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KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

EXECUTION NO _____

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SAEED HUSSAIN vs EDUCATION

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Muharir

28/6/24

Muharir Compilation

Incharge

1/7/24

Incharge Judicial Branch

6. That appellant feeling aggrieved, preferred Departmental Appeal (*Annex:-J*) but no heed was paid. Thereafter, approached this Hon'ble Tribunal by way of filing Service Appeal No. 7833/2021 which is pending adjudication.
7. That during pendency of the Service Appeal *ibid*, though appellant was promoted to the post of SST-IT (BPS-16) vide impugned Notification dated 17.03.2023 (*Annex:-K*) communicated on 05.09.2023 but with immediate effect and not from the date of occurrence of vacancy i.e. 24.09.2020 against which appellant preferred Departmental Appeal on 08.06.2023 (*Annex:-L*) but the same was not replied within the statutory period, hence the instant Service Appeal *inter-alia* on the following grounds:-

Grounds:

- A. That Respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully promoted appellant to the post of SST-IT (BPS-16) with immediate effect instead of 24.09.2020, which is unjust, unfair and hence not sustainable in the eye of law.
- B. That appellant was eligible, having requisite qualification but was unlawfully not promoted to the subject post with effect from 24.09.2020 which caused financial loss to appellant on the one hand and damaged his career progression on the other. The unlawful omission on the part of the Respondents cannot be justified under any canon of law, justice and fair play. Reliance is placed on Judgment 2013 PLC (CS) 786, 1985 SCMR 1158, 2000 PLC (CS) 697, 2021 PLC (CS) 362:

2013 PLC (CS) 786 Supreme Court

---Ante-dated promotion---Promotion with effect from date of availability of vacancy -- Civil servant (petitioner) was inducted in BS-17 and was subsequently given various assignments in BS-18 on current charge basis ---Grievance of civil servant was that he should have been considered for promotion with effect from the date when the post in BS-18 fell vacant --- Service Tribunal dismissed appeal filed by civil servant --- Validity --- Civil servant was inducted into service in BS-17 -- Subsequently he was promoted to BS-18 on current-charge basis, however by that time he was eligible and qualified to be promoted to BS-18 and even vacancies were available---Petition for leave to appeal to Supreme Court was converted into appeal and allowed, and


1


28.03.2024 1. Junior to learned counsel for the appellant present. Mr. Muhammad Jan learned District Attorney for the respondents present.

2. File to come up alongwith connected service appeal No. 930/2020 on 04.06.2024 before D.B at camp court, Swat. P.O.P given to parties.

SCANNED
POST
Peshawar

Kaleemullah


(Fareeha Paul)
Member (E)


(Rashida Bano)
Member (J)

As per instruction of my client, I have by
with draw the instant Appeal. Copy for
of 4/6/2024

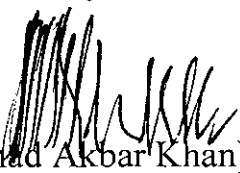
June, 2024 1. Learned counsel for the appellant present. Mr. Muhammad Jan, District Attorney for the respondents present.


2. Learned counsel for the appellant requested for withdrawal of the instant service appeal. As a token of admission of his submission, he signed he margin of order sheet. Dismissed as withdrawn. Consign.

3. *Pronounced in open court at camp court Swat and given under our hand and seal of the Tribunal on this 04th June, 2024.*

SCANNED
POST
Peshawar

KALEEMULLAH


(Muhammad Akbar Khan)
Member (E)
Camp Court Swat



(Rashida Bano)
Member (J)
Camp Court Swat


04.12.2023

Learned counsel for the appellant present. Syed Alamzeb Shah, ADEO alongwith Mr. Asad Ali Khan, Assistant Advocate General for the respondents present.

Learned counsel for the appellant again requested for further time for preparation of arguments. Adjourned. To come up for arguments on 28.03.2024 before the D.B. Parcha Peshi given to the parties.

SCANNED
K.P.S.T
Roshanwar


(Fareeha Paul)
Member (E)


(Salah-ud-Din)
Member (J)

Naeem Amin

(B)

18.05.2023

Junior of learned counsel for the appellant present. Syed Alamzeb Shah, ADEO alongwith Mr. Asad Ali Khan, Assistant Advocate General for the respondents present.

SCANNED
KPS
Peshawar

File to come up for alongwith connected Service Appeal No. 930/2020 on 04.08.2023 before D.B. Parcha Peshi given to the parties.

(Muhammad Akbar Khan)
Member (E)

(Salah-ud-Din)
Member (J)

kamranullah

4th August, 2023 1. Learned counsel for the appellant present. Mr. Fazal Shah Mohmand, Additional Advocate General alongwith Syed Alamzeb Shah, ADO (Lit) for the respondents present.

SCANNED
KPS
Peshawar

2. Learned counsel for the appellant requested for adjournment in order to prepare the brief. Adjourned. To come up for arguments on 04.12.2023 before the D.B. PP given to the parties.

(Fareeha Paul)
Member (E)

(Rashida Bano)
Member (J)

*Kaleemullah

3

08th Feb, 2023

Junior of learned counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present.

Junior of learned counsel for the appellant stated that similar appeals titled "Rahatullah etc Versus Education Department" have been fixed on 09.03.2023 before Principal Bench of this august Tribunal at Peshawar, therefore, let this appeal be fixed on the said date at Principal Bench.

Let it be fixed at Principal seat of this august Tribunal to see the nature of all the appeals at Peshawar for 09.03.2023.

SCANNED
KPST
Peshawar



(Salah-ud-Din)
Member (J)
Camp Court Swat



(Kalim Arshad Khan)
Chairman
Camp Court Swat

09th March, 2023

Junior of learned counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present.

Junior of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant has proceeded to his native village due to some domestic engagement. Adjourned. To come up for arguments on 18.05.2023 before the D.B. Parcha Peshi given to the parties.

SCANNED
KPST
Peshawar



(Salah-ud-Din)
Member (J)



(Kalim Arshad Khan)
Chairman

10th Nov, 2022

Due to public holiday on account of Allama Iqbal Day, the case is

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KPST
Peshawar.

adjourned to 07.12.2022 for the same as before.


Reader

07.12.2022

Tour is hereby cancelled, therefore, the case is adjourned to 04.01.2023 for the same as before.


05.01.2023


Junior to counsel for the appellant present. Reader

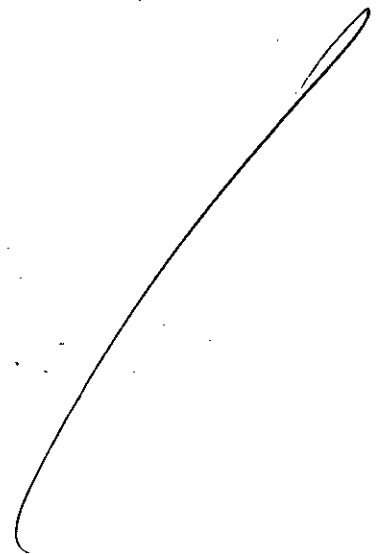
Muhammad Riaz Khan Piandakhel learned Assistant Advocate General for respondents present.

File to come up alongwith connected Service Appeal No. 278/2020 titled "Badshah Shareen Vs. Education Department" on 08.02.2023 before D.B at camp court Swat.

SCANNED
KPST
Peshawar.


(Fareeha Paul)
Member (E)
(Camp Court Swat)


(Rozina Rehman)
Member (J)
(Camp Court Swat)



6
SC/ED
Peshawar

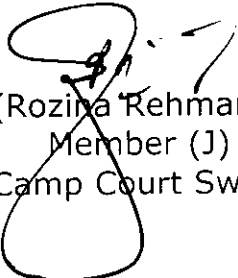
ORDER
04.10.2022

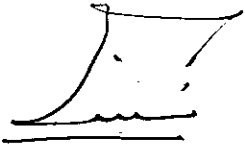
Learned counsel for the petitioner present. Mr. Muhammad Jan, District Attorney for the respondents present. Arguments on restoration application heard and record perused.

The Service Appeal bearing No. 280/2020 titled "Saeed Hussain Versus Secretary, E&SE Department, Khyber Pakhtunkhwa, Peshawar and three others", was dismissed in default vide order dated 05.07.2022. According to learned counsel for the petitioner, he was busy in the august Peshawar High Court, Peshawar as well as Principal bench of this Tribunal at Peshawar, therefore, he could not appear before the Tribunal on the said date. The petitioner has submitted an application for restoration of appeal on 22.07.2022, which is well within time. The application for restoration of service appeal is supported by duly sworn affidavit. Law also favours adjudication on merit by avoiding technicalities.

The application in hand is, therefore, accepted and Service Appeal bearing No. 280/2020 stands restored on its original number. To come up for arguments on 09.11.2022 before the D.B at Camp Court Swat.

ANNOUNCED
04.10.2022


(Rozina Rehman)
Member (J)
Camp Court Swat


(Salah-Ud-Din)
Member (J)
Camp Court Swat

7

05.09.2022

Clerk of learned counsel for the applicant present. Notice be issued to the respondents for submission of reply as well as arguments on restoration application on 04.10.2022 before the

7. D.B at Camp Court Swat. *original record be requisitioned for the date fixed.*

M.M.
(Mian Muhammad)
Member (Executive)
Camp Court Swat

S.U.D.
(Salah-Ud-Din)
Member (Judicial)
Camp Court Swat

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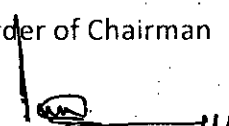
8

Form-A

FORM OF ORDER SHEET

Court of _____

Restoration Application No. 414/2022

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	22.07.2022	<p>The application for restoration of appeal No. 280/2020 submitted today by Mr.Noor Muhammad Khattak Advocate. It is fixed for hearing before touring Division Bench at Swat on <u>5-9-22</u>. Original file be requisitioned. Notices to the applicant and his counsel be also issued for the date fixed.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

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**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.**

Restoration Appli. no. 414/2022

CM. NO. _____/2022

IN

APPEAL No. 280/2020

SCANNED
KPST
Peshawar

SAEED HUSSAIN

VS

EDUCATION DEPT.

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3.	Order dated 5-7-2022	A	3-4

0334-5277323

APPELLANT

THROUGH:

[Signature]
NOOR MUHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR.

Restoration Appli. no. 414/2022

Khyber Pakhtunkhwa
Service Tribunal

CM. NO. _____/2022

IN

APPEAL No. 280/2020

Diary No. 761

Dated 22/7/2022

SAEED HUSSAIN

VS

EDUCATION DEPT.

**APPLICATION FOR RESTORATION OF THE ABOVE
MENTIONED APPEAL**

R/SHEWETH:

- 1- That the above titled service appeal was pending adjudication before this Honorable tribunal which was fixed on 05-07-2022.
- 2- That the counsel for the petitioner was busy in The Peshawar High Court at Peshawar as well as was engaged at principal bench of this honourable tribunal at Peshawar. That it is also worth mentioning that the subject appeals were not noted in the diary on that date.
- 3- That the mentioned service appeal was dismissed for non-prosecution vide order dated 05.07.2022. Copy of the order sheet 05.07.2022 attached as annexure**A**.
- 4- That as the matter pertaining in the instant appeal has not been decided on merit, therefore the mentioned service appeal may be restored for the sack of justice.
- 5- That there is no legal bar in restoring the mentioned appeal.

It is therefore, most humbly prayed that on acceptance of this application the above mentioned service appeal may very kindly be restored.

Dated:

PETITIONER/APPLICANT

Through:

NOOR MUHAMMAD KHATTAK

Advocate, Peshawar

07.06.2022 Appellant in person present. Mr. Kabirullah Khattak,
learned Additional Advocate General for the respondents present.

Counsel are on strike. Adjourned. To come up for
arguments on 05.07.2022 before D.B at camp court Swat.



(Mian Muhammad)
Member (E)
Camp Court Swat



(Kalim Arshad Khan)
Chairman
Camp Court Swat

05.07.2022

Nemo for appellant.

Noor Zaman Khan Khattak, learned District Attorney alongwith
Nasim Khan Section Officer for respondents present.

Case was called time and again but neither the appellant nor
his counsel turned up till rising of the Bench. Consequently, instant
service appeal is hereby dismissed in default for non-prosecution.
Parties are left to bear their own costs. File be consigned to the
record room.

Announced.
05.07.2022



(Fareeha Paul)
Member(E)
Camp Court, Swat



(Rozina Rehman)
Member(J)
Camp Court, Swat

R

01.11.2021

Junior to counsel for appellant present.

ALIA 482

15-11-2021

Muhammad Adeel Butt, learned Additional Advocate General for the appellant present.

AM AS for respondents present.

The learned Member (Judicial) is on leave, therefore, case is adjourned. To come up for arguments on 03.02.2022 before D.B. Respondents be put on notice to submit reply within 10 days in office.

ALIA


Chairman

Chairman

03.02.2022

The Tribunal is non-functional, therefore, the case is adjourned to 15.04.2022 before S.B for the same.


Reader

15.04.2022

Counsel for the appellant present. Mr. Kabirullah Khattak Addl. AG for respondents present.

Written reply/comments on behalf of respondents not submitted. Learned AAG seeks time to file written reply/comments. Last opportunity is granted to respondents for submission of written reply/comments. To come up for written reply/comments on 11.05.2022 before S.B at Camp Court Swat.


Chairman

11.01.2021

Mr. Noor Muhammad Khattak, Advocate, for appellant is present. Mr. Kabirullah Khattak, Additional Advocate General alongwith representative of respondent No. 2 Mr. Naseeb Khan, Section Officer (Litigation), is also present.

Written reply on behalf of respondents not submitted despite last chance given in the preceding order sheet dated 19.11.2020, therefore, the appeal is adjourned to 08.04.2021 on which date file to come up for arguments before D.B.

(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

08.4.2021

Due to absence of Honable Chairman
The Tribunal is defunct, therefore the case is
adjourned to 26.07.2021 for the same as before.

26.07.2021

Mr. Noor Muhammad Khattak, Advocate, for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Learned counsel for the appellant requested for adjournment on the ground that he has not met preparation for arguments. Adjourned. To come up for arguments before the D.B on 01.11.2021.

(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)
(SALAH-UD-DIN)
MEMBER (JUDICIAL)

05.08.2020

Mr. Noor Muhammad Khattak, Advocate for appellant is present. Mr. Kabirullah Khattak, Additional AG alongwith representative of the department Mr. Mohibullah, Assistant are also present.

Representative of the department requested for time to furnish written reply/comments. Time is granted. File to come up for written reply/comments on 29.09.2020 before S.B.

(MUHAMMAD JAMAL KHAN)
MEMBER

29.09.2020

Junior to counsel for the appellant and Addl. AG alongwith Sajid Superintendent and Ahmad Hassan, Litigation Officer for the respondents present.

Representative of the respondents seeks further time to furnish reply/comments. Adjourned to 19.11.2020 on which date the requisite reply/comments shall be submitted without fail.


Chairman

19.11.2020

Junior to counsel for the appellant and Addl; AG present. No representative of respondents is available.

Learned AAG is required to contact the respondents and submit written reply/comments on 11.01.2021, as last chance.


Chairman

30.03.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 19.06.2020 before S.B.


Reader

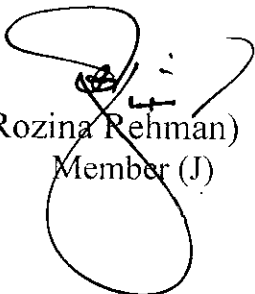
19.06.2020

Counsel for the appellant present.

Contends that appellant was initially appointed as PTC now PST as stop gap arrangement but his services were dispensed with in 1997. He then submitted an application for his reinstatement on promulgation of KP Sacked Employees Act, 2012 which was not considered. He, therefore, filed Writ Petition which was allowed and the appellant was appointed. His departmental appeal for fixation of pay was not responded. It was further submitted that in the light of Rule 2.3 of the West Pakistan Pension Rules, 1963, the appellant is entitled for the grant of pay fixation from the date of initial appointment.

Points raised need consideration. Instant appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Notice be issued to the respondents. To come up for written reply/comments on 05.08.2020 before S.B.

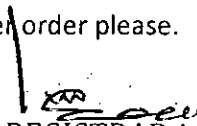

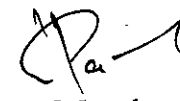
Appellant Deposited
Security & Process Fee
26/6/20


(Rozina Rehman)
Member (J)

FORM OF ORDER SHEET

Court of _____

Case No.- _____ 283/2020 _____

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	09/01/2020	<p>The appeal of Mr. Dawood Khurshid presented today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	10.02.2020	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>10/02/2020</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> <p>Learned counsel for the appellant present. Heard.</p> <p>Learned counsel for the appellant could not demonstrate that the appellant can claim service back benefits under the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012. Learned counsel for the appellant seeks adjournment for proper assistance. Adjourn. To come up for preliminary hearing on 30.03.2020. Learned counsel for the appellant may also submit copy of the judgment in Writ Petition bearing No.3-M of 2014 dated 28.03.2014 on the next date fixed.</p> <p style="text-align: right;"> Member</p>

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. 280 /2019

SCANNED
KPST
Peshawar

SAEED HUSSAIN

VS

EDUCATION DEPTT:

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6	Departmental appeal	E	16.
7	Vakalat nama	17.

APPELLANT

THROUGH:


NOOR MOHAMMAD KHATTAK,
ADVOCATE

Flat No. 3, Upper Floor,
Islamia Club Building,
Khyber Bazar, Peshawar
0345-9383141

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

APPEAL NO. 280 /2019

Diary No. 289

Dated 09/11/2020

Mr. Saeed Hussain, PST BPS-12,
GPS Mamosai Kass, District Dir Upper.....**APPELLANT**

VERSUS

- 1- The Secretary, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Director, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
- 4- The District Education Officer, District Dir Upper.

.....**RESPONDENTS**

APPEAL UNDER SECTION- 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 FOR FIXATION OF PAY IN BPS-12 w.e.f. 28-11-1995 I.E. FROM THE DATE OF INITIAL APPOINTMENT TO THE POST OF PST AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

That on acceptance of this appeal the appellant may kindly be allowed/granted pay fixation w.e.f. 28-11-1995 with all back benefits. Any other remedy which this august Service Tribunal deems fit that may also be awarded in favor of the appellant.

Filed to-day

Registrar
09/11/2020

R/SHEWETH:
ON FACTS:

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

- 1- That the appellant was initially appointed in the respondent Department as PTC now PST vide order dated 28-11-1995 as stop gap arrangement.(Copy of the appointment order is attached as annexure..... **A)**
- 2- That later on the appellant was appointed against regular post vide order dated 18/04/1996 w.e.f. the date of his first appointment i.e. 28/11/1995. (Copy of second appointment order is attached as annexure..... **B)**
- 3- That it is worth mentioning here, that in 1997 the services of the appellant along with others were dispensed with on the ground that their services were no more required to the Department.

- 18
- 4- That it is also worth mentioning, that on promulgation of KP Sacked Employee Act, 2012 appellant submitted an application for his reinstatement being covered under the said law but the same was not considered, hence the appellant filed writ petition no. 256/2017 before Peshawar High Court Mingora Bench, which was allowed vide judgment dated 07/03/2018. Copy of judgment dated 07/03/2018 is attached as annexure C).
 - 5- That the appellant was appointed as PST w.e.f. taking over charge in light of Peshawar high Court Dar-UI-Qaza Bench judgment vide order dated 16/11/2018. That in response the appellant submitted charge report and started his duty quite efficiently and up to the entire satisfaction of his superiors. Copy of the appointment order is attached as annexure D)
 - 6- That the appellant filed Departmental appeal before respondents for fixation of pay w.e.f. the date of his first appointment i.e. 28/11/1995 but the same has not been responded within stipulated period of ninety days. Copy of departmental appeal is attached as annexure..... E)
 - 7- That feeling aggrieved and having no other remedy the appellant filed the instant appeal on following grounds inter alia.

GROUND:

- A- That the inaction of respondents by not allowing pay fixation to the appellant w.e.f. 28-11-1995 is against the law, facts, norms of natural justice and materials on the record.
- B- That appellant has not been treated in accordance with law and rules by the respondent Department on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the respondents acted in arbitrary and mala fide manner by not allowing pay fixation to the appellant w.e.f. 28-11-1995 and as such the inaction of the respondents is violative of law and rules.
- D- That the inaction of the respondents is discriminatory and against the norms of natural justice, therefore not tenable in the eye of law.
- E- That under Article 38 (e) of the Constitution of Pakistan, 1973 state is bound to reduce disparity in the income and earning of the individuals including persons in the various services of Pakistan, therefore in light of the above mentioned Article the appellant is fully entitled for the grant of pay fixation w.e.f. the date of initial appointment.

F- That promulgation of Sacked Employee Act, 2012 established that dismissal of appellant along with others from services was against the law, hence the appellant is entitled to pay fixation from date of his first appointment.

G- That in light of Rule 2.3 of the West Pakistan, Pension Rules, 1963 the appellant is fully entitle for the grant of pay fixation from the date of initial appointment.

H- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

APPELLANT

Saeed Hussain

SAEED HUSSAIN

THROUGH:

NOOR MOHAMMAD KHATTA

SHAHZULLAH YOUSAFZAI

&

**MIR ZAMAN SAFI
ADVOCATES**

OFFICE ORDER:-

Consequent upon the non availability of trained PTC, in the constituency, Mr. Saeed Hussain S/O Shahriar Khan Village Karbori Barawal, DISTRICT Dir is hereby appointed on stop gap arrangements at GPS, Bilachanda Barawal with effect from 2.12.1995 to 31.3.1996 at the pay scale of Rs. 1480/81/2695 subject to the following terms and conditions:-

1. Charge report should be submitted to all concerned.
2. Health & age certificate should be produced from the civil surgeon DIR at Timergara.
3. He may not be handed over the charge if his age exceeds 30 years or below 18 years.
4. Before handing over charge to him their original documents should be checked.

(FAZLE NAEEM KHAN)
DISTT: EDUCATION OFFICER(M)
PRY: DIR AT TIMARGARA.

OFFICE TO THE DISTT: EDUCATION OFFICER (M) PRY: DIR AT TIMERGARA.

Endst: No. 5460-62/PED/ESTAB:/

Dated Timergara the 28/11/1995

Copy forwarded to:-

OFFICE ORDER: #

Consequent upon the non availability of trained PTC in the constituency, Mr. Saad Hussain, Mat: S/O Shafiq Khan

Village Karpoti Barawal (mat) Distt: D.D. is hereby appointed as PTC

Let on stop gap arrangements at X/R/PS Dittachand Barawal with effect

from 02/12/1995 to 31/03/1996 at the pay scale of Rs. 1400-91-2695

subject to the following terms and conditions:-

- 1- Charge report should be submitted to all concerned.
- 2- Health and age certificate should be produced from the civil Surgeon D.D. at Timergara.
- 3- He may not be handed over the charge if his age exceeds 50 years or below 18 years.
- 4- Before handing over the charge, upto him his original documents should be checked.

(FAZLI WAHEEM KHAN)

DISTT: EDUCATION OFFICER (M)

PRY: D.D. AT TIMERGARA.

OFFICE OF THE DISTT. EDUCATION OFFICER (M) PRY: D.D. AT TIMERGARA.

Enust: No. 5466-62/PED/ESAB: Dated Timergara the 28/11/1995.

Copy forwarded to:-
1: The SDO (M) D.D. for information.
2: The DMO D.D. at Timergara for information.
3: The candidate concerned.

M. Anwar

Handwritten signature and stamp

DISTT: EDUCATION OFFICER (M)
PRY: D.D. AT TIMERGARA.
Handwritten signature

OFFICE ORDER:

Consequent upon the non availability of duly verified trained PTC,s in the merit list, continuous appointment of Mr. Saeed Hussain s/o Shariar Khan as PTC untrained teacher at MPS Bilachand, in EPS No. 07 Rs. 1480-81-2695 purely on temporary basis is hereby continued till further order with effect from the date of his 1st appointment subject to the following terms and conditions.

TERMS AND CONDITIONS:-

1. His appointment is purely made on temporary basis and can be terminated at any time without showing any reason/notice.
2. Other conditions are the same as given in the 1st appointment order.

(FAZLI NAEEM KHAN)
DISTT: EDUCATION OFFICER (M)
PRIMARY DIR AT TIMERGARA.

OFFICE OF THE DISTRICT EDUCATION OFFICER (M) PRY: DIR AT TIMERGARA.
Endost: No/277-79 /PWP/Estt: A-1 Dated Timergara the 18/4/96.

Copy forwarded for information to:-

1. The SDEO (M) Dir.
2. The teacher concerned for information.

DISTT: EDUCATION OFFICER (M)
PRIMARY DIR AT TIMERGARA.

Attested
[Signature]
RCC

18-4-96

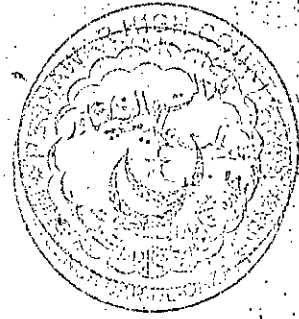
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C-6

BEFORE THE PESHAWAR HIGH COURT BENCH AT
MINGORA (DAR-UL-QAZA) SWAT

W.P No. 207 M of 2018



- 1) Saeed Hussain son of Shahriar Khan resident of Village Karbōri, Barawal Bandai, District Dir Upper (Ex-PTC teacher)
- 2) Bakht Biland Jan son of Sher Muhammad resident of Outala, Tehsil Timergara, Dir Lower. (Ex-C.T teacher)

.....Petitioners

VERSUS

1. Govt. of KPK through Secretary Elementary & Secondary Education Khyber Pakhtunkhwa at Peshawar.
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa at Peshawar.
3. District Education Officer (M) District Dir Upper.
4. District Education Officer (M) District Dir Lower.

.....Respondents

FILED TODAY

22 FEB 2018

Additional Registrar

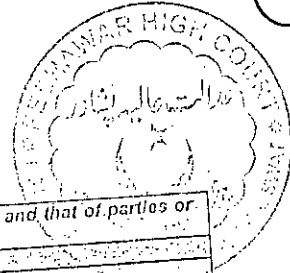
WRIT PETITION

Arrested
M. M. M.
Ullah S.C.T.
BPS-16 GHSS
Barawal Bandi Dir (U)

24

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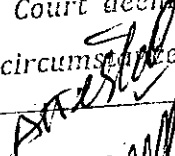
**PESHAWAR HIGH COURT, MINGORA BENCH/
DAR UL QAZA, SWAT**
FORM OF ORDER SHEET



Court of
Case No. of

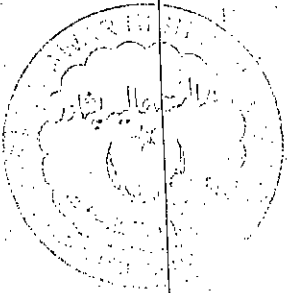
Serial No. of order or proceeding	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary.
	07.03.2018	<p><u>W.P. No. 256-M/2018</u></p> <p>Present: Syed Abdul Haq, Advocate for the Petitioners.</p> <p style="text-align: center;">* * *</p> <p><u>MOHAMMAD IBRAHIM KHAN, J.-</u> Saeed Hussain & 1 another Petitioners herein, are imploring the constitutional jurisdiction of this Court for issuance of an appropriate writ by narrating the facts followed by the grounds being taken from Serial (A) to (i), they have set up the following perspective" prayer for redressal of their grievance:-</p> <p style="text-align: center;">" It is, therefore, humbly prayed that, on acceptance of the instant writ petition, this Honorable Court may kindly be issued an appropriate writ to the Respondents to appoint/reinstate the Petitioners under the K.P. Sacked Employees Act, 2012 along with all back benefits according to the spirit of Act as since their termination. Any other relief which this Honourable Court deems fit and proper in the circumstances</p>

"Nawab" (D.D.) Hon'ble Mr. Justice Muhammad Ibrahim Khan
Hon'ble Mr. Justice Muhammad Iqbal Makhdoom


 of 5-10 GHSS
 Barawal Band D/O (109)

may also be very kindly granted."

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2. In essence, the present Petitioners were appointed as PTC and CT teachers in different schools of District Dir Lower. Subsequently, their services were dispensed with by the Respondents being no more required as they have been appointed purely on temporary basis as stop-gap arrangements.

3. In the meanwhile, the Government of Khyber Pakhtunkhwa passed the "Sacked Employees Act, 2012" wherein it has been decided that only those government employees will be given the benefit of reinstatement who have been terminated during the period from 1st day of November 1996 to 31st day of December 1998. After promulgation of the *ibid* Act, the Petitioners were optimistic to be compensated on behalf of the Respondents/Department in the light of *ibid* Act, but the Respondents are not willing to render the benefit of reinstatement to the Petitioners despite of the fact that similarly placed persons like Petitioners have already been compensated by way of their reinstatement. In such circumstances, the Petitioners

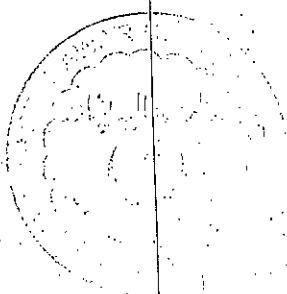
169

"Rawab" (D.B.) Hon'ble Mr. Justice M. Muhammad Ibrahim Khan
Hon'ble Mr. Justice M. Muhammad Nasir Mahfooz

Accepted

Muhammad
Hon'ble Ullah S.C.T.
BPS-16 GHSS
Banawal, Banawal Dir (D)

repeatedly approached the Respondents for redressal of their grievance, but of no avail, hence the present writ petition has been preferred *inter-alia* on the grounds enumerated therein.



4. Arguments of learned counsel for the Petitioners were heard in motion and the available record placed on file delved deep into with his valuable assistance.

5. Before delivering any findings in respect of grievance of the Petitioners, it would be in the fitness of things to reproduce the relevant provisions of the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act 2012, which runs:-

Preamble:-

Whereas, it is expedient to provide relief to those sacked employees who were appointed on regular basis to a civil post in the Province of the Khyber Pakhtunkhwa and who possessed the prescribed qualification and experience required for the said post, during the period from 1st day of November, 1993 to the 30th day of November 1996 (both days inclusive) and were dismissed, removed or terminated from service during the period from 1st day of November, 1996 to 31st day of December, 1998 on various grounds.

S. 2 (g):- "sacked employee" means a person who was appointed on regular basis to a civil post in the Province and who possessed the prescribed qualification and experience for the said post at that

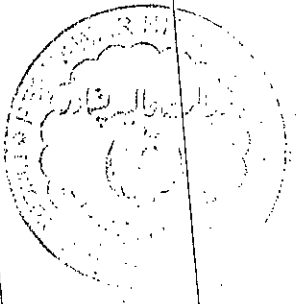
"Nawab" (D.B.) Hon'ble Mr. Justice Mohammad Ibrahim Khan
Hon'ble Mr. Justice Muhammad Raziq Mubhoob

Attested
M. M. M. S. C. T.
895-16 GHS
Barawal Band Dt. (M)

time, during the period from 1st day of November, 1993 to 30th day of November, 1996 (both days inclusive) and was dismissed, removed, or terminated from service during the period from 1st day of November, 1996 to 31st day of December, 1998 on the ground of irregular appointments."

6. It is crystal clear from above quoted provisions of the Act *ibid* that only those persons/employees would be given the benefit of reinstatement, who were appointed on a regular basis to a civil post, possessed the requisite/prescribed qualification and experience for the subject post and above all terminated from service during the period from 1st day of November, 1995 to 31st day of December, 1998. A bare perusal of the record would reveal that the services of the Petitioners were terminated on 13.02.1997, so by means they are falling within the cut-off date as referred to above.

7. Earlier, similarly placed persons, like Petitioners approached this Court through W.P. No. 1662-P of 2013 titled "Hazrat Hussain V/S The Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat Peshawar"



"Nawab" (D.D.) Hon'ble Mr. Justice Mohammad Ibrahim Khan
Hon'ble Mr. Justice Muhammad Nasir Mahfooz

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Banawal

which was allowed in the following manner:-

"It is worth to note that persons similarly placed with the petitioners have been reinstated by the department while giving effect to the judgments given the Khyber Pakhtunkhwa Service Tribunal. More so, one Mst. Gul Rukh whose services were terminated by the respondents alongwith the petitioners, has been appointed under the Act vide order dated 09.05.2013. It is cardinal principle of law that similarly placed persons should be treated alike and no different yard stick should be used while redressing their grievances. It is hallmark and grundnorm of our constitution that every person is entitled to equal protection of law. Not only similarly placed colleagues of the Petitioners have been appointed by the respondents, but the petitioners are also entitled to the relief given to the sacked employees under the Act.

For what has been discussed above, we admitted and accept both the writ petitions and direct the respondents to consider the petitioners for their appointment in accordance with the provisions of the Act."

The above-referred judgment of this Court was assailed before the Hon'ble Supreme Court of Pakistan in Civil Appeal No. 401-P of 2016 under the title "Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education, Peshawar V/S Iftikhar Khan etc." along with other identical matters. The Hon'ble apex Court vide its judgment dated 24.5.2017 upheld the verdict of this Court in the

Nawab (D.B.) Hon'ble Mr. Justice Muhammad Ibrahim Khan
Hon'ble Mr. Justice Muhammad Nasir Mufazza

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Kiran: 011-2-2000000
BPS-16 GSS-2
Banawal East of L-10

following manner:-

"We have been apprised by the learned counsel for the respondents that according to the advertisement and appointment letter issued to the respondents, two kinds of candidates could be appointed (i) those who have the requisite academic qualifications and training; (ii) those who have the requisite academic qualifications but do not possess the necessary training. As regard the second category, such persons would be provided with an opportunity to complete the training within a specific period. This is exactly what the learned High Court has allowed in the relief granting portion of the impugned judgment. Undoubtedly, this is in consonance with the Department's own advertisement and the terms and conditions of service, therefore, the learned High Court did not fall into any error by requiring the Department to allow the respondents to complete the training within a specific period of time and to take action against them in case of failure to do so. No exception can be taken to the impugned judgment, which is upheld. Resultantly, Civil Petition No. 401-P/2016 is dismissed on merit. The connected petitions are also dismissed on the above score and being time-barred as no sufficient cause has been shown for condonation of delay."

8. In the above developed scenario, there is no denial of the fact that the services of the Petitioners were terminated within the cut-off date i.e. 1st day of November 1996 to 31st day of December 1998 coupled with the fact that similarly placed persons like Petitioners have been given the benefit of reinstatement by this Court, which

"Nawab" (d.B.) Hon'ble Mr. Justice Mohammad Ibrahim Khan
Hon'ble Mr. Justice Muhammad Nasir Mahfooz

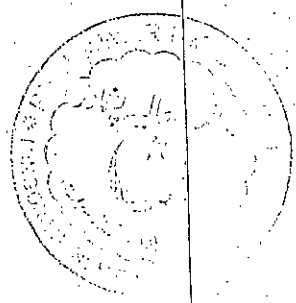
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B.P. No. 1000
Barwala

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judgment has been upheld by the Hon'ble Supreme Court of Pakistan, so, on this score too, the Petitioners deserve to be given the same benefit of reinstatement being similarly placed persons.

9. In view of the above discussion, this writ petition is disposed of in terms that the Respondents/Department is directed to consider the cases of Petitioners for their reinstatement under the umbrella of "Sacked Employees Act 2012" coupled with the fact being similarly placed persons but subject to their eligibility for the requisite posts of PST teachers within a period of one month positively. Since the Petitioners are languishing for the ultimate outcome of their wheel of fortune since the year 1997, therefore, it is expected from the answering Respondents that this issue will be put to an end once for all within the target span i.e. one month for a decisive consideration.



Announced
Dt. 07.03.2018

JUDGE

JUDGE

Certified to be true copy

EXHIBIT

Deputy High Court, Faisalabad
Authorized Under Section 10 of the High Courts (General Clauses) Act, 1953
Hon'ble Mr. Justice Muhammad Ibrahim Khan
Hon'ble Mr. Justice Muhammad Nasir Mahfooz

16/03/18
07/16
08/03/18

Attended
BPS-16 CHSS
Banawal Band...

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District Education Officer Male District Dir Upper



PH No. 0944-881400-Fax-880411
E-mail deomdirupper@gmail.com

14

APPOINTMENT.

In the light of the judgement passed by the Honorable Peshawar High Court Mingora Bench/Dar-ul-Qaza Swat in W-P NO. 256-M/2018 dated 07-03-2018, and in pursuance of Khyber Pakhtunkhwa sacked employees Act 2012 and out of quota @ 30%, of the advertised posts, the following sacked employees are hereby appointed conditionally as Primary School Teacher (PST) in BPS No. 12 (Rs.13320-960-42120) Plus usual allowances as admissible under the rules & the existing policy of the Provincial Government in Teaching Cadre on the terms and condition given below with effect from the date of taking over charge.

S. No	Name	Father Name	Place of Posting	CNIC	Remarks
01.	Saeed Hussain	Shahriar Khan	GPS Mamosai Kass	15701-1170703-5	AVP

TERMS AND CONDITIONS.

01. The appointment of sacked employee shall be made only on regular bases to a civil post during the period from 1st day of November, 1993 to the 30th day of November, 1996 (both days inclusive) and were dismissed/removed, or terminated from service during the period of 1st day of November, to 31st day of December, 1998 on various ground.
02. Appointment of sacked employee subject to section 7 may be appointed in their irrespective cadre of his department, concerned in which he occupied civil posts before his dismissal, removal and termination from service.
03. The sacked employee shall be appointed against thirty percent of the available vacancies in the department.
04. As per court decision if the appointee fail to acquire the training PTC and the required qualification (BA within three years, their appointment will be considered as cancelled after the expiry of the period.
05. The appointee will provide undertaking that they will be completed the requisite training during a period of three years,
06. The appointee will provide Health and age certificate from the concerned Medical Superintendent.
07. The sacked employee shall not be entitled to claim seniority and other back benefits. They shall submit an undertaking on judicial stamp paper for not claiming any back benefits. A sacked employee appointed under section 3 shall not be entitled to make any claim of seniority, promotion or other back benefits and their appointment shall be considered as fresh appointment.


Saeed

 Ullah S. CT
 BPS-16 GHSS
 Barawal Bandi Dir (U)

32
Appointment Order PST (M) Sacked Employees

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08. All the drawing and disbursing officers are directed to get a stamp paper as mentioned in S.No.07 and verify their academic and professional certificates/degree etc from the quarter concerned before starting their salaries otherwise they will be held responsible for the consequences if occurred in this regard.
09. The appointee will be governed by such rules and regulations/policies as prescribed by the Government from time to time.
10. If the appointee fail to take over charge within fifteen days after issuance of this order, their appointment will be deemed as automatically cancelled.
11. Charge report should be submitted to all concerned.
12. The errors and omissions etc if found at any stage shall be rectified. In case of termination of said candidate, they will have no right to claim the order already issued in any court.
13. The appointment order is subject to the final outcome of the Supreme Court of Pakistan judgment.
14. No TA/DA is allowed.



**District Education Officer,
Male Dir Upper**

Endst: No. 8276-20 / File No. 123/Appnt/ DEO (M)/ADO (P) Dated Dir (U) the 16 /11/2018.

Copy forwarded for information and necessary action to the:-

01. Director of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
02. District Accounts Officer Dir Upper
03. Dy. District Education Officer Male Dir Upper.
04. Sub: Divisional Education Officer Male Barawal.
05. Official Concerned.
06. M/File


**District Education Officer,
Male Dir Upper**

Attested

**Ullah S. CT
BPS-16 GHSS
Barawal Bandi Dir (U)**

33
E - (16)

The Director, E&SE Department,
Khyber Pakhtunkhwa, Peshawar.

DEPARTMENTAL APPEAL FOR FIXATION OF PAY IN BPS-12 w.e.f.
28-11-1995 i.e. FROM THE DATE OF INITIAL APPOINTMENT

Respected Sir,

It is most humbly stated that I was appointed before your good self Department as PTC vide order dated 28-11-1995 as stop gap arrangement later on I was regularly appointed against the said post vide order dated 18.04.1996 w.e.f. the date of my first appointment i.e. 28-11-1995. That in year 1997 the services were dispensed with on the ground that his services was no more required to the Department. That on promulgation of KP Sacked Employee Act, 2012 I was submitted an application for reinstatement being covered under the said law but the same was not considered. Feeling aggrieved I was filed writ petition before the Peshawar High Court Mingora Bench, which was allowed. Dear Sir, I was appointed as PST w.e.f. taking over charge in light of Peshawar High Court Darul Qaza Bench judgment. That in response I have submitted my charge report and started duty quite efficiently and up to the entire satisfaction of my superiors. That I am entitle for fixation of pay from the date of my initial appointment i.e. 28-11-1995 but the concerned authority has been appointed me with immediate effect i.e. from the date of taking over charge. Sir, I am feeling aggrieved preferred this Departmental appeal before your good self.

It is therefore, most humbly prayed that on acceptance of this Departmental appeal I may kindly be allowed for pay fixation w.e.f. 28-11-1995 with all consequential benefits. Any other remedy which your good self deems fit that may also be awarded in my favor ;

Dated: 18.09.2019

M



Your's Sincerely
Saeed Hussain
SAEED HUSSAIN, PST
GPS Manosai Kass, Dir Upper

VAKALATNAMA

Before the Appellate Tribunal, Peshawar

OF 2019

**SCANNED
KPST
Peshawar**

Saeed Hussain Khan

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Education Dept

(RESPONDENT)
(DEFENDANT)

I/We Saeed Hussain Khan

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. ___/___/2019

Saeed Hussain
CLIENT

[Signature]
ACCEPTED
NOOR MOHAMMAD KHATTAK

SHAHZULLAH YOUSAFZAI

&

[Signature]
MIR ZAMAN SAFI
ADVOCATES

OFFICE:
Flat No.3, Upper Floor,
Islamia Club Building, Khyber Bazar,
Peshawar City.
Mobile No.0345-9383141

41

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No. 280/2020

Saeed Hussain, PST (BPS-12) GPS Mamosai,
District Dir Upper

..... (APPELLANT)

Versus

1. Secretary, Elementary and secondary Education Khyber
Pakhtunkhwa Peshawar.
2. Secretary Finance Department, Khyber Pakhtunkhwa Peshawar.
3. Director, Elementary and secondary Education Khyber
Pakhtunkhwa Peshawar.
4. District Education Officer (M) DIR Upper

..... (RESPONDENTS)

JOINT PARA WISE COMMENTS ON & FOR BEHALF OF RESPONDENT NO: 4 & Other

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3	Authority Letters		B



District Education Officer (M)
Dir Upper

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No. 280/2020

**Saeed Hussain, PST (BPS-12) GPS Mamosai,
District Dir Upper**

..... (APPELLANT)

Versus

1. Secretary, Elementary and secondary Education Khyber
Pakhtunkhwa Peshawar.
2. Secretary Finance Department, Khyber Pakhtunkhwa Peshawar.
3. Director, Elementary and secondary Education Khyber
Pakhtunkhwa Peshawar.
4. District Education Officer (M) DIR Upper

.....(RESPONDENTS)

JOINT PARA WISE COMMENTS ON & FOR BEHALF OF RESPONDENT NO: 4& Other

Respectfully Sheweth: -

PRELIMINARY OBJECTIONS.

1. That the Appellantis not the "aggrieved" persons with the meaning of Article 212 of the Constitution of the Islamic Republic of Pakistan 1973.
2. That the Appellant has got no cause of action /locus standi to file the instant appeal because the Appellant did not come on merit.
3. That the Appellant has not come to this Honorable court with clean hands.
4. That the Appellant is estopped by his own conduct.
6. That the instant writ petition suffers from laches, hence not maintainable in the present form.
7. That as per section 5 of the Sacked Employee Act 2012 the appellant is neither eligible nor entitled for the relief he prayed in the instant appeal.

ON FACTS.

1. Para -1 of the facts is correct hence need no comments.
2. Para- 2of the facts is also correct hence need no comments.

3. Para-3 of the facts is correct up to the extent of the judgment in the writ petition No.256-M/2017, in compliance the appellant was appointed with immediate effect.

4. Para-4 of the facts is correct that the appellant was appointed as per judgment of the Honorable Peshawar High Court Mingora Bench.

Para-5 of the facts pertain to record up to the extent of the departmental appeal, furthermore the appellant was re-appointed as per judgment of the Honorable Peshawar High Court Mingora Bench with immediate effect whereas in section 5 of the SACKED EMPLOYEE ACT 2012, it is clearly stated that the appellant will not be entitled to claim seniority and other back benefit. It is also pertinent to mention here that as per terms and conditions No.08 of the appointment order dated 23/08/2018, "the Sacked Employees shall not be entitled to claim the seniority and other back benefits as sacked employee appointed under section 3 shall not be entitled to claim any seniority, promotion or other back benefits and his appointment order shall be considered as fresh appointment".

6. Para-6, need no comments.

GROUND.

A) In correct. The respondents always follow rules and policies consigned by government and the Appellant has been treated as per law rules and policies.

B.) Incorrect, hence denied, the official respondents always follow rules and policies in letter and spirit and no illegality has been done by the official respondents.

C) Need no comments.

D) In correct hence denied. Detail reply has been submitted in the above Para's.

E) Need no comments.

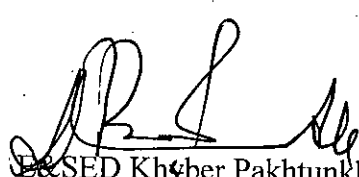
F) Incorrect hence denied and as per section f of the ACT ibid the appellant is not entitled for any back benefits.

G) Need No comments.


H) Legal, However the official respondent also seeks permission for additional grounds during arguments.

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


Secretary:

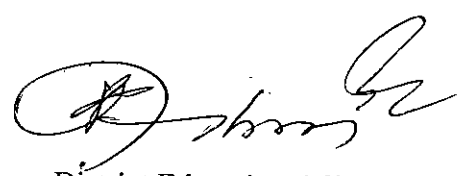

E&SED Khyber Pakhtunkhwa
(Respondent No. 1)

Secretary:


Finance Department Khyber Pakhtunkhwa
(Respondent No. 2)

Director:


E&SE Khyber Pakhtunkhwa
(Respondent No. 3)


District Education Officer (M)
Dir Upper
(Respondent No. 4)

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No. 280/2020

**Saeed Hussain, PST (BPS-12) GPS Mamosai,
District Dir Upper**

..... (APPELLANT)

Versus

1. Secretary, Elementary and secondary Education Khyber
Pakhtunkhwa Peshawar.
 2. Secretary Finance Department, Khyber Pakhtunkhwa Peshawar.
 3. Director, Elementary and secondary Education Khyber
Pakhtunkhwa Peshawar.
 4. District Education Officer (M) DIR Upper
- (RESPONDENTS)

Affidavit

I, **Syed Alamzeb Shah** litigation officer DEO (M) Dir Upper 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

Addl; Advocate General
Khyber Paktunkhwa.



Deponent

Syed Alamzeb Shah
Dir Upper
Litigation Officer DEO (M) Dir Upper

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No. 280/2020

**Saeed Hussain, PST (BPS-12) GPS Mamosai,
District Dir Upper**

..... **(APPELLANT)**

Versus

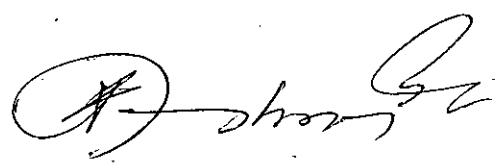
- 5. Secretary, Elementary and secondary Education Khyber Pakhtunkhwa Peshawar.**
- 6. Secretary Finance Department, Khyber Pakhtunkhwa Peshawar.**
- 7. Director, Elementary and secondary Education Khyber Pakhtunkhwa Peshawar.**
- 8. District Education Officer (M) DIR Upper**

..... **(RESPONDENTS)**

AUTHORITY LETTER

Mr. **Syed Alamzeb Shah** Litigation Officer of the office DEO (M) Dir Upper undersignedis hereby authorized to submit the comments /reply in the service appeal No.**280/2020**

Title: Saeed Hussainv/s Govt: of KP on my behalf.



District Education officer (M)
District Dir
Upper

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR:

Restoration App. no. 414/2022

CM. NO. _____/2022

IN

APPEAL No. 280/2020

SAEED HUSSAIN

VS

EDUCATION DEPT.

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APPELLANT

THROUGH:

**NOOR MUHAMMAD KHATTAK
ADVOCATE**

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.**

CM. NO. _____/2022
IN
APPEAL No. 280/2020

SAEED HUSSAIN VS EDUCATION DEPT.

**APPLICATION FOR RESTORATION OF THE ABOVE
MENTIONED APPEAL**

R/SHEWETH:


- 1- That the above titled service appeal was pending adjudication before this Honorable tribunal which was fixed on 05-07-2022.
- 2- That the counsel for the petitioner was busy in The Peshawar High Court at Peshawar as well as was engaged at principal bench of this honourable tribunal at Peshawar. That it is also worth mentioning that the subject appeals were not noted in the diary on that date.
- 3- That the mentioned service appeal was dismissed for non-prosecution vide order dated 05.07.2022. Copy of the order sheet 05.07.2022 attached as annexureA.
- 4- That as the matter pertaining in the instant appeal has not been decided on merit, therefore the mentioned service appeal may be restored for the sack of justice.
- 5- That there is no legal bar in restoring the mentioned appeal.

It is therefore, most humbly prayed that on acceptance of this application the above mentioned service appeal may very kindly be restored.

Dated:

PETITIONER/APPLICANT

Through:


NOOR MUHAMMAD KHATTAK
Advocate, Peshawar

49 A-3

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

Khyber Pakhtunkhwa
Service Tribunal

APPEAL NO. 280 / 2019

Diary No. 289
Dated 09/11/2020

Mr. Saeed Hussain, PST BPS-12,
GPS Mamosai Kass, District Dir Upper.....



APPELLANT

VERSUS

- 1- The Secretary, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Director, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
- 4- The District Education Officer, District Dir Upper.

RESPONDENTS

**APPEAL UNDER SECTION- 4 OF THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL ACT, 1974 FOR FIXATION OF PAY IN
BPS-12 w.e.f. 28-11-1995 I.E. FROM THE DATE OF INITIAL
APPOINTMENT TO THE POST OF PST AND AGAINST NOT
TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE
APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY
DAYS.**

PRAYER:

That on acceptance of this appeal the appellant may kindly be allowed/granted pay fixation w.e.f. 28-11-1995 with all back benefits. Any other remedy which this august Service Tribunal deems fit that may also be awarded in favor of the appellant.

Filed to-day

Registrar

09/11/2020

R/SHEWETH:

ON FACTS:

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

1- That the appellant was initially appointed in the respondent Department as PTC now PST vide order dated 28-11-1995 as stop gap arrangement. (Copy of the appointment order is attached as annexure..... **A)**

Certified to be true

2- That later on the appellant was appointed against regular post vide order dated 18/04/1996 w.e.f. the date of his first appointment i.e. 28/11/1995. (Copy of second appointment order is attached as annexure..... **B)**

Khy. Pakhtunkhwa
Service Tribunal
Peshawar

3- That it is worth mentioning here, that in 1997 the services of the appellant along with others were dispensed with on the ground that their services were no more required to the Department.

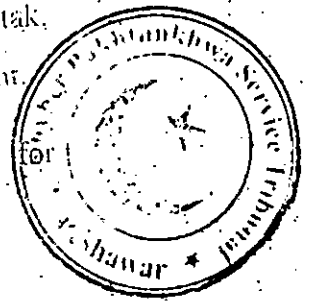
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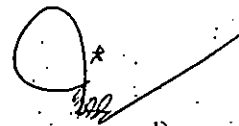
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07.06.2022

Appellant in person present. Mr. Kabirullah Khattak, learned Additional Advocate General for the respondents present.

Counsel are on strike. Adjourned. To come up arguments on 05.07.2022 before D.B at camp court Swat.




(Mian Muhammad)
Member (E)
Camp Court Swat.


(Kalim Arshad Khan)
Chairman
Camp Court Swat


05.07.2022

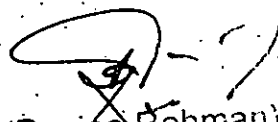
Nemo for appellant.

Noor Zaman Khan Khattak, learned District Attorney alongwith Nasim Khan Section Officer for respondents present.

Case was called time and again but neither the appellant nor his counsel turned up till rising of the Bench. Consequently, instant service appeal is hereby dismissed in default for non-prosecution. Parties are left to bear their own costs. File be consigned to the record room.


Announced.
05.07.2022


(Fareeha Paul)
Member(E)
Camp Court, Swat


(Rozina Rehman)
Member(J)
Camp Court, Swat

Date of Presentation of Application 05/07/22
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KH. M. A. KHAN
Member
Peshawar Service Tribunal
Peshawar

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

CM. NO. _____/2022
IN
APPEAL No. 280/2020

SCANNED
KPST
Peshawar

SAEED HUSSAIN

VS

EDUCATION DEPT.

AFFIDAVIT

I, Noor mohammad khattak advocate, do hereby solemnly affirm that the contents of this **Restoration Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.



DEPONENT