


FORM OF ORDER SHEET

Court of _____

Appeal No. 1247/2024


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	26/8/2024	<p>The appeal of Mr. Mubarak Ali Shah presented today by Mr. Yaqoob Khan Advocate. It is fixed for preliminary hearing before Touring Single Bench at Swat on 7/10/2024. Parcha Peshi given to counsel for the appellant .</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

The appeal of Mr. Mubarak Ali Shah received today i.e on 05.08.2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Address of appellant and respondent no. 4 is incomplete be completed according to rule 6 of Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 2- Copy of seniority list mentioned in para-7 of the memo of appeal (Annexure-C) is not attached with the appeal be placed on it.
- 3- Annexures F mentioned in the grounds of appeal is missing.

No. 532 /Inst./2024/KPST,

Dt. 07/8 /2024.

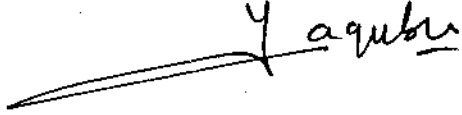

OFFICE ASSISTANT
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Yaqub Khan Adv.
High Court at Peshawar.

19/8/2024

Sir,
objections removed, completed and
re-submitted please.

Yaqub Khan Advocate
19/8/2024


Yaqub

KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR

CHECK LIST

Mubayak Ali Shah versus **Secretary Education**

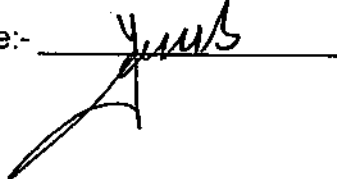
..... Appellant

..... Respondents

S NO	CONTENTS	YES	NO
1.	This petition has been presented by: <u>Advocate</u> <u>Court</u>	√	
2.	Whether Counsel/Appellant/Respondent/Deponent have signed the requisite documents?	√	
3.	Whether appeal is within time?	√	
4.	Whether the enactment under which the appeal is filed mentioned?	√	
5.	Whether the enactment under which the appeal is filed is correct?	√	
6.	Whether affidavit is appended?	√	
7.	Whether affidavit is duly attested by competent Oath Commissioner?	√	
8.	Whether appeal/annexures are properly paged?	√	
9.	Whether certificate regarding filing any earlier appeal on the subject, furnished?	√	
10.	Whether annexures are legible?	√	
11.	Whether annexures are attested?		
12.	Whether copies of annexures are readable/clear?	√	
13.	Whether copy of appeal is delivered to AG/DAG?	√	
14.	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	√	
15.	Whether numbers of referred cases given are correct?	√	
16.	Whether appeal contains cutting/overwriting?	x	
17.	Whether list of books has been provided at the end of the appeal?	√	
18.	Whether case relate to this court?	√	
19.	Whether requisite number of spare copies attached?	√	
20.	Whether complete spare copy is filed in separate file cover?	√	
21.	Whether addresses of parties given are complete?	√	
22.	Whether index filed?	√	
23.	Whether index is correct?	√	
24.	Whether Security and Process Fee deposited? On _____		
25.	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On _____	√	
26.	Whether copies of comments/reply/rejoinder submitted? On _____		
27.	Whether copies of comments/reply/rejoinder provided to opposite party? On _____		

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name:- Yaqoob Khan

Signature:- 

Before the Service Tribunal, KPK, Peshawar

Mubarak Ali Shah son of Siraj Muhammad GC MHS Marghuz
Swabi R/o Marghuz, District Swabi.....Appellant

v/s

Secretary of Education, KPK, Peshawar & others ...Respondents
APPEAL

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S.No	Descriptions	Annex:	Pages	
			From	to
1	Grounds of appeal		1	3
2	Copy of appointment order	"A"	4	7
3	Copy of seniority list	"B"	8	9
4	Copy of representation	"C"	10	11
5	Copy of judgment	"D"	12	22
6	Copies of orders	"E"	23	26
7	Wakalat Nama		-	27

Dated 5/8/2024

Appellant Mubarak Ali Shah

Through

Yaqoob Khan
Yaqoob Khan advocate High courts at
Distt: courts Mardan

Before the Service Tribunal, KPK, Peshawar

Appeal No 1247/24

L SST IT L

Mubarak Ali Shah son of Siraj Muhammad GC MHS Marghuz
Swabi R/o Marghuz, District Swabi,.....

Appellant
Service Tribunal

V/S

Diary No. 14679

1. Secretary of Education, KPK, Peshawar
2. Director Education officer, KPK, Peshawar
3. Asfandyar Khan Barki Son of Saif ur Rehman
Abad, Peshawar
4. Asif Nawaz son of Naik Nawas khan
Laki Marwat

Dated

05-08-2024

GHS Bashir
L SST IT

GHSS Bachken Azai,
L SST IT... Respondents

Service Appeal under section 4 of the Service Tribunal Act 1974 for grant of seniority of appellant on the basis of age wise for which appellant filed a representation dated 29/04/2024 before respondent NO.1 for grant of seniority on the basis age senior/ higher from other employees appointed on the same date of appellant and after lapse of 90 days, appellant filed instant service appeal before this Hon'able court.

Prayer;

on acceptance of this appeal, appellant may please be declared senior than those SST IT teachers who are junior in age than appellant and who were appointed on the same date of appointment of appellant on the basis of judgment passed by this Hon'able Tribunal vide order / judgment dated 31/05/2023 and notification dated 26/06/2024 and 20/05/2024. Any other relief deemed fit may also be graciously awarded.

Filed to-day

Registrar

5/8/24

Respected Sir,

Appellant Humbly submits as under

1. That appellant is posted as SST IT Teacher with respondent department and performed his duty regularly.
2. That respondent department has advertized the posts of SST teacher for which appellant was properly applied and qualified the test/interview for their posts of SST teacher.
3. That appellant was appointed as SST IT teacher vide appointment order dated 24/08/2017 on regular basis. (Copy of appointment order is attached as Annex: "A").
4. That service of appellant is regularized from the date of appointment.
5. That the seniority list of the appellant as well as other SST teacher was drawn on the basis of the

Re-submitted to -day
and filed.

Registrar

26/8/24

score obtained by them in the test conducted by national testing service (NTS) while as per law the seniority of appellant is of the view that seniority inter se was required to have been fixed age wise in view clause 8 of terms and conditions of regularization order as well as sub section 2 of section 4 of KPK employees of E & SE department. (appointment and regularization of svc Act 2017, coupled with the judgment of this Hon'able court dated 31/05/2024 hence, appellant is entitled for seniority on the basis of age wise seniority. (Copy of seniority list is attached as Annex:"B").

- 6. That the date of birth of appellant is 01/01/1987 while other employees SST IT teachers are junior in age from appellant therefore, appellant may please be kept senior than other SST IT teachers who are junior in age from appellant, date of birth of appellant as well as other SST IT teachers are duly mentioned in their seniority list.
- 7. That appellant is serving with respondent's department as a regular employee from the date of appointment and appellant is entitled for seniority from the date of initial appointment on the basis of regular employee as well as senior in age from other SST IT teachers who were appointed on the same date of appointment of appellant therefore, appellant is entitled to keep senior from other SST II Teachers who are junior in age from appellant and appointed on the same date of appointment of appellant as per seniority list of SST IT teachers. (Copy of Seniority list is already attached as Annex "B")
- 8. That appellant preferred an department appeal before respondent No.1 but in vain (Copy of representation is hereby attached Annex: "A").
- 9. That appellant is entitled to keep senior in the seniority list of SST IT teachers on the basis of senior in age from other SST IT teachers on the following grounds.

GROUND:

- A. That, appellant is senior in age from other SST IT teachers, therefore, appellant is entitled senior than other SST IT teachers in the seniority list of SST IT teachers maintained by respondents.
- B. That similarly placed official filed an appeal before the service Tribunal KPK Peshawar which was allowed vide order/ judgment dated 31/05/2023 and appellant was considered senior than other SST IT teachers on the basis of senior in age who were appointed on the same appointment order of appellant. (Copy of judgment is attached as Annex: "D").

- C. That, as per reported judgment of Apex Supreme Court of Pakistan (1996 SCMR 1185) appellant is entitled for the same relief which is granted to appellants in case appeal No. 2069/2019 titled Abid Noor Vs Director E & SE kpk Peshawar & others, in which, appellants were declared senior those in which those officials who are junior than appellant in age and appointed as SST teacher on the same date of appellant.
- D. That, respondents department have already issued order for correction of seniority list of appellant vide order dated 20/05/2024 and 26/06/2024. (Copies of orders are attached as Annex: "E")
- E. That appellant is entitled to keep senior than other SST IT teacher from those SST IT teacher who are junior in age from appellant and appointment on the same appointment order of appellant.

It is, therefore, humbly prayed that on acceptance of this appeal, appellant may please be declared senior than those SST IT teachers who are junior in age than appellant and who were appointed on the same date of appointment of appellant on the basis of judgment passed by this Hon'able Tribunal vide order / judgment dated 31/05/2023 and notification dated 26/06/2024 and 20/05/2024. Any other relief deemed fit may also be graciously awarded.

Dated 5/8/2024

Appellant Mubarak Alishah

Through Yaqub Khan advocate High courts at Distt: courts Mardan.

AFFIDAVIT

I, do hereby solemnly affirm and declare on oath that all the contents of the appeal mentioned above are true and correct to the best of my knowledge and belief and noting has been concealed from this Hon'able court.



Advocate Yaqub Khan



Elementary & Secondary Education Department

Government of Khyber Pakhtunkhwa

Block "A", Opposite MPA's Hostel, Civil Secretariat Peshawar.

Aux A

Dated Peshawar the October 23, 2017

ORDER:

No. PM-IT/E&SE/1-3/500-IT-Labs/Phase-III/Rectt/IT-Male/2017. Consequent upon recommendations of Departmental Selection Committee, the following Sixty Five (65) Male Candidates are hereby appointed as IT Teachers (BPS-16) on fixed pay (Rs. 40,000/- per month) under the Project "160151-Establishment of 500 IT Labs in Government High Schools in Khyber Pakhtunkhwa (Phase-III)", on temporary basis, purely on contract, up to 30-06-2018 or till the completion of the project whichever is earlier, with immediate effect on the terms and conditions given at the end.

2. Upon their appointment as IT Teachers, they are posted against the vacant posts under the Project "160151-Establishment of 500 IT Labs in Government High Schools in Khyber Pakhtunkhwa (Phase-III)" in the Schools noted against their names:-

S#	Name	Father Name	Domicile	NIC#	Name of School where Posted
1	AHSAN NAZIR	MUHAMMED NAZIR	Abbottabad	13101-9635706-3	GHS Majuhian, Abbottabad
2	SYED AQIB HUSSAIN SHAH	SYED JAVED HUSSAIN SHAH	Abbottabad	13101-6686530-5	GHS Chamhati, Abbottabad
3	NOMAN MUAWIYAH KHAN	KARAM DAD KHAN	Abbottabad	13101-9566364-5	GHS Moolia, Abbottabad
4	ASIF KHURSHEED	KHURSHEED AHMAD	Abbottabad	13101-7764115-3	GHS Jhangra, Abbottabad
5	MUHAMMAD SHAMIM KHAN	MIR HAKIM KHAN	Bannu	11101-2225062-3	GHS Khujari Babar, Bannu
6	NASIR ALI SHAH	AYUB ALI SHAH	Bannu	11101-6996297-5	GHSS Painda Khel, Bannu
7	SHAHID IQBAL	KHAISTA KHAN	Battagram	13202-6340013-3	GHS Tailoos, Battagram
8	FAIZAN	SULTAN MUHAMMAD	Battagram	13503-6697196-1	GHS Rashang, Battagram
9	IQBAL AHMAD	RASHID AHMAD	Buner	15101-1905741-9	GHS Swawal, Buner
10	SHAFI U DIN	WASAL DIN	Buner	15101-8923606-3	GHS Maradu, Buner
11	MEKAIL SAID	ZAHIR SAID	Buner	15101-3139583-5	GHS Asharay, Buner
12	MASOOD JAN	AMIR REHMAN	Charsadda	17101-9414868-1	GHS Zarbab Garhi, Charsadda
13	MOHSIN AHMAD	GUL MUHAMMAD	Charsadda	17102-7101956-3	GHS Ghazgi, Charsadda
14	NABI RAHMAN	MIR RAHMAN	Charsadda	17101-1480829-9	GHS Mian Isa, Charsadda
15	MUHAMMAD SHAHAB UDDIN	MUHAMMAD ASHRAF KHAN	Chitral	15202-5899180-5	GHS Madakdash, Chitral
16	ZAHID AMIN	MUHAMMAD AMIN	D.I.Khan	12103-8406501-9	GHS Hathala, D.I.Khan
17	MUHAMMAD SAQIB	HAMID ULLAH	D.I.Khan	12101-6706260-7	GHS Wanda Nadir Shah, D.I.Khan
18	FAYAZ UDIN	JALAL DIN	D.I.Khan	12101-8619383-9	GHS Mahra, D.I.Khan
19	ALTAF UR RAHMAN	RAHIM BADSHAH	Dir Lower	15305-9786804-5	GHS Shamshi Khan, Dir Lower
20	SAEED ULLAH	BAKHT ZAMAN KHAN	Dir Lower	15305-5137241-5	GHS Mian Banda, Dir Lower
21	MOHSIN UR RAHMAN	IHSAN UR RAHMAN	Dir Lower	15307-2137189-3	GHS Ramora, Dir Lower
22	SHADAB MUHAMMAD	SHAHBAZ KHAN	Dir Lower	15307-4672095-1	GHS Sangolai, Dir Lower
23	MUHAMMAD ARSHAD	SHAD MUHAMMAD	Dir Upper	15401-8085591-5	GHS Daskor, Dir Upper
24	HAZRAT LUQMAN	FAZAI HAMID	Dir Upper	15702-2507016-7	GHS Jelar, Dir Upper
25	UMAR FAROOQ	MUHAMMAD AYUB	Hangu	14102-0347517-9	GHS Togh Sarai, Hangu
26	MUHAMMAD JALAL KHAN	LIAQAT ALI KHAN	Hangu	17201-2224370-7	GHS Thail, Hangu
27	SHERYAR KHAN	MEHBOOB KHAN	Haripur	13302-5128466-3	GHS Gali Amazi, Haripur
28	MUHAMMAD ADNIAN	FAIZ ULLAH KHAN	Kohat	14201-6964841-5	GHS No. 3 Kohat

5

	TAMIR HUSSAIN	NOOR UL ABIDIN	Malakand	15401-0350748-3	GHS Haryankot, Malakand
34	RAFI ULLAH	ZAMIN GUL	Malakand	15401-0350748-3	GHS Haryankot, Malakand
35	SHEIKH MANSOOR ELLAHI	SHEIKH NOOR ELLAHI	Mansehra	13503-4455088-7	GHS Afzal Abad, Mansehra
36	MUHAMMAD ISLAM	GOHAR REHMAN	Mansehra	13503-7257991-3	GHS Dadar, Mansehra
37	ANEES AHMAD	MUHAMMAD ISRAEEL	Mansehra	13503-7521568-1	GHS Ichrian, Mansehra
38	ALI ABBAS	BANARIS KHAN	Mansehra	13503-4379208-7	GHS Ghanool, Mansehra
39	EJAZ HUSSAIN KHAN	ABDUL HANAN	Mansehra	13503-6913546-7	GHS Naran, Mansehra
40	FAISAL SHAH	ABDUL AZIZ SHAH	Mardan	16101-2331983-7	GHS Machl, Mardan
41	GUL SAYYAR ALI	FATEH GUL	Mardan	16101-7301475-7	GHS Hoti Landaki, Mardan
42	ABDUL NASIR	GHULAM HAIDER	Mardan	16102-5240870-1	GHS Jehangir Abad, Mardan
43	SAJID ALI	INAYAT ULLAH KHAN	Mardan	16102-2011582-5	GHS Baringan, Mardan
44	MUDASSIR	KHADIM MOHAMMAD	Mardan	16101-7593208-5	GHS Tambulak, Mardan
45	MUHAMMAD YAQOOB KHAN	NOWSHER MUHAMMAD	Nowshera	17201-4056701-5	GHS Kahi, Nowshera
46	SULAIMAN KHAN	ATTA ULLAH	Nowshera	17201-7462544-5	GHS Badrashi, Nowshera
47	ASFANDYAR KHAN BARKI	SAIF UR REHMAN	Peshawar	17301-2206387-7	GHS Bashir Abad, Peshawar
48	MUHAMMAD OWAIS	ZAKIR RAHMAN	Peshawar	17301-5219284-3	Government Shaheed Muhammad Sohail Sarda High School Rasheed Garhi, Peshawar
49	ABBAS AKBAR	AKBAR ALI	Peshawar	17301-3679701-5	GHS Police Colony, Peshawar
50	ABDUL HAFEEZ	ABDUL LATIF	Peshawar	17301-5491720-7	GHS Tehkal Payan, Peshawar
51	SHAMSUL BASHAR	KHIAL BAHADAR	Peshawar	17301-3162422-9	GHS Kandi Kalo Khel, Peshawar
52	AIMAL KHAN	ZULFIQAR KHAN	Peshawar	17301-9110215-1	Government Shaheed Sahiban High School Nothia Qadeem, Peshawar
53	SALMAN UL KHAIR	HAKIM ULLAH KHAN	Peshawar	17301-5206333-7	GHS Mattani, Peshawar
54	SHAHABUDDIN	MUHAMMAD ANAM	Shangla	15503-8048148-5	GHS Drad Puran, Shangla
55	ASIM AFSAR	AFSAR UL MULK KHAN	Shangla	15501-4815131-1	GHS Karora, Shangla
56	ZEESHAN UMAR	SHER APSAR KHAN	Swabi	16202-2890232-3	GHSS Naranji, Swabi
57	MALAK ROMAN	AMIR SULAIMAN	Swabi	16201-5739277-1	GHSS Ulla, Swabi
58	SYED NAMOOS ALI SHAH	TAJ ALI SHAH	Swabi	16202-6534526-7	GHS Kalabat, Swabi
59	MUBARIK ALI SHAH	SIRAJ MUHAMMAD	Swabi	16202-7506347-7	GCMHS Marghuz, Swabi
60	IZAZ	RAZA KHAN	Swat	15802-0815017-1	GHS Qandil, Swat
61	UMAR ZEB	AHMAD JAN	Swat	15801-8532792-1	GHSS Sakhra, Swat
62	ABDUS SALAM	ABDULLAH	Swat	15802-9354635-5	GHS Sijbenr, Swat
63	ZIA UL HAQ	SULTANAT KHAN	Swat	15801-1034220-9	GHSS Labat, Swat
64	ASHRAF ULLAH	ESSA KHAN	Tank	12201-5208822-9	GHS Pai, Tank
65	GUL SABIT SHAH	SIKANDAR SHAH	Torghar	13504-2222110-3	GHS Bimbal, Torghar

[Handwritten signature and date]
11/10/17

TERMS AND CONDITIONS:

1. Their appointment is purely on contract basis extendable at the maximum up to the project life subject to satisfactory performance of the appointees and they will have no claim/right what so ever for regularization etc. Their services under the present contract shall not qualify them for pension/gratuity.
2. Their services can be terminated at one month notice. In case they wish to resign at any time, one month's notice will be necessary or in Lieu thereof one month's pay shall be forfeited.
3. Their services will be liable to termination without any notice if their performance is not found satisfactory subsequently.
4. Their services will be liable to termination without any notice if their academic documents and other credentials submitted in this office are found fake at any stage and

7. Their academic documents will be verified by the District Education Officer (Male) concerned. If found fake their services will be terminated and they will be proceeded against under the law.
8. The District Education Officer (Male) concerned will release their pay after verification of their academic documents.
9. Their appointments are School based and non-transferable.
10. Their joining time of this offer is 30 days and they will have to sign a contract agreement with the Project Manager IT "160151-Establishment of 500 IT Labs in Government High Schools in Khyber Pakhtunkhwa (Phase-III)", E&SE Department within 30 days, failing which, the offer will stand cancelled.
11. They will submit Charge Report to the Project Manager IT and all other concerned.
12. No TA/DA will be allowed to the appointees for joining their duties.

(6)

PROJECT MANAGER IT
"160151-ESTABLISHMENT OF 500 IT LABS IN GOVERNMENT HIGH SCHOOLS IN KHYBER PAKHTUNKHWA (PHASE-III)"

Copy for Information to the:

1. Accountant General of Khyber Pakhtunkhwa Peshawar.
2. Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
3. District Accounts Officers concerned.
4. District Education Officers (Male) concerned.
5. Principals/Head Masters of the Schools concerned.
6. PS to Secretary E&SE Department, Khyber Pakhtunkhwa.
7. PS to Special Secretary, E&SE Department, Khyber Pakhtunkhwa.
8. PS to Additional Secretary (Development), E&SE Department, Khyber Pakhtunkhwa.
9. PA to Chief Planning Officer, E&SE Department, Khyber Pakhtunkhwa.
10. Official concerned.


7-3/10/17

(SALAHUDDIN)
PROJECT MANAGER IT

Attested
[Signature]

Approved
Signature

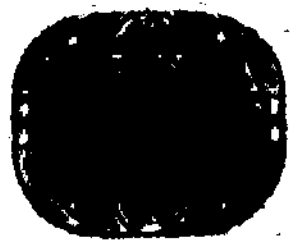
Holder's Signature

Date of Issue 10.09.2018	Date of Expiry 10.09.2028
Identity Number 16202-7506347-7	Date of Birth 01.01.1987
Gender M	Country of Stay Pakistan



Father Name
Siraj Muhammad

Name
Mubarik Ali Shah



PAKISTAN
ISLAMIC REPUBLIC OF PAKISTAN
National Identity Card



①

موجودہ محلہ ایوب خیل، ڈاک خانہ خاص، زیدہ، تحصیل و ضلع

16202-7506347-7



مستقل پتہ محلہ ایوب خیل، ڈاک خانہ خاص، زیدہ، تحصیل و ضلع

صوبائی

101061240339

Iman K. Malik
Registrar General of Pakistan

گمشدہ کارڈ ملنے پر قریبی لیڈ بکس میں ڈال دیں

5170 = 50
 // = 150
 // = 189
 // = 206
 // = 232

Seniority List 2024

Mabarak Ali Shah vs Education

8

Aux B

DIRECTORATE OF ELEMENTARY AND SECONDARY EDUCATION KHYBER PAKHTUNKHWA PESHAWAR

FINAL SENIORITY LIST OF SST IT BPS-16 IN ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT KHYBER PAKHTUNKHWA AS STOOD ON 12/03/2024

S.No	CNIC	Name	FatherName	Qualification	Domicile	B.Ed Declaration	School/Institute/Office	DateOfBirth	Merit Score	Date of Entry into Edu:Deptt	Date of Apptt as SST (IT)	Advertisement No	Date of Regularization
1		Nisar Khan	Ismail Khan	M.Sc	KHYBER		GHS Pindi Lalma	20/11/1983		6/14/2005	14/06/2005		
2	12201-1880433-7	Sami Ullah	Moin Khan	B.Sc B.Ed	SOUTH WAZIRISTAN	2015	GHS Spinkai	31/03/1983		6/14/2005	14/06/2005		
3	11101-8235769-3	Abid Nawaz Khan	Rekhan Nawaz Khan	M.Sc B.Ed	FR BANNU		GHS Dilwar Khan SDW Bannu	12/10/1986		9/2/2008	02/09/2008		
4	21103-8831093-9	PARVEZ KHAN	SHARIF KHAN	B.SC .B.Ed	BAJAUR	2017	GHS INAYAT KILLI BAJAUR	15/11/1981		2/9/2008	09/02/2008		
5	21506-4367367-5	Bashir Ahmad	Muhammad Yasin	B.Sc	NORTH WAZIRISTAN		GHS Miranshah	03/01/1987		2/9/2008	09/02/2008		
6		Fayaz Ahmad	Muhammad Yaqoob Khan	B.Sc	Mohmand		GHS Danish Koof	16/04/1939		2/9/2008	09/02/2008		
7	16292-0998172-9	Sohail Irfan	Muhammad Ayub	B.Sc.MCS ,B.Ed	Swabi	2022	GHS Gandaf	24/08/1973		7/1/2007	01/07/2007		
8	13503-3539674-9	ZAKIR KHAN	MUHAMMAD YOUSAF	MS COMP SC / MED	MANSEHRA	2017	GHS SHAMDARA OGI MANSEHRA	03/09/1987	87.00	9/12/2014	12/09/2014	INF(P)836	
9	15702-5904046-1	KHUSH DIL	ASFANDYAR	M Phil (CS), B.Ed	DIR UPPER	2022	GHS GHANDIGAR	01/05/1986	85.00	9/12/2014	12/09/2014	INF(P)836	
10	13503-5902512-7	MAJID KHAN	BEHRAM KHAN	BSc(CS) /BED	MANSEHRA	2011	GHS BAIDRA MANSEHRA	13/02/1983	81.00	11/17/2014	17/11/2014	INF(P)836	
11	15101-0134774-7	FAZLI RABI	FAZAL RAZIQ	MS CS , M.Ed	BUNER	2016	GHS DAGAI	20/03/1988	79.00	9/12/2014	12/09/2014	INF(P)836	
12	15602-0252416-3	NAMAT ULLAH	SAEED ULLAH	BS TELECOMMUNICATION	KOHISTAN		GHS PATTAN KOHISTAN LOWER	18/04/1988	74.00	11/17/2014	17/11/2014	INF(P)836	
13	15302-9642986-1	SHER YAR	DOST MUHAMMAD KHAN	BS CE,B.Ed	DIR LOWER	2010	GHS Shawa	30/01/1988	81.20	12/16/2016	16/12/2016	PID(I)3018/75	

SST IT Final

9

S.No	CNIC	Name	FatherName	Qualification	Domicile	B.Ed Declaration	School/Institute/Office	DateOfBirth	Merit Score	Date of Entry into Edu.Deptt	Date of Apptt as SST (IT)	Advertisement No	Date of Regularization
224	14301-4060740-5	IRSHAD KHAN	ABDUL QADIM	BS (IT)	KOHAT		GHSS MUSLIM ABAD KOHAT	17/04/1982	76.60	8/24/2017	24/08/2017		
225	17201-2224370-7	MUHAMMAD JALAL KHAN	LIAQAT ALI KHAN	MIT	HANGU		GHSS Togh sarai	14/04/1983	76.60	10/23/2017	23/10/2017		
226	12103-8408501-9	ZAHID AMIN	MUHAMMAD AMIN	BS (IT), M.Ed	DERA ISMAIL KHAN	2016	EMIS E&SE DEPTT PESHAWAR	18/04/1988	76.60	10/23/2017	23/10/2017		
227	11101-2225082-3	MUHAMMAD SHAMIM KHAN	MIR HAKIM KHAN	BS SE	BANNU		GHS KHUJARI BABAR	01/03/1987	76.40	10/23/2017	23/10/2017		
228	15602-5956371-1	SHAH KHALID	SHUJA UL MULK	MS (Comp)	SWAT		GHS SHAGAI SAIDU SHARIF	24/12/1990	76.40	11/9/2017	09/11/2017		
229	17301-2206387-7	ASFANDYAR KHAN BARKI	SAIF UR REHMAN	BSCS (Hons)	PESHAWAR		GHS BASHIR ABAD PESHAWAR	31/10/1989	76.30	10/23/2017	23/10/2017		
230	15602-8719326-5	ISHAQ AHMAD KHAN	FAZAL WAHAB	M.Phil (Comp), M.Ed	SWAT	2016	GHS NAWA KALAY	03/10/1990	76.30	11/9/2017	09/11/2017		
231	11201-5642982-1	ASIF NAWAZ	NAIK NAWAZ KHAN	BS IT	LAKKI MARWAT	2019	GHSS BACHKEN A/ZAI	08/03/1991	76.30	10/23/2017	23/10/2017		
232	16202-7506347-7	MUBARIK ALI SHAH	SIRAJ MUHAMMAD	MS (Telecom), B.Ed	SWABI	2017	GCMHS MARGHUS SWABI	01/01/1987	76.20	10/23/2017	23/10/2017		
233	12101-6706260-7	MUHAMMAD SAQIB	HAMID ULLAH	BSCS	DERA ISMAIL KHAN		GHS WANDA NADIR SHAH, DI KHAN	25/12/1988	76.20	10/23/2017	23/10/2017		
234	16202-8753499-1	WASIM ABBAS	MAQBOOL REHMAN	BSCS	SWABI		GHSS KALABAT SWABI	01/04/1992	76.20	11/9/2017	09/11/2017		
235	17201-0965880-3	SHERAZ AHMED	HAJI JEHANZEB KHAN	MCS	NOWSHERA		GHSS DAGI BANDA NOWSHERA	01/10/1983	76.10	8/24/2017	24/08/2017		
236	17301-3679701-5	ABBAS AKBAR	AKBAR ALI	BSCS	PESHAWAR		GHS POLICE COLOY PESHAWAR	17/02/1991	76.10	10/23/2017	23/10/2017		
237	13301-7984958-9	MUHAMMAD USMAN SHAH	QASIM SHAH	BSCS	HARIPUR		GHS KUNDI HARIPUR	13/01/1995	76.00	8/24/2017	24/08/2017		
238	11101-4658638-3	MUHAMMAD QASIM KHAN	SARDAR MUHAMMAD KHAN	MS (Info Sec)	BANNU			26/09/1988	75.90	11/9/2017	09/11/2017		

Accepted
Wahid Ahmad
 Advocate,
 Ghazi Court, Mandala

Date of Regularization

Before the secretary of E & SE KPK, Peshawar

Aux C
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Mubarak Ali Shah s/o Siraj Mohd SST IT teacher GCMHS Marghuz
Swabi R/O vill: Marghuz Teh: Topi Distt: SwabiAppellant.

VS

1. Director of E & SE KPK, Peshawar.
2. District Education Office (M) Swat.Respondents.

Departmental appeal / Representation for grant of seniority on the basis age senior/ higher from other employees appointed on the same date of appellatant.

Respected Sir,

Appellant Humbly submits as under

1. That appellatant is posted as SST IT Teacher with respondent department and performed his duty regularly.
2. That appellatant was passed test/ interview and qualified for the post of SST.
3. That respondent department has advertised the post of SST Teacher for which appellatant was properly applied and qualified the test/ interview for the post of SST teacher.
4. That appellatant was appointed as SST Teacher vide order dated 23/10/2017 (copy is attached)
5. That service of appellatant is regularized from the date of 1st appointment.
6. That the seniority list of the appellatant as well as other SST Teacher was drawn on the basis of the score obtained by them in the test conducted by national testing service (NTS) while as per law the seniority of appellatant is of the view that seniority inter se was required to have been fixed age wise in view clause 8 of terms and conditions of regularization order as well as sub section 2 of section 4 of KPK employees of E & SE department (appointment and regularization of svc Act 2017 hence appellatant is entitled for seniority on the basis of age wise seniority. (copy of seniority list is attached).
7. That the date of birth of appellatant is 01-01-1987 while other employees SST Teachers are junior in age from appellatant, therefore, appellatant may please be kept senior than other SST who are junior in age from appellatant and appointed on the same date of appellatant.
8. That appellatant is serving with respondent department as a regular employee from initial appointment and appellatant is entitled for seniority from the date initial appointment on the basis of regular employee and also appellatant is senior in age from the private respondents therefore, appellatant is senior from private respondents.

9. That is senior in age than private respondent and entitled senior than private respondents in the seniority list of SST on the following grounds.

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Grounds:

- A. That appellant is senior in age from private respondents, therefore, appellant is entitled senior than private respondents in the seniority list of SST teachers maintained by respondents.
- B. That similarly placed official filed an appeal before the service Tribunal KPK Peshawar which was allowed vide order/ judgment dated 31-05-2023 and appellant was considered senior on the basis of senior in age. (Copy of judgment is attached).
- C. That as per reported judgment of apex **Supreme Court of Pakistan (1996 SCMR 1185)** appellant is entitled for the same relief which is granted to appellants in case appeal No. 2069/2019 titled **Abid Noor Vs Director E & SE KPK Peshawar & others**, in which appellant were declared senior those in which those officials who are junior than appellant in age and appointed as SST Teacher on the same date of appellant.

It is therefore, humbly requested that on acceptance of this appeal, appellant may please be declared senior than those employees who are junior and who are appointed on the same date of appointment of appellant. Any other relief deemed fit may also be graciously awarded.

Dated: 29-4-2024

Your's obediently, MADISHAH

Through: Yaqub Khan
Yaqoob Khan Advocate
High Court

Yaqub Khan
Advocate,
State Council, Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR.



Service Appeal No. 2069/2019
Date of Institution ... 23.12.2019
Date of Decision... 31.05.2023

Abid Noor S/O Noor Nawaz Khan, R/O Kotka Mir Alam P/O Torka Surani
Tehsil & District Bannu, Primary School Teacher (BS-12) GPS, Lalozei
Bannu. ... (Appellant)

VERSUS

Directorate of Elementary & Secondary Education, Khyber Pakhtunkhwa,
Near GHSS No. 1 Firdos, Peshawar and 55 others. ... (Respondents)

Service Appeal No. 2070/2019
Date of Institution ... 23.12.2019
Date of Decision... 31.05.2023

Afsar Ali Khan S/O Haider Ali, R/O Kotka Gharib Abad P/O Bazar Ahmad
Khan Bannu, Tehsil & District Bannu, Primary School Teacher (BS-12) GPS,
No. 1 Bazar Ahmad Khan Bannu. ... (Appellant)

VERSUS

Directorate of Elementary & Secondary Education, Khyber Pakhtunkhwa,
Near GHSS No. 1 Firdos, Peshawar and 65 others. ... (Respondents)

Service Appeal No. 2071/2019
Date of Institution ... 23.12.2019
Date of Decision... 31.05.2023

Shah Da Ullah Khan S/O Khubaz Khan, R/O Kotka Dilasa Khan near PS
Mandan P/O Bada Mir Abbas Khan Mandan Bannu Tehsil & District Bannu,
Primary School Teacher (BS-12) GPS, Bada Mir Abbas Bannu.
... (Appellant)

VERSUS

Directorate of Elementary & Secondary Education, Khyber Pakhtunkhwa,
Near GHSS No. 1 Firdos, Peshawar and 61 others. ... (Respondents)

Service Appeal No. 2072/2019
Date of Institution ... 23.12.2019
Date of Decision... 31.05.2023

Muhammad Ahsan Ali Shah S/O Ghaffar Ali Shah, R/O Piran Tughal Khel
P/O Syed Tughal Khel Tehsil & District Bannu, Primary School Teacher

ATTESTED

Secretary
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

(BPS-12) GPS, Mastā Mir Tughal Khel.

... (Appellant)

VERSUS

Directorate of Elementary & Secondary Education, Khyber Pakhtunkhwa,
Near GHSS No. 1 Firdos, Peshawar and 53 others.

... (Respondents)

Service Appeal No. 2073/2019
Date of Institution... 23.12.2019
Date of Decision... 31.05.2023

Imtiaz Khan S/O Muhammad Noor, R/O Kaski Akhondan Mandew Kandidak
Tehsil & District Bannu, Primary School Teacher (BS-12) GPS, Mandew
Kandidak Bannu.

... (Appellant)

VERSUS

Directorate of Elementary & Secondary Education, Khyber Pakhtunkhwa,
Near GHSS No. 1 Firdos, Peshawar and 108 others.

... (Respondents)

Service Appeal No. 2074/2019
Date of Institution... 23.12.2019
Date of Decision... 31.05.2023

Abdul Matin S/O Ghazi Marjan, R/O Kotka Sarwar Garhi Mir Alam Tehsil &
District Bannu, Primary School Teacher (BS-12) GPS, Sher Daraz Madan
Bannu.

... (Appellant)

VERSUS

Directorate of Elementary & Secondary Education, Khyber Pakhtunkhwa,
Near GHSS No. 1 Firdos, Peshawar and 66 others.

... (Respondents)

Service Appeal No. 2075/2019
Date of Institution... 23.12.2019
Date of Decision... 31.05.2023

Syed Abad Mir Shah S/O Muhammad Mir Shah, R/O Village Manja Khel P/O
Taji Kala Tehsil & District Bannu, GPS Kot Azad Mughal Khel, Bannu.

... (Appellant)

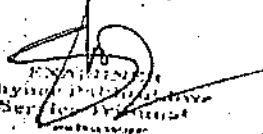
VERSUS

Directorate of Elementary & Secondary Education, Khyber Pakhtunkhwa,
Near GHSS No. 1 Firdos, Peshawar and 39 others.

... (Respondents)

Service Appeal No. 2076/2019
Date of Institution... 23.12.2019
Date of Decision... 31.05.2023

ATTACHED


Khyber Pakhtunkhwa
Service Appeal

Noor Muhammad Khan S/O Ali Bahadar Khan, R/O Kotka Mir Alam P/O
Torka Surani Khyber Pakhtunkhwa Bannu, Primary School Teacher (BS-12)
GPS, Torka Surani Bannu. ... (Appellant)

VERSUS

Directorate of Elementary & Secondary Education, Khyber Pakhtunkhwa,
Near GHSS No. 1 Firdos, Peshawar and 41 others. ... (Respondents)

Service Appeal No. 2077/2019
Date of Institution... 23.12.2019
Date of Decision... 31.05.2023

Khazada Khan S/O Mehmood Khan, R/O Sardi Khel Gul Badin Kandi Dak
P.O Meryan Tehsil & District Bannu, Primary School Teacher (BS-12) GPS,
Shah Azim Landi Dak Bannu. ... (Appellant)

VERSUS

Directorate of Elementary & Secondary Education, Khyber Pakhtunkhwa,
Near GHSS No. 1 Firdos, Peshawar and 130 others. ... (Respondents)

Service Appeal No. 2078/2019
Date of Institution... 23.12.2019
Date of Decision... 31.05.2023

Naseem Ullah S/O Rooh ul Amin Khan, R/O Khwaja Mad Mandan Tehsil &
District Bannu, Primary School Teacher (BS-12) GPS, Akhundani Khwajamad
Manda Bannu. ... (Appellant)

VERSUS

Directorate of Elementary & Secondary Education, Khyber Pakhtunkhwa,
Near GHSS No. 1 Firdos, Peshawar and 126 others. ... (Respondents)

Service Appeal No. 2079/2019
Date of Institution... 23.12.2019
Date of Decision... 31.05.2023

Shahid Ullah Khan S/O Umar Nawaz Khan, R/O Malik Chowk PO Fathima
Khel District Bannu, Primary School Teacher (BS-12) GPS, Kot Adil Bannu.
... (Appellant)

VERSUS

Directorate of Elementary & Secondary Education, Khyber Pakhtunkhwa,
Near GHSS No. 1 Firdos, Peshawar and 278 others. ... (Respondents)

ATTESTED


Khyber Pakhtunkhwa
Service Appeal

MR. INAYAT ULLAH KHAN,
Advocate

--- For appellants.

MR. ASIF MASOOD ALI SHAH,
Deputy District Attorney

--- For official respondents.

MR. SALAH-UD-DIN
MR. MUHAMMAD AKBAR KHAN

--- MEMBER (JUDICIAL)
--- MEMBER (EXECUTIVE)

JUDGMENT:

SALAH-UD-DIN, MEMBER:- Through this single judgment we intend to dispose of the above titled Service Appeals as common questions of law and facts are involved in all the appeals.

2. Brief facts of Service Appeal No. 2069/2019 to Service Appeals No. 2074/2019 as well as Service Appeals No. 2077/2019 and 2078/2019 are that the appellants as well as private respondents therein were appointed as PSTs on contract basis vide Notification bearing endorsement No. 8313-8514/PST/adhoc/ dated: Bannu the 23.07.2014 DEO/(M). During course of their service, Khyber Pakhtunkhwa Employees of Elementary and Secondary Education Department (Appointment and Regularization of Services) Act, 2017 was promulgated and in light of the same, their services were regularized vide Notification bearing Endorsement No. 2344-3253/AE-I/Estab dated 07.04.2018 with effect from the date of their initial appointment. The seniority list of the appellants as well as private respondents of the said appeals was drawn on the basis of the score obtained by them in the test conducted by National Testing Service (NTS). The

ATTESTED

[Signature]
Khyber Pakhtunkhwa
School Education
Department

appellants are of the view that their seniority inter-se was required to have been fixed age-wise in view of Clause-8 of terms and conditions of the regularization Notification dated 07.04.2018 as well as Sub-Section-2 of Section-4 of Khyber Pakhtunkhwa Employees of Elementary & Secondary Education Department (Appointment and Regularization of Services) Act, 2017, therefore, they filed objection on the seniority list on 17.08.2019, however the same was not responded. The appellants there-after submitted departmental appeal on 26.08.2019 but the same was also not responded, constraining them to file appeals before this Tribunal for redressal of their grievance.

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3. Precise facts of Service Appeals No. 2075/2019 and 2076/2019 are that the appellants as well as private respondents therein were appointed as PSTs on contract basis vide Notification bearing endorsement No. 1922-28/AE-1-Male/PST/Adhoc/Apptt: Dated Bannu the 28.03.2016. During course of their service, Khyber Pakhtunkhwa Employees of Elementary and Secondary Education Department (Appointment and Regularization of Services) Act, 2017 was promulgated and in light of the same, their services were regularized vide Notification bearing Endorsement No. 2344-3253/AE-I/Estab dated 07.04.2018 with effect from the date of their initial appointment. The seniority list of the appellants as well as private respondents of the said appeals was drawn on the basis of the score obtained by them in the test conducted by National Testing Service (NTS). The

ATTESTED
[Signature]
National Testing Service

appellants are of the view that their seniority inter-se was required to have been fixed age-wise in view of Clause-8 of terms and conditions of the regularization Notification dated 07.04.2018 as well as Sub-Section-2 of Section-4 of Khyber Pakhtunkhwa Employees of Elementary & Secondary Education Department (Appointment and Regularization of Services) Act, 2017, therefore, they filed objection on the seniority list on 17.08.2019, however the same was not responded. The appellants there-after submitted departmental appeal on 26.08.2019 but the same was also not responded, constraining them to file appeals before this Tribunal for redressal of their grievance.

4. Brief facts of Service Appeal No. 2079/2019 are that the appellant as well as private respondents therein were appointed as PSTs on contract basis vide Notification bearing endorsement No. 4672-5990/AE-1-Male/PST/Adhoc/Apptt: Dated Bannu the 06.05.2017. During course of his service, Khyber Pakhtunkhwa Employees of Elementary and Secondary Education Department (Appointment and Regularization of Services) Act, 2017 was promulgated and in light of the same, his services were regularized vide Notification bearing Endorsement No. 2344-3253/AE-I/Estab dated 07.04.2018 with effect from the date of his initial appointment. The seniority list of the appellant as well as private respondents was drawn on the basis of the score obtained by them in the test conducted by National Testing Service (NTS). The appellant is of the view that his seniority inter-se was required to

ATTESTED

[Handwritten Signature]
 Director
 Services, Khyber Pakhtunkhwa
 Peshawar

have been fixed age-wise in view of Clause-8 of terms and conditions of the regularization Notification dated 07.04.2018 as well as Sub-Section-2 of Section-4 of Khyber Pakhtunkhwa Employees of Elementary & Secondary Education Department (Appointment and Regularization of Services) Act, 2017, therefore, he filed objection on the seniority list on 17.08.2019, however the same was not responded. The appellant there-after submitted departmental appeal on 26.08.2019 but the same was also not responded, constraining him to file appeal before this Tribunal for redressal of his grievance.

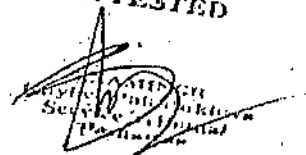
5. On admission of the appeals for regular hearing, notices were issued to the respondents. Official respondents No. 1 & 2 contested the appeals by way of filing of reply, wherein they refuted the assertion raised by the appellants in their appeals.

6. Learned counsel for the appellants has addressed his arguments supporting the grounds agitated by the appellants in their service appeals. On the other hand, learned Deputy District Attorney for official respondents has controverted the arguments of learned counsel for the appellants and have supported the comments submitted by the official respondents.

7. Arguments have already been heard and record perused.

8. A perusal of the record would show that the appellants as well as private respondents in Service Appeals No. 2069/2019 to 2074/2019 as well as Service Appeals No. 2077/2019 and

ATTESTED


 Deputy District Attorney
 Khyber Pakhtunkhwa
 Education Department

2078/2019 were appointed as PSTs (BPS-12) on contract basis vide Notification bearing endorsement No. 8313-8514/PST/adhoc/ dated: Bannu the 23.07.2014 DEO/(M), while appellants as well as private respondents in Service Appeals No. 2075/2019 and 2076/2019 were appointed as PSTs on contract basis vide Notification bearing endorsement No. 1922-28/AE-1-Male/PST/Adhoc/ Apptt: Dated Bannu the 28.03.2016, whereas the appellant and private respondents in Service Appeal No. 2079/2019 were appointed as PSTs on contract basis vide Notification bearing endorsement No. 4672-5990/AE-1-Male/PST/Adhoc/ Apptt: Dated Bannu the 06.05.2017. During the course of their service, Khyber Pakhtunkhwa Employees of the Elementary and Secondary Education Department (Appointment and Regularization of Services) Act, 2017 was enacted and vide Notification bearing Endorsement No. 2344-3253/AE/Estab dated 07.04.2018, their services were regularized with effect from the date of their initial appointments. Clause-8 of Terms and Conditions as mentioned in the afore-mentioned regularization Notification dated 07.04.2018 is regarding determination of seniority, which is reproduced as below:-

"Their Seniority shall be determined on the basis of their continuous service in cadre, provided that if the date of continuous service in the case of two or more employees is the same, the employees older in age shall rank senior to the younger one." (Emphasis provided)

9. Moreover, the criteria for determination of seniority inter-~~SETTLED~~ of the employees regularized under Khyber Pakhtunkhwa

KHYBER PAKHTUNKHWA
SERVICE REGULATIONS
2017

Employees of the Elementary and Secondary Education Department - (Appointment and Regularization of Services) Act, 2017 has been provided in Sub-Section 2 of Section-4 of the said Act, which is reproduced as below:-

"4. Determination of seniority.--(1) The employees whose services are regularized under this Act or in the process of attaining service at the commencement of this Act, shall rank junior to all other employees, belonging to the same Cadre, who are in service on regular basis on the commencement of this Act, and shall also rank junior to such other persons, if any, who, in pursuance of the recommendation of the Commission made before the commencement of this Act, or to be appointed to the Cadre, irrespective of their actual date of appointment.

(2) The seniority inter-se of those employees, whose services are regularized under this Act within the Cadre, shall be determined on the basis of their continuous service in Cadre.

Provided that if the date of continuous service in the case of two or more employees is the same, the employee older in age shall rank senior to the younger one." (Emphasis supplied.)

10. It is also worth mentioning that according to Section-5 of the Khyber Pakhtunkhwa Employees of the Elementary and Secondary Education Department (Appointment and Regularization of Services) Act, 2017, the provisions of the said act shall have an overriding effect and the provisions of any such law or rules to the extent of inconsistency with the said Act shall cease to have effect.

11. In view of Clause-8 of regularization Notification bearing Endorsement No. No. 2344-3253/AE/Estab, dated 07.04.2018 as well as Sub-Section-2 of Section-4 of Khyber Pakhtunkhwa

ATTESTED

[Signature]
Khyber Pakhtunkhwa
Secondary Education
Department

Employees of the Elementary and Secondary Education Department (Appointment and Regularization of Services) Act, 2017, the seniority inter-se of the regularized PSTs was to be determined on the basis of their continuous service in cadre provided that if the date of continuous service in the case of two or more employees was the same, the employee older in age shall rank senior to the younger one. While going the impugned seniority list attached by the appellants with their appeals, the inter-se seniority of the PSTs regularized through Notification dated 07.04.2018 has been determined on the basis of score obtained by them in written test conducted through NTS, which was not a correct criteria for determining their inter-se seniority. The NTS score was relevant for appointment and not for determining seniority inter-se of the regularized PSTs.

12. In view of the above discussion, it is directed that the inter-se seniority of those PSTs, who were regularized through Notification bearing Endorsement No. 2344-3253/AE-I/Estab dated 07.04.2018, shall be determined on the basis of Clause-8 of terms and conditions of regularization Notification dated 07.04.2018 as well as Sub-Section-2 of Section-4 of Khyber Pakhtunkhwa Employees of the Elementary and Secondary Education Department (Appointment and Regularization of Services) Act, 2017 by placing the names of the appellants at correct seniority positions with all consequential benefits. The

ATTESTED

Khyber Pakhtunkhwa
Services Board

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appeals are allowed in the said terms. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
31.05.2023

(Salah-Ud-Din)
Member (Judicial)

(Muhammad Akbar Khan)
Member (Executive)

Nuzum Amin

Certified to be true copy

BEARER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 01-6-23
Number of ~~Words~~ Page 11
Copying Fee 55/-
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Name of Copyist _____
Date of Completion 14-7-23
Date of Delivery of Copy 14-7-23

Attested

Yousaf
Advocate,
State Bar Council



GOVERNMENT OF KHYBER PAKHTUNKHWA
 ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
 CIVIL SECRETARIAT PESHAWAR
 (Phone No.091-9223587)

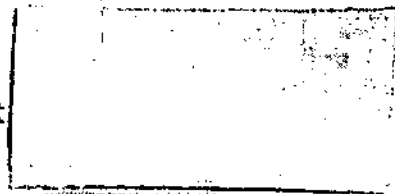
Aux E

No. SO(Primary-M)E&SED/4-7/Seniority of PSTs under Act, 2017/Court Case/2024
 Peshawar Dated 26th June, 2024

23

To,

The Director
 Elementary & Secondary Education Department
 Khyber Pakhtunkhwa, Peshawar



Subject: GUIDANCE REGARDING EXTENTION OF BENEFITS (SENIORTIY ON AGE-WISE) TO ALL SIMILARILY PLACED PSTs (BPS-12) THROUGHOUT KHYBER PAKHTUNKHWA ON THE ANALOGY OF JUDGEMENT DATED 31-05-2023 OF THE HONORABLE SERVICE TRIBUNAL, PESHAWAR IN SERVICE APPEALS NO. 2069/2019 TO 2079/2019.

I am directed to refer to your letter No. 3656(AD Lit-II) dated 09-01-2024 on the subject noted above and to enclose herewith a copy of letter No. ALO(OP)/LD/15-2/2023/KC/7405-7408 dated 20-05-2024 received from Law Department Khyber Pakhtunkhwa which is self-explanatory for further necessary action, please.

Encl: AA



R. Gul
 (REHMAN GUL) 26/06/24
 SECTION OFFICER (PRIMARY MALE)

Endst: of even No. & Date:
 Copy forwarded to the:

1. Assistant Law Officer (Opinion) Law Department Khyber Pakhtunkhwa w/r to his letter cited above.
2. PS to Secretary, E&SE Department Khyber Pakhtunkhwa.

R. Gul
 SECTION OFFICER (PRIMARY MALE) 26/06/24

Si. Gul
 26/06/24
 Address is:
 Jbtti Centre Headq.



GOVERNMENT OF KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS &
HUMAN RIGHTS DEPARTMENT

24

NO. ALO(OP)/LD/15-2/2023/KC 7405-7408
DATED: PESH: THE 20TH MAY, 2024

To
The Secretary,
Government of Khyber Pakhtunkhwa,
Elementary & Secondary Education Department.

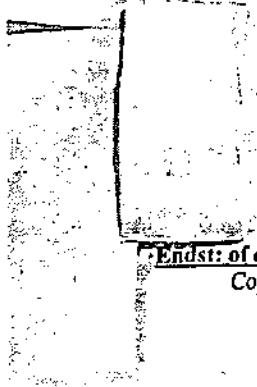
Attention: Section Officer (Primary Male)

Subject: - GUIDANCE REGARDING EXTENTION OF BENEFITS (SENIORITY ON AGE-WISE) TO ALL SIMILARLY PLACED PSTs (BPS-12) THROUGHOUT KHYBER PAKHTUNKHWA ON THE ANALOGY OF JUDGMENT DATED 31-05-2023 OF THE HONORABLE SERVICE TRIBUNAL PESHAWAR IN SERVICE APPEAL NO. 2069/2019 TO 2079/2019.

Dear Sir,

I am directed to refer your Department's letter No. SO(Primary Male)-E&SED/4-7/Seniority of PSTs Under Act, 2017/Court Case/2024, dated, 17.04.2024 on the subject noted above and to state that the Scrutiny Committee of Law Department opined in its meeting held on 06-09-2023 that in terms of section 4(2) of Khyber Pakhtunkhwa Employees of Elementary & Secondary Education Department (Appointment, Regularization) Act, 2017, which stipulate, determination of seniority on the basis of age. The Scrutiny Committee further held that the said section of law outlines the method for determining seniority of the employees, whose services were regularized within a specific cadre under the Act ibid. Moreover, seniority is determined based on their continuous service within the cadre and if two or more employees have the same date of continuous service the employee older in age is to be considered senior to the younger one. Furthermore, the Act ibid has overriding effect on Rule 17 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 which is not attracted to the seniority inter se of the employees, regularized under the Act ibid.

2. Hence, keeping in view the above, Law Department further holds that leaving aside the judgment of Service Tribunal dated 31-05-2023 in Service Appeal No. 2069/2019 to 2079/2019, benefit of section 4(2) of the Act ibid may be extended to all the employees regularized under the said Act after advice of the Scrutiny Committee dated 06-09-2023 ibid, please.



OFFICE OF SECRETARY, L.A. DEPT.
Dated: 19/5/24
Dated: 21/5/2024

Yours Faithfully,

SAYED SAQLAIN HAIDER
Assistant Law Officer (Opinion)

Ends: of even No. & date.

- Copy is forwarded for information to the:-
1. PS to Minister for Law Department.
 2. PS to Secretary, Law Department.
 2. Master File.

Attested

Advocate
Peshawar

SAYED SAQLAIN HAIDER
Assistant Law Officer (Opinion)



Directorate of Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar

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NOTIFICATION

1. Whereas, the appellant Mr. Jan Baz Khan was appointed as Arabic Teacher (BPS-15) in District Bannu on adhoc/contract basis through NTS on 22-05-2014 and regularized vide Notification dated 21-03-2018. Thereafter, the DEO (M) Bannu notified seniority (merit-wise) of AT cadre on 15-10-2019 in terms of Section-8 of Civil Servant Act, 1973 read with Rules-17 of (Appointment, Promotion & Transfer) Rules 1989, wherein, the name of the appellant was shown at S.No. 84 among his other colleagues.
2. And whereas, aggrieved of the seniority ibid, the appellant invoked the constitutional jurisdiction under Article-212 of the Islamic Republic of Pakistan, 1973 through filing Service Appeal No. 887/2020 before the Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar, whereby the appellant impugned the seniority list stood on 26-10-2019 of ATs (BPS-15) in District Bannu with the prayer, that the same may be prepared age-wise in accordance with the Sub-Section-2 of Section-4 (Appointment & Regularization of Services) Act of 2017.

3. And whereas, the case of the appellant was decided vide judgment dated 31-05-2023 by the Honorable Tribunal in favor of the appellant with the direction to the Department, reproduced in verbatim as under: -

"Inter-se-seniority of the appellant shall be determined age-wise on the basis of Notification dated 21-03-2018 as well as Sub-Section-2 of Section-4 of KP E&SE Department (Appointment & Regularization of Services) Act, 2017 by placing the name of the appellant at correct position in the seniority list of the concerned Arabic Teacher with all consequential benefits".

4. And whereas, the case was declared as UNFIT for filing CPLA before the apex Court by the law Department, whereafter, the DEO (M) Bannu implemented the Judgment ibid to the extent of seniority (age-wise) and submitted working papers to this Directorate for promotion of the appellant to the post of SST(BPS-16) in compliance of the judgment supra, whereafter, the case was referred to the meeting of Departmental promotion committee held on 13-12-2023 and the committee has recommended that, the promotion Notification No. 8565-70 dated 07-02-2020 be withdrawn to the extent of Mr. Safdar Ali Shah SST (B/C) (BPS-16) only and Mr. Janbaz Khan - AT (BPS-15) be promoted to the post of SST (BPS-16) with immediate effect.

Now therefore, in compliance of the Judgment dated 31-05-2023 of the Honourable Khyber Pakhtunkhwa Service Tribunal, Peshawar & recommendations of Departmental Promotion Committee, the competent authority (Director E&SE Khyber Pakhtunkhwa) is pleased to withdraw the promotion Notification No. 8565-70 dated 07-02-2020 to the extent of Mr. Safdar Ali Shah SST (B/C) (BPS-16) and the appellant Mr. Jan Baz Khan AT (BPS-15) is hereby promoted to the post of SST (BPS-16) in terms of Rule-7 of the (Appointment, Promotion & Transfer) Rules, 1989 with immediate effect in the interest of public service. Moreover, their services are placed at the disposal of DEO (M) Bannu for further adjustment.

Terms and Conditions:-

1. He shall be on probation for a period as specified in Rules (15) substituted vide No.SO(Policies)/E&AD/1-3/2017 Dated. 07-12-2017 in Appointment, Promotion and Transfer Rules, 1989.
2. He will be governed by such rules and regulations as may be issued from time to time by the government.
3. His services can be terminated at any time, in case his performance is found unsatisfactory during probationary period. In case of misconduct, he shall be proceeded under the rules framed from time to time.
4. Charge report should be submitted to all concerned.

(26)

- 5 His Inter-Se- seniority on lower post will remain intact as per Rules (17)(4) of Appointment, Promotion and Transfer Rules, 1989.
- 6 No TADA is allowed for joining the duty.
- 7 He will give an undertaking to be recorded in his service book to the effect that if any over payment is made to them in light this order, will be recovered and if he is wrongly promoted, he will be reversed.
- 8 Before handing over charge, his documents may be checked. If he does not possess the required relevant qualification as per rules, he may not be handed over the charge of the post.

(Samina Altaf)
Director
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

No: 4172-76 /F.No. (AD/Lit-II)/SA No. 887/2020/Jan Baz/2023. Dated Peshawar the: 23/2 /2024

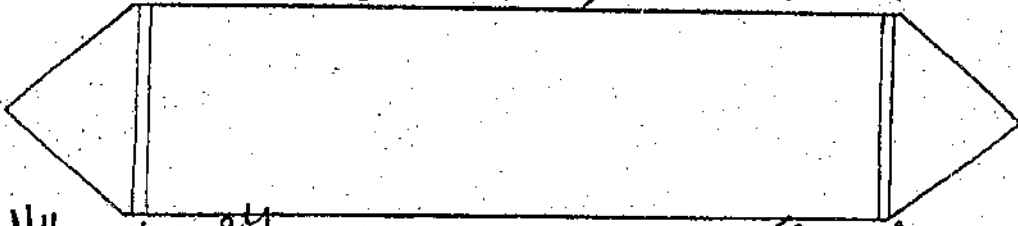
Copy forwarded for information & reaction to lit:-

- 1 Learned Registrar Khyber Pakhtunkhwa Service Tribunal, Peshawar.
- 2 Learned AAG Khyber Pakhtunkhwa Service Tribunal, Peshawar.
- 3 District Education Officer (Male) Bannu.
- 4 District Accounts Officer District Bannu.
- 5 Deputy Director (Legal) E&SE Khyber Pakhtunkhwa
- 6 Section Officer (Lit-II) E&SE Department Khyber Pakhtunkhwa.
- 7 PA to Additional Secretary (General) E&SE Department Khyber Pakhtunkhwa.
- 8 PA to Director E&SE Khyber Pakhtunkhwa.
- 9 Official concerned
- 10 Master File.

Added
Yous
Advocate,
CEIS Coord. Member

AFM
Assistant Director (Estab-M-1)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar
27/2/2024

بعدالت سرور مرکز لٹنار



20²⁴ منجانب اللانہ
 مبارک علی شاہ بنام ایجوکیشن و
 کونسل

موزعہ
 مقدمہ
 دعویٰ
 جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ
 آن مقام لٹنار کیلئے لعقوبہ خان ریلو وکٹ
 مقرر کر کے اتر کر کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
 وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث ہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
 بسورت ڈگری کرنے اجراء اور صولی چیک درو پیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
 زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی
 نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
 کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
 ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ
 پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔
 کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
 مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

المرقوم 5
 ماہ الکتبت 24 20

العبد الغیر

بمقام لٹنار کے لئے منظور ہے۔

Attested & Accepted

Jaube

Mubarak Ali Shah