

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

**Service Appeal No: 730/2024**

**Mst: Zubaida Khatoon, Ex-SST (BPS-16) GGHS Kotha Swabi..... Appellant**

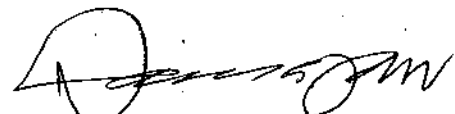
**VERSUS**

**The Secretary E&SE Department & others..... Respondents**

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**SAMINA ALTAF  
DIRECTOR**



**AUTHORIZED OFFICER  
ABDUS SAMAD  
DEPUTY DIRECTOR**

E&SE Department Khyber  
Pakhtunkhwa, Peshawar.

(1)

**BEFORE THE HONORABLE KHYBER PAKHATUNKHWA  
SERVICE TRIBUNAL PESHAWAR.**

**Service Appeal No: 730/2024**

**Mst: Zubaida Khatoon, Ex-SST (BPS-16) GGHS Kotha Swabi..... Appellant**

**VERSUS**

**The Secretary E&SE Department & others..... Respondents**

**JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS No: 1 to 3.**

**Respectfully Sheweth,**

The Respondents submit as under.

Khyber Pakhtunkhwa  
Service Tribunal

Discy No. 16165

Dated 30-09-24  
Slip not printed.

**PRELIMINARY OBJECTIONS.**

- 1 That the Appellant has got no cause of action and locus standi to file instant appeal before this Honorable Tribunal against the Respondents.
- 2 That the appellant is not an aggrieved person within the meaning of Section-4 Khyber Pakhtunkhwa Service Tribunal Act 1974 read with Article-212 of the constitution of Islamic Republic of Pakistan 1973.
- 3 That the impugned Notification dated 16-01-2024 regarding the reversion of the appellant from SST (G) BPS-16 to SCT in BPS-16 is legal & liable to be maintained.
- 4 That the Notification dated 16-10-2017 has been re-called in compliance of the Judgment dated 12-06-2019 in CP No. 2070/2017 filed by the Department against the Judgment dated 19-04-2017 of the Honorable High Court in WP No. 2766/2016.
- 5 That the degrees & certificates regarding BA BSc, MA MSc, B.Ed & M.Ed of the Al-khair University AJK are not admissible under the Rules & Policy also endorsed by the august Supreme Court of Pakistan in his Judgment dated 12-06-2019, whereby, the Judgment dated 19-04-2017 of the Honorable Peshawar High Court was struck down.
- 6 That the appeal is not maintainable in terms of the inquiry report dated 18-12-2023 and even incompetent under the relevant provision of law & rules in vogue.
- 7 That the appellant is estopped by her own conduct to file the instant appeal against the Respondent Department.

- 8 That the appellant has not come to this Honorable Tribunal with clean hands and has also concealed material facts from the ambit of this Honorable Tribunal in the titled appeal.
- 9 That the appeal is bad for mis-joinder and non-joinder of necessary parties to the titled appeal.
- 10 That the appeal in hand is pre mature, hence, liable to be dismissed on the sole ground of maintainability under the rules because the appellant is not entitled for her restoration against the SST (G) in BPS-16 post.
- 11 That the act of the Department with regard to the Notification dated 16-01-2024 is in compliance of the Judgment dated 20-03-2018 of the Honorable High Court in WP No. 470-M/2016 Faiz Ur Rehman Vs Govt: of KP, wherein, vide Para-15 of the Judgment supra, the colleges of Al-Khair University AJK have been declared illegal & without the permission of the HEC Govt: of Pakistan.
- 12 That the appellant could not acquired her BA/B.Ed from any other accredited University other than the Al-Khair University AJK.

**ON FACTS.**

- 1 That Para-1 pertains to the service record of the appellant against the SST (G) in BPS-16 post in GGHS Kotha Swabi in view of the Notification dated 16-10-2017, whereby, the appellant was promoted from the post of SCT to the post of SST (G) in BPS-16 in terms of 20% reserved quota against 04 vacant posts out of total 07 posts, wherein, promotion has already been made on 03 posts by the Department. ***Copy of the said Notification dated 16-10-2017 is Annex-A.***

However, vide Notification dated 16-01-2024, the promotion Notification of the appellant dated 16-10-2017 from the post of SCT to SST in BPS-16 was withdrawn/re-called by the Respondent No. 2 in terms of the inquiry report dated 05-12-2023 on the grounds mentioned in S.No. 5 (b) which is reproduced as under:

***"The teachers namely Mst: Zubaida Khatoon SST in BPS-16 & Mst: Rehana Kaosar SST BPS-16 of District Swabi have failed to comply with the directions of the Honorable Peshawar High Court, Peshawar vide Judgment ibid (20-03-2018) with regard to acquire the BA/B.Ed Degrees other recognized Universities. Hence, their promotion orders may be withdrawn/re-called on the grounds of being void & ab-initio forthwith by the competent authority."***

2 That Para-2 is correct that as per Judgment dated 20-03-2018 rendered in WP No. 470-M/2016 Faiz Ur Rehman Vs Govt: the following colleges namely: -

1. College of Global Technologies/AUSWT.
2. Iqra Institute DIK (AUDIK).
3. Daggar Education College Buner (AUBN).
4. IER Peshawar/AUP (E).
5. Jinnah Institute of IT & MS DI Khan (AUBI).
6. Peshawar HITCH Degree College (AUPHT) &
7. Ihsan Post Graduate College Kohat (AUAPG) (K)

have been declared illegal & without permission of the HEC Govt: of Pakistan with further observations that degrees, Diplomas & Certificates obtained from the Al-Khaur University AJK Campuses & affiliated institutions at KP are illegal, un verified & un-recognized as such the same are not valid for the purpose of seeking employment in any Government Department, however, all those who are appointed & are still in service on the basis of said degrees etc are given two years' time to get the equivalent qualification from any recognized institution *(Copy of the Judgment dated 20-03-2018 is attached as Annex-B)*.

3. That para-3 is correct that a WP No. 2766-P/2017 with CM no. 1793/2017 was filed by the Petitioners with the prayer for:

- i. To direct the Respondents to accept/treat their educational certificates obtained from Al-Khair University.
- ii. To direct the Respondents not to treat their educational certificates/degrees obtained from the said university as hindrance/obstacle which was allowed vide Judgment dated 11-09-2017 with the observations that certificates/degrees of the petitioners of Al-Khair University have not been obtained in between the period from 30-04-2009 to 16-10-2011 then the same shall be considered valid for all intents & purposes by the Respondents which was implemented vide Notification dated 16-10-2017 & subsequent adjustment order of the appellant at GGMS Kotha Swabi as SST on 23-11-2017. *(Copy of the said Judgment is attached as Annex-C)*

4. That Para-4 is correct that vide Notification dated 16-10-2017 & subsequent Notification dated 23-11-2017, the appellant was appointed & adjusted against the SST (F) in BPS-16 post in compliance of the Judgment dated 19-04-2017 of the Honorable High Court in WP No. 2766-P/2016 conditionally, till the final decision upon the pending CPLA/CP No. 2070/2017 which was disposed of vided order dated 12-06-2019 in favor of the Respondent Department, hence, resulted in the Notification dated 25-01-2022 of the Respondent Department against the appellant.

5. That Para-5 is correct that vide Notification dated 25-01-2022 the Respondent No. 2 has re-called the Notification dated 16-10-2017 regarding the promotion of the appellant against the SST (G) BPS-16 District Swabi by the Respondent No. 2 under the provision of Section-21 of General Clauses Act, 1897 in compliance of the order dated 12-06-2019 passed by the august Supreme Court of Pakistan in CP No. 2070 of 2017 under petition titled Maqsd Hayat VS Secretary E&SED KP & others *attached as Annex -D*.
6. That Para-6 is incorrect & mis-leading on the ground that the judgment dated 12-06-2019 of the august Supreme Court of Pakistan is a judgment in "Rem" & equally applicable upon the case of the appellant on the grounds of being on the same pedestal as evident from the Notification dated 25-01-2022 the Respondent No. 2 moreover, the apex court of law has also struck down the Judgment dated 16-10-2017 of the Honorable Peshawar High Court rendered in Writ Petition No. 2766-P/2016, wherein, the appellant was also a petitioner before the High Court & Respondent in CP No. 2070/2017 before the august Supreme Court of Pakistan (*Copy of the Judgment dated 19-04-2017 is attached as Annex-E*).
7. That Para-7 is correct to the extent of Notification dated 17-03-2022, whereby, the Notification dated 25-01-2022 has re-called *attached as Annex-F*.
8. That Para-8 is correct to the extent of Notification dated 16-01-2024, whereby, the Notification dated 17-03-2022 was re-called & resultantly the Notification dated 25-01-2022 was restored automatically in terms of the inquiry report dated 05-12-2023 constituted vide Notification dated 16-10-2023 by the Respondent No. 2. *Copies of the Notification dated 16-10-2023 & inquiry report dated 05-12-2023 are attached as Annex-G & H*.
9. That Para-9 is incorrect, the Notification dated 16-01-2024 is legal & has been passed in the light of the inquiry report dated 05-12-2023 by the Department, whereby, the appellant has reverted to the post of SCT (BPS-16) & due to her retirement the DEO concerned was directed for processing the pension case of the appellant to the Respondent No. 2 as evident from the letter dated 26-04-2024, therefore, a Departmental appeal was seen & filed on the grounds of having no legal force & justification by the Respondents. (*Copy of the letter dated 26-04-2024 attached as Annex- I*).
10. That Para-10 is also incorrect as the act of the Department with regard to the impugned Notification dated 16-01-2024 is legal, therefore, the appeal in hand is liable to be dismissed on the following ground inter alia: -

ON GROUNDS.

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- A. Incorrect & not admitted, the Notification dated 16-01-2024 is legally competent & even in accordance with norms of natural justice.
- B. Incorrect & not admitted. The appellant has been treated as per law & Rules vide Notification dated 16-01-2024 by the Respondents & has not violated the provisions of Article-4 & 25 of the constitution of 1973 by the Respondents.
- C. Incorrect & not admitted, the plea of the appellant is illegal in terms of the submission made by the respondents in the forgoing paras by the Respondents.
- D. Incorrect & not admitted, the stand of the appellant is against the law, Rules & policy, hence, reserved to be rejected.
- E. Incorrect & not admitted, the statement of the appellant is without any proof & justification, hence, liable to be rejected.
- F. Incorrect & not admitted, the act of the Department with regard to the Notification dated 16-01-2024 is legal.
- G. Incorrect & not admitted, already replied above.
- H. Incorrect & not admitted, the Notification dated 16-01-2024 is legal in all respect, hence, liable to be maintained, however, the Respondents further seek leave of this Honorable Tribunal to submit additional grounds record & case law at the time of arguments on the date fixed in the titled case.

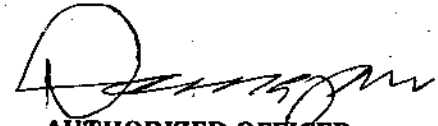
**PRAYER**

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In view of the above made submission it is requested that this Tribunal may very graciously be pleased to dismiss the instant service appeal with cost in favor of the Respondent in the interest of justice please.

Dated \_\_\_/\_\_\_/2024.

**SAMINA ALTAF  
DIRECTOR**



**AUTHORIZED OFFICER  
ABDUS SAMAD  
DEPUTY DIRECTOR**

E&SE Department Khyber  
Pakhtunkhwa, Peshawar.

*Respondent-2*

**MASOOD AHMAD  
SECRETARY**



**AUTHORIZED OFFICER  
FAIZ ALAM**

**ADDITIONAL SECRETARY (G)**

E&SE Department Khyber  
✓ Pakhtunkhwa, Peshawar.

*Respondent No-1*

**BEFORE THE HONORABLE KHYBER PAKHATUNKHWA  
SERVICE TRIBUNAL PESHAWAR.**

**Service Appeal No: 730/2024**

**Mst: Zubaida Khatoon, Ex-SST (BPS-16) GGHS Kotha Swabi..... Appellant**

**VERSUS**

**The Secretary E&SE Department & others..... Respondents**

**AFFIDAVIT**

***I, Samina Altaf Director E&SE Khyber Pakhtunkhwa, do hereby solemnly affirm & declare on oath that the contents of the instant para wise Comments are true & correct to the best of my knowledge & belief. It is further stated on oath that in this appeal the answering Respondents have neither been placed Ex-Parte nor their defense has been struck off/cost.***

**SAMINA ALTAF  
DIRECTOR**



**AUTHORIZED OFFICER  
ABDUS SAMAD  
DEPUTY DIRECTOR  
E&SE Department Khyber  
Pakhtunkhwa, Peshawar.**



**30 SEP 2024**



SSTs (F) Swabi 1



**Directorate of Elementary and Secondary Education  
Khyber Pakhtunkhwa Peshawar**

Ph No. 091-9225340-9225341  
9225338, 9225339  
Fax 091-9225345  
E-mail rafiq\_kk851@yahoo.com

(A)

**Notification**

Consequent upon the recommendations of the Departmental Promotion Committee and in pursuance of the Government of Khyber Pakhtunkhwa Elementary and Secondary Education Notification No. SO(PE)/4-5/SSRC/Meeting/2013/Teaching-Cadre dated 24<sup>th</sup> July, 2014, the following SCTs/CTs, SDMs/DMs, SATs/ATs, STTs/TTs, Senior Qariyas/Qariyas, PSHTs/SPSTs/ESTs are hereby promoted to the post of SST (Bio-Chem), SST (Phy-Maths), SST (General) noted against each BPS-16 (Rs. 18910-1520-6460) plus usual allowances as admissible under the rules on regular basis under the existing policy of the Provincial Government, on the terms and condition given below with immediate effect and further they will be posted by the District Education Officer concerned.

**A. SST (General)**

**1. PROMOTION OF SCT/CT TO SST (General) BPS-16**

Total No. of SST General (F) Posts vacant Posts	20
25% share initial recruitment	05
75% share for Promotion	15
20 % Share of promotion of SCT/CT	07
Already Promoted as SST General	09
Posts available for promotion	04
Promoted through this order	02

S.No	S.L No	Name of Official & Present Place of Posting	Date of Birth	Date of Appoint as Regular SGT	Qualification	Remarks
5	40	Zubeda Khatoon GGHSS Kqlabat	05-05-1964	01-11-1995	MA/M.Ed	Services placed at the disposal of DED (F) Swabi for further posting against SST (General) post.
6	50	Rehana Khusar GGHSS Gar Munara	15-04-1972	23-06-1997	Mr./M.Ed	do

**2. PROMOTION OF PSHT/SPST/EST TO SST (General) BPS-16**

Total No. of SST General (F) Posts vacant Posts	20
25% share initial recruitment	05
75% share for Promotion	15
20 % Share of promotion of PSHT/SPST/EST	04
Posts available for promotion	01
Promoted through this order	01

S.No	S.L No	Name of Official & Present Place of Posting	Date of Birth	Date of Appoint as Regular PST	Qualification	Remarks
1	148	Rajda Begum GGPS Kunda	02-10-1956	07-8-1985	BA/B.Ed	Services placed at the disposal of DED (F) Swabi for further posting against SST (General) post.

*(Handwritten signature)*

**Terms and conditions:-**

1. They would be on probation for a period of one year extendable for another one year.
2. They will be governed by such rules and regulations as may be issued from time to time by the Govt.
3. Their services can be terminated at any time, in case their performance is found unsatisfactory during probationary period. In case of misconduct, they shall be proceeded under the rules framed from time to time.
4. Charge report should be submitted to all concerned.
5. Their Inter-Se seniority on lower post will remain inroad.
6. No TA/DA is allowed for joining his duty.
7. They will give an under taking to be recorded in their service book to the effect that if any over payment is made to him in light this order will be recovered and if he/she is wrongly promoted he/She will be reversed.
8. They will be governed by such rules and regulations as may be issued from time to time by the Govt.
9. Before handing over charge once again their document may be checked if they have not the required relevant qualifications as per rules, they may not be handed over charge of the post.

(Muhammad Rafiq Khattak)

Director  
Elementary and Secondary Education  
Khyber Pakhtunkhwa Peshawar.

Endst. No. 2851-55 / File No. 2/Promotion SST D-16 Dated Peshawar the 16/10/2017.

Copy forwarded for information and necessary action to the:-

1. Accountant General Khyber Pakhtunkhwa Peshawar.
2. District Education Officer concerned.
3. District Accounts Officer concerned.
4. Official Concerned.
5. PS to the Secretary to Govt. Khyber Pakhtunkhwa E&SE Department.
6. PA to the Director E&SE Khyber Pakhtunkhwa Peshawar.
7. M/File.

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

172-C

148  
788

Judgment  
**BEFORE PESHAWAR HIGH COURT,  
PESHAWAR.**

Judicial Department.



Writ Petition 470-M of 2016.

Writ of Habeas Corpus.....Petitioner.

Vs

Director Elementary & Secondary Education, Khyber Pakhtunkhwa & others.....Respondents.

Date of hearing.....20<sup>th</sup> March, 2018.....

Petitioner(s) by *M. Anwar-ul-Haq, Advocate*

Respondent(s) by *M. Mansoor Faraz, Mahamud Ali Jaleel, P. Naveed Karim, Barrister-at-Law. Qasim Siddiqui, M. Iqbal Anwar, J. B. B.*

**WAQAR AHMAD SETHI, J.** - Through this single

judgment we intend to decide the instant writ petition as well as connected writ petitions bearing No. 355, 392, 456, 471, 472, 617, 683 & 598-M/2016, COC No. 35-M/2017 in WP No. 375-M/2016 & COC No. 36-M/2017 in WP No. 280-M/2016, 69, 190, 195, 216, 239, 240, 243, 282, 294, 295, 310, 346, 363, 372, 406, 494 & 697-M/2017, 1088, 1317, 1318, 1473, 2138, 2147, 2148, 2169, 2215, 2321, 3914, 4533, 4640 & 4680-P of 2017 & COC No. 577-P/2017 in WP No.

**ATTESTED**  
EXAMINER  
Peshawar High Court  
25 MARCH 2018

DR HAYAT KHAN  
Assistant Director  
Educational Department  
Khyber Pakhtunkhwa Peshawar

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2766-P/2017, as all are the outcomes of Al-Khair University, AJ&K.

2. In essence the case of petitioner is that, pursuant to the advertisement for the post of CT, DM, PET, AI, TI & PST, petitioner being eligible & fit qualified and after test was placed at serial No.3 of the merit list for OPS Darsht Nazkum for the post of PST with 108.15 marks but the official respondents in total violation of the law / rules have appointed private respondents, having degrees from Al-Khair University, AJ&K, which are illegal / unlawful and hasn't been verified, hence the instant writ petition.

WP No. 355-M/2016.

Petitioner of the instant case, applied for the post of PST and after codal formalities secured 84.89% marks and was placed at serial No. 39. That some candidates did not appear and petitioner was placed at 23 of merit position, but respondents in utter violation of rules have appointed respondents No. 6 & 7 having degrees from Al-Khair University, hence the instant writ petition.

ATTESTED  
EXAMINER  
26 MAR 2016

WP No. 471 & 472-M/2016.

Petitioners of the instant writ petition applied for the post of 'PST' and after NTS declared successful but the official respondents in total violation of the law / rules have appointed private respondents, possessing fake and fabricated degrees from Al-Khair University, AJ&K, which hasn't been verified.

WP No. 1088 & 1317-P/2017.

Petitioners of the instant writ petition applied for the advertised posts of CT etc and after test through NTS, secured meritorious position but respondents have refused appointment on the ground of verification of degrees, so obtained by the petitioners from Al-Khair University, hence the instant writ petition.

WP No. 392-M/2016.

Petitioners of the instant petition applied for the advertised post of CT and PST. Petitioners No.1 to 3 applied for CT while petitioners No.4 to 6 applied for PST, and have secured meritorious position, but vide impugned appointment orders dated 17.3.2016 & 25.3.2016; petitioners have not been selected despite their merit position on the ground of possessing degree from Al-Khair University, Swat Campus, hence the instant writ petition.

**ATTESTED**  
EXAMINER  
Provincial High Court  
26 MAR 2016

WP No. 683-M/2016.

Petitioner applied for the post of PST and secured 85.40 marks in the schools applied for, but vide impugned appointment order dated 13.4.2016, petitioner was refused appointment on the ground of degree obtained from Al-Khair University, Muzaffarabad, hence the instant writ petition.

COC No. 35 & 36-M/2017 in WP No. 379 & 280-M/2016.

Through this contempt petition, petitioner's wants initiation of contempt proceedings against respondents for flouting the judgment of this Court dated 6.2.2017.

WP No. 190-M/2017.

Petitioner of the instant writ petition applied for the post of PST through NTS and got 7<sup>th</sup> position in the merit list. On 24.3.2017 interview was conducted and petitioner was placed at 13<sup>th</sup> position by respondents and as such deprived from appointment as petitioner obtained his Master's degree from Al-Khair, University, Bhimber, hence the instant writ petition.

WP No. 216-M/2017.

Petitioners of the instant writ petition applied for the posts, so advertised by the respondents and after going through NTS, they were declared successful, but were differed

1. ~~ATTESTED~~  
 [Signature]

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appointment for want of verification of their degrees, which have been obtained from Al-Khair University.

WP No. 125-M/2017.

Petitioners of the instant writ petition applied for the advertised post of PST and after test through NTS, declared successful, but were excluded from on the pretext of having BS & ADE degrees from Al-Khair University, hence the instant writ petition.

WP No. 2321-P/2017.

Petitioner of the instant petition, applied for the post of SST and declared by the NTS authorities, but respondents have refused appointments on the ground of having B.Ed from Al-Khair University, hence the instant writ petition.

WP No. 3914-P/2017.

Petitioners of this writ petition have obtained their respective degrees from Al-Khair University and on the basis of same, most of the petitioners are serving in different departments / education department. That petitioners have applied to respondents No.1 to 4 for attestation of their testimonials, but they blatantly refused on the pretext of obtaining degrees from Al-Khair University, hence the instant writ petition.

ATTESTED  
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WP No. 4533 & 4690-P/2017.

Petitioner applied for the post of PST and declared successful by NTS, and secured 108.05 marks, but was deferred by respondent No.3 on the ground of D.A/M.A degree from Al-Khair University, hence the instant writ petition.

WP No. 243 & 282-M of 2017.

Petitioner of the instant case applied for the advertised post of PST in Districts Shingla / Swat and after going through NTS, secured meritorious position, but respondents have excluded the marks of MA on the plea of Al-Khair University and thereby appointed private respondents, hence the instant writ petition.

WP No. 294 & 295-M/2017.

Petitioners of the instant petition applied for the advertised post of Arabic Teacher / Qaria and after conducting test by NTS authorities stood 1<sup>st</sup> & 3<sup>rd</sup> of the merit list of Arabic Teacher / Qaria, but were deferred appointment by respondents on the plea of BA degree from Al-Khair University, hence the instant writ petition.

WP No. 310-M/2017.

Petitioner of the instant case applied for the post of PST in union council Shemozal Tehsil Barikot, Swat and applied for

**ATTESTED**  
By  
[Signature]  
[Name]  
[Designation]



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all schools including GPS Nimogram and after going through the NTS, secured meritorious position, however petitioner was shown to have applied for four schools for which he submitted application for correction, but of no avail and on issuing the impugned appointment notification, petitioner was deprived from appointment with the remarks that the Associate Degree in Education (ADE) of petitioner is obtained from Al-Khair University, hence the instant writ petition.

WP No. 346, 406 & 494-M/2017.

Petitioners of the instant writ petition have applied for the advertised post of PST, CT and SST and after going through the test conducted by NTS, declared successful but their appointment orders have been withheld by the respondents on the plea of verification of their ADE, so obtained from Al-Khair University, hence the instant writ petition.

WP No. 1318, 1473, 2136, 2147, 2148, 2169 & 2215-P/2017.

Petitioners of the instant petitions applied for the advertised posts and after getting meritorious marks, their appointment orders were with held by respondents on the plea of verification of degree from Al-Khair, University, hence the writ petitions.

ATTESTED  
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[Stamp]  
[Signature]

17.

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WP No. 69-M/2017, 456 & 698-M/2016.

Petitioners of the quoted writ petitions applied for the advertised posts of PST / DM / CT and after securing meritorious position, got appointed as such and thereafter they took over the charge of the posts and joined their duties, and since then till date petitioners have performed their duties, but on 27.8.2015 / 22.11.2016 / 26.7.2016, their appointment orders were withdrawn, hence the instant writ petitions.

WP No. 239, 240, 368 & 372-M/2017.

Petitioners of the instant writ petitions in pursuance to the advertisement applied for their respective posts and after usual formalities declared successful and appointed as such and since their appointment till date they are performing the duties, but respondents have withheld their salaries and refused to extend their tenure of contract on the basis of verification of degrees, so obtained by them from Al-Khair University, vide impugned orders dated 15.5.2017 & 18.5.2017 in WP No. 372 & 368-M/2017, respective, hence the instant writ petitions.

WP No. 4640-P/2017, 617-M/2016 & 697-M/2017.

Ordeevance of the petitioners of the instant writ petitions are that, they have rendered spotless and unblemished services and now are eligible for promotion to the post of SST, but

ATTEST  
EXAMINER  
POST OFFICE  
20 MAR 2018

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respondents are denying the same on the pretext of having degrees from Al-Khair University, hence the instant writ petition.

COC No. 577-P of 2017 in WP No. 2766-P/2017.

Through the contempt petition in hand, petitioners wants initiation of contempt proceedings against respondents for flouting the judgment of this Court whereby they were directed that if the certificates / degrees of the petitioners from Al-Khair University have not been obtained in between the period from 30.4.2009 to 16.10.2011, then the same shall be considered as valid for all intents and purposes by the respondents, hence the petition.

3. We have heard learned counsel for the parties and available record gone through.

4. The controversy involved in all the writ petitions is that the degrees, diplomas and certificates obtained from Al-Khair University, AJ&K, its campuses in Pakistan and the affiliated institutions, with the said university, are valid & recognized for the purpose of obtaining job / employment in any of the Government institution or not. In order to dilate upon the issue it would be imperative to go through the judgment of apex Court in this respect. In the case of "Tajir Nasir

**TESTED**  
MAY 11 2017  
POSTAL & TELECOMMUNICATIONS

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Mehmood versus Miss Inuran Musnad and others reported

in PLD-2010 SC-1082. It has been held as under:-

(a) Representation of the People Act [LXXXV of 1976]—

—S. 29(ec)—Bachelor's degree—Recognition—Higher Education Commission, role of—Scope—Degree which is not recognized by Higher Education Commission is worthless like a piece of paper and such degree cannot be equated to that of a "Degree" because every degree is subject to recognition which provides sanctity to a degree—Degree which is not recognized by Higher Education Commission cannot be declared as a valid "degree"—Words "Bachelor's degree" as used in section 29(ec) Representation of the People Act, 1976, means a degree which is valid one and recognized by Higher Education Commission—Question of recognition does fall within the jurisdictional domain of Higher Education Commission—Validation of a degree depends upon its recognition—Higher Education Commission is not an alien entity in such like matters."

5. In the above cited judgment the apex Court also dilated upon the role of Higher Education Commission, established under the Ordinance, 2002 in terms that "Powers and functions of Higher Education Commission—Scope—Higher Education Commission may determine equivalence and recognition of degrees, diplomas and certificates awarded not only by institutions within the country but, as well as the institutions functioning abroad," and as such the parameters, powers and functions of the Higher Education Commission, in this background are narrated below;

6. The Commission has been established under the Higher Education Commission Ordinance, 2002 (hereinafter

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referred to as the "Ordinance of 2002"). The said legislative enactment was published in the official gazette on 11.09.2002. Section 2(h) defines "Institutions" as meaning any university or other degree awarding institution that offers higher education or is involved in research and development activities. "Degree Awarding Institution" is defined in section 2(e) as meaning an institution imparting higher education and awarding a degree of its own. Likewise, "University" is defined in section 2(m) as meaning a university established or incorporated under any law for the time being in force. The Commission has been established under section 4 and its composition is provided under section 6. Section 10 describes the functions and powers of the Commission. The powers vested in the Commission are expansive and, inter alia, include the formulation of policies, guiding principles and priorities for higher education institutions for the promotion of the socio-economic development of the country. It also includes the evaluation of the performance of institutions and prescribing the conditions under which institutions, including those that are not part of the State educational system, may be opened and operated. Clause (d) of sub-section (1) of section 10 is relevant in the facts and circumstances of the instant case. Clause (e) of section 10(1)

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explicitly empowers the Commission to determine the equivalence and recognition of degrees, diplomas and certificates awarded by institutions within the country and abroad. Likewise, clause (p) empowers the Commission, as a regulator, to develop guidelines and facilitate the implementation of a system of evaluation of the performance of faculty members and institutions. Clause (s) vests the jurisdiction in the Commission to collect information and statistics on higher education and institutions as it may deem fit and may cause it to be published. Lastly, clause (y) empowers the Commission to perform other such functions consistent with the provisions of this Ordinance as may be prescribed or as may be incidental or consequential to the discharging of the functions described in section 10. Accreditation of institutions offering higher education is also an important function entrusted to be performed by the Commission.

7. The Ordinance of 2002, when read as a whole, unambiguously shows that the legislature has intended to establish the Commission as the exclusive regulatory authority relating to higher education and the educational institutions which offer programs relating thereto. The powers vested in the Commission and its jurisdiction extends to the whole of

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Pakistan. It is important to note that the legislative enactments under which institutions are established are subject to the regulatory framework contemplated under the Ordinance of 2002. There is no force in the argument that since the statute or charter which has established an institution has explicitly empowered it to open campuses or grant affiliations, therefore, provisions of the Ordinance of 2002 will not be attracted. The charter or statute which creates a juridical person, does not render the latter immune or exempt it from the regulatory regime which is contemplated under the Ordinance of 2002. The latter enactment has established a regulatory authority and has equipped it with expansive powers and jurisdiction to achieve the objects and purposes for promulgation thereof. The Commission is the sole and exclusive regulatory authority of higher education, the institutions established under any law and all matters related therewith. No institution can claim to have unfettered power on the basis of the statute or law which has created it to open campuses or grant affiliations. The statutes which establish juridical or statutory persons are subservient to and are governed for the purposes of being regulated under the provisions of the Ordinance of 2002. Be as it may, no educational institution, whether established in Pakistan or

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should not lawfully open campuses or grant affiliations to other educational institutions without the express approval of the Commission. The latter is the sole regulatory body to evaluate the institutions and monitor their performance so as to ensure that quality education is offered to the public. The Commission, therefore, has been mandated to make certain that the educational institutions offering higher education meet the prescribed guidelines and criteria. The object and purpose is obviously to guarantee quality education.

8. Record suggests that Al-Khair University is a chartered university and is established through an Act passed by the Assembly of State of Azad Jammu & Kashmir on 9<sup>th</sup> May 1994 vide Act XXVIII of 1994 and according to its section 1(2); it extends to the whole of Azad Jammu and Kashmir and according to Chapter -2 para-4 the university shall be opened to all persons of either sex of whatever religion, race, creed, colour of domicile, who are academically qualified for admission to the courses of study offered by the university and no such person shall be denied the privilege on the ground only of sex, religion, creed, race, class, colour or domicile. In Chapter-II para-5, the powers and functions of the said university has been defined, being an autonomous body, a full-

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pledged university in all respect with the powers to admit and examine internal and external students and to confer or award degrees, diplomas, certificates and other academic distinctions on and to the persons, who have passed its examination under prescribed condition. Section-5 (IV) of the Act further says that to affiliate itself or associate with other institutions of the Azad Jammu and Kashmir, Pakistan or any other country and to establish campuses offices / campuses, faculties in Azad Jammu & Kashmir, Pakistan or abroad. In the comments so filed by Al-Khair University / respondent No.7, in the instant writ petition no document whatsoever has been enclosed showing that the campuses at Pakistan of Al-Khair University, AJ&K or its affiliated institutions is given recognition, affiliation by the concerned, as per law of the land nor anything is on record showing that the degrees, diplomas or certificates issued by the Al-Khair University AJ&K to the students at different institutions at Pakistan and specially Khyber Pakhtunkhwa have been verified, validated or recognized by the Competent Authority i.e Higher Education Commission or for that matter Authorities under the University authority under Act of 2016.

9. Record is further suggestive that initially Al-Khair University AJ&K was advised by Higher Education

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Commission vide its letter dated 16.3.2009 to stop all new admission in its academic program immediately and no degree issued by Al-Khair University would be recognized by the Commission of any student admitted into any program after 30<sup>th</sup> April, 2009 in campuses / affiliated institution in Pakistan but subsequently, Higher Education Commission in its letter dated 17.10.2011, allowed Al-Khair University to launch degree program in the departments of Management Sciences, Computer Sciences, Pakistan Studies, Islamic Studies, Education and Urdu. The subsequent letter dated 17.10.2011 reads as under:-

**SUBJECT: INSPECTION OF AL-KHAIR UNIVERSITY  
DHIMBER, AJ&K**

Dear Sir,

With reference to your letter No. AL-1(7)CA/2010 dated 19<sup>th</sup> September, 2011 and on the recommendation of the Inspection Committee the competent authority has been pleased to allow the Al-Khair University, Dhimber to launch degree programs in the Department of Management Sciences, Computer Sciences, Pakistan Studies, Islamic Studies, Education and Urdu subject to availability of required faculty with the following terms and conditions:

1. On campus operation at Dhimber is allowed.
2. No campuses in AJ&K and Pakistan shall be allowed.
3. No affiliation in AJ&K and Pakistan shall be permitted.
4. The university will be required to submit on judicial paper duly notarized and registered in Court of law they will operate only on campus at Dhimber.
5. University will not institute any legal proceedings against the HEC in AJ&K and Pakistan.

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10. The above quoted letter would clearly show that only operation at Bhimber campus was allowed and specifically no other campus in AJ&K and Pakistan was allowed to operate, impart education or issue the degrees / certificates. In addition to this even affiliation in AJ&K and Pakistan was not permitted. There is another letter dated 18.10.2012 issued by the Higher Education Commission, which reads as under:-

Subject: VERIFICATION OF B.ED. DEGREES ISSUED BY AL-KHAIR UNIVERSITY.

"With reference to your letter No. ST/SZ/35769/2012 dated 17.10.2012 on the subject cited above. It is to inform that the Al-Khair University, Bhimber, AJ&K is a chartered university in private sector. The Higher Education Commission does not recognize the degrees of the studies admitted during the period of 30.4.2009 to 16.10.2011. However, the degrees / transcripts issued by the Al-Khair University through its main campus from the date of its enactment in 1994 and onward (except of the above said period) are validated / recognized by the higher Education Commission."

11. Yet another letter dated 24.9.2014 was addressed to the Al-Khair University by the Higher Education Commission, whereby University was allowed to offer admissions only at its Bhimber campus. Respondent No.7 / Al-Khair university have enclosed No Objection Certificate dated 21.8.1997 issued by Government of Khyber Pakhtunkhwa Education Department which reads "The Government of Khyber Pakhtunkhwa has no objection to the functioning of academic / constituent institutions of the Al-Khair University (AJ&K) in the

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*Territorial Jurisdiction of NWFP now Khyber Pakhtunkhwa.*

The said no objection certificate issued by the Education Department under no circumstances could be termed as affiliation or recognition of the AJ&K Al-Khair University in the Province of Khyber Pakhtunkhwa, as well. Alongwith the comments of respondent No.7, they have not enclosed other document showing that their campuses are affiliated institutions and recognized, validated by the Higher Education Commission.

12. We have before us CM No. 1442-M/2017 an application for submission of documents by HEC / respondent No.6, alongwith documents 63 in numbers, which are dated 16.10.2017 with the subject of verification status of DMCs by Higher Education Commission, these verifications are by name and clearly shows the words that "HEC does not attest degrees / DMCs of those students who studied in un recognized / illegal colleges / campuses of Al-Khair University AJ&K". We have before us the guidelines for the establishment of a new university or an institution of Higher Education and according to which following procedure is supposed to be adopted for the particular purpose.

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## Rule 2.2 reads Completion of legal formalities.

2.2.1. The first step in connection with the establishment of a new university or an institution of higher education is the fulfillment of legal formalities and registration by the sponsoring body under the relevant regulations of the Companies Ordinance, Societies Registration Act / Trust Act as a Foundation / Society or a Trust constituted. This formality is not required in case the institution is desired to be established in the public sector.

## 2.3. Submission of feasibility report.

2.3.1. Following the completion of preliminary legal requirements, the authorized representative of the sponsors / shall submit a comprehensive feasibility report in accordance with the General Institutional Requirements Proforma (Form PU-01) along with a non-refundable bank draft / pay order of Rs. 20000/- in the name of the Higher Education Commission as a fee for the evaluation of the feasibility report. An application shall be considered only when the fee is credited to the account of the HEC and the agency has fulfilled all the formalities. The application shall be made to the Chairman, HEC alongwith five copies of the Feasibility Report including the soft copy.

## 2.4. Scrutiny.

2.4.1. On the basis of the documents submitted by an institution, the HEC will determine whether or not there is a prima facie case for further consideration the application. The applicant institution will be informed accordingly. If the commission finds that there is a prima facie case for further consideration, the feasibility report shall be thoroughly scrutinized by a panel appointed by the HEC. The panel will assess the application and may ask for additional information or recommended the case for preliminary inspection of the institution.

## 2.5 Site Inspection.

2.5.1. If the HEC finds that the institutions has made a good case after the clearance of the feasibility report, the HEC shall appoint an inspection Committee which will conduct a preliminary site-visit /

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inspection of the institution for physical verification of the infrastructure and available facilities with evidence and for satisfying itself and that the institution has the ability and capacity to run the academic programs. An inspection fee of Rs. 30000/- shall be charge which will be payable in advance through a non refundable bank draft / pay order in the name of the HEC by the institution concerned. The visit will require meeting with administrators, teaching staff, students and support services staff. A visit to the library and other learning resources will also be conducted.

### 2.6 Recommendation for grant of charter.

2.6.1. The Inspection Committee will report its findings to the HEC. In case of satisfactory report of inspection, the draft charter based on the model charter of the HEC as contained in this document will be vetted by the HEC. After consideration of the draft charter vis-à-vis provisions of PU, 2002, the HEC will recommended the case for grant of Charter to the Federal Government or the Provincial Government, as the case may be.

### 2.7 Grant of charter.

2.7.1. Charter will be granted subject to the jurisdiction by the parliament / president of Pakistan or a provincial assembly / governor of a province, as the case may be.

### 3.1 Criteria and requirements for the establishment of a new university or an institution of higher Education.

3.1. Institutions normally apply to the concerned Government where they are situated. In case the institution is located in the federal territory, the application shall be made to the HEC. In case an institution is based in a provincial territory, the application shall be addressed to the concerned Provincial Education Department. The Chancellors, Committee in its first meeting held on May 11, 2004 necessitated that each Provincial Government will follow the Cabinet Criteria for evaluation and grant of charter. In case of grant of provincial charter, the HEC is usually consulted by the Provincial Government. For this purpose, the clearance by the HEC shall help in facilitating the grant of charter.

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Populace High Court

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3.2.1. The organizational, legal, financial and other related formalities and requirements, including the submission of a feasibility reports are outlined in the general institutional requirements proforma and space forms as a Forms PU-01 and PU-02 and P1-02. These guidelines pertain to registration, availability of infrastructure and adequate financial resources, proposed program of study, development of academic program, teaching staff, admission criteria, fee structure, quality assurance mechanism, student supervision, assessment and examination etc. The main points of the criteria and requirements are highlighted for information of the entrepreneurs.

4.2. Legal and procedural.

- i). That the sponsoring body should be a Society / Trust or a Foundation registered / constituted under the relevant regulations of Companies ordinance / Trust Act / Societies Regulations Act. This shall not be required in case the institution is in the public sector;
- ii). A copy of the registration deed alongwith a Memorandum of association will be supplied to examine the objectives and criteria of the members. A brief profile of each member of management should also be provided.
- iii). That the sponsoring body / institution shall apply to the MEC and submit 5 copies of the feasibility report / corporate plan including the soft copy keeping in view the General Institutional Requirements Proforma as per Form PU-01.

4.3 Institutional and nendemic.

- i.
- ii.
- iii.
- iv.
- v.
- vi.
- vii.
- viii.
- ix.
- x.
- xi.
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- xiii.
- xiv.
- xv.

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xvi. That permission granted shall be restricted to a specified place and a particular course / degree. No sub campus, branch or outpost shall be established or franchised without the prior approval, of the HEC.

4.6 Monitoring.

- i.
- ii.
- iii.
- iv.
- v.

vi. The HEC would be the competent authority to grant accreditation, validate course and syllable of the university / institution, which shall be subject to quality standards set by the HEC. The accreditation will be withdrawn if found that the institution is unable to satisfactorily demonstrate its ability and commitment to achieve and maintain national academic standards.

vii. The university / institute shall be liable to provide to the representatives of the HEC, the Pakistan Engineering Council, Pakistan Medical and Dental Council or such similar relevant organization for visitation to enable them to verify that the university / institute is maintaining appropriate academic standards.

13. After evaluating the above provisions and requirements according of the law of the land, the main campus of the University of Al-Khair, which is at Dhamra AJK is the only campus verified and recognize the degrees / diplomas / certificates for the purpose of getting jobs in Pakistan. The HEC of Pakistan is the regulator of said university. According to the comments of the respondent No.6, the HEC, when it came to the notice of the HEC that Al-Khair University have extended its academic operations in Pakistan and had granted affiliation

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to other institutions besides opening franchised campuses, record suggests that all these have been done without obtaining approval / NOCs from the HEC and as such these institutions have no legal authority to impart education. According to the comments so filed by respondent No.6, all these institutions and affiliated campuses are with poor quality of teaching, weak assessment and evaluation system, non declaration of results and award of low quality of education, which has become a regular feature and never been addressed by the sponsors of the university despite warned in the past.

14. The higher Education Commission being regulator of Higher Education sector in Pakistan in both public and private sectors under sub-section (f) of section 10 of the Ordinance, 2002 have the authority to recommend chartered to award degrees. The Al-Khair university failed to remove the deficiencies after which Higher Education Commission vide its letter dated 20.5.2016 once again stop further intake of students, even at Bhimber campus, in its Ms / M.Phil / PhD Program from fall 2016. We have before us number of notices / press clipping attached with the comments of respondent No.6, wherein the HEC time and again issued public alerts through newspapers in respect of non recognition of Al-Khair

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 Postwar High Court  
 26 MAR 2018

University situated at Bhimber with effect from fall 2016, onwards. Learned counsel for respondent No.6 produced letter dated 26.2.2018, issued by Higher Education Commission, which reads as under:-

Subject: VERIFICATION OF DETAILED MARKS CERTIFICATE OF ILLEGAL COLLEGES OF AL-KHAIR IN THE KPK.

"It is informed that Al-Khair University, AJ&K, in total violation of its own law has extended its operations for and wide in Pakistan and AJ&K by opening franchised campuses and illegal affiliated institutions. Complaints about Al-Khair University regarding poor quality of teaching, weak assessment and evaluation system, non declaration of results and award of low quality degrees etc. became a regular feature and never been redressed by sponsors of the University despite repeated reminders. The reports have also been received regarding sale of degrees. In this backdrop, the Higher Education Commission has banned the academic operations of the Al-Khair University with effect from Fall-2016 and suspended its degree attestation. It is worth mentioning here that all the writ petitions filed in this regard by Al-Khair University have been dismissed by the Honourable Islamabad High Court.

2. Further, as per Federal Cabinet Criteria Guidelines, 2002, the private sector institutions / universities are not empowered to affiliate institutions, whereas the university has violated its own charter provisions as well as criteria of this Commission. Moreover, following illegal colleges of Al-Khair University (AJK) were established at Khyber Pakhtunkhwa (Khyber Pakhtunkhwa) which were not permitted by HEC and are illegally operated:-

- i. Daggar Education College, Bunor.
- ii. Alson Postgraduate College, Kohat.
- iii. Hitech Degree College Peshawar.
- iv. College of Global Technologies, Swat.
- v. Jinnah Institute of IT & Management Sciences, DI Khan.
- vi. IER, Peshawar.
- vii. Institute of Education and Research, Swabi.
- viii. Institute of Education and Research, Kohat.
- ix. College of Business Administration Abbottabad.
- x. Iqra Institute of Management, Education, Computer Science, DI Khan.
- xi. Institute of Education and Research, Khyber.
- xii. Institute of Education and Research, Peshawar.
- xiii. College of Management & Engineering, Peshawar.

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~~EXAMINER~~  
~~Grandwar Illgit~~

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Hence, based on such gross irregularities and on the recent judgment passed by the Honorable Islamabad High Court in the writ petition No. 2323 of 2016, any affiliation granted by Al-Iqbal University (AIU) to an educational institution or opening of its campuses without permission of this Commission would remain illegal unless approved by the HEC. The students enrolled in such college / programs cannot claim a right that their degrees be verified and an ICA is also pending in Islamabad High Court, Islamabad against HEC judgment dated 22.6.2017. This issues with the approval of the Competent Authority.

15. The Colleges / Institutions quoted above have been declared illegal, as they operated without the permission of Higher Education Commission whereas record suggests that most of the degrees / diplomas and certificates so obtained by the petitioners are under registration No. AUSWT i.e. College of Global Technologies, Swat, AUDI i.e. Iqra Institute DI Khan, AUBN i.e. Daggar Education College Buner, AUP (E) Institute of Education & Research Peshawar, AUDI i.e. Jinnah Institute of Information Technology & Management Sciences, DI Khan, AUPHT i.e. Peshawar (Hitch Degree College Peshawar), AUAPG (K) Ahsan Post Graduate College Kohat, which have been declared illegal by the Commission and as such unless and until the Higher Education Commission, does not recognize / verify, the same would remain illegal. The HEC is the sole regulatory body to evaluate the higher educational institution and to monitor their performance so as to ensure the quality education is offered to the public and as such mandated

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by the law to make certain things as indicated in above paragraphs.

16. In addition to this we have before us the comments of Higher Education Regularity Authority HERA, and the submission of learned AAG in this behalf, which says that HERA issued public notices which were circulated in all daily newspapers regarding the mandatory registration of the private educational institutions in Khyber Pakhtunkhwa, despite of that Al-Khair University Campus and its affiliated colleges failed to get registration. According to the Khyber Pakhtunkhwa, Higher Education Regularity Authority Ordinance 2001, section-2(m) & 6 (1) "Registration with authority is mandatory under the law" till date any of the campus or affiliated institution in Khyber Pakhtunkhwa has not even requested for registration with HERA.

17. Before parting with the judgment it is also observed that the lawful competent authorities have not performed their duties in accordance with the law and due to their negligence the respondent No.7 has committed the offence of cheating the public at large as defined under section-9(b) of the National Accountability Ordinance, 1999. Moreover, the youth and specially the degree holders of all those campuses of

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20 MAR 2019

respondent No.7 and their affiliated Institutions are entitled to claim their expenses as well as damages, in this respect, as well.

10. In view of the above it is held that the degrees, diplomas and certificates obtained from the Al-Khair University AJ&K Campus and affiliated institutions at Khyber Pakhtunkhwa are illegal, unverified and unrecognized and as such the same are not valid for the purpose of seeking employment in any of the Government Department / Institution, however, all those who have been appointed and are still in service on the basis of said degrees etc are given two years time to get the equivalent qualification from any recognized institution. The degrees / diploma / certificates obtained from institutions like under registration No. AUMD i.e. College of Professional Studies Muzaffarabad AJ&K, AUR i.e. College of Global Technologies Rawalpindi, AUMZ i.e. Al-Khair University Muzaffarabad AJ&K, College of Computer & Management Sciences Muzaffarabad, AUPR i.e. College of Education Palandri AJ&K, AUKOT i.e. College of Professional Studies Kotli, AJ&K, AUMC Al-Khair University Main Campus & AUR (TT) (CS) (IT) i.e. Rawalpindi (College of Global Technologies Rawalpindi) are referred to Higher Education Commission for verification, but within a period of

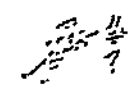
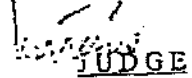
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one month. If the above said institutions /university are also not recognized one, their degrees / diplomas are also held not entitled for the purpose of getting jobs in Pakistan, (hus the instant writ petition as well as connected writ petitions bearing No. 355, 471 & 472-M of 2016 are disposed of, while rest of the writ petitions including contempt petitions are dismissed; with no order as to cost.

Announced.  
20<sup>th</sup> March, 2018.

  
JUDGE  
  
JUDGE

Talq Jan, 100, Mr. Justice Waqar Ahmad Seth & Justice Mr. Shauq Hameed

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Presenting of Affidavit  
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Proposed by  
Attorney at Law

  
CERTIFIED TO BE TRUE COPY  
16 MAR 2018

FILE NO

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**BEFORE THE PESHAWAR HIGH COURT, PESHAWAR**

W.P.No. 2766 P / 2017



1. Maqsad Hayat S/o Umar Hayat, Certified Teacher District Peshawar.
2. Zubada Khatoon W/o Alam Zeb SCT District Swabi.
3. Haseena Sultan W/o Asghar Khan SST District Swabi.
4. Rehana Kausar W/o Sultan Akbar SET District Mardan.
5. Hayat Gul S/o Rehman Gul Senior Drawing Master District Buner.
6. Sabroon W/o Naseeb Gul SCT District Buner.

.....Petitioners

**VERSUS**

- 1) Government of Khyber Pakhtunkhwa, through Secretary, Elementary & Secondary Education, Civil Secretariat, Peshawar.
- 2) Director Education, Government of Khyber Pakhtunkhwa, Peshawar.
- 3) District Education Officer District Peshawar.
- 4) District Education Officer District Mardan.
- 5) District Education Officer District Swabi.
- 6) District Education Officer District Buner.
- 7) Higher Education Commission of Pakistan, Islamabad.

.....Respondents

**FILED TODAY**  
Deputy Registrar

06 JUL 2017

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Peshawar High Court

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i) To direct the respondents to accept/treat their educational certificates obtained from Al-Khair University, as valid; and

ii) To direct the respondents not to treat their educational certificates/degrees obtained from Al-Khair University as hindrance/obstacle in the way of their promotions."

3. As per averments in the writ petition, the petitioners are serving in Education Department on various positions i.e. CTs, SETs and DMs etc. They besides having obtained the qualifications of M.A, BA and BSc etc from various University, have obtained Certificates/degrees of BA, M.Ed, B.Ed, etc from Al-Khair University. Their grievance is that they were eligible to promotions as SSTs, but on refusal of the respondents to recognize their degrees/certificates from Al-Khair University as valid, refused them promotion, hence, the action of the respondents being against the law and justice is liable to be struck down.

4. Respondents have filed their para-wise comments wherein they have averred that as per letter dated 13.04.2015, issued by the Higher Education Commission (HEC) Al-Khair University has failed to register itself with HEC, as such it cannot offer Associate Degree in Education (ADE). They further averred that during scrutiny of the educational testimonials of the petitioners, these were found obtained from Al-Khair University, hence, could not be considered as valid.

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Peshawar High Court  
16 SEP 2017



considered as valid for all intents and purposes by the respondents.

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8. This petition is disposed of accordingly, in light of the above observations.

Announced:

11.09.2017

S.V. 1, 16/17 P.S.

JUSTICE  
Rooh-ul-Amin Khan

JUSTICE  
MUHAMMAD YOUNIS THAHEEM



CERTIFIED TO BE TRUE COPY

Part of the High Court, Peshawar  
Authenticated Under Article 173 of  
The Constitution of Pakistan 1973

16 SEP 2017

No. 6557

Date of Presentation of Application 15/9/17

No of Pages 57

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Total 20-00

Date of Preparation of Copy 16/9/17

Date Given For Delivery 16/9/17

Date of Delivery of Copy 18/9/17

Received By [Signature]

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**PRESENT:**

Mr. Justice Faisal Arab  
Mr. Justice Syed Mansoor Ali Shah

**Civil Petition No.2070 of 2017**  
(Against the judgment dated 19.4.2017  
of the Peshawar High Court, Peshawar  
passed in W.P.No.2766-P/2016)

Maqсад Hayat

...Petitioner(s)

**Versus**

Secretary, Government of KPK, Education (E&SE) Department, Civil  
Secretariat, Peshawar etc.

...Respondent(s)

For the petitioner(s): Mr. Salahuddin Malik, ASC  
Mr. Mehmood A. Sheikh, AOR

For the respondent(s): Barrister Qasim Wadood, Addl.A.G. KPK  
Mr. Rehan Taj, ADEO

Date of hearing: 12.06.2019

**ORDER**

**Faisal Arab, J.-** The grievance of the petitioner is that his post ought to have been upgraded in the year 1991 as he acquired necessary qualification of B.A./B.Sc. It has come on the record that he acquired qualification in 3<sup>rd</sup> division whereas at the relevant time when he was denied upgradation the policy was that post of only those employees would be upgraded who have passed the requisite qualification in 2<sup>nd</sup> division. It has also come on the record that when this requirement was relaxed and 3<sup>rd</sup> divisioners were also made entitled to be upgraded in terms of the fresh policy dated 26.01.2008, the petitioner was accordingly upgraded. Learned counsel for the petitioner is unable to point out any defect in the impugned judgment. This petition is, therefore, dismissed. Leave refused.

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*Judgment Sheet*

**IN THE PESHAWAR HIGH COURT,  
PESHAWAR**

*Judicial department*



**J U D G M E N T**

*Writ Petition No.2766-P/2016*

*Date of hearing.....19.04.2017*

**Maqсад Hayat**

**Vs**

**The Secretary, Government of KPK & others**

Petitioner(s) by: Mr. Muhammad Asif Yousafzai, Advocate

Respondent(s) by: Mr. Rab Nawaz Khan, AAG.

**MUHAMMAD YOUNIS THAHEEM, J:-**

Petitioner invoked the constitution jurisdiction of this Court under Article 199 of the Constitution of Islamic Republic of Pakistan 1973, with the following relief:-

*"On acceptance of this writ petition, the respondents may be directed to up-grade the petitioner to BPS-14 on the basis of considering MA qualification for up gradation w.e.f 15.09.1997 with all consequential benefits, with further direction for fixation of pay accordingly. Any other remedy which this august Court deems fit and appropriate that may also be awarded in favour of the petitioner."*

*Handwritten signature/initials*

**ATTESTED**  
EXAMINER  
Peshawar High Court

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2. Brief facts of present petition are that petitioner was initially appointed as CT Teacher in BPS-9 vide appointment order dated 13.05.1990, thereafter petitioner also obtained Master degree i.e M.A, and the Provincial Government vide notification dated 07.08.1991 upgraded various posts in which the CT posts were included in which those CT Teachers, who had BA, BSC qualification in second division were upgraded in BPS-14 with 1/3<sup>rd</sup> Selection Grade in BPS-15; however petitioner was not upgraded due to 3<sup>rd</sup> division in BA. However, upon obtaining B.Ed decree was awarded graded pay of CT post vide order dated 17.10.1993. Afterward vide notification dated 26.01.2008 CT Teacher with BA/BSC qualification plus experience/training were upgraded to BPS-15 w.e.f 01.10.2007 and in consequence of that notification petitioner was also upgraded to BPS-15 on 08.07.2008. The main stance of the petitioner is that he has not been upgraded in BPS-15 due to BA 3<sup>rd</sup> division, whereas despite M.A decree in 2<sup>nd</sup> division on 15.09.1997 was not given same up-gradation to

*[Handwritten signature]*

ATTESTED  
EXAMINER  
Kohatwar High Court

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BPS-14 vide notification dated 07.08.1991, when he was upgraded vide notification dated 26.01.2008. He also contended that up-gradation on the basis of his higher qualification of M.A was not granted which is injustice to him.

**3.** Comments were called from the respondents No.2 to 4, who while responding in para No.5 of the petition responded as below:-

*"That in reply of para No.5, it is submitted that all CT Teachers who had 10 years service as CT Teacher were upgraded to BPS-15 in the year 2007 and petitioner was also upgraded on the same analogy. It is pertinent to mention here that the petitioner was appointed in BPS-9 as CT Teacher while having 3<sup>rd</sup> division bachelor degree (B.A), therefore, he remained in BPS-9 till the up gradation under the notification No.FD (PRC)1-1/89 dated 07.08.1991, wherein it is clearly mention that all the present and future Elementary and Secondary School Teachers who possess the qualification of B.A/BSc (2<sup>nd</sup> division) plus existing prescribed professional training shall be placed in BPS-14 with 1/3<sup>rd</sup> in selection grade BPS-15.*

*All other teachers who do not possess higher qualification shall continue getting existing pay scale with selection grade accordingly. However, the higher scales/grade allowed to these teachers will be personal*

*Signature*

ATTESTED  
EXAMINER  
Achawat High Court

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**to them and the inter-se-seniority will remain intact."**

4. Arguments heard and record perused.

5. From the perusal of up-gradation Rules notified as No. FD (PRC)1-1/89 dated 07.08.1991, the requirement of up-gradation in Rule-2 of the above notification was provided as such that the CT Teacher who possess the qualification of BA/BSc second division plus existing prescribed professional training shall be placed in BPS-14 with 1/3<sup>rd</sup> in selection grade BPS-15, so petitioner having 3<sup>rd</sup> division in BA was rightly not upgraded and thereafter was upgraded vide notification dated 26.01.2008 vide office order dated 08.07.2008 on the basis of BA/BSc and as trained teacher to the upgraded scale in BPS-15 one time only.

6. In view of above discussed position, the petitioner was previously not upgraded due to having 3<sup>rd</sup> division in BA and later on vide order dated 08.07.2008 was upgraded due to his qualification mentioned in the notification dated 26.01.2008, so he is barred to claim up-gradation either w.e.f 15.09.1997 and 01.10.2007, as vide

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ATTESTED  
EXAMINER  
Teacher High Cour

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notification dated 07.08.1991 then rule was BA second division, hence petitioner having deficiency in qualification at relevant period, so was not upgraded then, hence petitioner has no case in his favour. No injustice has been caused to the petitioner.

7. Thus in view of above, this petition is admitted and being bereft of merit is dismissed.

**Announced**  
19.04.2017.

*[Signature]*  
JUDGE

*[Signature]*  
JUDGE

46062

Date of Presentation of Application 22-05-2024  
No of Pages 11-P  
Copying fee \_\_\_\_\_  
Total 44-00  
Date of Preparation of Copy 27-05-2024  
Date of Delivery of copy 27-05-2024  
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EX-101 R.F.  
As per War Office Court, by order of  
Authorized Under Article 8  
of the Qanun-e-Shahadat Act 1984  
27 MAY 2024

*[Signature]*  
29/4/17



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G-21

**DIRECTORATE OF ELEMENARY & SECONDARY  
EDUCATION KHYBER PAKHTUNKHWA PESHAWAR**

**NOTIFICATION**

Consequent upon approval of the Competent Authority, the Notification issued vide this office bearing Endst: No. 8864-72/F.No. W.P No. 2766/2016-CP 2070/2017/Litigation-I dated: 25-01-2022, in respect of the following SST teachers are hereby withdrawn with effect from the date of its issuance, in the best interest of public.

1. Zubeeda Khatoon w/o Alam Zeb SST District Swabi.
2. Rehana Kausar w/o Sultan Akbar SST District Swabi.
3. Sabroon w/o Naseeb Gul SST District Buner.
4. Haseena Sultan D/O Sultan Mehmood SST District Swabi.

Consequent upon the above, the DEO (F) Swabi and Buner are hereby by directed to correct/rectified the term and Condition falling at S.No.01 of their adjustment orders through a corrigendum by deleting/removing the words, "Conditional Promotion".

**Director  
Elementary & Secondary Education  
Khyber Pakhtunkhwa Peshawar**

Endst.No 1075/20 /A-17/Inquiry Report/Judgment dated: 12-06-2019/CPLA 2070/17.

Dated 17/03/2022

Copy of the above is forwarded to the:-

1. Registrar, Supreme Court of Pakistan, Islamabad.
2. Additional Registrar, Judiciary, Peshawar High Court, Peshawar.
3. Advocate General, Peshawar High Court, Peshawar, Khyber Pakhtunkhwa.
4. District Education Officers (Female) Swabi and Buner.
5. District Accounts Officers Swabi and Buner.
6. Section Officer, Litigation-I, ESED, Khyber Pakhtunkhwa Peshawar.
7. Teachers concerned.
8. PA to Director (E&SE) Local Office.
9. Master file.

**Deputy Director Establishment (F)  
Elementary & Secondary Education  
Khyber Pakhtunkhwa Peshawar**

17/3/22





**DIRECTORATE OF ELEMENTARY AND SECONDARY EDUCATION  
KHYBER PAKHTUNKHWA PESHAWAR.**

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**NOTIFICATION.**

Consequent upon approval of the Competent Authority (Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar), a committee comprising upon the following members is hereby constituted to probe into the matter and redress the grievances of the appellant namely Mr. Imtiaz Hussain Ex-SCT Govt. High School Labour Colony Mardan.

1. Deputy Director (Establishment: M-1) Local Directorate.
2. Deputy Director (Legal) Local Directorate.
3. Assistant Director (Litigation-II) Local Directorate.

The committee is requested to submit detailed report with clear recommendations within 07 days to dispose of the case in respect of following SSTs accordingly.

- i. Hasina Sultan SST of District Swabi.
- ii. Sabaoon SST of District Buner.
- iii. Rehana Kauser SST of District Mardan &
- iv. Sabroon SST of District Buner.

*Subaida Khatoon Swabi*  
(Encls: Attached)

**DIRECTOR**

Elementary & Secondary Education  
Khyber Pakhtunkhwa, Peshawar

Endst: No. 150-54 /F.No/Imtiaz Hussain Vs Govt./Ex-SCT/Litt:II  
Dated Peshawar the 16/10/2023.

Copy of the above is forwarded to the:-

1. Section Officer (Inquiries) E&SE Department w/r to his letter No. SO(Inq)/E&SED/1-1/2023/Complaint/Mr. Imtiaz Hussain/Ex-SCT/Mardan Dated: 13-10-2023
2. All Officials/Officers concerned.
3. Deputy Director (Estab:Female) with the direction to summon the above mentioned SST Teachers to scrutinize/examine their academic and professional testimonials/credentials without lapse of time.
4. PA to Director (E&SE) Khyber Pakhtunkhwa, Peshawar.

*(Signature)* 16/10/2023  
Assistant Director (Estab:M-1)  
Elementary & Secondary Education  
Khyber Pakhtunkhwa, Peshawar

## INQUIRY REPORT

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### 1. Background of the Inquiry

The instant inquiry committee was constituted vide Notification bearing Endstt No. 150-54 dated 16-10-2023, issued by the Directorate E&SE Khyber Pakhtunkhwa, Peshawar to redress the grievances of Mr. Imtiaz Hussain, Ex-SCT, GHS Labor Colony, District Mardan for not promoting him to the post of SST (BPS-16) on the basis of B.A/B.Ed. Degrees obtained from *AL-KHAIR University AJK* while his colleagues/co-petitioner namely Hasina Sultan SCT (BPS-16) District Swabi, Sabroon SCT (BPS-16) District Bunir and Rehana Kausar District Mardan & Sabroon SCT District Bunir were promoted to the post of SST (BPS-16) vide Notifications (i) Endst: No. 2851-55/F. No. 02/Promotion SST B-16 dated: 16-10-2017, (ii) Endst: No. 6269-72/F. No.02/Promotion SST B-16 dated 30-10-2017 in compliance of the judgement dated 11-09-2017 of Honorable PHC Peshawar in W/P No 2766-P/2017. The inquiry committee comprised the following officers:

- 1) Mr. Fazal Wahid, Deputy Director (Etab/M-I) Directorate E & SE.....Chairman
  - 2) Mr. Abdus Samad, Deputy Director (Legal) Directorate E & SE.....Member
  - 3) Dr. Hayat Khan, Assistant Director (Lit-II) Directorate E & SE .....Member
- (Copy of the Notification dated 16-10-2023 is attached as Annexures-A)*

### 2. Procedure of Inquiry

The inquiry committee collected the available case record of the case from the office of Deputy Director (Etab/M&F) local Directorate E&SE Khyber Pakhtunkhwa Peshawar. The record pertaining to the Judgements passed Peshawar High Court, Peshawar was also collected from the Litigation Cell Directorate E&SE. In this regard, the following record/documents/court judgments were thoroughly perused and cross-examined by the committee for making a sensible conclusion into the matter:

- i. Promotion/adjustment orders of the petitioners dated 16-10-2017 & 30-10-2017 issued by the Respondent Department in compliance of the judgement dated 11-09-2017 of Honorable PHC Peshawar in W/P No 2766-P/2017.
- ii. Judgement date 11/09/2017 passed by the Honorable PHC rendered in W/P No. 2766-P/2017 under case titled Maqсад Hayat & others Vs Govt: Of KPK. *(Copy of the Judgement dated 11-09-2017 is attached as Annexures-B)*
- iii. Judgement dated 20-03-2018 of the Honorable Peshawar High Court, Peshawar rendered in Writ Petition No. 470-M/2016. *(Copy of the Judgement dated 20-03-2018 is attached as Annexures-C)*
- iv. Scrutinizing the Academic & professional testimonial/credentials (B.A/B.Ed Degrees) of the following teachers:
  - a. Zubaida Khatoon SST (BPS-16) District Swabi.
  - b. Haseena Sultan SST (BPS-16) District Swabi.
  - c. Rehana Kausar SST (BPS-16) District Swabi.
  - d. Sabroon SST (BPS-16) District Buner.
  - e. Raida Begum SST (BPS-16) District Swabi

The afore-mentioned teachers were intimated through the offices of DEOs concerned vide letter No. 6094 dated 15/08/2022 for personal appearance & cross-examination before the committee on the scheduled dates, time and venue. Hence, the committee visited to the office of

DEO (F) Swabi on dated 30-10-2023, whereupon, the SST teachers namely Zubaida Khatoon, Haseena Sultan and Rehana Kausar were appeared before the committee, wherein, they were cross-examined. In the meantime, a letter 02-11-2023 was received from the DEO (F) Bunir, whereby, she has intimated the committee that one, Mst: Sabroon SST (G) of District Bunir has been died on dated 22-10-2022, whereupon, the committee cancelled the scheduled visit to District Bunir

**03. FACTS OF THE CASE**

Precise facts forming background of the case are arrayed as under:

- I. The applicant namely Mr. Imtiaz Hussain, Ex-SCT District Mardan has contended in his application that in the years 2016-17 the E&SE department did not promote teachers of (different teaching cadre) to the post of SST (BPS-16) on the grounds of their unverified degrees, obtained from the ALKHAIR University, being allegedly unrecognized institution by the Higher Education Commission of Pakistan (HEC).
- II. Feeling aggrieved, the following teachers/petitioners invoked the constitutional jurisdiction under Article-199 of Constitution of the Islamic Republic of Pakistan 1973 through filing a W/P No. 2766-P/2017 before the Honorable Peshawar High Court, Peshawar.
  - a. Maqсад Hayat S/O Umar Hayat CT District Peshawar.
  - b. Zubaida Khatoon W/o Alam Zeb SCT district Swabi.
  - c. Haseena Sultan W/o Asghar Khan SST District Swabi.
  - d. Rehana Kausar W/o Sultan Akbar SET District Mardan.
  - e. Hayat Gul S/o Rehman Gul SDM district Buner.
  - f. Sabroon W/o Naseeb Gul SCT District Buner.
- III. The aforementioned Petitioners contended in their Petitions that they are serving in E&SE Department against the different teaching cadre posts and have obtained Degrees of B.A/B.Ed from Al-Khair University. However, the Respondent Department deprived them from their lawful promotion against the SST (BPS-16) post on the grounds of their B.A/B.Ed degrees from Al-Khair University being allegedly unrecognized institution by the Higher Education Commission of Pakistan (HEC). The Prayer of petitioners is re-produced as under:
  - a. To direct the respondents to accept educational certificates/degrees obtained from Al-Khair University, as valid.

AND

  - b. To direct the respondents not to treat their educational certificates/degrees obtained from Al-Khair University, as hindrance/obstacle in the way of their promotion.
- IV. That Mr. Imtiaz Hussain Ex-SCT along with four other teachers filed an application before the Honorable Peshawar High Court, Peshawar for impleadment as

necessary party in the panel of petitioners in the main Writ Petition No. 2766-P/2017 with C.M NO. 1793-P/2017 for having the identical grievances as agitated by the aforementioned petitioners & consequently their application for implement as necessary parties/petitioners was allowed by the Honorable Court.

- V. That the main Writ petition No. 2766-P/2017 with C.M NO. 1793-P/2017 was decided vide Judgment dated 11-09-2017 by the Honorable Court, wherein, it was held that *"if the Certificates/Degrees of the Petitioners from Al-Khair University have not been obtained in between the period from 30-04-2009 to 16-10-2011, then the same shall be considered as valid for all the intents & purposes by the Respondents.*
- VI. That feeling aggrieved from the Judgment dated 11-09-2017, the Respondent Department processed the case to Law Department for filling of C.P.L.A against the Judgment ibid before the august Supreme Court of Pakistan, thereafter, the case was thoroughly discussed in the meeting of Scrutiny Committee, held on 10-10-2017 in Law Department, wherein, it was unanimously decided that the case was not a fit case for filling of C.P.L.A before the Supreme Court of Pakistan. consequently, in pursuance of the judgement supra, the petitioners were promoted to the posts of SST (B-16) vide orders dated 16-10-2017 & dated 30-10-2017.
- VII. That the applicant has further asserted in his application that his colleagues/co-petitioners of the appellant have been promoted to the SST post while he has been deprived from his lawful promotion being a similarly placed person with his colleagues.
- VIII. Perusal of the available case record reveals that in compliance of the judgement Dated 11-09-2017 of the Honorable Court in W.P. NO. NO. 2766-P/2017 with C.M NO. 1793-P/2017, the following teachers/co-petitioners were promoted to the post of SST (BPS-16) on the basis of their B.A. Degrees from Al-Khair University by the Respondent Department. Detail of their promotion to the post in question is given below:

S/ No	Name /Designation/School of Teacher	District	Promoted to	Promotion/Adjustment Order (No. & Date)	Detail of BA/ B.Ed Degree from ALKHAIR University
01	Haseena Sultan PSHT/SPST	Swabi	SST (Bio-Ch)	Endst: 5228-6 SST Adjustment/Dated Swabi the 23/11/2017	B.Ed Degree Reg. NO.AUP(E) 3376-2006 Issued on 15/12/2007
02	Zubeda Khatoon S.CT	Swabi	SST (General)	Endst: 5228-5 SST Adjustment/Dated Swabi the 23/11/2017	BA Degree Reg.No: AUPHT(BA) 1913. 2013 Issued on 23/05/2016

03	Rehan Kausar S.CT	Swabi	SST (General)	Endst: 5228-6 SST Adjustment/Dated Swabi the 23/11/2017	BA Degree Reg.NO. AUP(E)0635- 1999 Issued on 18/01/2001
05	Sabroon GGPS Dewana Baba /PSHT/SPST	Buner	SST (General)	Endst: 5114-19 Dated: 06/11/2017	BA Degree Reg No... Issued on 28/12/2011

IX. That in the meantime, the Honorable Peshawar High Court, Peshawar has passed another Judgment dated 20-03-2018 in Writ Petition No. 470-M/2016 under the case titled Faiz-Ur-Rehman VS Director E&SE KP & others, whereby, vide para-15 of the judgement supra, the following colleges/institutions of Al-Khair University have been declared illegal, being operated without the permission of HEC, Pakistan:

- a. Collage of Global Technologies (AUSWT)
- b. Iqra Institute D.I Khan (AUDIK)
- c. Dagger Education Collage Bunir (AUBN)
- d. Institute of Education & Research, Peshawar (AUP (E))
- e. Jinnah Institute of Information Technology & Management Sciences, D.I.Khan (AUDI)
- f. Peshawar (Hitch Degree collage, Peshawar (AUPHT)
- g. Ahsan Post Graduate Collage, Kohat (AUAPG (K))

X. That vide Para-18 of the judgement supra, the Honorable Court held that the *degrees, diploma and certificates obtained from the Al-Khair University AJ&K compasses & affiliated institution at Khyber Pakhtunkhwa are illegal, unverified & unrecognized as such the same are not valid for the purpose of seeking employment in any of the Government Department/Institution, however, all those who have been appointed and are still in service on the basis of said degrees etc. are given two years' time to get the equivalent qualification from any recognized institution.*

XI. During personal hearing and cross-examination of the teachers concerned, when they were asked that whether they have acquired the equivalent qualification of B.A/B.Ed. from other recognized universities as per directions of the Honorable Peshawar High Court, Peshawar or otherwise, whereupon, committee found the report/information recorded in the following table:

S/N	Name /Designation/School of Teacher	District	Promotion/Adjustment Order (No. & Date) as SST (BPS-16)	Detail of BA/ B.Ed Degree from ALKHAIR University	Detail of BA/ B.Ed Degree Acquired from other recognized University
01	Haseena Sultan SST (BPS-16)	Swabi	Endst: 5228-6 SST Adjustment/Dated Swabi the 23/11/2017	B.Ed Degree Reg. NO. AUP(E) 3376-2006 Issued on 15/12/2007	(Acquired) B.Ed. Degree from AIU under Reg No. 04NSI1011

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02	Zubeda Khatoon SST (BPS-16)	Swabi	Endst: 5228-6 SST Adjustment/Dated Swabi the 23/11/2017	BA Degree Reg.No: AUPHT(BA) 1913-013 Issued on 23/05/2016	(Not Acquired)
03	Rehan Kausar SST (BPS-16)	Swabi	Endst: 2851-55 16- 10-2017	B.Ed. Degree Reg.NO. AUP(E)0635-1999 Issued on 18/01/2001	(Not Acquired)
05	Sabroon SST (BPS-16)	Buner	Endst: 5114-19 Dated: 06/11/2017	BA Degree Reg No... Issued on 28/12/2011	(Deceased)
06	Raida Beg um	Swabi	Endst: 5228-6 SST Adjustment/Dated Swabi the 23/11/2017	B.A. Degree Reg No. AUSWT(BA)3544- 2006	(Acquired) B.A. Degree from AIOU Islamabad, under Reg No. 06NSI 2235

04. **FINDINGS: -**

In view of the afore-narrated facts/circumstances of the case, perusal of the relevant record & standing orders/directions of the Honorable Peshawar High, Peshawar, the committee found that:

- (a) That the co-petitioners/colleagues of Mr. Imtiaz Hussain EX-SCT have been promoted to the post of SST (BS-16) vide Notifications dated 16-10-2017 & dated 30-10-2017 by the Respondent Department on the basis of their B.A/B.Ed. Degrees from Al-Khair University in the compliance of the Judgment dated 11-9-2017 of the Honorable Peshawar High Court, Peshawar rendered in W/P No. 2766-M/2017.
- (b) That later on, the Honorable Peshawar High Court, Peshawar passed another judgement dated 20-03-2018 in W.P. No470-M/2016, whereby, several institutions/compasses of Al-Khair University were declared illegal, unverified & unrecognized. It was further held therein, degrees obtained from these institutions/compasses are not valid for the purpose of seeking employment in any of the Government Department/Institution. However, all those who have been appointed and are still in service on the basis of said degrees etc. were directed to get the equivalent qualification from any recognized institutions within a period of two years.
- (c) That Mr. Imtiaz Hussain Ex-SCT including the afore-mentioned female SST teachers obtained their B.A/B.Ed degrees from the those campuses of Al-Khair University which have been declared illegal, unverified & unrecognized by the Honorable Peshawar High Court, Peshawar vide Judgment dated 20-3-2018. Furthermore, afore-noted female teacher were promoted to the post of SST (BPS-16), while Mr. Imtiaz Hussain Ex-SCT was not promoted against the SST post.



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- (d) That the available record transpires that two (02) teachers namely Mst: Zubaida Khatoon SST (BPS-16) Swabi and Mst: Rehana Kauser SST (BPS-16) Swabi have not acquired the prescribed qualification of B.A/B.Ed from recognized university (other than Al-Khair University) till date in compliance of the judgment dated 20-3-2018 of the Honorable Peshawar High Court, Peshawar, while among the remaining 04-teahcers, three (03) have acquired their prescribed qualification and one namely Sabroon SST District Bunir has been died, meaning thereby, no more in service.

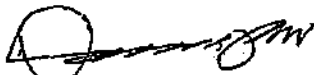
05. CONCLUSION/SUGGESTION

- a) That the inquiry committee is of the considered view that those teachers who have been promoted to the post of SST (BPS-16) on the basis of B.A/B.Ed degrees, obtained from the institutions/campuses of Al-Khair University (mentioned in preceding para-3 (IX)) & have not acquired the same degrees/qualification from other recognized universities within period of two (02) years in compliance of the Judgment dated 20-3-2018 of Honorable Peshawar High Court, Peshawar in W.P. No. 470-M/2016, are not entitled to continue their services as SST (BPS-16) rather their promotion orders are liable to be withdrawn/re-called void ab-initio by the competent authority.
- b) That teachers namely Mst: Zubaida Khatoon SST (BPS-16) and Mst: Rehana Kauser SST (BPS-16) of District Swabi have failed to comply with the directions of the Peshawar High Court, Peshawar vide judgment ibid with regard to acquire the B.A/B.Ed Degrees from other recognized university. Hence, their promotion orders as SST (BPS-16) may be withdrawn/recalled void ab-initio forthwith by the competent authority.

Dated:05-12-2023

  
CHAIRMAN

Mr. Fazal Wahid,  
Deputy Director (Estab-M/I)  
Directorate E & SE KP Peshawar

  
MEMBER

Mr. Abdus Samad,  
Deputy Director (Legal)  
Directorate E & SE KP Peshawar

  
MEMBER

Dr. Hayat Khan  
Assistant Director (Lit-II)  
Directorate E & SE KP Peshawar

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**DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION  
KHYBER PAKHTUNKHWA PESHAWAR**

NO. 1609 /A-17/Retirement/Swabi/Vol-03

Dated Peshawar the 26/4/2024

To

The District Education Officer  
(Female) Swabi

**SUBJECT:- RETIREMENT SANCTION**

Memo:-

I am directed to refer to your letter of No. 889 dated: 15-04-2024 on the subject cited above and to return herewith (original) In respect of Mst: Zubaida Khatoon SST CGHS Kotha Swabi and to ask you that the promotion of SST is not restored yet but this office direct you to retain her at her own school/station. Hence her case may be prepared against her SCT post and submit this office to proceed further into the matter.

*[Signature]*  
26/4/24  
Assistant Director Establishment (F)  
Elementary & Secondary Education  
Khyber Pakhtunkhwa Peshawar

Copy forwarded for information to the:-  
PA to Director E&SE Local Office.

Assistant Director Establishment (F)  
Elementary & Secondary Education  
Khyber Pakhtunkhwa Peshawar

*[Signature]*





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**DIRECTORATE ELEMENTARY & SECONDARY EDUCATION  
KHYBER PAKHTUNKHWA, PESHAWAR.**

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**AUTHORITY LETTER**

I, Samina Altaf, Director (E&SE) Khyber Pakhtunkhwa Peshawar do hereby authorized Mr. Muhammad Rizwan, Assistant Director (Litigation-II) of this Directorate for submission of Joint Parawise Comments in Service Appeal No. 730/2024 case titled Mst: Zubaida Khatoon, District Swabi Vs Government of Khyber Pakhtunkhwa & others, hence, an authority letter is hereby issued in favor of the above-named officer.

**(SAMINA ALTAF)  
DIRECTOR**

  
**AUTHORIZED OFFICER  
(ABDUS SAMAD)  
DEPUTY DIRECTOR  
E&SE Department Khyber  
Pakhtunkhwa, Peshawar.**



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Block "A" Civil Secretariat, Peshawar

Phone No. 091-9211128

Dated Peshawar, the 24-07-2024

**NOTIFICATION**

**NO.SO(Lit-II)/E&SED/1-5/2021.** The undersigned (Masood Ahmad, Secretary Elementary & Secondary Education Department) is pleased to authorize Mr. Faiz Alam, Additional Secretary (Establishment), Elementary & Secondary Education Department to sign parawise comments, replies, implementation reports, objection petitions, civil miscellaneous applications etc on my behalf for submission before various courts of law/tribunals in the best public interest.

(MASOOD AHMAD)

**SECRETARY**


**Elementary & Secondary Education  
Department, Khyber Pakhtunkhwa**

Encls: No. \_\_\_\_\_

Dated \_\_\_\_\_

Copy forwarded to the:-

1. Chief Secretary Khyber Pakhtunkhwa.
2. Advocate General Khyber Pakhtunkhwa.
3. Secretary Law Department.
4. Registrar Peshawar High Court Peshawar (with one each spare copy for the Honorable Judges).
5. Registrar Service Tribunal Peshawar (with one each spare copy for the Honorable Chairman/Members)
6. All Section Officers (Litigation) E&SE Department.
7. PS to Secretary E&SE Department.
8. PA to Additional Secretary (General) E&SE Department.
9. PAs to Deputy Secretary (Legal-I&II) E&SE Department.

  
SECTION OFFICER (Lit-II)



**DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION  
DEPARTMENT KHYBER PAKHTUNKHWA PESHAWAR**

**NOTIFICATION**

I, Samina Altaf, Director Elementary & Secondary Education Department Khyber Peshawar do hereby authorize, Mr. Abdus Sammad, Deputy Director (Legal) Directorate of Elementary & Secondary Education to sign parawise comments, replies, implementation report, objection petitions, civil miscellaneous application etc on my behalf for onward submission before the courts of law/tribunals as the case may be, with immediate effect in the interest of public service.

**DIRECTOR**

Elementary & Secondary Education  
Khyber Pakhtunkhwa Peshawar

Endst. No. 9633-L13 /F.No. AD(Lit-II)/E&SED/Office Correspondence/Vol-II/2024  
Dated Peshawar the 26/07/2024.

**Copy of the above is forwarded for information & n/action to the:**

1. Chief Secretary Khyber Pakhtunkhwa.
2. Advocate General Khyber Pakhtunkhwa.
3. Secretary Law Department Khyber Pakhtunkhwa.
4. Learned Registrar High Court Peshawar (with one each spare copy for the Honorable Judges).
5. Learned Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar (with one each spare copy for the Honorable Chairman/Members).
6. All Section Officers E&SE Department Khyber Pakhtunkhwa, Peshawar.
7. All District Education Officer (Male/Female) Khyber Pakhtunkhwa.
8. PS to Secretary E&SE Department Khyber Pakhtunkhwa, Peshawar.
9. PA to Additional Secretary (General) E&SE Khyber Pakhtunkhwa, Peshawar.
10. PA to Director E&SE Department Khyber Pakhtunkhwa, Peshawar.
11. Master File.

  
(SAMINA ALTAF)  
DIRECTOR

Elementary & Secondary Education  
Khyber Pakhtunkhwa Peshawar