114171868 NTN:
 Date of Birth: 10.01.1978 Entry into Govt. Service: 05.07.2016 Length of Service: 03 Years 10 Months 028 Days

Employment Category: Active Temporary

Designation: SECONDARY SCHOOL TEACHER 80004854-DISTRICT GOVERNMENT KHYBE

DDO Code: SW6085-Principal GHSS Sijbanr Swat

Payroll Section: 001

GPF Section: 001

Cash Center:

GPF A/C No:

Interest Applied: No

GPF Balance:

146,698.00

Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil

BPS: 16

Pay Stage: 2

Wage type		Amount	Wage type		Amount
0001	Basic Pay	21,950.00	1000	House Rent Allowance	2,727.00
1210	Convey Allowance 2005	5,000.00	1912	Compen Allow 20% (16-N1)	1,500.00
1974	Medical Allowance 2011	1,500.00	2211	Adhoc Relief All 2016 10%	1,588.00
2224	Adhoc Relief All 2017 10%	2,195.00	2247	Adhoc Relief All 2018 10%	2,195.00
2264	Adhoc Relief All 2019 10%	2,195.00			0.00

Deductions - General

Wage type		Amount	Wage type		Amount
3016	GPF Subscription	-3,340.00	3501	Benevolent Fund	-800.00
3914	Education (ROP)	-3,000.00	3990	Emp. Edu. Fund KPK	-150.00
4004	R. Benefits & Death Comp:	-650.00			0.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax

Payable: 0.00 Recovered till MAY-2020: 0.00 Exempted: 0.00 Recoverable: 0.00

Gross Pay (Rs.): 40,850.00 Deductions: (Rs.): -7,940.00 Net Pay: (Rs.): 32,910.00

Payee Name: HALIMUR RASHEED

Account Number: 1807-1

Bank Details: NATIONAL BANK OF PAKISTAN, 231368 NB[CHUPRIAL SWAT NB[CHUPRIAL SWAT,

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address:

City: SWAT

Domicile: NW - F... Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email: haleemurrashid@gmail.com

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System generated document in accordance with APPM 4.6.12.9(SERVICES/29.05.2020/23:42:58/v2.0)

* All amounts are in Pak Rupees

* Errors & omissions excepted

Dist. Govt. KP-Provincial
District Accounts Office Dir at Timargar
Monthly Salary Statement (July-2020)



67
81

Personal Information of Mr MIAN SAID WAHAB d/w/s of NOOR UL WAHAB

Personnel Number: 00349812 CNIC: 1530210017875 NTN:
 Date of Birth: 01.04.1971 Entry into Govt. Service: 01.09.2006 Length of Service: 13 Years 11 Months 001 Days

Employment Category: Active Permanent

Designation: SUBJECT SPECIALIST I.T 80001432-DISTRICT GOVERNMENT KHYBE
 DDO Code: DA6037-GHSS ASBANR
 Payroll Section: 001 GPF Section: 001 Cash Center:
 GPF A/C No: Interest Applied: No **GPF Balance:** 151,254.00
 Vendor Number: 30399834 - Said Wahab SST
Pay and Allowances: Pay scale: BPS For - 2017 Pay Scale Type: Civil BPS: 16 Pay Stage: 10

Wage type		Amount	Wage type		Amount
0001	Basic Pay	34,110.00	1000	House Rent Allowance	2,727.00
1210	Convey Allowance 2005	5,000.00	1554	Spl. Comp. Allowance	3,732.00
1924	UAA-OTHER 20%(16 G/NG)	1,500.00	1947	Medical Allow 15% (16-22)	1,250.00
2148	15% Adhoc Relief All-2013	700.00	2199	Adhoc Relief Allow @10%	478.00
2211	Adhoc Relief All 2016 10%	2,484.00	2224	Adhoc Relief All 2017 10%	3,411.00
2247	Adhoc Relief All 2018 10%	3,411.00	2264	Adhoc Relief All 2019 10%	3,411.00

Deductions - General

Wage type		Amount	Wage type		Amount
3016	GPF Subscription	-3,340.00	3501	Benevolent Fund	-800.00
3609	Income Tax	-459.00	3990	Emp.Edu. Fund KPK	-150.00
4004	R. Benefits & Death Comp:	-650.00			0.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax

Payable: 7,328.35 Recovered till JUL-2020: 459.00 Excmpted: 1831.02 Recoverable: 5,038.33

Gross Pay (Rs.): 62,214.00 Deductions: (Rs.): -5,399.00 Net Pay: (Rs.): 56,815.00

Payee Name: MIAN SAID WAHAB

Account Number: 3506-6

Bank Details: NATIONAL BANK OF PAKISTAN, 231331 NBP CHAKDARA DIR NBP CHAKDARA DIR,

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address:

City: PESH Domicile: NW - Khyber Pakhtunkhwa Housing Status: No Official

Temp. Address:

City: Email: miansaidwahab@gmail.com

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88

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

MR. JUSTICE ANWAR ZAHEER JAMALI, HCJ
MR. JUSTICE MIAN SAQIB NISAR
MR. JUSTICE AMIR HANI MUSLIM
MR. JUSTICE IQBAL HAMEEDUR RAHMAN
MR. JUSTICE KHILJI ARIF HUSSAIN

CIVIL APPEAL NO.605 OF 2015

(On appeal against the judgment dated 18.2.2015
Passed by the Peshawar High Court Peshawar, in
Writ Petition No.1961/2011)

Rizwan Javed and others Appellants

VERSUS

Secretary Agriculture Livestock etc Respondents

For the Appellant : Mr. Ijaz Anwar, ASC
Mr. M. S. Khattak, AOR

For the Respondents: Mr. Waqar Ahmed Khan, Addl. AG KPK

Date of hearing : 24-02-2016

ORDER

AMIR HANI MUSLIM, J.- This Appeal, by leave of the Court is directed against the judgment dated 18.2.2015 passed by the Peshawar High Court, Peshawar, whereby the Writ Petition filed by the Appellants was dismissed.

2. The facts necessary for the present proceedings are that on 25-5-2007, the Agriculture Department, KPK got an advertisement published in the press, inviting applications against the posts mentioned in the advertisement to be filled on contract basis in the Provincial Agri-Business Coordination Cell [hereinafter referred to as 'the Cell']. The Appellants alongwith others applied against the various posts. On various

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dates in the month of September, 2007, upon the recommendations of the Departmental Selection Committee (DPC) and the approval of the Competent Authority, the Appellants were appointed against various posts in the Cell, initially on contract basis for a period of one year, extendable subject to satisfactory performance in the Cell. On 6.10.2008, through an Office Order the Appellants were granted extension in their contracts for the next one year. In the year 2009, the Appellants' contract was again extended for another term of one year. On 26.7.2010, the contractual term of the Appellants was further extended for one more year, in view of the Policy of the Government of KPK, Establishment and Administration Department (Regulation Wing). On 12.2.2011, the Cell was converted to the regular side of the budget and the Finance Department, Govt. of KPK agreed to create the existing posts on regular side. However, the Project Manager of the Cell, vide order dated 30.5.2011, ordered the termination of services of the Appellants with effect from 30.6.2011.

3. The Appellants invoked the constitutional jurisdiction of the learned Peshawar High Court, Peshawar, by filing Writ Petition No.196/2011 against the order of their termination, mainly on the ground that many other employees working in different projects of the KPK have been regularized through different judgments of the Peshawar High Court and this Court. The learned Peshawar High Court dismissed the Writ Petition of the Appellants holding as under :-

"6. While coming to the case of the petitioners, it would reflect that no doubt, they were contract employees and were also in the field on the above said cut of date but they were project employees, thus, were not entitled for regularization of their services as explained above. The august Supreme Court of Pakistan in the case of Government of Khyber

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Pakhtunkhwa Agriculture, Live Stock and Cooperative Department through its Secretary and others vs. Ahmad Din and another (Civil Appeal No.687/2014 decided on 24.6.2014), by distinguishing the cases of Government of NWFP vs. Abdullah Khan (2011 SCMR 989) and Government of NWFP (now KPK) vs. Kaleem Shah (2011 SCMR 1004) has categorically held so. The concluding para of the said judgment would require reproduction, which reads as under:-

"In view of the clear statutory provisions the respondents cannot seek regularization as they were admittedly project employees and thus have been expressly excluded from purview of the Regularization Act. The appeal is therefore allowed, the impugned judgment is set aside and writ petition filed by the respondents stands dismissed."

7. In view of the above, the petitioners cannot seek regularization being project employees, which have been expressly excluded from purview of the Regularization Act. Thus, the instant Writ Petition being devoid of merit is hereby dismissed.

4. The Appellants filed Civil Petition for leave to Appeal No.1090 of 2015 in which leave was granted by this Court on 01.07.2015. Hence this Appeal.

5. We have heard the learned Counsel for the Appellants and the learned Additional Advocate General, KPK. The only distinction between the case of the present Appellants and the case of the Respondents in Civil Appeals No.134-P of 2013 etc. is that the project in which the present Appellants were appointed was taken over by the KPK Government in the year 2011 whereas most of the projects in which the aforesaid Respondents were appointed, were regularized before the cut-off date provided in North West Frontier Province (now KPK) Employees (Regularization of Services) Act, 2009. The present Appellants were appointed in the year 2007 on contract basis in the project and after completion of all the requisite codal formalities, the period of their contract appointments was extended from

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time to time up to 30.06.2011, when the project was taken over by the KPK Government. It appears that the Appellants were not allowed to continue after the change of hands of the project. Instead, the Government by cherry picking, had appointed different persons in place of the Appellants. The case of the present Appellants is covered by the principles laid down by this Court in the case of Civil Appeals No.134-P of 2013 etc. (Government of KPK through Secretary, Agriculture vs. Adnanullah and others), as the Appellants were discriminated against and were also similarly placed project employees.

7. We, for the aforesaid reasons, allow this Appeal and set aside the impugned judgment. The Appellants shall be reinstated in service from the date of their termination and are also held entitled to the back benefits for the period they have worked with the project or the KPK Government. The service of the Appellants for the intervening period i.e. from the date of their termination till the date of their reinstatement shall be computed towards their pensionary benefits.

Chief Justice

Judge

Judge

Judge

Judge

Announced in open Court on _____

J

Approved for reporting

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of sender

Rs. Ps.

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For Insurance Notices see reverse.
Stamps affixed except in case of
uninsured letters of not more than
the initial weight prescribed in the
Post Office Guide or on which no
acknowledgement is due.

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parcel addressed to

SECRET

Date Stamp

SE-UL-O

*Write here "letter", "postcard", "packet" or "parcel"

Name of Receiving Officer

with the word "insured" before it when necessary.

Insured for Rs. (in figures)

PK (in words)

7

70/5
20/20

Weight

Kilo

grams

WAT

Insurance fee Rs.

Ps. (in words)

Name and

address

of sender

NOTICE (1) - The Post Office is not responsible for loss or damage in the case of Inland registered articles, unless they are also insured.

(2) - The special conditions and restrictions as to insurance which will be found in the current edition of the Post Office Guide are binding upon every sender of an insured postal article by virtue of rules prescribed under the Pakistan Post Office Act, 1898.

SYED ABDUL HAQ
ADVOCATE, HIGH COURT

Mobile : 0311-0950959
Email : syedabdulhaq@gmail.com
Address: Zeb Super Store Plaza,
Shahdara Watkay Mingora Swat

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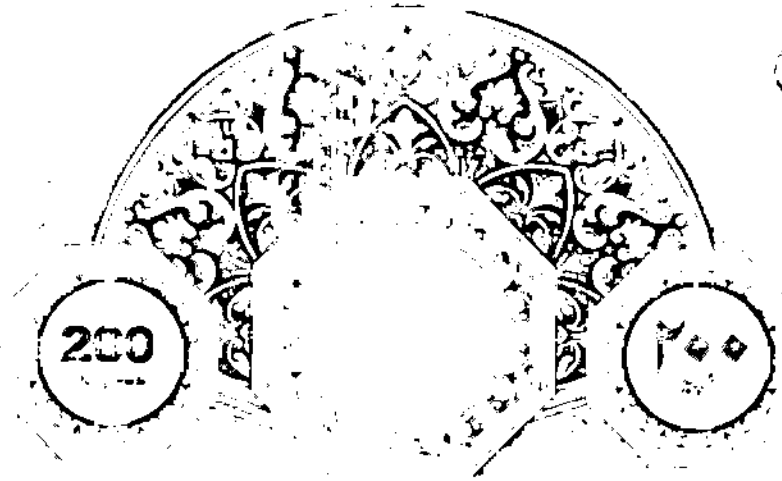
To,

The Secretary
Elementary & Secondary
Education KPK at Peshawar.

Sir,

I am going to file a Writ Petition in the Peshawar High Court Mingora Bench/ Dar ul Qaza at Mingora Swat on behalf ***Muhammad Azhar & others (I.T) Teachers*** for redressal of their grievances". (Copy of the writ Petition is sent herewith for your information please).


SYED ABDUL HAQ
Advocate High Court



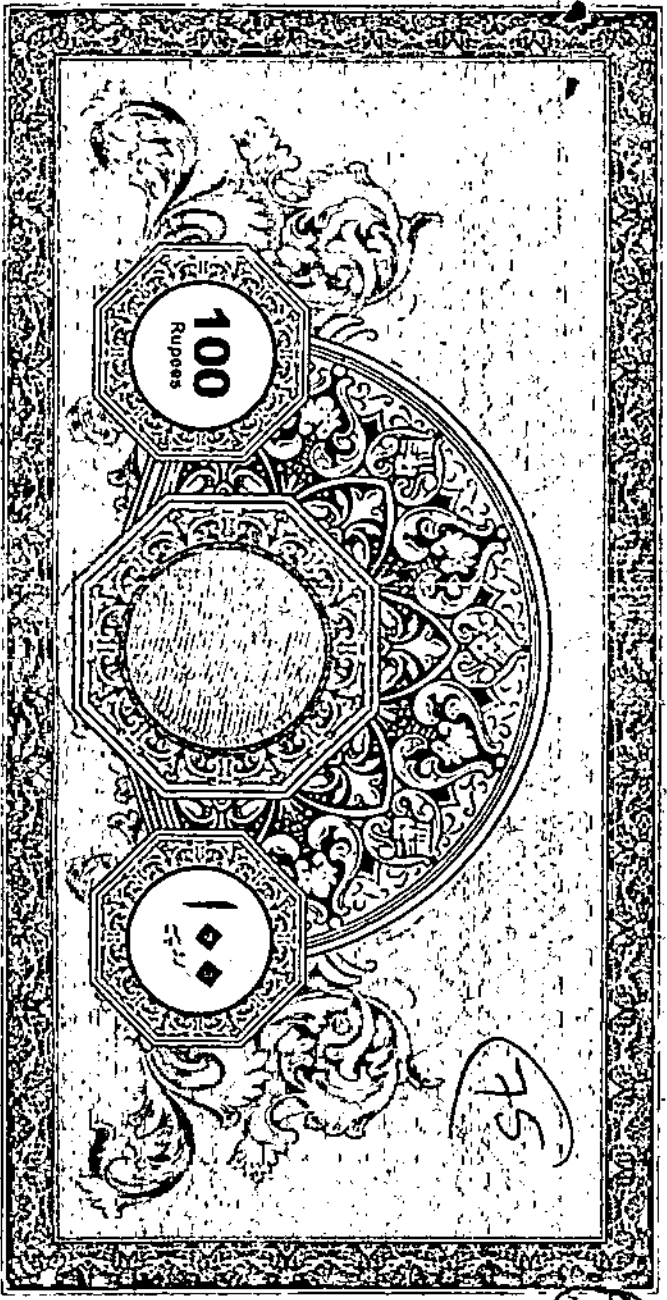
PAK STAN COURT FEE

ORIGINAL

FILED TODAY

3/10/72

Additional Registrar



PAKISTAN COURT FEE

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RP

CANCELLED

CANCELLED

FILED TODAY

31 AUG 2020

Additional Registrar

97

BEFORE HON'BLE PESHWAR HIGH COURT/MINGORA BENCH

WAKALAT NAMA

76

Case No. 123 of 2020

CASE TITLE

M. Azhar & Others

VERSUS

Govt

I, M. Azhar & Others do hereby appoint SYED ABDUL HAQ Advocate, High Court in the above mentioned case, to do all or any of the following acts, deeds and things:

1. To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal in which the same may be tried or heard and any other proceedings arising out of or connected therewith.
2. To sign, verify and file or withdraw all proceedings, petitions, appeals, affidavits and applications for compromise or withdrawal or for submission to arbitration of the said case, or any other documents, as may be deemed necessary or advisable by them for the conduct prosecution or defence of the said case at all its stages.
3. To receive payment of and issue receipts for, all money that may be or become due and payable to us during the course of proceedings.
4. To do any act necessary or ancillary to the above acts, deed and things.
5. To appoint any other counsel to do any/all of the acts, deeds and things.
6. I/We shall appear in the court/tribunal on every date of hearing for assistance and if due to my/our non-appearance, any adverse judgment/order/decree is passed, they will not be held responsible.

In witness whereof I/We have signed this Wakalatnama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this, 31/08/2020.

1- Muhammad Azhar Imand.

Signature of Executant

Attested & Accepted by:

Syed Abdul Haq
SYED ABDUL HAQ
Advocate, High Court
Cell No. 0311-0950959

2- Rahullah Jang

3- Mulattyar

4. Muhammad Khan

5- Muamir Saad waleh

(6) Halim ur Rashid

FILED TODAY

31 AUG 2020

Additional Registrar

MOB#

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

98

FORM OF ORDER SHEET

Court of

Case No. of

1	Date of Order or Proceedings 2	Order or other Proceedings with Signature of Judge and that of parties or counsel where necessary. 3
	15-09-2020	<p><u>W.P No. 873-M/2020</u></p> <p>Present: Syed Abdul Haq, Advocate for the petitioners.</p> <p>*****</p> <p>Comments of the respondents No. 4 to 8 be called so as to reach this Court within fortnight positively.</p> <p style="text-align: right;">JUDGE</p> <p style="text-align: right;">JUDGE</p> <p style="text-align: center;">Certified to be True Copy</p> <p style="text-align: center;">EXAMINER</p> <p style="text-align: center;">Peshawar High Court, Mingora/Dar-ul-Qaza, Swat Authorized Under Article 07 of Qanoon-e-Shahadat Order 1984</p>

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

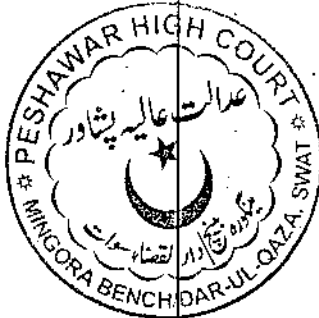
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FORM OF ORDER SHEET

Court of

Case No..... of.....

1	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge and that of parties or counsel where necessary.
	09-02-2022	<p><u>W. P No. 873-M/2020</u></p> <p>Present: Clerk learned counsel for petitioners.</p> <p style="text-align: center;">*****</p> <p>As learned counsel for petitioners has sent an application for adjournment on the ground mentioned therein therefore the case in hand is adjourned to a date in office.</p> <p style="text-align: right;">JUDGE</p> <p style="text-align: right;">JUDGE</p> <p style="text-align: center;">Certified to be True Copy</p> <p style="text-align: center;">EXAMINER</p> <p style="text-align: center;">Peshawar High Court, Mingora, Dar-ul-Qaza, Swat Authorized Under Article 07 of Qanoon-e-Shahadat Order 1984</p>



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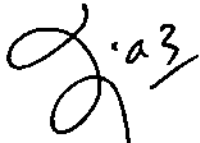

PESHAWAR HIGH COURT, MINGORA BENCH (DAR-UL-QAZA), SWAT

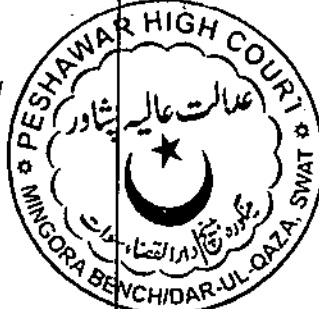
FORM OF ORDER SHEET

100

Court of

Case No..... of.....

1	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge and that of parties or counsel where necessary.
	08-11-2022	<p><u>W.P No. 873-M/2020</u></p> <p>Present: Syed Abdul Haq, Advocate for the petitioners.</p> <p>Mr. Razauddin Khan, A.A.G for the official respondents.</p> <p>*****</p> <p>Learned A.A.G requests for adjournment on the ground for filing of the requisite comments, in connected W.P No. 944-M/2022, before next date of hearing. Adjourned for a short date in office.</p> <p style="text-align: right;"> JUDGE</p> <p style="text-align: right;"> JUDGE</p> <p style="text-align: center;">Certified to be True Copy</p> <p style="text-align: center;"> EXAMINER Peshawar High Court, Mingora / Dar-ul-Qaza, Swat Authorized Under Article 07 of Quano-e-Shahadat Order 1954</p>



07/11 8/11

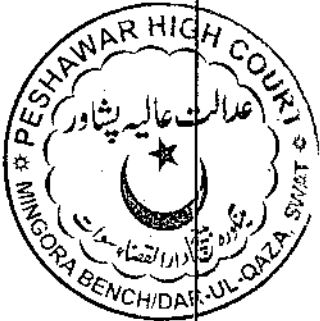

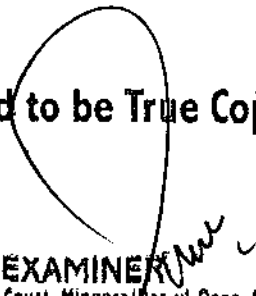

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PESHAWAR HIGH COURT, MINGORA BENCH (DAR-UL-QAZA), SWAT

FORM OF ORDER SHEET

Court of

Case No..... of.....

1	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge and that of parties or counsel where necessary.
	<p>15-02-2023</p>	<p><u>W.P No. 873-M/2020</u></p> <p>Present: Clerk to learned counsel for the petitioners.</p> <p>Mr. Saeed Ahmad, Asst.A.G for the official respondents.</p> <p>*****</p> <p>On the last date of hearing, in connected W.P No. 944-M/2022, respondents were directed to submit the comments. Learned Asst.A.G, states that though the comments were submitted but were returned on certain objections. He assures the filing of the comments. May do so within a fortnight. Adjourned for a date in office.</p> <p style="text-align: right;"> JUDGE</p> <p style="text-align: center;">Certified to be True Copy</p> <p style="text-align: center;"> EXAMINER</p> <p style="text-align: center;">Peshawar High Court, Mingora/Dar-ul-Qaza, Swat Authorized Under Article 07 of Qanun-e-Shahadat Order 1984</p> <p style="text-align: right;"> JUDGE</p>

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

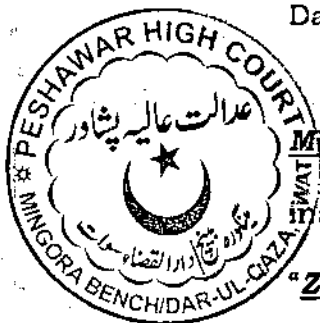
W.P No. 873-M/2020

Muhammad Azhar and 05 others Vs. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar and 07 others.

Present: Syed Abdul Haq, Advocate for Petitioners.
Khwaja Salah-ud-Din, A.A.G for official Respondents.

Date of hearing: 05.12.2023

JUDGMENT



MUHAMMAD NAEEM ANWAR, J.- This single judgment in the instant petition shall also decide W.P No.944-M/2022 titled

"Zia-ur-Rahman Vs. Govt. of KPK through Secretary Elementary and Secondary Education KPK and others"

as an identical question of law and facts is involved in both these petitions. Muhammad Azhar along with 05 others (the petitioners of the instant petition) and Zia-ur-Rahman (the petitioner of connected petition) have approached to this Court under Article 199 of the Constitution of Islamic Republic of Pakistan 1973 seeking the issuance of appropriate writ in terms of directing the respondents to place them in the seniority list with effect from the date of their initial appointment.

2. Facts as per the contents of the petitions are that initially all the petitioners were appointed on 26.9.2006 by the Directorate of Information Technology N.W.F.P, Peshawar on contract basis as I.T. Teachers in the Project with the title of "Establishment of one Science and one Computer Lab

Sd/- Ali/ (D.B)

HON'BLE MR. JUSTICE MUHAMMAD NAEEM ANWAR
HON'BLE MR. JUSTICE SHAHID KHAN

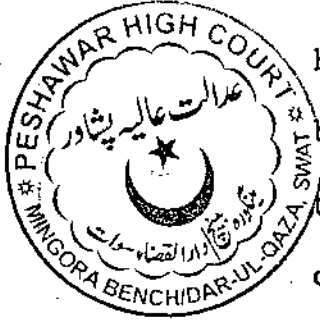
In the School/College of N.W.F.P. Their contracts were extended time and again by the competent authority and lastly, their contracts were extended from 01.07.2008 to 30.06.2009, but later on their services were terminated with effect from 30th June, 2009. They submitted their representations but to no avail. Besides their appointments, Schools & Literacy Department of Government of N.W.F.P had also appointed many I.T. and S.T. Teachers on contract basis on different projects having the same nature of job as the petitioners were performing, but the services of employees of Schools & Literacy Department were converted to regular side on contract basis till the arrival selectees of N.W.F.P Public Service Commission on 05.12.2007. They approached to this Court through W.P No. 2380 of 2009 which was allowed by this Court on 17.05.2012. The respondents filed Civil Appeal No. 113-P of 2013 before the Hon'ble Supreme Court, however, the same was dismissed on 24.02.2016. Thereafter, the respondents through notification dated 04.07.2016 regularized the services of the petitioners with effect from 01.07.2009 without back benefit. Hence, these petitions. Respondents were directed to furnish their para-wise comments, who through their comments, have refuted the contents of petitions and opposed the issuance of writ on different legal issues.

3. Arguments heard and record perused.

4. Admittedly, in earlier round of litigation, the writ of the petitioners was allowed by this Court and for ease the

Sd/- Ali/ (D.B)

HON'BLE MR. JUSTICE MUHAMMAD NAHEEL ANWAR
HON'BLE MR. JUSTICE SHAHID KHAN

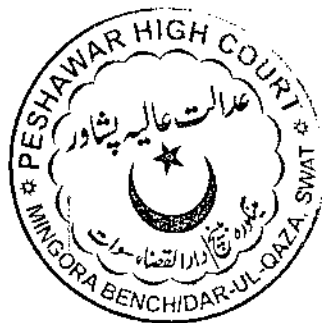


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104

operative part of the judgement of this Court is reproduced as under:

"We in the circumstances have no option but to direct the respondents to treat the petitioners as regular employees from the date, their services were terminated/discontinued and their inter se seniority be determined by the competent authority strictly in accordance with law and the rules on the subject. Formal orders in this regard be also issued. However, they will not be entitled to back benefits as they have not served the department. This writ petition is disposed of in above terms."



It appears from the order of this Court that the respondents were directed to determine the *inter se* seniority in accordance with law. The petitioners have not placed on file their seniority list prepared by the respondents in order to determine the validity thereof qua the prayer of the petition. Be that it may be, the seniority of the civil servants is the matter which relates to the terms and condition of their service in view of the dicta laid down by the apex Court in the case of **Khalilullah Kakar Versus Provincial Police Officer, Balochistan and others (2021 PLC (CS) 1030)** wherein it was laid down that:

"The word 'entertain' used in Article 212(2) of the Constitution is of significance importance. This means that any petition or proceeding relating to the terms and conditions of service even should not be entertained by the High Court in its constitutional jurisdiction under Article 199 of the Constitution. In view of the facts and circumstances of this case, entertaining and then proceeding with the constitutional petitions amounts to defeating the express Constitutional mandate under which Tribunal is vested with jurisdiction to deal with the matters of civil servants. This Court in the case of **Ali Azhar Khan Baloch v. Province of Sindh (2015 SCMR 456)** has held as under: -

"149. Article 212 of the Constitution ousts the jurisdiction of High Courts and civil Courts in respect of the matters pertaining to terms and conditions of civil servants. In other words, the provisions of Article 212 do not confer a concurrent jurisdiction to civil Courts, High Courts and Tribunals. The ouster contemplated under the said Article is a Constitutional command, and, therefore, of necessity

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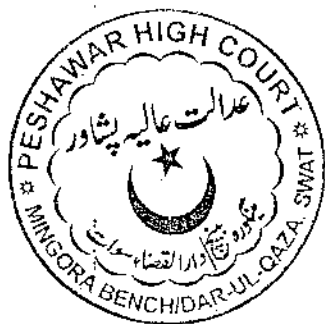
HON'BLE MR. JUSTICE AHMAD NAEEM ANWAR
HON'BLE MR. JUSTICE SAAD KHAN

105

restricts the jurisdiction of civil courts and High Courts on the subject, which squarely falls within the exclusive domain of Tribunals."

10. In *Asadullah Rashid v. Muhammad Muneer* (1998 SCMR 2129), this Court held as under: -

"Constitutional petition under Art. 199 of the Constitution is not maintainable by a civil servant in relation to any matter connected with the terms and conditions of service in respect whereof the Service Tribunal has jurisdiction, in view of Art. 212 of the Constitution of Pakistan. Orders, even if mala fide, ultra vires or coram non iudice, fell within the ambit of Service Tribunal and jurisdiction of Civil Courts including High Court is ipso facto ousted as result of barring provision of Art. 212 of the Constitution."



Undoubtedly, the petitioners are civil servants, thus, the seniority *inter se* as per the list if offends the rights of the petitioners they may approach the competent authority for redressal of their grievance.

5. Though, it was not specifically prayed for by the petitioners that they may be awarded increment prior to their regularization, however, in the body of the petition and during the course of arguments, learned counsel for the petitioners also requested that the increment prior to regularization was illegally withheld by the respondents. Insofar as the increment prior to regularization is concerned, that too is the part of terms and conditions of service and requires the decision from the competent forum. It is pertinent to mention that in the case of "*Abdul Hameed and others Vs. Special Secretary Education Government of Punjab Lahore and others*" (2016 SCMR 1611), a set of teachers approached to the High Court for grant of increment prior to their regularization, however, the Hon'ble Lahore High Court treated the writ petitions as appeals and transmitted the same to Punjab Services Tribunal for

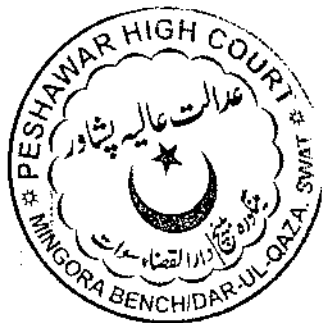
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HON'BLE MR. JUSTICE SHAHID KHAN

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106

decision thereon alongwith other service appeals, which were already pending adjudication before the worthy Services Tribunal in view of the dicta laid down in the case of "Hameed Akhtar Niazi Vs. Secretary Establishment Division Government of Pakistan and others" (1996 SCMR 1185), where the service appeals of the teachers were allowed and the teachers were held entitled for the increment prior to their regularization, against which, the department approached to the Hon'ble Supreme Court, where the leave was granted and thereafter, it was observed by the apex Court that:



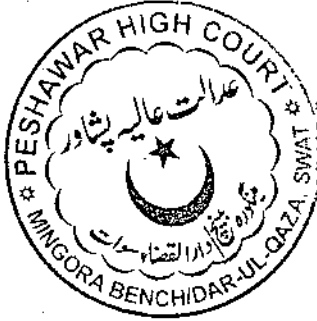
"From the above provision, it is definite that when a civil servant appointed to a post is entitled to the pay sanctioned for such post then obviously, he would also be entitled to the ancillary privileges of such pay. As such it has been held that when their salaries which they have received prior to their regularization/confirmation were in accordance with law then they are entitled also to the annual increment on the basis of the same no distinction can be drawn between the Un-Trained and Trained Teachers so the findings of the Tribunal by allowing the Teachers to full annual increment for a period of first two years from the date of their original appointment till their regularization/ confirmation and restricting them only to 1/2 of the increment for rest of their services would not be just and fair and does not meet the ends of justice.

In the light of the above discussion, Civil Appeals Nos. 398-L to 403-L/2010, filed by the Teachers, are allowed entitling them to receive full annual increments for the whole period prior to their regularization whereas Civil Appeals Nos. 404-L, 405-L/2010, 179-L to 183-L, 231-L, 424 -L, 425-L/2011 and 17 to 23/2012, filed by Department, are dismissed."

In view of the above, this aspect shall also be decided by the competent forum keeping in view the initial appointment of the petitioners in juxtaposition with the terms and conditions of their service. Thus, without dilating upon the

107

rest of the merits, both the matters require proper adjudication by the worthy Services Tribunal. The petitioners may approach to the worthy Services Tribunal for redressal of their grievance, if so advised, in accordance with law. Both these petitions are disposed of accordingly.



Announced
05.12.2023.
Released on
23.02.2024.


JUDGE


JUDGE

Certified to be True Copy

EXAMINER

Peshawar High Court, Mingora/Dar-ul-Qaza, Swat
Authorized Under Article 07 of Qanoon-e-Shahadat Order 1984

Office 23/2/2024

Sabz Ali/ (D.B)

HON'BLE MR. JUSTICE MUHAMMAD SAHEEM ANWAR
HON'BLE MR. JUSTICE SHAHID KHAN