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## KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

EXECUTION NO \_\_\_\_\_

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| 934/20    |             | 09.01.2020           | 04.06.24 | 23    |

ZAKIR ULLAH vs EDUCATION

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[Signature]

28/6/24  
Muharir/Compilation

[Signature]

17/24  
Incharge Judicial Branch

Ann. C

17

DIRECTORATE OF SCHOOLS &  
LITERACY N.W.F.P PESHAWAR

Dated: Peshawar the December 05, 2007

NOTIFICATION:

A23-Ministerial (Lab-Incharge)-2007:- Consequent upon the approval of the Competent Authority, the following candidates are hereby appointed as Computer Lab-Incharge in BPS-07 of the National Pay Scale (29-10-160-77-10) plus usual allowances Male/Female on regular basis (Non Pensionable) w.e.f 01-07-2007 and posted them against the present post in the schools as noted against their names:-

| S.No. | Name                       | Father's Name       | District    | Posted At                                |
|-------|----------------------------|---------------------|-------------|--|
| Males |                            |                     |             |  |
| 1     | Bano Ali                   | Muhammad Ashraf     | Abbottabad  | GHS HANIFAN                              |
| 2     | Qadeer Muhammad            | Fazir Muhammad      | Abbottabad  | GHS HANIFAN                              |
| 3     | Asim Fazal                 | Hazal-Ur-Rehman     | Abbottabad  | GHS HOJ                                  |
| 4     | Zia Ehsan                  | Hurshid Ahmed Khan  | Abbottabad  | GHS CHANDIO MAHRA                        |
| 5     | Anjad Ali                  | Mohammad Ashraf     | Abbottabad  | GHS RAJOIYA                              |
| 6     | Farman Ullah               | Fakeen Khan         | Bannu       | GHS LORA                                 |
| 7     | Khalid Usman               | Ghulam Hussain      | Bannu       | GHS B.A KHAN                             |
| 8     | Tufail Muhammad            | Mohammad Gaffar     | Battagram   | GHS GHORIWALA                            |
| 9     | Muhammad Kifayat Ullah (A) | Muhammad Mustafa    | Battagram   | GHS BATTAGRAM                            |
| 10    | Rahai Ali Shah             | Zareen Shah         | Buner       | GHS KUIZA BANDA                          |
| 11    | Anjad Zia                  | Saukar Ali          | Buner       | GHS GAGRA                                |
| 12    | Kamran Ali                 | Ismatullah          | Charsadda   | GHS TOTALAI                              |
| 13    | Zia Jaleel                 | Sultan Muhammad     | Charsadda   | GHS NO.1 PANGLI                          |
| 14    | Fawaz Khan                 | Noor Rehman         | Charsadda   | GHS IBRAHIM ZAI                          |
| 15    | Fathullah Jan              | Attullah Jan        | Chitral     | GHS NISATTA                              |
| 16    | Shafi Ul Rehman            | Abdur-Ur-Rehman     | Chitral     | GHS DROSHI                               |
| 17    | Attullah Khan              | Ghulam Ali Khan     | Chitral     | GHS G/CHASHIMA                           |
| 18    | Nadim Irfan                | Abdur Rehman        | D.I. Khan   | GHS SHAGRAM                              |
| 19    | Muhammad Imran Khan        | Fazal-Ur-Rehman     | D.I. Khan   | GHS NO.2 PAHARPUR                        |
| 20    | Kalzem Ullah               | Abdullah Khan       | D.I. Khan   | GHS NO.1 KULACHI                         |
| 21    | Saeed Ahmad Khan           | Hushoor Ahmed       | D.I. Khan   | GHS PANJALA                              |
| 22    | Muhammad Iqbal             | Muhammad Ramzan     | D.I. Khan   | GHS PAROA                                |
| 23    | Fawaz Hakim                | Fazal Hakim         | Dir (Upper) | GHS DRAVAN<br>KALAN                      |
| 24    | Ayub Khan                  | Khaki Muhammad      | Dir (Upper) | GHS DIR                                  |
| 25    | Fahar Ali Shah             | Muhammad Zahir Shah | Dir (Lower) | GHS GANDIGAR                             |
| 26    | Arif Waseem                | Sahibzada Abdullah  | Dir (Lower) | GCMHS IMERGARA                           |
| 27    | Imayun Khan                | Akbar Khan          | Dir (Lower) | GHS OUCH                                 |
| 28    | Rasool Din                 | Khana Mir           | Hangu       | GHS KHANPUR                              |
| 29    | Rehan Anjum                | Amir Khan           | Haripur     | GHS KARBOGHA                             |
| 30    | Yasir Shehzad              | Shoukat Nawaz       | Haripur     | GHS HAZI                                 |
| 31    | Zubair Khan                | Ch: Muhammad Khan   | Haripur     | GHS HARIPUR NO. 2                        |
| 32    | Zafar Ali                  | Miskin Ali          | Haripur     | GHS K.T.S NO. 2                          |
| 33    | Obaidullah Anjum           | Hana Ullah          | Hazipur     | GHS KALENFER                             |
| 34    | Atif Gul                   | Umar Khattab Gul    | Karak       | GHS SARRI                                |
| 35    | LAIQURI/HISAN              | Sultan Khan         | Karak       | GHS SABIR ABAD<br>GHS GANDARI<br>KHATTAK |

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. P0.P given to parties.

SCANNED  
KPST  
Peshawar

Kaleemullah

(Fareeha Paul)  
Member (E)

(Rashida Bano)  
Member (J)

As per instruction of my client I have by with down  
the instant appeal on 04/06/2024  
AKK:9000

04<sup>th</sup> 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 04<sup>th</sup> June, 2024.*

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

(Rashida Bano)  
Member (J)  
Camp Court Swat

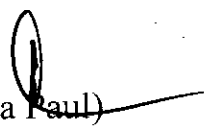
SCANNED  
KPST  
Peshawar


Kaleemullah

4<sup>th</sup> 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.

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.

SCANNED  
K. ST  
Peshawar

  
(Fareeha Paul)  
Member (E)

  
(Rashida Bano)  
Member (J)


\*Kaleemullah

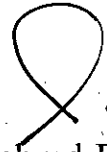
04.12.2023

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

SCANNED  
K. ST  
Peshawar

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.

  
(Fareeha Paul)  
Member (E)

  
(Salah-ud-Din)  
Member (J)

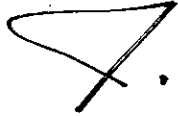
\*Naeem Amin\*

09<sup>th</sup> March, 2023

Junior of learned counsel for the appellant present.

Mr. Muhammad Riaz Khan Pindakhel, Assistant Advocate General alongwith Mr. Gohar Ali, Assistant for the respondents present.

Junior of learned counsel for the appellant seeks 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.



(Salah-ud-Din)  
Member (J)



(Kalim Arshad Khan)  
Chairman

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.

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)

SCANNED  
KPST  
Peshawar

(4)

3rd Nov. 2022

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

*Handwritten notes in Urdu:*  
مستندوں کی فراہمی  
میں تاخیر  
ہو رہی ہے۔

Learned counsel for the appellant seeks adjournment in order to further prepare the brief. Adjoined. To come up for arguments on 16.12.2022 before the D.B.

3-3-3

16-12-2022

  
(Fareeha Paul)  
Member (E)

  
(Kalim Arshad Khan)  
Chairman

16<sup>th</sup> Dec. 2022

Counsel for the appellant present. Mr. Naseerud Din Shah, Assistant Advocate General for the respondents present. Mrs. Rozina Rehman, learned Member (J) is on leave, therefore, D.B is incomplete. The case is adjourned to 09.03.2023 for arguments before the D.B.

**SCANNED**  
**KPST**  
**Peshawar**

  
(Fareeha Paul)  
Member(E)

5

24.11.2021

Proper D.B is not available, therefore, case is adjourned to 3-3-2022 for the same.

READER

3-3-22

Due to Retirement of the Hon'ble Chairman the case is adjourned on

14-6-22

*Salah*  
Reader

14.06.2022

Clerk of counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for respondents present. Syed Alamzeb Shah, Legal Advisor for respondents No. 4 present.

Clerk of counsel for the appellant stated that learned counsel for the appellant is unable to attend the Tribunal today due to strike of Lawyers. Adjourned. To come up for arguments before the D.B on 16.08.2022.

(MIAN MUHAMMAD)  
MEMBER (EXECUTIVE)

(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

16.8.22

Due to leave on vacation the case is adjourned to 3-11-22 for the same.

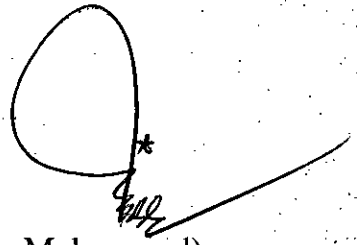
6

08.03.2021

Junior to counsel for the appellant present. Addl: AG for respondents present.

Written reply not submitted. Learned Additional Advocate General seeks time to contact the respondents for submission of written reply/comments.

Adjourned to 18.05.2021 before S.B.



(Mian Muhammad)  
Member (E)

18.05.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 05.07.2021 for the same as before.

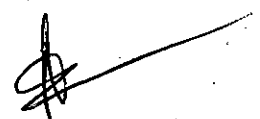


Reader

05.07.2021

Junior to counsel for the appellant present. Mr. Adeel Butt, Additional Advocate General alongwith Mr. Ahmad Hassan, Litigation Officer respondents present.

Respondents have not submitted reply/comments. They are required to submit reply/comments within 10 days in office, positively. In case the respondents have not submitted reply/comments within stipulated time, office shall put up the appeal with a report of non-compliance. To come up for arguments on 24.11.2021 before D.B.



Chairman



(7)

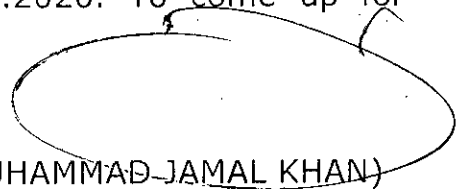
22.04.2020

Due to COVID19, the case is adjourned to 23.07.2020 for the same as before.

  
Reader

23.07.2020

Appellant is absent. The legal fraternity is observing strike today therefore, no proceedings could be conducted. The case is adjourned to 06.10.2020. To come up for previous proceedings before S.B.

  
(MUHAMMAD JAMAL KHAN)  
MEMBER

06.10.2020

Junior to counsel for the appellant present.

Learned senior counsel for the appellant is not in attendance today due to general strike on the call of Khyber Pakhtunkhwa Bar Council. The matter is adjourned to 8.12.2020 for hearing before S.B.

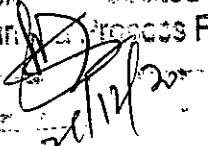
  
Chairman


08.12.2020

Appellant present through counsel. Preliminary arguments heard. File perused.

Points raised need consideration. Admitted to regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to respondents for written reply/comments. To come up for written reply/comments on 08.03.2021 before S.B.

Appellant Deposited  
Security & Process Fee



  
(Rozina Rehman)  
Member (J)

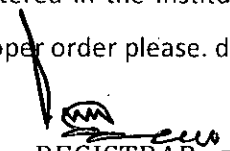
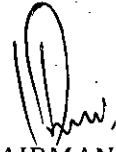

8

Form- A

FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No.- 934 /2020

| S.No.               | Date of order proceedings           | Order or other proceedings with signature of judge   |
|---------------------|-------------------------------------|--|
| 1                   | 2                                   | 3  |
| <p>1-</p> <p>2-</p> | <p>11/02/2020</p> <p>20.03.2020</p> | <p>The appeal of Mr. Zakir Ullah resubmitted 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. decrease</p> <p style="text-align: right;"><br/>REGISTRAR -</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>20/03/2020</u>.</p> <p style="text-align: right;"><br/>CHAIRMAN</p> <p>Nemo for the appellant. Lawyers community is on strike on the call of Khyber Pakhtunkhwa Bar Council. Adjourn. To come up for preliminary hearing on 22.04.2020 before S.B.</p> <p style="text-align: right;"><br/>Member</p> |

SCANNED  
PK-PT  
20.03.2020


9

The appeal of Mr. Zakir Ullah PST GPS Tikar Kot no.1, District Dir Upper received today i.e. on 09.01.2020 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copy of Judgment of High Court mentioned in the memo of appeal is not attached with the appeal which may be placed on it.
- 2- Copy of medical certificate mentioned in para-4 of the memo of appeal is not attached with the appeal which may be placed on it.

No. 44 /S.T,

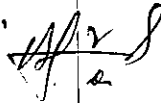
Dt. 9-1- /2020.

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Noor Muhammad Khattak Adv. Pesh.

Sir.

All the objections has been removed. Hence re-submitted today dated. 11-2-2020.

  
2

C

(10)

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

**SCANNED**  
**KPST**  
**Peshawar**

**APPEAL NO.** 934 /2019

**ZAKIR ULLAH**

**VS**

**EDUCATION DEPTT:**

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| 2            | Appointment order   | <b>A</b>        | 4.          |
| 3            | Judgment            | <b>B</b>        | 5- 6.       |
| 4            | Appointment order   | <b>C</b>        | 7- 8.       |
| 5            | Departmental appeal | <b>D</b>        | 9.          |
| 6            | Vakalat nama        | .....           | 10.         |

**APPELLANT**

**THROUGH:**

**NOOR MOHAMMAD KHATTAK,**  
**ADVOCATE**

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

(4)

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

Khyber Pakhtunkhwa  
Service Tribunal

**APPEAL NO.** 934/2019

Diary No. 296

Dated 09/1/2020

Mr. Zakir Ullah, PST (BPS-12),  
GPS Tikar Kot No.1, 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. 23-09-1996 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. 23-09-1996 with all back benefits. Any other remedy which this august Service Tribunal deems fit that may also be awarded in favor of the appellant.

**R/SHEWETH:**

**ON FACTS:**

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

1- That the appellant was initially appointed in the respondent Department as PTC now PST vide order dated 23-09-1996 as stop gap arrangement.( Copy of the appointment order is attached as annexure..... **A**)

2- 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.

3- 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. 700/2017 before Peshawar high court Mingora Bench, which was

Filed to-day

Registrar

09/01/2020

allowed vide judgment dated 22/11/2017. Copy of judgment dated 22/11/2017 is attached as annexure ..... **B)**

- 4- That the appellant was appointed as PST w.e.f. taking over charge in light of Peshawar high Court Dar-Ul-Iaza Bench judgment vide order dated 27/03/2018. 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 dated and medical certificate are attached as annexure ..... **C & D)**
- 5- That the appellant filed Departmental appeal before respondents for fixation of pay w.e.f. the date of his first appointment i.e. 23/09/1996 but the same has not been responded within stipulated period of ninety days. Copy of departmental appeal is attached as annexure..... **E)**
- 6- 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. 23-09-1996 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. 23-09-1996 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**

  
**ZAKIR ULLAH**

**THOROUGH:**  
**NOOR MOHAMMAD KHATTA**

  
**SHAHZULLAH YOUSAFZAI**

**&**  
**MIR ZAMAN SAFI**  
**ADVOCATES**

14  
A (4)  
OFFICE ORDER.

Consequent upon the long service against the PTC post or otherwise, the following PTC teacher is hereby allowed to continue their service as PTC untrained teacher on temporary basis till further order.

S.No

Name of teacher.

Name of school.

1.

Zakir-Ullah PTC

GPS Dir Khan

Necessary entries to this effect should be made in the service book accordingly.

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

OFFICE OF THE DISTRICT EDUCATION OFFICER (M) PRIMARY DIR AT TIMERGARA.

Endost: No 5416 /F.No.R-7 Dated Timergara the 23/09 196.

Copy forwarded:-

1. The Sub Divisional Education Officer (M) Dir.
2. The District Accounts Officer Dir at Timergara for information.
3. The candidate concerned.

DISTRICT EDUCATION OFFICER  
(M) PRIMARY DIR AT TIMERGARA.

**ATTESTED**



15

BEFORE THE PESHAWAR HIGH COURT MINGORA  
BENCH /  
DAR UL QAZA SWAT

W.P. \_\_\_\_\_ -M/2017

1. Ibrahim Son of Gul Badshah Resident of Manai (Daskor) Tehsil Wari.
2. Rahat Ullah son of Inayat Ullah Village Samkoot Tehsil Dir  
Fazal Ghafoor Son of Muhammad Amin Khan Village  
Sondarawal Tehsil Barawal Bandai
4. Haq Nawaz Son of Saeed Khan Resident of Jalar Tehsil Wari  
Alam Khan son of Pass Muhammad Resident of Malook  
Banda Tehsil Wari
6. Zakir Ullah Son of Ghulam Yousaf Village Tikar Kot Tehsil  
Barawal Bandai all Belong to District Dir  
Upper.....Petitioners

VERSUS

- 1) Govt. of Khyber Pakhtunkhwa, through Secretary E&SE  
Khyber Pakhtunkhwa at Peshawar
- 2) Director Secretary E&SE Khyber Pakhtunkhwa at Peshawar
- 3) District Education Officer (Male) District Dir Upper  
.....  
..... Respondents

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

Respectfully Sheweth;

The facts of the instant are as under.

**TESTED**

**FILED TODAY**  
**05 OCT. 2017**

strar

16

6

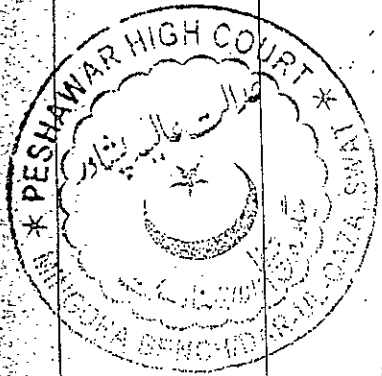
**PESHAWAR HIGH COURT, MINGORA BENCH**  
**(DAR-UL-QAZA), SWAT**

**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 and that of parties or counsel where necessary.   |
|-----------------------------------|------------------------------|--|
| 1                                 | 2                            | 3  |
|                                   | 22.11.2017                   | <p><u>W.P No. 700-M/2017</u></p> <p><b>Present:</b> Syed Abdul Haq, Advocate for the petitioners.<br/>***</p> <p><b><u>ISHTIAQ IBRAHIM, J.</u></b> Vide our detailed order in the connected W.P No. 696-M/2017, this writ petition is disposed of with the directions to respondents to consider the petitioners for their reinstatement against 30% quota provided they fulfill the criteria laid down in the Khyber Pakhtunkhwa Sacked Employees (Reinstatement) Act, 2012. Respondents are further directed to complete the process within 30 days after receipt of this judgment.</p> <p><u>Announced</u><br/><u>22.11.2017</u></p> <p style="text-align: right;"><u>JUDGE</u></p> <p style="text-align: right;"><u>JUDGE</u></p> <p style="text-align: right;"><b>ATTESTED</b></p> <p style="text-align: center;"><b>EXAMINER</b></p> <p style="text-align: center;">Peshawar High Court, Mingora/Dar-ul-Qaza, Swat</p> |



S.No. 6434

Name of Applicant..... [Signature]

Date of Presentation of Applicant 29.11.17

Date of Completion of Copies 28.11.17

No of Copies 2

Urgent Fee.....

Fee Charged 4/-

Date of Delivery of Copies 28.11.17

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**EXAMINER**

Peshawar High Court, Mingora/Dar-ul-Qaza, Swat

(17)

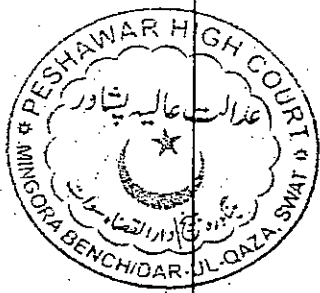

(6/A)

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

**FORM OF ORDER SHEET**

Court of .....

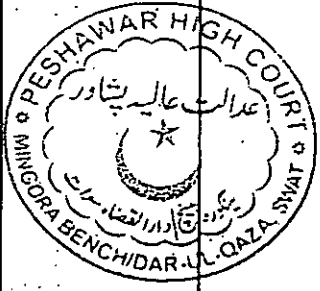
Case No..... of.....

| Serial No. of order or proceeding   | Date of Order or Proceedings | Order or other Proceedings with Signature of Judge and that of parties or counsel where necessary.   |
|---|------------------------------|--|
| 1   | 2                            | 3  |
| <br><br><br><br><p>ATTESTED<br/>Examiner<br/>Peshawar High Court Bench<br/>Mingora Dar-ul-Qaza, Swat</p> | <p>22.11.2017</p>            | <p><u>W.P No. 696-M/2017</u></p> <p>Present: Syed Abdul Haq, Advocate for the petitioners.<br/>***</p> <p><u>ISHTIAQ IBRAHIM, J.-</u> Through this single order we propose to decide this writ petition as well as the connected W.P No. 700-M/2017, involving common questions of law and facts, wherein the petitioners are seeking the following relief from this Court.</p> <p>“It is, therefore, humbly prayed that on acceptance of this writ petition in the light of aforementioned submissions, this Court may kindly issue appropriate writ to the Respondents No.3 to reinstate the petitioners on their own posts with all back benefits, according to the spirit of the Act. This Hon’ble Court may also issue directions to the concerned respondents to count their seniority from the date of their first appointment mentioned in PARA-2 of this writ petition”.</p> <p>2. In essence, the petitioners were appointed as untrained PTC teachers in the years 1995 and 1996 and thereafter their services were terminated in 1997.</p> |

Talwar

DR: Mr. Justice Iqbal Ibrahim  
Mr. Justice Muhammad Nasir Mahfooz

[W.P No. 696-M of 2017 Muhammad Zahid and others Vs. Govt. of FPE and others]



*[Handwritten signature]*

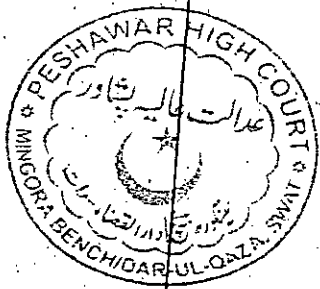
ATTESTED  
 Examiner  
 Peshawar High Court Bench  
 Mingora Darul-Qaza, Swat.

Petitioners have asserted that on promulgation of the Khyber Pakhtunkhwa Sacked Employees (Reinstatement) Act, 2012, they filed applications for their reinstatement in accordance with the Act *ibid* but the respondent department is not willing to consider them for their reinstatement despite they went from pillar to post in this regard. Hence, these writ petitions.

3. Arguments heard and record perused.

4. Admittedly, the Provincial Government has promulgated the Khyber Pakhtunkhwa Sacked Employees (Reinstatement) Act, 2012 with the object to redress the grievances of the sacked employees by allocating 30% quota for them in fresh recruitment. Section 2 (g) of the Act *ibid* defines those sacked employees who can get benefit of the Act whereas Section 7 thereof prescribes 30 days period after promulgation of the Act for submission of applications for reinstatement. Learned counsel for the petitioners submitted at the bar that the petitioners fulfill all the conditions laid down in the Act.

5. The issue of reinstatement of the sacked employees has already been resolved by Superior Courts through various judgments wherein it has been held that the sacked employees are entitled to their reinstatement



provided they fulfill the criteria laid down in the Act. The issue of training of the sacked employees also arose before the august Supreme Court in C.P No. 401-P, 427-P and 431-P which were decided vide judgment dated 24.05.2017 with the following observations.

“We have been apprised by the learned counsel for the respondents that according to the advertisement and appointment letters 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 regards the second category, such persons would be provided with an opportunity to complete the training within a specific period”.

6. Since, benefits of the Act *ibid* have already been extended to similarly placed persons, therefore, the petitioners are also entitled to the same relief. Resultantly, these writ petitions are disposed of with the directions to respondents to consider the petitioners for their reinstatement against 30% quota provided they fulfill the criteria laid down in the Khyber Pakhtunkhwa Sacked Employees (Reinstatement) Act, 2012. Respondents are further directed to complete the process within 30 days after receipt of this judgment.

Announced  
22.11.2017

*[Signature]*  
JUDGE  
*[Signature]*  
JUDGE

S.No.----- 05  
Name of Applicant *Kashif Farhan*  
Date of Presentation of Applicant----- 31-10-2020  
Date of Completion of Copies----- 01-11-2020  
No of Copies----- 01  
Urgent Fee-----  
Fee Charged-----  
Date of Delivery of Copies----- 22-11-2020

Certified to be true copy  
*[Signature]*  
20-01-2020  
EXAMINER  
Peshawar High Court, Mingora/Dar-ul-Qaza, Swat  
Authorized Under Article 17 of Oath-taking & Shahaadat Order

DR: *Atiq*  
28/11  
Mr. Justice Ihtisham Ishaque  
Mr. Justice Muhammad Nasir Makhdoom  
(W.P No. 496-N of 2017 Muhammad Zahir and others Vs. Govt. of KPK and others)

(20)

# Office Of The District Education Officer Male District Dir Upper



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

C-P

## APPOINTMENT.

In the light of the judgement passed by the Honorable Peshawar High Court Mingora Bench/Dar-ul-Qaza Swat in W-P NO. 685-M/2017 dated 08-11-2017, WP No. 700-M/2017 dated 22-11-2017, 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.   | Sehat Zarin   | Sultan Zarin  | GPS Noor Khail     | 1570105858715 |         |
| 02.   | Zakir Ullah   | Ghulam Yousaf | GPS Tikar Kot No.1 | 1570112400691 |         |
| 03.   | Fazal Ghafoor | Muhammad Amin | GPS Nangral        | 1570101351553 |         |

### TERMS AND CONDITIONS.

01. The appointment of sacked employee shall be made only on regular bases to a civil post during the period from 1<sup>st</sup> day of November 1993 to the 30<sup>th</sup> day of November 1996 (both days inclusive) and were dismissed/ removed, or terminated from service during the period of 1<sup>st</sup> day of November, to 31<sup>st</sup> 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 (FA/FSc 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.
08. All the drawing and disbursing officers are directed to get a stamp paper as mentioned it 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.

Accepted  
AFFECTED

AK

(21)

(9)

10. If the appointee fail to take over charge with in 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 period during which a sacked employee remain dismiss removed or terminated from service, till the date of their appointment shall be deemed his age to has been automatically relaxed and his no further relaxation under any rules for the time being in force.
14. Their appointment order is subject to the final outcome of the Supreme Court of Pakistan judgment.
15. No TA/DA is allowed.

**District Education Officer,  
Male Dir Upper**

Endst: No. 1722-27 / File No.123/ Apptt:/ DEO (M)/ADO (P) Dated Dir (U) the 27 /03/2018.

Copy forwarded for information and necessary action to the: -

1. Director of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
2. District Accounts Officer Dir Upper
3. Dy: District Education Officer, Male Dir Upper.
4. Sub: Divisional Education Officer Male Barawal.
5. Official Concerned.
6. M/File

*Attested*  
**ATTESTED**

**DISTRICT EDUCATION OFFICER,  
MALE DIR UPPER**

(22)

To

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

D-9

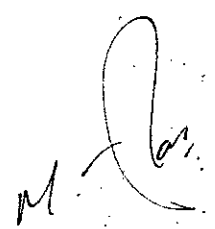
DEPARTMENTAL APPEAL FOR FIXATION OF PAY IN BPS-12 w.e.f. 23-09-1996 i.e. FROM THE DATE OF INITIAL APPOINTMENT

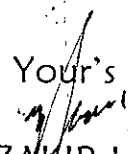
Respected Sir,

It is most humbly stated that was appointed before your good self Department as PTC vide order dated 23-09-1996 as stop gap arrangement. 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. 23-09-1996 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. 23-09-1996 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



Your's Sincerely  
  
ZAKIR ULLAH, PST  
GPS Tikar Kot No.1, Dir Upper



23

**VAKALATNAMA**

Before the Appellate Tribunal Peshawar

OF 2019

Zakir Ullah

(APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

**VERSUS**

Information Dept

(RESPONDENT)  
(DEFENDANT)

I/We Zakir Ullah

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

**CLIENT**

**ACCERTED**

**NOOR MOHAMMAD KHATTAK**

**SHAHZULLAH YOUSAFZAI**

**KAMRAN KHAN**

**&**

**MIR ZAMAN SAFI  
ADVOCATES**

OFFICE:

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Islamia Club Building, Khyber Bazar,  
Peshawar City.  
Mobile No.0345-9383141