


FORM OF ORDER SHEET

Court of _____

Appeal No. 1577/2024


S.No.	Date of order proceedings	Order or other proceedings with signature of judge.
1	2	3
1-	23/09/2024	<p>The appeal of Sardar Mohsin Saeed resubmitted today by Syed Altaf Hussain Shah Advocate. It is fixed for preliminary hearing before touring Single Bench at A.Abad on 23.10.2024. Parcha Peshi given to counsel for the appellant.</p> <p>By order of the Chairman</p> <p> REGISTRAR</p>

The appeal of Sardar Mohsin Saeed received today i.e on 23.09.2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- According to sub-rule-4 of rule-6 of Khyber Pakhtunkhwa Service Tribunal, rules 1974 respondent nos. 4 & 6 are un-necessary/improper parties, in light of the rules ibid and on the written direction of the Worthy Chairman the above mentioned respondent number be deleted/struck out from the list of respondent.
- 2- Appeal has not been flagged/marked with annexures marks.
- 3- Annexures of the appeal are not in sequence.
- 4- The name of the appellant be highlighted in each and every order.
- 5- Annexures of the appeal are not in sequence.
- 6- Copy of termination order mentioned in para-2 of the memo of appeal is not attached with the appeal.
- 7- Three copies/sets of the appeal along with annexures i.e. complete in all respect for Tribunal and one for each respondent may also be submitted with the appeal.

No. 817 /Inst./2024/KPST,

Dt. 23/9 /2024.


ADDITIONAL REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Syed Altaf Hussain Shah Adv.
High Court A.Abad.

Objections have been removed accordingly.



Wajid Ali Shah Adv

0310-5126312.

BEFORE THE CHAINMAN SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA PESHAWAR

Sardar Mohsin Saeed

Appeal No 1577/2024

...APPELLANT

VERSUS

Secretary E&SED, Khyber Pakhtunkhwa, Peshawar and others.

...RESPONDENTS

I N D E X

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5.	application dated 28/01/2021 bearing Diary No.673	"D"	17
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13.	decision of respondent No.2 dated 22/03/2024 in that of the impugned order dated 30/04/2024	"M"	25-28
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...APPELLANT

Dated:- 21-09-2024

Through:

(Signature)
(SYED ALTAJ HUSSAIN SHAH)
Advocate High Court, Abbottabad

BEFORE THE CHAINMAN SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR

Appeal No. 1577/2024

Sardar Mohsin Saeed S/O Sardar Saeed Ahniad Residence Of Near Jalal Baba
Chowk upper Malikpura, Tehsil And Distrect Abbotabd Presently Pst Bps-12 Gps
Upper Salhad Circle City Abbottabad.

...APPELLANT

VERSUS

1. Secretary E&SED, Khyber Pakhtunkhwa, Peshawar.
2. Director E&SED, Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (Male), Abbottabad.

...RESPONDENTS

SERVICE APPEAL U/S 4 OF THE KP SERVICE
TRIBUNAL ACT 1974 READ WITH ALL ENABLING
RULES AND PROVISIONS OF THE LAW AGAINST
THE ORDER DATED 30/04/2024 OF RESPONDENT
NO.3 VIDE WHICH THE APPELLANT'S
APPLICATION FOR GRANT OF BENEFIT TO THE
EXTENT OF THE PROTECTED PERIOD FOR THE
PURPOSE OF PENSIONARY BENEFITS, HAD BEEN
REJECTED AND THE APPELLANT
DEPARTMENTAL REPRESENTATION AGAINST
THERE TOO HAS NOT BEEN YET DECIDED
DESPITE EXPIRY OF THE STATUTORY PERIOD
OF 90 DAYS.

PRAYER:-

ON THE ACCEPTANCE OF THE
INSTANT SERVICE APPEAL, THE
IMPUGNED ORDER DATED 30/04/2024
INCLUSIVE OF ALL INCIDENTAL

BEFORE THE CHAINMAN SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA PESHAWAR

Appeal No - 1577/2024

Sardar Mohsin Saeed S/O Sardar Saeed Ahmad Residence Of Near Jalal Baba Chowk upper Malikpura, Tehsil And Distirct Abbotabd Presently Pst Bps-12 Gps Upper Salhad Circle City Abbottabad.

...APPELLANT

VERSUS

1. Secretary E&SED, Khyber Pakhtunkhwa, Peshawar.
2. Director E&SED, Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (Male), Abbottabad.
4. District Account Officer, Abbottabad.
5. Accountant General, Khyber Pakhtunkhwa, Peshawar.
6. Secretary Finance, Khyber Pakhtunkhwa, Peshawar.

...RESPONDENTS

SERVICE APPEAL U/S 4 OF THE KP SERVICE TRIBUNAL ACT 1974 READ WITH ALL ENABLING RULES AND PROVISIONS OF THE LAW AGAINST THE ORDER DATED 30/04/2024 OF RESPONDENT NO.3 VIDE WHICH THE APPELLANT'S APPLICATION FOR GRANT OF BENEFIT TO THE EXTENT OF THE PROTECTED PERIOD FOR THE PURPOSE OF PENSIONARY BENEFITS, HAD BEEN REJECTED AND THE APPELLANT DEPARTMENTAL REPRESENTATION AGAINST THERE TOO HAS NOT BEEN YET DECIDED DESPITE EXPIRY OF THE STATUTORY PERIOD OF 90 DAYS.

PRAYER:-

ON THE ACCEPTANCE OF THE INSTANT SERVICE APPEAL, THE IMPUGNED ORDER DATED 30/04/2024 INCLUSIVE OF ALL INCIDENTAL

PROCEEDINGS, MAY GRACIOUSLY BE SET-ASIDE AND THE APPELLANT, ON THE STRENGTH OF VARIOUS JUDGMENTS OF THE SUPERIOR COURTS INCLUDING THAT OF HONOURABLE APEX COURT, MAY GRACIOUSLY BE EXTENDED THE BENEFITS OF THE PROTECTED PERIOD OF HIS SERVICE FOR THE PURPOSE OF PENSIONARY BENEFITS.

Respectfully Sheweth,

The facts forming the background of the instant service appeal are arrayed as under:

1. That the appellant was appointed as PST GPS Sangrairi in Education Department in DEO (Male) Abbottabad vide the appointment order dated 22/01/1995. Copy of appointment order dated 22/01/1995 is annexed as Annexure "A".
2. That, subsequently, after 02 years of his service, the appellant alongwith several others, were terminated from service vide order No.325-28 dated 22/02/1997 w.e.f 13-02-1997. Copy of the termination order No. 325-28 dated 13/02/1997 is annexed as Annexure "B".
3. That, in consequence of the judgment dated 24/05/2016 of the Honourable High Court, the appellant, instead of reinstatement in service was reappointed as PST GPS Upper Salhad vide the order dated 09/11/2017. Copy of the appointment order as mentioned above dated 09/11/2017 is annexed as Annexure "C".

4. That feeling aggrieved, of the loss of his service benefit due to his fresh appointment order instead of reinstatement, the appellant submitted an application to respondent No.3 vide diary No.673 dated 28/01/2021 seeking benefit of the protected period as contemplated in various judgment such as; Review Petition 31-A/2018, dated 06/09/2018, COC No.44-A/2016, dated 24/05/2016, W.P No.516-A/2013 and the judgment dated 27/03/2020 and C.P No.468-P and in the light of judgment reported as 2009 SCMR-1. Copy of the application dated 28/01/2021 bearing Diary No.673 is annexed as Annexure "D".
5. That in addition to the above representation the appellant also submitted applications to the Chief Minister KPK for redressed of his grievance i.e for benefits of the protected period of his service for pensionary benefit. Copy of the petitioner's application to the Chief Minister dated 19/12/2023 is annexed as Annexure "E".
6. That the worthy Chief Minister, in response to the above mentioned application, had issued direction/order to the Secretary E&SED dated 08/01/2024 for counting of the appellant's service towards the pensionary benefits as per the rules and policy. Copy of the order of the worthy Chief Minister dated 08/01/2024 is annexed as Annexure "F".
7. That the aforementioned order of the worthy Chief Minister, containing reference of M. Sohail and others dated 10/01/2024 was also sent to respondent No.3 for further necessary action and

the same was received vide diary No.224, dated 11/01/2024. Copy of the aforementioned application of Mr. Sohail and others dated 10/01/2024 and other relevant documents are attached as Annexure "G".

8. That respondent No.3 DEO-(M) Abbottabad, in pursuance of the order dated 10/01/2024, directed the appellant to bring another application regarding extension of benefits of protected period of his service which was submitted accordingly vide diary No.225 dated 11/01/2024 to the respondent. Copy of the application dated 10/01/2024 bearing Diary No.225 dated 11/01/2024 is annexed as Annexure "H".
9. That respondent No.3, in order to proceed further, sought guidance of respondent No.2 in respect of the aforementioned application of the appellant vide the letter No.294 dated 12/01/2024. Copy of the aforementioned letter dated 12/01/2024 is annexed as Annexure "I".
10. That the respondent No.2 vide letter dated 06/02/2024, requisitioned the appellant service record for further consideration of the matter. Copy of the letter No.202/AD LIT-II dated 06/02/2024 is annexed as Annexure "J".
11. That in compliance with the above direction, the appellant service record was intimated vide letter No.724 dated 14/02/2024 which was duly received in the office of the respondent No.2 vide diary No.1617 dated 16/02/2024. Copies of the

aforementioned documents are attached as Annexure "K" & "L".

12. That respondent No.2 ultimately, vide his order dated 22/03/2024, refused to give his ascent in favour of the appellant and in consequence thereof, the appellant representation stood rejected vide the impugned order dated 30/04/2024. Copy of the decision of respondent No.2 dated 22/03/2024 in that of the impugned order dated 30/04/2024 are attached as Annexure "M".
13. That the appellant feeling aggrieved against the above cited impugned order bearing No.2516-19, dated 30/04/2024, passed in communicated to the appellant on the same date, preferred his departmental appeal to the respondent No.1 vide the diary No.2186 dated 27/05/2024 but the same, despite lapse of the statutory period, has not yet been decided, hence, the instant appeal, inter-alia, on the following grounds. Copy of the departmental appeal of the appeal dated 27/05/2024 is annexed as Annexure "N".

GROUNDS:-

- a) That, the respondent, while rejecting the appellants departmental representation, have overlooked the judgments of various superior courts including the Apex Court of Pakistan on the basis and in the light whereof the appellant was entitled to the benefit as he claimed in his departmental representation. The above mentioned judgment for ready reference, are cited as "judgment dated 24/05/2016 in W.P No.516-A/2013, dated 24/05/2017 in C.P No.401-P, 427-P to 431-P and

468-P of 2016. Copies are attached as Annexure "O". In this view of the matter the impugned orders of the respondents are illegal are unwarranted are liable to be set-aside.

- b) The respondents have failed to comply, in letter and spirit with the directions of the Honourable High Court dated 12/01/2021 issued or passed in review petition No.31-A/2018 and thus the impugned order rejecting the appellant's representation is the result of gross non-reading of the law on the subject and such the impugned order is liable to be set-aside. Copies are attached as Annexure "P".
- c) Had the respondent perused or followed the judgment of the Apex Court as rendered in C.P No.468-P etc, dated 27/03/2020, there was no reason, nor justification for the respondents to deny the appellant his right and entitlement to the benefits as contemplated therein. Copies are attached as Annexure "Q".
- d) The appellant, beside the law and judgments as cited above, was also entitled to requisite benefit on the analogy of the case of the one Muhammad Haroon and others V/s govt. of KPK decided on 18/03/2021. Copy of the cited case is attached as Annexure "R".
- e) That the respondents while rejecting the appellant's representation, has also ignored the provisions of law has contained Section. 2(g) read with Section 3 of the said employees appointment Act 2012, hence, the impugned order is without

lawful authority and jurisdiction and such is liable to be quashed and reversed.

- f) The appellant, as per the entries as the record in service book is a permanent employment of the Education Department. After termination, the appellant continued to pursue the matter before competent forum until the issue was decided in the last judgment of the Apex Court and therefore, there should be no break in his service this entitling him to the benefit as he claimed in his representation.
- g) The service of the appellant needs to be counted towards his pensionary benefits rejection of the appellant's representation. Therefore is against all the norms of justice and fair play and such the impugned order is liable to be struck down.
- h) The appellant had possessed all necessary qualification at the time of his appointment and therefore, was entitled to be treated at par with other serving teachers. Denial of his legal rights and entitlement vide the impugned order, is denial of the justice, and therefore, the impugned order is liable to be set-aside.
- i) That the appellant being a regular employee, appointed accordance with law on the basis of his qualification, is entitled to all such benefits as a permissible to other civil servants and teacher, therefore, his case needed to be considered justly and without any discrimination etc.

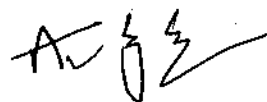
- j) That the instant appeal filed will within time before this Honourable Tribunal. The instant appeal exempted from the court fee.
- k) That the other points shall be agitated by the permission of this Honourable Tribunal at the time of argument.

In view of the above submission, it is humbly prayed that, the impugned orders of the respondents rejecting the appellant's representation may graciously be set-aside and the benefit of the service including pensionary benefits to the appellant as decided by the Honourable Superior Courts in their various judgment as cited above may kindly be extended to the appellant. Any other relief as deem just, equitable and in accordance with law may also graciously be granted.


...APPELLANT

Through:

Dated:- 21-09-2024



(SYED ALTAF HUSSAIN SHAH)
Advocate High Court, Abbottabad

VERIFICATION:-

Verified that the contents of the instant Service Appeal are true and correct to the best of our knowledge and belief and that nothing has been concealed from this Honourable Tribunal.

Dated:- 21-09-2024


...APPELLANT

BEFORE THE CHAINMAN SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA PESHAWAR

Sardar Mohsin Saeed

...APPELLANT

VERSUS

Secretary E&SED, Khyber Pakhtunkhwa, Peshawar and others.

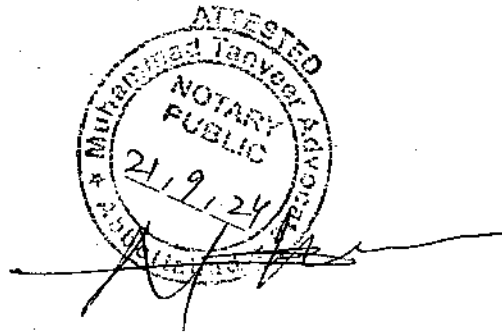
...RESPONDENTS

AFFIDAVIT

I, Sardar Mohsin Saeed S/o Sardar Saeed Ahmad Pst Bps-12 Gps Upper Salhad Circle City Abbottabad, do hereby solemnly affirm and declare on oath that the contents of instant **Appeal** are true and correct to the best of my Knowledge and belief and nothing has been concealed from this Honourable tribunal.


...Deponent

Dated:21-09-2024



10

Annex

6/23

OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) PRIMARY ABBOTTABAD.

Office Order under _____

APPOINTMENTS

The following candidates are hereby appointed Primary Teacher in the Schools at noted against each in BPS-7. *@/ of Rs. 1480/- PM Fixed plus usual allowances as admissible under the rules with effect from the date of their taking over charge.

Sr.No.	Name & Fathwr Name / Address.	Place Of posting	Remarks.
1.	Ashfaq Ahmad S/O Rehmat Din Moh; Mohd, ai N. her A. Abad	GMPS Khlorain	Agst. V. Post
2.	Rashid Iqbal S/O Iqbal Shaheen Main Bazar Abbottabad (Matriculate)	GPS Julhaldo..
3.	Amjad Ali S/O Mohammad Ashraf Upper Malikpura Abbottabad.	GMPS Khaithrando...
✓ 4.	Mohsin Saeed S/O Sardar Saeed Ahmed R/O Malikpura A. *bad.	GPS Sangrairido..
5.	Abdul Malik /S/O Sardar Khan R/O Nara (T. Son) A, nad.	GMPS Riala U/C Narado...

- Conditions:
1. Appointments made under all service conditions laid down by the Govt; from time to time.
 2. Appointments are made at any time without any netive and reasons.
 3. They are directed to produce their age and health Certificate from Medical Supdt; DHQ Hospital Abbottabad with in 7 days of the receipt of this order.
 4. They are directed to submit their charge reports to all concerned offices.
 5. Their original Education Qualification Certificates may be checked at the time preparation of their Age and Health Forms/Service Books and one Selt may kept in their P. File and Service Books for record.
 6. In case any candidates failed to tekovery charge with in 15 days his appointment will stand cancelled automatically.

(SARDAR MOHAMMAD AYUB)
District Education Officer (M)
Primary Abbottabad.

Order No. 281-83

Copy for information to the:-

1. Sub; Divl; Education Officer (M). Primary Abbotta ad.
2. Candidates concened.

The P/c for accor.

The Sub Divl

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21/9/24

DISTRICT EDUCATION OFFICER (M)
PRIMARY ABBOTTABAD.

21/9/12

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13	14	15
<p>Allocation of period pay up to four months for which leave salary is payable to another Government</p>	<p>Signature of the head of the office or other assisting officer</p>	<p>Reference to any recorded punishment or censure, or award or praise of the Government</p>
<p>Signature of the head of the office or other assisting officer</p>	<p>Date of termination (such as transfer, dismissal, etc.)</p>	<p>Reason of termination (such as transfer, dismissal, etc.)</p>
<p>Signature of the head of the office or other assisting officer</p>	<p>Signature of the head of the office or other assisting officer</p>	<p>Signature of the head of the office or other assisting officer</p>
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Annex (B)

(12) Annex "C"

OFFICE OF THE DISTRICT EDUCATION OFFICER (M) ABBOTTABAD

APPOINTMENT OF SACKED EMPLOYEES AGAINST PST POST

In pursuance to the Judgment of Honorable Peshawar High Court Abbottabad Bench in W.P No.516-A / 2013 announced on 24.5.2016 & recommendation of the Departmental Selection Committee, appointment of the following sacked employees is hereby ordered against the vacant posts of PST, in BPS-12 (Rs. 13320-960-42120) plus usual allowances as admissible under the rules under the existing policy of the Provincial Government, in Teaching Cadre on the terms and conditions given below with effect from the date of their taking over charge:

S.No/ Merit No	Name of Sacked Employee	Father's Name	CNIC #	Date of Birth	Qualification	D.O.1st apptt	Date of Termination	Previous School	Present place of Posting
1	2	3	4	5	6	7	8	9	10
1/9	M. Sabir Khan	M. Ajab Khan	13101-4662322-5	21.5.96	SSC/ PTC	23.04.1995	—	GPS Dannah	GPS Nalohta
2/17 (a)	Kamran Abbasi	R. Badi Uz Zaman	13101-6162229-1	1/1/1970	SSC	11.10.1995	—	GPS Panjoot	GPS Banani
3/17 (b)	Aftab Zaffar	Muzaffar Khan	13302-1865548-3	1/4/1970	SSC	26.10.1995	04.9.96	GMPS Badiala	GPS Sohlan
4/21	Kouser Ali Shah	S. Ismail Shah	13503-2951713-3	2/10/70	SSC	09.7.1995	25.6.97	GPS Pattan Khurd	GPS Sirla
5/23	M.Sajid	M. Sadiq	13101-9853294-9	3/5/1970	SSC	16.4.95	23.1.97	GMPS Thanda Chowa	GPS Lakhala
6/27	S. Ishtiaq Hussain Shah	S. Anwar Shah	13101-0845397-7	27.3.70	SSC	9-5-96	—	GPS NEELOR	GPS Rian Da Maira
7/28	Shahzad Fareed	S. M. Fareed	13101-3733177-1	4/4/1970	SSC	30.07.95	13.02.97	GPS ZIARAT DANNA	GPS Mast Maira
8/30	Gul Fraz Khan	M. Ishaq Khan	13101-1602666-1	28.4.70	M.A	26.1.95	23.01.97	GPS DHERI KIALA	GPS Banda Said Khan
9/31	M.Sameen	M. Firdoos	13101-6387381-1	28.4.70	SSC	20.12.95	23.01.97	GMPS RATTI DHERI	GPS Sando Gali
10/32	M.Sadique	Gul Khatab Khan	13101-1849598-9	23.5.70	SSC	19.4.95	1998	GPS Basawir	GMPS Ochar No.1
11/33	Wajid Hussain	M. Hussain	13101-4215472-5	7/2/1970	F.A	16.4.95	1996	GPS TAKRIALA	GPS Chukali
12/34	Aurang Zeb	M. Zaman	13101-0987179-1	8/7/1970	SSC, PTC	7.9.95	6.1997	GPS Akhreela	GPS Chattian
13/35	Inam ullah Khan	Gul Muhammad Khan	13101-3115684-5	30.12.70	SSC	12.12.95	23.01.97	GPS Banda Gazan	GPS Tarhana Ghariban
14/36	Saifur Rehman	M. Aslam Khan	13101-0998797-1	1/2/1971	SSC	30.05.96	—	GPS No1 Nawanshehr	GPS Kuthiala
15/38	Saeed akhtar	Aurangzeb	13101-2422564-3	3/8/1971	B.A, PTC	25.06.97	—	GPS JATAL	GPS Upper Kunj
16/39	Ayaz Gul	Fazalur Rehman	13101-4879360-5	3/10/71	SSC	01.07.1990	Nov-93	GMS TAJWAL	GPS Saman Pain
17/40	M. Ijaz Khan	Mohabbat Khan	13101-0968758-7	3/12/71	SSC, PTC	14.3.95	23.01.97	GMPS GULGRAN	GMPS Fathe Bandi
18/41	M. Awais Khan	Sarwar Khan	13101-0842362-1	31.3.1971	SSC	25.5.96	—	—	GPS Banda Batang -I
19/42	Aurangzeb	M. Ramzan	13101-0843012-5	5/4/1971	SSC	15.5.96	31.01.97	GPS DANNA BAGAN	GPS Dakhan Bagan
20/43	Sher Dil	M. Sabir	13101-0872962-1	5/1/1971	D.COM	26.10.95	23.01.97	GPS BANWARI	GPS Gaveera
21/44	Jamshaid Khan	M. Nazeer Khan	13101-3125389-5	5/4/1970	F.A	26.1.95	—	GPS KALKOTO	GPS Tannan
22/47	Muhamma d Khalid	Gul Zaman	13101-0876232-1	13.1.72	SSC	18.12.95	23.01.97	GPS MERHES	GPS Larri
23/48	M. Javeed	M. Ismail	13101-7693226-3	2/3/1972	SSC	31.12.95	23.01.97	GPS THORA	GPS Kuthwal

All well
Lian
21/9/24

13

	Babar Shahzad	Abdul Aziz	13101-8372917-3	25/02/72	FA	26/10/1995	24.05.97	GMS Danna Misryal	GPS Dobather
25/50	M. Bashir	Mir Dad	13101-7284275-9	3/1/1972	SSC	27.07.1995	25.06.97	GPS DANNA LORA	GPS Fatha Abad
26/51	M Nawaz	Kala Khan	37405-0727925-3	22/03/72	FA	30/05/1996		GPS Langrial	GPS Darwaza
27/52	Liaqat Hussain	Gul Zaman	13101-0965611-7	4/6/1972	F.A	08.07.1996		GPS KOLIALIAN	GPS Langaloot
28/53	Sohail Akram	M. Akram	13101-2774343-3	4/12/72	SSC	25.03.96		GPS MALIKPURA	GPS Pandu Thana
29/55	Sarfraz	Gul Zaman	13101-5935381-1	15.4.72	SSC/PT C	8.5.95	13.2.97	GPS ANDER SERI	GPS Tannan
30/56	Azhar Masood	M. Maskeen	13101-0457563-5	5/2/1972	SSC	16.04.1996	24.6.97	GPS No 1 Abbottabad	GPS Pandu Thana
31/57	M. Fiaz	Taj Muhammad	13101-0879862-9	5/12/72	SSC, PTC	05.12.1995	23.01.97	GPS MALKOTE	GPS Pumanmar
32/59	Afsar Mir	Abdul Ghanl	13101-8483090-5	8/1/72	D.COM	30.02.96	23.01.97	GPS NAWAN SHEHR NO: 1	GPS Darabar
33/61	Tariq Mehmood	Mohabat Khan	13101-0951088-9	13.9.72	D.COM	11.4.96	23.1.97	GPS Sarbhana	GPS Khukwala
34/62	Waqar Anwar	M. Nawar	13101-3181859-9	1/2/1973		08.3.95	25.06.97	GPS MARI	GPS Danna Khan Kalan
35/63	Waheed Gul	Kala Khan	13101-0849553-7	1/11/73	FA/PTC	16.4.95		GMS Kushal Abad	GPS Larw Ghora
36/64	M. Zaffar Iqbal	Abdul Qayyum	13101-0915108-1	15.1.73	F.A, PTC	29.4.96	25.06.97	GPS PANGOORA	GPS Bagh Darra
37/65	Jamil Akhtar	Sarfraz Khan	37405-0331857-1	19.2.73	F.A, PTC	14.4.95	25.06.97	GPS DHERI RAKHALA	GPS Lari Sydian
38/66	Ashfaq Ahmad	Rehmat Deen	13101-9532939-5	24.2.73	F.A, PTC	4.4.95	04.07.97	GPS KHALORIAN	GPS Serian Bagh
39/67	Ashfaq Ahmad	M. Hafeez Akhtar	42301-3242482-7	24.2.73	SSC	07.01.96	23.1.97	GMPS Pathreri	GPS Jalsi Tajwat
40/68	M. Tanveer	Gul Faraz Khan	13101-0912758-3	3/2/1973	SSC	24.4.96	25.06.97	GPS KHORI	GMPS Massah Syedan
41/69	Shakeel Ahmad Abbasi	Ejaz Ahamed Abbasi	13101-1788288-7	3/3/1973	F.A	01.08.1995		GPS DHAKAN MOLIA	GPS Sangal
42/70	Saleh Shah	Manzoor Shah	13101-0938005-1	3/4/1973	F.A	15.9.96	24.05.97	GMPS DHOBAN	GPS Pagga
43/71	Adnan Rashid	Abdur Rashid Mir	13101-3543565-3	22.4.73	F.A	28.11.95	13.02.97	GPS BATANGI	GPS Qalandarabad
44/72	S. Hajjaj Shah	Shabeer Shah	13101-0909865-7	10/10/73	MA, LLB	15.01.1995	25.06.97	GPS DANNA SURJAL	GPS Tootni
45/74	Kousar Ur Rehman	M. Akbar	13101-3881112-3	24.11.73	SSC	12.12.95	1997	GPS ATTARIAN	GPS Balkhu
46/75	Zahid Khan	Safdar Khan	13101-1796781-5	14.2.74	SSC	24.08.95		GPS SURJAL	GPS Tahra
47/76	Waqar Ali	Fareed Muhammad	13101-7703844-1	15.12.74	SSC	17.01.1995	25.6.96	GPS U/Malsa	GPS Missar
48/77	Khurshid Kamal	Kamaldeen	13101-1910608-3	17.2.74	SSC	26.10.95	1997	GPS ATTERIAN	GPS Nakka Gali
49/78	Azeem Khan	Azam Khan	13101-3977297-7	17.2.74	F.A	26.10.95		GPS NARRIAN	GPS Pind Kargo Khan
50/80	Shakir Ur Rehman	Atta Ur Rehman	13101-6205832-3	4/10/74	SSC	10.12.95		GPS DHERIAN	GPS Sandri
51/81	Aurangzeb Khan	Wali Muhammad Khan	13101-0964634-9	13.4.74	SSC	30.05.96		GPS Nowsher	GPS Wazeeran
52/82	Muhamma d Imran	M. Zaman Qureshi	13101-3793683-9	51.4.74	SSC	6.11.95	06.03.97	GPS AKHORA	GPS Seri Khan Kalan
53/83	M. Safeer	Muht Munawar	13101-0300613-3	5/1/1974	SSC	01.04.96	25.06.97	GMPS RATTI DHERI	GPS Katha
54/84	M. Sabir	Khani Zaman	13101-6367717-3	5/7/1974	SSC	10.01.96	25.06.97	GPS GMPS MERA GUJRAT	GMPS Naka Bhurj

Ashfaq
Lur
 21/9/24

19

	Ghulam Murtaza	M. Yousaf	13101-3942002-1	15.5.74	SSC	03.01.96	—	GPS KHANDORI	GMP5 Dakhan Khan Kalan
68/86	Asif Hussain	Muhammad Sarwar	13101-1359149-7	15.6.74	SSC	08.03.1995	—	GPS BANDA MUGHLAN	GPS Ramkot
57/87	Sajid Mehmood	Gohar Rehman	13101-6440111-9	18.7.74	SSC	05.11.95	23.01.97	GPSAXHORA	GPS Khanspur
58/90	Zahid Khan	Aslam Khan	13101-1980395-9	13.1.75	SSC	21.1.95	23.01.97	GPS BASWAIR	GPS Jaggian
59/91	Sardar Mohsin Saeed	Sardar Saeed Ahmad	61101-1971458-1	2/10/75	F.A	22.01.95	22.02.97	GPS SANGRERI	GPS Upper Salhad
60/92	M. Zahid	M. Ashraf	13101-0908751-1	22.2.75	F.A	17.1.95	13.02.97	GPS PATROL	GPS Surjal
61/93	Ajmal Khan	Hakim Dad	13101-0911245-9	3/5/1975	SSC	11.4.96	—	GPS KU LORA	GPS Qalandarabad
62/94	M. Nisar	H.M. Iqbal	13101-6214670-9	3/12/75	F.A	25.2.96	23.01.97	GPS Upper Salhad	GPS Rankot
63/95	Khurram Shahzad	Muhammad Ilyas	42201-7177190-1	4/4/1975	SSC	24.8.95	23.01.97	GPS UPPER THAUGER	GPS Manu De Ban
64/96	Nasir Mehmood	Fazal Mehmood	13101-0843251-9	5/9/1975	F.A	3.10.96	06.03.97	GPS BALHAR	GPS Kali Dar
65/97	Zahid Fareed	Ghulam Fareed	13101-9057318-1	18.5.75	SSC	26.10.95	25.05.97	GPS KHATA SATORA	GPS Jhangl Sydian
66/98	Malik Rashid Mehmood	Malik Wazeer Muhammad	13101-5693898-9	1/1/1976	F.A, PTC	24.8.95	25.06.97	GPS LARI SYEDAN	GPS Hurnara
67/99	M. Arshad Khan	Akbar Khan	13101-3957866-7	15.1.76	SSC	30.05.96	—	GPS BERI BAGLA	GPS Khun
68/100	Rashid Iqbal	M. Iqbal	13101-4881793-7	23.1.76	SSC	10.06.96	24.05.97	GPS MISKOTE MANSEHRA, KD	GPS Beri
69/101	Muhd Azam	M. Saleem	13101-3550798-1	2/1/1976	F.A, PTC	25.04.95	25.04.95	GMP5 NAMSHERA	GPS Nimshera
70/103	Sajjad Ahmad	M. Sadiq	13101-4601505-1	3/10/76	SSC	06.05.96	23.01.97	GMP5 THUNDA CHOHA	GPS Bareela
71/104	Noshad	Ali Zaman	42401-2063793-5	15.4.76	SSC	8.1.96	1997	GPS PATHEL, SHERWAN	GMP5 Mehal
72/105	Shahid Gul	Rustam Khan	13101-7257538-5	5/4/1976	SSC	11.4.95	1997	GPS JALGRAN	GPS Mandroach Q/Abad
73/106	Inamullah Khan	Habibullah Khan	37405-0545208-5	6/10/76	F.A, PTC	12.11.95	01.05.97	GPS UPPER JAGEER	GPS Atteran
74/107	Amir Riaz	M. Riaz	13101-0916235-1	7/2/1976	F.A	03.01.96	—	GPS JUNIAN	GPS Upper B/Gall
75/108	S. Azmat Ali Shah	S. Nahamat Shah	13101-0833607-9	18.7.76	F.A, PTC	05.05.96	24.06.97	GPS DANNA SURJAL	GPS Baldheri Maira
76/109	Fazal-E-Razaq	Aziz Ur Rehman	13101-2582353-3	20.8.76	F.A	16.9.96	—	GPS JANDAR BARI	GPS Phalkote
77/111	Sagheer Ahmad	M. Yousaf	13101-0932404-1	12/2/76	SSC	12.03.95	21.06.97	GPS BADIAL	GPS More Kalan
78/112	Mohsin Ali Shah	S. Wazeer Hussain Shah	13101-9827427-5	28.12.76	SSC	9.5.96	—	GPS LAHORE	GPS Thesi
79/113	Rahees Khan	Abul Sadiq	13101-0979017-1	1/6/1977	SSC	11.04.96	—	GPS GAMBEER	GPS Baldheri
80/114	Zahid Irfan	M. Urfan Khan	13101-1789174-1	1/8/1977	SSC	25.09.1996	—	GPS BANDI SATHAL	GMP5 Trimman
81/116	Naveed Akhtar	Tika Khan	13101-9572586-7	3/5/1977	F.A	23.05.96	25.06.97	GPS SUMMA KARAGA	GPS Gajjal
82/117	Jabar Khan	Gohar Rehman Khan	13101-9107971-5	4/2/1977	BA	27.11.95	—	GMP5 Loharan	GPS Kokal Barseen
83/118	S. Zahid Hussain Shah	S. Pir Zaman Shah	13101-3717211-7	4/2/1977	F.A	08.06.96	23.01.97	GPS KEHRI	GPS Bigakot


Attest
21/9/24

15

19	M. Sabir	Qalander Khan	13101-0927807-1	15.5.77	FA	15.11.95	--	GMPS Brongiala	GPS Banj B. Gail
85/120	Sher Muhammad	Malik M. Ayub	13101-5368598-1	6/5/1977	SSC	26.10.95	23.01.97	GPS BASWAIR	GPS Chanjah
86/121	M. Toqeer	M. Bashir	13101-8928663-9	6/6/1977	B.A	11.4.96	23.01.97	GPS PHALKOTE	GPS Banda Nabi
87/122	Naseem Khan	Lal Khan	13101-0870554-3	27.6.77	F.A, PTC (20.05.2003)	16.12.95	23.01.97	GPS SADDRA	GPS Chahan
88/123	M. Saeed	M. Aslam	13101-7905917-9	7/1/1977	SSC	27.9.95	1997	GPS KANTHIALI	GPS Keri Sarafali
89/124	M. Zaffar Khan	M. Younas Khan	13101-0851560-3	25.7.77	B.A	11.4.96		GMPS SARBAN COLONY	GPS Mangal
90/125	Muhammad Nawaz	Faizul Rehman	13101-3556640-9	22.3.78	F.A, PTC (26.02.2204)	22.05.96	---	GPS MAIRA BAGNOTOR	GPS Tupla
91/126	Shams Ur Rehman	Shamshad Ali	13101-4419462-3	15.4.78	B.A/PS T	23.5.96	23.01.97	GPS GARI NOOR POOR	GPS Khokhar

TERMS & CONDITIONS

1. No TA/DA etc is allowed.
2. Charge reports should be submitted to all concerned in duplicate.
3. Their Appointment is subject to the condition that their certificates/documents will be verified from the concerned authorities by the DEO Office, anyone found producing bogus Certificates/Documents will be proceeded against through law enforcing agencies.
4. Their services are liable to termination on one month's prior notice from either side. In case of resignation without notice their one-month pay/allowances shall be forfeited to the Government.
5. Pay will not be drawn until and unless pay activation letter regarding verification of their documents is issued by this office.
6. They will be governed by such rules and regulations as may be issued from time to time by the Govt.
7. Their services shall be terminated at any time, in case their performance is found unsatisfactory. In case of misconduct, they shall be proceeded under the rules framed from time to time.
8. Before handing over charge, once again their document may be checked by the DDO concerned
9. The prescribed qualification for appointment of PST is Intermediate with PTC/Diploma in Education /ADE as professional qualification. They shall be provided opportunity to appear in the HSSC/PTC/Diploma in Education /ADE Exam from the recognized Board/University within three years. In case they failed to acquire the requisite qualification/training certificate within the stipulated period, their service shall stand terminated automatically. The stipulated period shall be reckoned from the date of issuance of appointment order.
10. Their appointment is subject to the medical fitness & verification of their character antecedents to the stratification of the undersigned in the light of section-3 of the Khyber Pakhtunkhwa SACKED Employees (Appointment) Act, 2012.
11. The period of dismissal, removal and termination from service of the SACKED employee till the date of their appointment shall be deemed to have been automatically relaxed and there shall be no further relaxation under any rules for the time being enforce in the light of Section-4 of the Khyber Pakhtunkhwa SACKED Employees (Appointment) Act, 2012.
12. SACKED employees shall not be entitled to claim seniority, promotion or other back benefits and their appointment shall be considered as fresh appointment in the light of Section-5 of the Khyber Pakhtunkhwa SACKED Employees (Appointment) Act, 2012.
13. They should join their post within 30 days of issuance of this appointment order, in case of failure to join the post within stipulated period, appointment will stand expired automatically and no subsequent appeal shall be entertained. & the next senior sacked employee shall be considered for appointment in the light of section-7 (3) of the Khyber Pakhtunkhwa SACKED Employees (Appointment) Act, 2012.


 21/9/24

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Copy of professional standards, core competencies and job description issued vide Govt. of Khyber Pakhtunkhwa E&SED Notification No. SO(PE)4-3/PST/2014 dated 17-09-2014 is attached with the appointment order.

sd/-

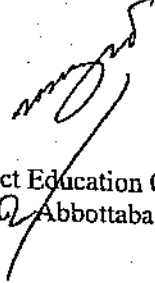
Qazi Tajamal Hussain
District Education Officer (M)
Abbottabad

Endst No 12422-29 /EB-II/ PST /Sacked

Dated 09/11/2017

Copy forwarded for information and necessary action to the:-

1. Additional Registrar Peshawar High Court Abbottabad Bench w/r to Judgment passed in W.P No.516-A / 2013 announced on 24.5.2016
2. Director E&SE Khyber Pakhtunkhwa, Peshawar.
3. District Comptroller of Accounts Abbottabad.
4. Sub Divisional Education Officer (M) Abbottabad & Havelian
5. PS to the Secretary to Govt. Khyber Pakhtunkhwa E&SE Department Peshawar.
6. AP EMIS local office.
7. Candidates Concerned.
8. Master File.


District Education Officer (M)
Abbottabad

Abdusalam

21/9/24

بخدمت جناب وزیر اعلیٰ خیبر پختونخوا

عنوان! سیکڈ ایپلائمنٹز بابت حصول حق استفادہ حالیہ سروس 2017 میں 2012 سے 2017 تک کی
سروس میں دیگر فائدہ جات کو شامل کر کے Notification بابت عمل درآمد کا حکم صادر کیا جائے۔

جناب عالی!

- 1- سیکڈ ایپلائمنٹز ضلع ایبٹ آباد کو 2017 میں Reinstatement کی بجائے Fresh Appointment کے آرڈر تحت Sacked Employees Appointment ACT 2012 و فیصلہ جات پشاور ہائی کورٹ ایبٹ آباد بینچ و سپریم کورٹ آف پاکستان کے صریحاً خلاف تھے۔ نقل فیصلہ 24-05-2013 WP No 516-A/2013 و فیصلہ محررہ 24-05-2017 CP No-401-P etc لف B و A ہیں۔
- 2- یہ کہ سیکڈ ایپلائمنٹز ایبٹ آباد اپنے Appointment Orders سے متاثر ہوئے جس کی بابت سیکڈ ایپلائمنٹز ایبٹ آباد نے اپنے حالیہ Appointment Orders کو پشاور ہائی کورٹ ایبٹ آباد بینچ میں (Reinstatement Orders) کی بجائے Fresh Appointment Orders چیٹج کیئے۔ نقل درخواست نمبر 1046-A/2017 in WP No 546-A/2013 و درخواست نمبر 455-A/2020 in Review Petition No 31-A/2018 و فیصلہ محررہ پشاور ہائی کورٹ ایبٹ آباد بینچ 12-01-2021 لف C و E و F ہیں۔
- 3- یہ کہ سیکڈ ایپلائمنٹز ایبٹ آباد کے حق میں پشاور ہائی کورٹ ایبٹ آباد بینچ نے سپریم کورٹ کے فیصلہ 27-03-2020 کو اپنے حالیہ فیصلہ محررہ 12-01-2021 کے ذریعے Endorsed کیا ہے اور سروس ٹریبونل خیبر پختونخوا نے 23-12-2021 اور 18-03-2021 کے ذریعے سپریم کورٹ کے فیصلے محررہ 27-03-2021 تشریح کرتے ہوئے فائدہ دیا ہے۔ نقل فیصلہ 23-12-2021 و 18-03-2021 سروس ٹریبونل خیبر پختونخوا PI و Q لف ہیں۔
- 4- یہ کہ مذکورہ بالا فیصلہ سپریم کورٹ محررہ 27-03-2020 ضلع سوات کی حد تک پہلے سے نافذ عمل ہے۔ نقل فیصلہ 27-03-2020 سپریم کورٹ و فیصلہ سروس ٹریبونل خیبر پختونخوا 12-07-2016 و Appointment Orders DEO (Male) Swat محررہ 05-07-2013 و 15-07-2021 لف H و اول ہیں۔
- 5- یہ کہ مذکورہ بالا فیصلوں پر Accountant General KPK محررہ 28-02-2022 و Govt of KPK Law and Parliamentary Affair Department محررہ 15-10-2021 و 17-03-2022 کی رائے بابت نفاذ کئے جانے موجود ہے نقل کاپی لف L, M, N, O ہیں۔

استدعا ہے سیکڈ ایپلائمنٹز کو مذکورہ بالا عنوان کے تحت فائدہ دے کر Notification بابت نفاذ عمل درآمد کرنے کا حکم صادر کیا جائے۔

المرقوم: 19-12-2023

سید حجاج علی
سر دار محمد سعید

فون نمبر: 0334-5588224

الحارث
سیکڈ ایپلائمنٹز محکمہ تعلیم ضلع ایبٹ آباد

فون نمبر: 0333-5717334

سید شمس الرحمن بخاری

فون نمبر: 0321-9808088



21/9/24
A. Khan

11/11/24

OFFICE OF SECRETARY EAST
348
9-1-24

9/11/24
SSE

D/S/L (9-1-24)
S=2 (1-1)

Section Officer (L/Estt)

* PS to Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.

Endst No. & Date even.
Copy forwarded to: -

(Shagufa Sarwar)
Section Officer (L/Estt)

End: as above.

I am directed to refer to the subject noted above and to enclose herewith a copy of appeal/application submitted by Sacked Employees of District Abbottabad alongwith enclosures for examination under rules/policy, please.

Dear Sir

APPLICATION OF SACKED EMPLOYEES FOR COUNTING OF PREVIOUS SERVICE ALONGWITH BACK BENEFITS/SERVICE BENEFITS ETC

The Secretary to Govt of Khyber Pakhtunkhwa,
Elementary & Secondary Education Department.

Dated Peshawar, 8th January, 2024

No: SO (L/Estt) GMS/KP/4-1/Appeals/2023/9

Phone: 091-9213838

Fax: 091-9210707

**CHIEF MINISTER'S SECRETARIAT
KHYBER PAKHTUNKHWA**

(20) (15) Annex 66 67 20
MOST IMMEDIATE/ OUT TODAY



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

Block "A" Civil Secretariat, Peshawar

Phone No. 091-9223531

Email: kpese.solit3@gmail.com

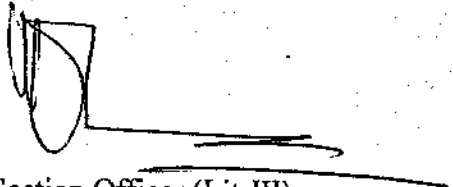
**NO.S.O (LIT-III)-E&SED-(Misc)-application of M.Sohail & others
Dated Peshawar the 10-01-2024**

To,

The District Education Officer (M),
Abbottabad.

**SUBJECT: APPLICATION IN RESPECT OF MUHAMMAD SOHAIL AND
OTHERS.**

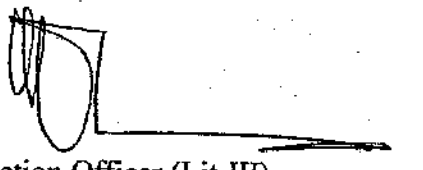
I am directed to refer to the subject noted above and to enclose herewith an Application (in original) of Mr. Muhammad Sohail PST, Dubhter Abbottabad & others, along with all enclosures, which is self-explanatory for further necessary action at your end under intimation to all concerned please.

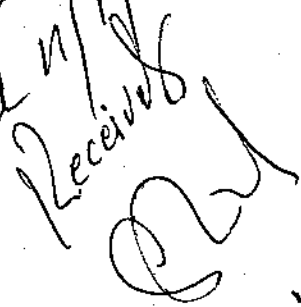

Section Officer (Lit-III)

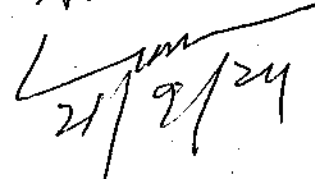
Endst.NO & date as above.

Copy forwarded to:-

1. Director E&SE Peshawar.
2. PS to Secretary E&SED.
3. P.A to AS (General) E&SED.
4. P.A to DS (Legal) E&SED.


Section Officer (Lit-III)

D No 224
Dated 11/1/24
Received

11/1/24

Admitted

21/9/24

(21)

(2)

A met "H"

To

The District Education Officer
(M) Abbottabad

Subject

APPLICATION FOR BENEFIT OF EXTENSION OF JUDGMENT IN CP# 468-P/2016 DATED 27/03/2020 READ WITH JUDGMENT OF AUGUST SUPREME COURT OF PAKISTAN REPORTED JUDGMENT, 2009 SCMR-1.

Respected Sir,

It is Submitted as under:-

Att. Seal
27/2/24

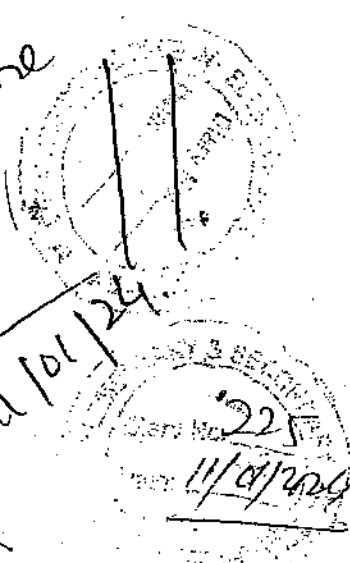
1. That under signed (s) Sacked Employees and presently working in District Abbottabad.
2. That as per judgment August Supreme Court of Pakistan CP# 468-P/2016 etc. dated 27/03/2020 Wherein, it was held that petitioner will be allowed counting of their services from the protected period for payment of Pensionary benefit. This Petition may kindly be treated as part and parcel of the previous Application. (Copy Attached).
3. That the above referred judgment is Personam in nature. As per 2009 SCMR Page 1, if the Service Tribunal or Supreme Court decides a point of law relating to the Terms & Service a Civil Servant which covers not only the case of Civil Servant who litigated but also of other Civil Servants who may have not taken any legal proceeding in such a case the dictates and rule of good governance demand that benefit on such judgments by S/T/Supreme Court be extended to other Civil Servant who not be parties to the litigation instead of Compelling them to approach the S/T or any other forum. (Copy attached).

Under the Circumstances your gracious honour is humbly requested to please extend the benefit of the above referred judgment regarding protected period ^{for} the payment of Pensionary benefit being Similar place in the light of the above mentioned judgment accordingly.

Dated: 11/01/2024

ADD (L.H.)
pl. Process the
Case

11/01/24



YOURS SINCERE

Syed Shams-ur-Rehman (PST)

Malik Sohail Akram (PST)

S. Mohsin Saeed (PST)

Syed Hujaj Shah (PST)

Ph# 0333-5717334

0321-9808088

[Handwritten signatures and initials]

22

Annex "I"

8

OFFICE OF THE DISTRICT EDUCATION OFFICER (M) ABBOTTABAD



No. 294/Lit

Dated: 12/01/2024

☎ 0992-9310102, 0992-330131
✉ EDO.Education.Atd@gmail.com

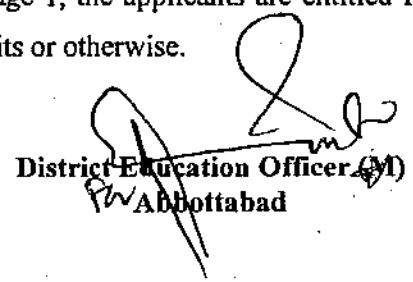
To

The Director
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar.

Subject: APPLICATION FOR BENEFIT OF EXTENSION OF JUDGMENT IN CP NO. 468-P ETC of 2016 DATED 27-03-2020 READ WITH JUDGMENT OF AUGUST SUPREME COURT OF PAKISTAN 2009 SCMR I

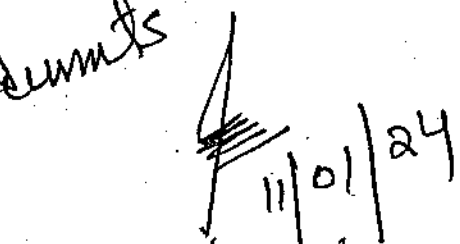
Enclosed please find herewith self explanatory application submitted by Sacked Employees of district Abbottabad for benefit of extension of judgment in CP No. 468-P/2016 dated 27-03-2020 wherein, they requested that as per 2009 SCMR Page 1 benefit of the judgment dated 27-03-2020 regarding protected period for the payment of pensionary benefits may please be extended to the applicants being similar placed persons.

It is therefore, your good honor is requested to please guide this office whether in the light of judgment 2009 SCMR Page 1, the applicants are entitled for protected period for payment of pensionary benefits or otherwise.


District Education Officer (M)
Abbottabad

Directorate (EE & SB) KPK
Diary Nos 484
Date: 12/1/24

AD (est male)
Discuss along with all relevant documents


11/01/24
21/9/24

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Annex "J" 21

(Registered)
DIRECTORATE ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA, PESHAWAR.

No 202 /AD (Lit-II)

Dated Peshawar the 06/07/2024

The District Education Officer,
(Male) Abbottabad.

Subject: GUIDANCE,

Memo:

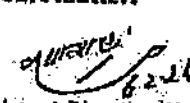
I am directed to refer your letter No. 294/Lit dated 12-01-2024, whereby, you have sought guidance regarding extension of the benefits of an un-reported Judgment dated 27-03-2020 passed by the Apex Court of Law in CP No. 468-I/2016 to the appellants namely Syed Shams Ur Rehman PSTs etc in view of their representation dated 11-01-2024, whereby, they are seeking the extension of the benefit of Judgment 2009 SCMR page-1 to the extent of extension of pensionary benefits to the appellant

Therefore, in view of the fore made facts of the case under reference, it is hereby intimated that the following documents /record including:-

- (i). Copies of the 1st appointment orders of the appellants.
- (ii). Copies of the termination from service orders of the appellants.
- (iii). Copies of the fresh/re-appointment orders of the appellants in the light of the Khyber Pakhtunkhwa Sacked Employees Act of 2012.
- (iv). Original service books of the appellants.

& all other service record including seniority list be provided to this Directorate on priority basis so as to proceed further into the matter under the Rules & Policy in vogue please.

An early action will be highly appreciated being court matter.



Assistant Director (Lit-II)
E&SE Khyber Pakhtunkhwa,
Peshawar.

Encls: No: /

Dated Peshawar the 1 /2024

Copy forwarded for information to the:-

1. Section Officer (Lit-II), E&SE Department Khyber Pakhtunkhwa, Peshawar.
2. PA to Director, E&SE Khyber Pakhtunkhwa Peshawar.
3. Office Copy.


Assistant Director (Lit-II)
E&SE Khyber Pakhtunkhwa,
Peshawar.

24

Annex "K & L"

2

OFFICE OF THE DISTRICT EDUCATION OFFICER (M) ABBOTTABAD



No. 724 /Lit

Dated: 14/02/2024

0992-9310102, 0992-330131
EDO.Education.Atd@gmail.com

To

The Assistant Director (Litigation-II),
Elementary & Secondary Education, Khyber Pakhtunkhwa,
Peshawar.

Subject: **GUIDANCE.**

Memo:

Reference to your office letter No. 202/AD (Lit-II) dated 06-02-2024 on the subject cited above. Requisite documents in respect of following teacher (Sacked Employees) mentioned against each, are forwarded as desired, please along with seniority list of sacked employees.

S.No	Name of teacher	Documents
1.	Mr. Shamas ur Rehman, PST, GPS Khokhar	i. Original Service Book ii. Copy of 1 st appointment order iii. Copy of termination order iv. Copy of fresh appointment order in the light of KP Sacked Employees Act 2012.
2.	Mr. Syed Hajjaj Shah, PST, GPS Gurdawara Gali	-----do-----
3.	Mr. Mohsin Saeed, PST, GPS Upper Salhad	-----do-----
4.	Mr. Sohail Akram, PST, GPS Dobathar	-----do-----

1677

724

44

16/2/2024

DISTRICT EDUCATION OFFICER (M)
ABBOTTABAD

Copy forwarded to the:-

1. PA to Additional Secretary (General) E&SE Department KPK Peshawar.
2. PA to Director E&SE Khyber Pakhtunkhwa, Peshawar.

sd -
DISTRICT EDUCATION OFFICER (M)
ABBOTTABAD

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Annex

"M"

OFFICE OF THE DISTRICT EDUCATION OFFICER (M) ABBOTTABAD



No. 2516-19 /Lit

Dated: 30/04/2024

☎ 0992-9310102, 0992-330131

✉ EDO.Education.Atd@gmail.com

To

1. Mr. Sohail Akram, PST, GPS Dobathar Circle Qalandarabad
2. Mr. Shams ur Rehman, PST, GPS Khokhar Circle Abbottabad
3. Mr. Syed Hajjaj Shah, PST, GPS Gurdawara Gali Circle Abbottabad
4. Mr. Sardar Mohsin Saeed, PST, GPS Upper Salhad Circle Abbottabad

Subject: **APPLICATION FOR BENEFIT OF EXTENSION OF JUDGMENT IN CP # 468-P/2016 DATED 27/03/2020 READ WITH JUDGMENT OF AUGUST SUPREME COURT OF PAKISTAN REPORTED JUDGMENT, 2009 SCMR-1.**

With reference to your application received through diary No. 225 dated 11-01-2024 on the subject cited above, it is submitted that your request has been rejected by Worthy Director E&SE vide letter No. 2423/DD (Legal) dated 22-03-2024. (Copy attached)


DISTRICT EDUCATION OFFICER (M)
ABBOTTABAD

Attested
[Signature]
24/9/24

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DIRECTORATE ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA, PESHAWAR.

No 2423/DD (Legal)

Dated Peshawar the 22/03/2024

To

District Education Officer,
(Male) Abbottabad.

Subject: -

GUIDANCE

Memo:

Page

ADOLESCENT
Plz Take Farber
ma as per attached
(4) signed by BOEL
22-3-24

I am directed & to refer your letter No. 724/Lit dated 14-02-2024 on the subject as cited above regarding grant of legal opinion in response to the Departmental appeals filed by:

1. Mr. Shams Ur Rehman PST (Ex-Sacked Employee).
2. Mr. Malik Sohail Akram PST (Ex-Sacked Employee).
3. Mr. Muhsin Saeed PST (Ex-Sacked Employee).
4. Mr. Hujaj Shah PST (Ex-Sacked Employee).

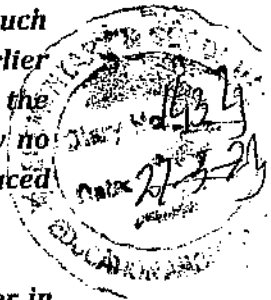
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All residents of District Abbottabad, whereby, they are seeking for the grant of Service Benefits to the extent of protected period for the payment of pensionary benefits against the PST posts being similarly placed person in the light of judgment dated 27-03-2020 passed by the august Supreme Court of Pakistan in CPs No. 468 to 472-P/2016 under case titled Muhammad Shehryar & Anwar Zaib VS the Secretary E&SED KP & others, similarly in another judgment reported as 2009 SCMR page/1 in criminal petition No. 71 to 72-L/2016 on the appeal from the judgment dated 29-08-2008 of the Lahore High Court Lahore in WP No. 11525, 11263, 11516 etc of 2008 under case titled Govt: of Punjab through Secretary education & others VS Samina Parveen etc, the operative parts of both the referred judgments of the apex courts of law are hereby reproduced as under:

"The learned counsel for the petitioners contends that the petitioners were entitled to the grant of back benefits but we are unable to see as to how such back benefits could have been allowed to them more so, when in the earlier judgment of the Tribunal dated 04-01-2013 no such relief was allowed to the petitioners & by the impugned judgment dated 12-07-2016 also apparently no such relief has been granted to them. He adds that some other similarly placed employees have been given back benefits.

"We have asked the learned counsel for the petitioners to show as to whether in the memo of appeal before the Tribunal such point has been urged or any other ground in this regard was taken. He went through the memo of appeal & conceded that no such assertion in the memo of appeal was taken by the petitioners. The Tribunal has dis allowed back benefits to the petitioners twice & it is obvious that such has been dis allowed to the petitioners for the reason they have not served the Department for the said period & there is no material on record on the basis of which relief of back benefits could be allowed to them. There appears no illegality in the impugned judgment. Even otherwise, no sensational question of public importance in terms of Article-212 (3) of the constitution of 1973 has been raised".

"For what has been discussed above all the listed petitioners being devoid of merit stand dismissed & leave to appeal is refused, however, the petitioners will be allowed counting of their service for the protected period for payment of pensionary benefits".



The operative part of the Judgment 2009 SCMR page/1 is reproduced as under:

If a Tribunal or this court decide a point of law relating to the terms & condition of a civil servant who litigated & there were other civil servants who may not have taken any legal proceedings in such a case, the dictates of justice & rule of good governance demand that the benefit of the said decision be extended to the other civil servant also who may not be parties to that litigation."

Perusal of the service record of the above four PSTs, reveals that Mr. Shams Ur Rehman was appointed against the PTC post /in BPS-7 on fixed pay vide order dated 23-05-1996 & was terminated from service vide order dated 23-01-1997 by the then District Education Officer (M) Abbottabad, where against they approached the Honorable High Court in WP No. 516/2013 which was decided on 24-05-2016 & in compliance of the said Judgment, he was re-appointed as PST afresh vide order dated 09-11-2017 with the condition vide S.No. 12 of the said order that they shall not be entitled for the seniority, promotion or back benefits with further condition that his appointment against the said post shall be deemed to have been made afresh in terms of Section-5 of the KP sacked employees Act, 2012 it is important to note that Mr. Sohail Akram was appointed against the PTC post vide order dated 25-03-1996 on fixed pay & was removed from service vide order dated 23-01-1997, however, he was re-appointed against the PST post in BPS-12 vide order dated 09-11-2017 with the same TORs as referred in the case of Mr. Shams Ur Rehman PST of District Abbottabad. Perusal of the service record of the Mr. Munsin Saeed shows that he was inducted against the PTC post on 22-01-1995 as per entry made in his service book & was terminated from service vide order dated 13-02-1997 on the grounds of illegal ab-initio void & against the prescribed rules, however, vide order dated 09-11-2017, he was also inducted as PST in BPS-12 afresh with the same TORs as referred in the case of Mr. Shams Ur Rehman. Furthermore, Mr. Syed Hujaj was appointed against the PST post on dated 19-01-1995 & was terminated from service on 13-02-1997 on the grounds of illegal ab-initio void & against the prescribed rules, however, vide order dated 09-11-2017, he was also inducted as PST in BPS-12 afresh with the same TORs as referred in the case of Mr. Shams Ur Rehman in the forgoing Paras, however, perusal of the list at S.No. 327, 335, 342 & 365 regarding the above-said PSTs it is evident that they have improved their respective academic qualification from SSC to FA, BA & MA during the course of service as PST in District Abbottabad & were appointed afresh vide order 09-11-2017 against the PST (M) Post in BPS-12 under the provision of Section-3 of Sacked Employees Act, 2012 which is reproduced as under:

"Notwithstanding anything contained in any law OR rule for the time being in force, on the commencement of this Act, all sacked employees subject to Section-7, may be appointed in their respective cadre of their concerned Department in which they were occupied civil posts before their dismissal, removal & termination from service."

Similarly, Section-5 of the Act ibid says that:

"A sacked employee appointed under Section-3 shall not be entitled to any claim of seniority, promotion or other back benefit & his appointment shall be considered as fresh appointment."

Therefore, in view of the above stated facts of the case & citation of law & judgments as well as service record of the above named appellants who are seeking for the protected period of service w.e.f their 1st appointment as PTC now PST till date, it is evident that they are not similarly placed persons, hence, the cited judgments are applicable upon those Teachers/employees who were inducted in the system as a regular civil servant.

However, the issue of the above named appellants working against the PSTs in BPS-12 posts is totally different in both question of law & facts of the case on the material grounds that they were inducted in the ERSE Department against the PTCs in BPS-7 purely on fixed/adhoc pay with no service regularization prior to their termination from services against the noted posts on the grounds of being illegal & even against the prescribed provision of law, rules & the appellants were appointed afresh vide order dated 09-11-2017

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against the post of PST in EPS-12, in view of Sections 3 & 5 of the Sacked Employees Act, 2012 hence, the appeals of the appellants for the grant of protected period since 1996 till date are liable to be rejected in the above said terms, hence, an intimation to this effect be noted for further necessary Departmental action please.

Note:

Original Service Books of the above named appellants are hereby return and attached with the instant letter for further necessary action.


ASSISTANT DIRECTOR (Estab-I)

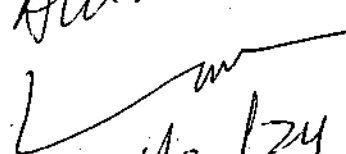
Endst No: _____ / F.No.Litigation-II/CP:468-P/2016 /Sacked/Employees/file.

Dated Peshawar the ___/___/2024.

Copy forwarded for information to the:-

1. Additional Secretary (General) E&SE Department Khyber Pakhtunkhwa.
2. Additional Director (Estab-M) E&SE Khyber Pakhtunkhwa.
3. Deputy Director (Legal) E&SE Khyber Pakhtunkhwa.
4. Office Copy.

ASSISTANT DIRECTOR (Estab-I)

Attested

21/3/24

(29)

Annex "N"

Office of the Secretary
E&SE, Deptt, KPK
Diary No: 2186
Date = 28/5/24

بخدمت جناب سیکرٹری (E&SED) KPK پشاور

سر دار محسن سعید، PST، GPS، سہڈ سرکل ایبٹ آباد

اپیلانٹ

بنام

(1) ڈائریکٹر (E&SED) KPK پشاور

(2) DEO (E&SED) KPK ایبٹ آباد

(3) D.A.O ایبٹ آباد بذریعہ A.G، KPK پشاور

(4) فنانس KPK بذریعہ A.G، KPK پشاور

رہنمائے

ڈیپارٹمنٹل اپیل:-

اپیل برخلاف حکم محررہ 30-04-2024 ازاں جناب DEO صاحب ایبٹ آباد جسکی رو سے

درخواست اپیلانٹ بابت شمار کرنے عرصہ ملازمت Protected Period بغرض Pensionary benefits خارج فرمائی گئی۔

استدعا:- بمظوری اپیل ہذا درخواست اپیلانٹ منظور فرمائی جا کر حکم جناب DEO صاحب محررہ 30-04-2024 و 22-04-2024 کو منسوخ کالعدم فرمایا جاوے اور اپیلانٹ کا عرصہ ملازمت (Protected Period) کا اس کے عرصہ ملازمت میں شمار کر کے اپیلانٹ کو Pensionary benefits کا حقدار قرار دیا جائے۔

جناب عالی:- مضمون اپیل ذیل عرض ہے۔

1- یہ کہ اپیلانٹ مورخہ 19-01-1995 کو بحیثیت PTC محکمہ تعلیم میں تعینات کیا گیا تھا اور بعدہ مورخہ 13-02-1997 کو متعدد دیگر ملازمین کے ساتھ ٹرمنیٹ کر دیا گیا۔

2- یہ کہ سال 2012ء میں KPK Sacked Employees (Appointment) Act-2012 وجود میں آیا اور مذکورہ بالا Terminated ملازمین کو ملازمت پر بحال کیئے جانے کا حقدار قرار دیا گیا تاہم قانون مذکورہ بالا پر عمل درآمد میں تاخیر کے باعث بیشتر ملازمین کو عدالت عالیہ میں رٹ Petition نمبر 516-A/2013 دائر کرنا پڑی جسکے نتیجے میں رٹ میں شامل جملہ Terminated ملازمین کو بحال کرنے کا حکم صادر فرمایا گیا اور انکے ٹرمنیٹڈ

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عرصہ کو Protected Period کے طور پر Pensionary Benifit ملازمت شمار کرنے کا حکم ہوا۔ (نقل فیصلہ 27-03-2020 سول petition نمبر 468-P/2016 لف ہے۔)

۳۔ یہ کہ مذکورہ بالا فیصلہ عدالت عالیہ اور سپریم کورٹ کے فیصلہ بحوالہ 2009 SCMR کو بنیاد بناتے ہوئے اور مذکورہ فیصلہ جات کا فائدہ اٹھانے کی غرض سے اپیلانٹ نے ایک درخواست مورخہ 12-01-2024 کو جناب DEO ایبٹ آباد کے پاس دائر کی جس پر مناسب ہدایت کے حصول کیلئے DEO صاحب نے جناب ڈائریکٹر صاحب سے ہدایت طلب فرمائی۔ (نقل درخواست لف ہے۔)

۴۔ یہ کہ جناب ڈائریکٹر صاحب (E&SE) نے درخواست اپیلانٹ پر اپنی رائے دیتے ہوئے درخواست اپیلانٹ کو مطابق قانون Dispose of کرنے کی ہدایت کی۔ مگر جناب DEO صاحب نے بحوالہ حکم محررہ 30-04-2024 درخواست اپیلانٹ خارج فرمادی۔ (نقل حکم محررہ 30-04-2024 لف ہے)

۵۔ یہ کہ بوجوہات ذیل حکم ازان جناب DEO صاحب محررہ 30-04-2024 خلاف قانون غیر مجازانہ اور درست اختیارات کے عدم استعمال کا نتیجہ ہے لہذا ناقابل بحالی و قابل منسوخی ہے۔ اور درخواست اپیلانٹ منظور کیے جانے کے لائق ہے۔

گراؤنڈز:-

(i) یہ کہ جن ملازمین کی برطرفی کے عرصہ ملازمت کو Protected Period قرار دے کر اسے Pensionary Benifit کی غرض سے شمار کرنے کا حکم صادر فرمایا اس کا فائدہ ان تمام دیگر ملازمین کو بھی دیا جانا از روئے قانون لازمی ہے جو کہ Similarly-Placed تصور ہوتے ہیں اور اپیلانٹ بھی اس فائدہ کا حقدار تھا تا سید میں سپریم کورٹ کے جج منٹ نمبری لف اپیل ہذا ہیں۔

(ii) یہ کہ اپیلانٹس نے سپریم کورٹ کی فیصلہ محررہ 27-03-2020 کی غلط تشریح کی ہے جو کہ سراسر خلاف قانون اور مسلمہ اصولوں کے منافی ہے نیز لاہور کے فیصلہ محررہ 29-08-2009 کو صوبائی فیصلہ سپریم کورٹ محررہ 27-03-2020 جو نظر انداز کر کے پنجاب کے فیصلہ کی روشنی میں kpk سپریم کورٹ کے فیصلہ کی صریحاً نفی کی ہے اور مجوزہ اصولوں کی روشنی میں KPK سرکاری ملازمین کے حقوق کو متوازی اصول کی روشنی میں خلاف اصول رائج کو ترجیح دی ہے جو آئین پاکستان سروس قانون و پالیسی سروس اصول عدالت عالیہ و عظمیٰ کے فیصلہ جات کی روشنی میں قابل رد و ناقابل رفتار ہے اور قابل اخراج ہے۔

(iii) یہ کہ Back Benefits اور Similar Employees کی تشریح کرتے وقت ذاتی Pick & Choose کے اصول کو اپنایا ہے جو رسپانڈنٹان کی ذاتی مرضی کی تشریح ہے نہ کہ قانون متعلقہ آئین پاکستان اور عدالت ہائے مجوزہ اصول کے مطابق ہے سپریم کورٹ فیصلہ محررہ 27-03-2020 کے اصول کی تشریح و بغیر ذاتی

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منشاء و مرضی کے مطابق COC کے زمرے میں آتی ہے جو کہ ہر لحاظ سے تحت آئین و قانون و غلط خلاف اصول ہونے کی بناء پر قابل رد و قابل گرفت ہے اس ضمن میں اپیلانٹ اپنا جملہ حق محفوظ رکھتے ہیں۔

(iv) یہ کہ رسپانڈنٹان نے اپیلانٹ کی درخواست کو خارج کرتے وقت سپریم کورٹ کے فیصلہ محررہ 27-03-2020 کی تعبیر و تشریح سپریم کورٹ کے فیصلہ جات کے رائج اصول ہائے کے مطابق نہ کی ہے سپریم کورٹ کے دونوں متوازی لاء امر اصولوں میں سے جدید اصول بابت مذکورہ فیصلہ کی تعبیر و تشریح کے بجائے سابقہ اصول کو خلاف آئین قانون و پالیسی و عدالت عالیہ و عظمیٰ کے فیصلہ جات کی صریحاً نفی کر کے اپنی مرضی و منشاء و کے مطابق اپیلانٹ کے حق کو غصب کرنے کی کوشش کی ہے جملہ امور تحت آئین و قانون ناقابل رد و قابل اخراج ہیں۔

(v) یہ کہ رسپانڈنٹان نے درخواست اپیلانٹ کو خارج کرتے وقت Fix سول ملازمین کی تعبیر و تشریح سابقہ پالیسی کے مطابق رائج الوقت رولز اور سروس لاء متعلقہ و فیصلہ جات اور جملہ ملازمین کے مفاد کے اصول کو مد نظر رکھ کر نہ کی ہے اور نہ ہی سیکشن 5 مجوزہ قانون کی تعبیر و تشریح سپریم کورٹ کے فیصلہ محررہ 24-05-2016 و 24-05-2017 جس کے تحت اپیلانٹ بحال ہوئے ہیں رسپانڈنٹان کے سابقہ موقف اور موجودہ موقف کے تضاد کی روشنی میں قبول کرنے کی بجائے رد کیا ہے۔ جو کہ KPK Sacked employees ، KPK civil servant act 1973 و (appointment) Act 2012 و رولز اور سابقہ پالیسی رائج الوقت اور فیصلہ جات کی روشنی میں ناقابل رفتار و قابل اخراج ہے و نیز اپیلانٹ کے بحالی کے فیصلہ جات کی روشنی میں ایکٹ مجوزہ کی سیکشن 2(g) Read with سیکشن 3 کی غلط تشریحات کی بناء پر فیصلہ بحالی کی بھی صریحاً نفی کی ہے اور ایکٹ مجوزہ کی تشریح بھی غلط کر کے اپیلانٹ کے تقرری آرڈر میں Term & Condition کو شامل کر کے فیصلہ بحالی کی صریحاً نفی کی ہے سابقہ فیصلہ جات کے بھی صریحاً خلاف ہونے کی بناء پر قابل رد ہیں۔

(vi) یہ کہ رسپانڈنٹان نے درخواست اپیلانٹ کو خارج کرتے وقت اس امر کو بھی نظر انداز کیا ہے کہ مجوزہ ایکٹ کی سیکشن 3 تحت فیصلہ بحالی کو سرے سے نظر انداز کیا ہے اور تحت فیصلہ بحالی کو بھی ذاتی تعبیر و تشریح کر کے توہین عدالت کے مرتکب ہوئے ہیں جو کہ فعل رسپانڈنٹان ناقابل رفتار و قابل اخراج ہیں۔

(vii) یہ کہ رسپانڈنٹان نے سیکشن 3 اور 5 کی تعبیر و تشریح کرتے وقت تحت فیصلہ بحالی کے مطابق سیکشن 2(g) کو ملا کر نہ پڑھنے کی قانونی غلطی کی ہے اور اس کی تعبیر و تشریح عدالت ہائے کے منشاء و مرضی کے خلاف اپنی ذاتی منشاء و مرضی کے مطابق محض اپیلانٹ کے حقوق کو غصب کر کے سپریم کورٹ کے فیصلہ جات کے ساتھ مذاق کیا ہے رسپانڈنٹان کا یہ فعل توہین عدالت کے زمرے میں قابل گرفت اور ناقابل رفتار اور قابل اخراج ہے۔ نیز سپریم کورٹ کے حالیہ فیصلہ کو Pick & Choose کر کے تعبیر و تشریح تحت رائج قانون و اصول کے مطابق نہ کی ہے اور یہ فرمایا ہے کہ حالیہ فیصلہ کا ایک پہلو قابل اطلاق کر کے جب کہ دوسرے پہلو سے روگردانی کی ہے جس کی رو سے مجوزہ ایکٹ ultra vires قرار دیا گیا

Attest

21/11/21

غلطی کی ہے اور Fix اور regular کی تشریح سابقہ defense رسپانڈنٹان اور بحالی فیصلہ کی روشنی میں جدید defense کا اطلاق ماورائے قانون کیا ہے جو کہ قابل اخراج ہونے کی بناء پر قابل رد ہے۔

(viii) یہ کہ رسپانڈنٹان کی تعبیر و تشریح بابت regular، adhoc کی موجودہ سیکری سلپ میں Deduction اور دیگر مفاد سروں و دیگر Similar ملازمین کے مفاد کی روشنی میں صریحاً منافی ہونے کی بناء پر قابل رد ہے اور نیز Regularization کی plea سابقہ کا اطلاق بحالی فیصلہ جات ملازمین KPK اور سروں رولز اور پالیسی کے بھی صریحاً خلاف ہے جو سروں رولز کی تشریح کے بھی منافی ہے جو بوقت بحث اٹھائے جائیں گے۔ نیز رسپانڈنٹان بحالی فیصلہ جات کی روشنی میں سپریم کورٹ کے فیصلہ محررہ 24-05-2016 کے مطابق سیکشن 2(g) read with 3 کو سپریم کورٹ کے فیصلہ 27-03-2020 و 2009 سپریم کورٹ صفحہ 1 کی روشنی میں غلط تشریح و تعبیر کر کے اپنی منشاء مرضی کے مطابق pick & choose کا اصول اپنا کر کے اپنی ذاتی تشریح کر کے اپنے ذاتی اصول مرتب کیے ہیں جو کہ ناقابل رفتار و قابل اخراج ہونے کی بناء پر قابل رد ہیں۔

(ix) اپیل ہذا کو سابقہ درخواست ہائے تحت فیصلہ جات کا لازمی جزو تصور فرمایا جاوے اور اس کی روشنی میں فیصلہ فرمایا جاوے۔

(x) جملہ بقایا امور بوقت بحث معہ جذبات اپیل کی روشنی میں اٹھائے جائیں گے اپیل اندر معیار و قابل سماعت ہے۔ لہذا استدعا ہے کہ بحق اپیلانٹ برخلاف رسپانڈنٹان درخواست اپیلانٹ معہ سابقہ درخواست ہائے وریکارڈ و فیصلہ جات عدالت عالیہ و عظمیٰ و آئین و قانون اور سابقہ پالیسی کی روشنی میں صحیح تعبیر و تشریح کے اصول کو مد نظر رکھ کر سول ملازمین کی اپیل اور درخواست کو منظور فرماتے ہوئے سابقہ حکم رسپانڈنٹان کو خارج فرمایا جاوے اور سپریم کورٹ کے فیصلہ محررہ 27-03-2020 و 2009 SCMR-P-1 کے تحت جملہ مفاد عطا کیا جائے اور جملہ دادرسی ہائے تحت درخواست ہائے عنایت فرمائی جاوے تاکہ انصاف کا تقاضہ پورا ہو سکے۔

المرقوم: 2024

سر دار احسن سعید
GPS، PST سہیل سرکل ایسٹ آباد

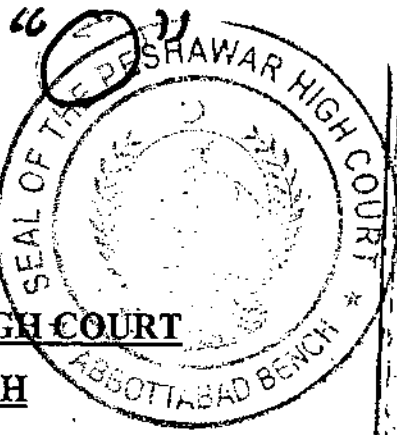
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موبائل نمبر: 0312-9800856

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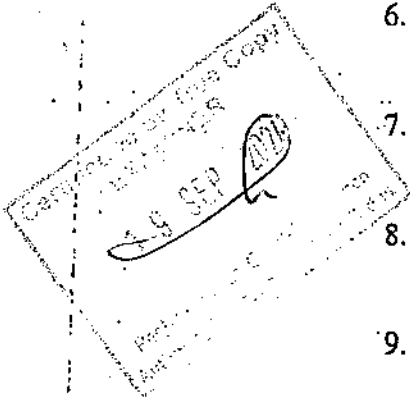
Annex



BEFORE THE PESHAWAR HIGH COURT
ABBOTTABAD BENCH

Writ Petition No. 516 /2013

1. Iftikhar Khan S/O Abdul Hakeem Govt Middle School Jalkot, Kohistan.
2. Afzal Khan S/O Abdul Haq Govt Middle School Barigo Kohistan.
3. Khayal Muhammad S/O Tajbar Govt Middle School Bargheen, Kohistan.
4. Zulfiqar Ali S/O Zahoor Muhammad Govt Middle School Bargheen, Kohistan.
5. Mohtaram Shah S/O Mahroof Shah Govt Middle School Shotid, Kohistan.
6. Muhammad Saleem Khan S/O Gul Zareen CT, Govt Middle School Ghazia Abad, Kohistan.
7. Nasir Khan S/O Hamidullah, PET Govt Middle School Beela, Kohistan.
8. Javed Hayat Akhtar, S/O Rehmatullah Govt Middle School Dag, Kohistan.
9. Gohar Zaman S/O Badi-uz-Zaman, Govt Middle School Barbaheen, Kohistan.
10. Noor Syed S/O Umar Gul, Govt Middle School Dag, Pattan, Kohistan.
11. Shakeel Ahmed Khan S/O Musharaf Khan, Govt Middle School Barsharial, Kohistan.
12. Murad Ali Shah S/O Haji Inuran-ud-Din, Govt Middle School Paragari, Kohistan.
13. Zarab Khan S/O Noor Habib Govt Middle School Madakhail, Kohistan.
14. Shahai Nawab S/O Abdul Hameed, Govt Middle School Peerobela, Kohistan.
15. Umar Khitab S/O Daray Khan CT, Govt Middle School Bargaheen, Kohistan.



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26.9.13
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Additional Registrar
Peshawar High Court
Abbottabad

No 1888
18/9/13

RE-FILED TODAY

Registrar
Peshawar High Court
Abbottabad

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16. Qari Maqbool-ur-Rehman QT, GHS, Thakra Teh & District Mansehra.
17. Muhammad Haroon (Ex-PTC) GPS Neel Batla Teh & District Mansehra.
18. Iftikhar Ahmed (Ex-PTC) GPS Kahawah Teh & District Mansehra.
19. Abdul Manan (Ex-TT) GHS Mansehra No. 1 Tehsil & District Mansehra.
20. Kala Khan Ex-PST Tehsil & District Mansehra.
21. Sarfraz Ex-PST Tehsil & District Mansehra.
22. Bibi Shazia Maroof Ex-PST Tehsil & District Mansehra.
23. Rehmat Ali S/O Haq Nazar CT GMS Sherakot District Kohistan.
24. ~~Fazal~~ ^{Tamal} ud-Din S/O Muhammad Farooq DM GHS Pattan Kohistan.
25. Rasheed Ali S/O Muhammad Ziad CT GMS Aleel Kohistan.
26. Fazal-e-Rabi S/O Nam-e-Haq CT GMS Dargeen Kohistan.
27. Fazal-e-Haq S/O Muhammad Ayub Khan CT GMS Mujgali Kohistan.
28. Bher-e-Karam S/O Bher-e-Room DM GMS Jaba Made Khail Kohistan
29. Muhammad Saleem S/O Muhammad Miskeen Junior Clerk Govt Higher Secondary School Dhodial District Mansehra.
30. Muhammad Miskeen GMS Baila Mansehra

.....PETITIONERS

VERSUS

1. Govt. of KPK through Secretary Education (E&SE) KPK Peshawar.
2. Director (E&SE) KPK Peshawar.
3. District Education Officer (Male) District Kohistan.
4. District Education Officer (Male) District Mansehra.

.....RESPONDENTS

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 Adm. Officer
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 Abbottabad
 26/11

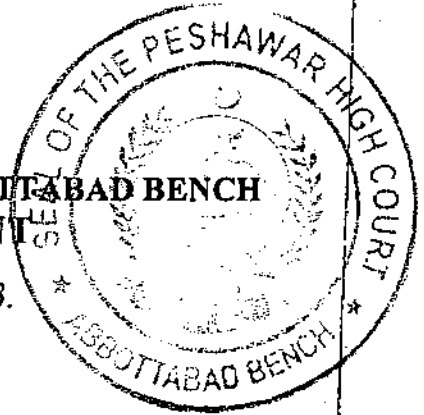
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Judgment Sheet

IN THE PESHAWAR HIGH COURT, ABBOTTABAD BENCH
JUDICIAL DEPARTMENT

Writ Petition No. 516-A/2013.

JUDGMENT



Date of hearing.....24.05.2016.....

Petitioners Iftikhar Khan by Mr. Mohammad Ashraf Khan
Advocate

Respondents Govt etc Mr. Mohammad Aslam Abbasi
Advocate

ROOH-UL-AMIN KHAN, J.- Through this single judgment

we intend to dispose of connected W.P.No. 20-A/2014 titled

"Akram Khan & 05 others Vs. Government of Khyber

Pakhtunkhwa through Secretary Education (E&SE) Peshawar

& 03 others", W.P.No. 546-A/2013 titled "Waseem Gul Khan

& 47 others Vs. Government of Khyber Pakhtunkhwa through

Secretary Education (E&SE) Peshawar & 14 others", W.P.No.

676-A/2015 titled "Abdul Razzaq Vs. Government of Khyber

Pakhtunkhwa through Secretary Education (E&SE) Peshawar

& 02 others", W.P.No.105-A/2015 titled "Mst. Saima Noreen

& 04 others Vs. Government of Khyber Pakhtunkhwa through

Secretary Education (E&SE) Peshawar & 03 others", W.P.No.

189-A/2015 titled "Muhammad Zafar Iqbal. Vs. Government of

Khyber Pakhtunkhwa through Secretary Education (E&SE)

Saima Noreen



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Peshawar & 02 others", W.P.No. 216-A/2015 titled "*Muhammad Nawaz & 46 others Vs. Government of Khyber Pakhtunkhwa through Secretary Education (E&SE) Peshawar & 03 others*", W.P.No. 1155-A/2015 titled "*Rashid Iqbal & 14 others Vs. Government of Khyber Pakhtunkhwa through Secretary Education (E&SE) Peshawar & 02 others*", W.P.No. 702-A/2014 titled "*Shaheen Akhtar Vs. Government of Khyber Pakhtunkhwa through Secretary Education (E&SE) Peshawar & 02 others*" and W.P.No. 115-A/2014 titled "*Khalid Khan & another Vs. Government of Khyber Pakhtunkhwa through Secretary Education (E&SE) Peshawar & 02 others*" as the petitioners of all these petitions have prayed for reinstatements in their services on the basis of "*Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012*".

2. Succinct facts leading to the instant petitions are that the petitioners were appointed by the respondents against their respective posts in accordance with the prescribed method of recruitment and later on their services were illegally terminated by the respondents, whereafter the Government of Khyber Pakhtunkhwa introduced "*Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012*" whereunder the

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respondents were bound to reinstate the petitioners as per criteria mentioned in the Act ibid but they did not appoint the petitioners inspite of the fact that more than hundreds posts were lying vacant in different cadres and were available in the establishment of respondent No.3, which conduct of the respondents towards the petitioners, being perverse, callous, malafide, is liable to be declared illegal and against the law. Initially comments of the respondents were called for, which were submitted accordingly wherein the claim of petitioner was refuted on the grounds that at the time of initial appointment, petitioners were not qualified to be selected as teacher, as they were not possessing the requisite training certificates.

3. In essence, grievance of the petitioners is that they were recruited by the respondents after fulfilling all the legal and codal formalities but their services were terminated in the year 1996-97 on the basis of political victimization, however, the Provincial Government promulgated the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012 for reinstatement of the employees, who had been appointed on regular basis to a civil posts in the Province and equipped with the prescribed

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qualification and experience of sacked employees at the time during the period from 01.11.1993 to 30.11.1996.

4. In pursuance of the enabling provisions of the Act, the petitioners approached the respondent-department but were refused the benefit of the Act *ibid* on the sole ground that at the time and during their initial service they were lacking the prescribed teaching training.

5. At the very outset, learned counsel for the petitioner produced a judgment of this court rendered in W.P.No. 1662-P/2013, whereby the respondents were directed to consider the untrained teachers for appointments against their respective posts, for the reason that at the time of initial appointments of the employees, under the laid down criteria, the untrained candidates were made eligible for appointment against the post of PTC.

6. The learned Additional Advocate General representing the respondent-department reiterated the same old arguments that the petitioners were lacking the requisite training certificate, therefore, under the Act *ibid* they cannot be considered for appointment.

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Prescribed by Bench
Additional Advocate General

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7. We are not in consonance with the arguments advanced by the learned AAG for the reason that the respondent-department itself has considered numerous employees under the Act *ibid*, who were not in possession of the training certificate whereas they were provided opportunity to complete their training within three years. The relevant para of the reinstatement order / notification of various employees is reproduced below for ready reference: -

"16. In case of having less qualification which ever is prescribed intermediate / FA for PST as well as PST certificate as professional the candidate must be qualified both the academic / professional qualification within three years after issue of this appointment order, failing which their appointment order shall stand terminated automatically, without any further period."

8. It is golden principle of law that alike shall be treated alike which has further been elaborated by the apex court in the case of "*Hameed Akhtar Niazi Vs. The Secretary, Establishment Division, Government of Pakistan & others*" reported as 1996 SCMR 1185 and again in the case of "*Government of Punjab through Secretary Education & others*,

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Vs. Sameena Parveen & others" reported as 2009 SCMR 01

where it has been held as under: -

"if a Tribunal or this Court, decides a point of law relating to the terms and conditions of a civil servant, who litigated, and there were other civil servants, who may not have taken any legal proceedings, in such a case, the dictates of justice and rule of good governance demand that the benefit of the same decision be extended to other civil servants also, who may not be parties to that litigation instead of compelling them to approach the Tribunal or any other legal forum."

9. In view of the above, all these petitions are disposed of

in the following terms: -

- i. *That the petitioners though eligible for appointment but not equipped with training certificate, shall be considered for reinstatement against their respective posts under the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012 immediately;*
- ii. *The concerned District Education Officer shall scrutinize the case of each individual petitioner independently;*
- iii. *Thereafter, the department shall arrange and manage the requisite training course for them and the petitioners shall be provided opportunity*

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to acquire the requisite training certificate;

- iv. In case the petitioner failed to acquire the requisite training certificate within the stipulate period, specified by the department, their services shall stand terminated automatically*

Needless to remark, that the respective EDOs of each district shall complete the process of reinstatement of the petitioners within one month positively.

Announced:
24.05.2016

Madhu S...
JUDGE
[Signature]
JUDGE

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Date: 24/05/2016

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IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

PRESENT: MR. JUSTICE MIAN SAQIB NISAR, HCJ
MR. JUSTICE UMAR ATA BANDIAL
MR. JUSTICE FAISAL ARAB

**CIVIL PETITIONS NO. 401-P, 427-P TO 431-P AND 464-P OF 2016 AND
C.M.As. NO.428-P, 401-P, 669-P, 714-P, 712-P, 716-P & 766-P OF 2016**
(on appeal against the judgment dated 24.05.2016 of the Peshawar High Court,
Abbottabad Bench, Abbottabad passed in W.P.516-A/2016, W.P.20-A, 115-A/2014, 105-
A, 189-A, 1155-A/2015 and W.P.546-A/2013)

Government of KPK through Secretary
Elementary & Secondary Education, Peshawar. In all cases
etc.

...Petitioner(s)

VERSUS

1. Iftikhar Khan etc.
2. Akram Khan etc.
3. Khalid Khan etc.
4. Mst. Saima Noreen etc.
5. Muhammad Zafar Iqbal
6. Rashid Iqbal etc.
7. Waseem Gul etc.

In C.P.401-P/2016
In C.P.427-P/2016
In C.P.428-P/2016
In C.P.429-P/2016
In C.P.430-P/2016
In C.P.431-P/2016
In C.P.464-P/2016

...Respondent(s)

For the petitioner(s): Mr. Umer Farooq Adam, Addl. AG, KPK.
Mr. Sohail Ahmed, Litigation Officer for
DEO(M) Abbottabad.
Mr. Said Badhshah, Litigation Officer for
DEO Haripur

For the respondent(s): Sh. Riaz-ul-Haq, ASC.
Syed Rifaqat Hussain Shah, AOR.

Date of Hearing: 24.05.2017

ORDER

MIAN SAQIB NISAR, C.J.— The respondents were appointed as teachers (CT/PTC). Subsequently their services were terminated. They sought reinstatement as per Section 7 of the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012 (the Act), which the Department declined. Their constitution petitions before the learned High Court were allowed.

2. It has been conceded before us that in the instant cases, though the respondents possessed the requisite academic qualification, they lacked the training which was *sine qua non* for the purposes of their

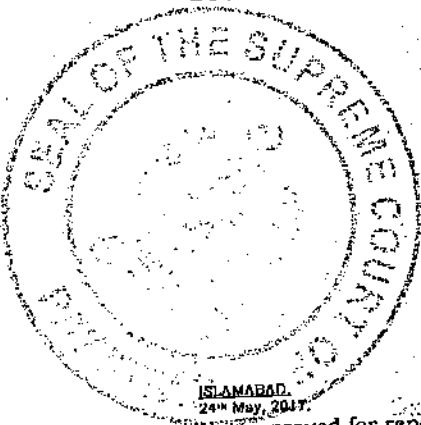
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Senior Associate
Supreme Court of Pakistan
Abbottabad

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recruitment to the posts of CT/PTC, therefore they are not entitled to be reinstated because according to the definition of 'sacked employee' provided in Section 2(g) of the Act, only such employees, who were eligible for appointment and had been sacked, could be reinstated as per the law.

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



Sd/-Mian Saqib Nisar, HCJ
Sd/-Umar Ata Bandial, J
Sd/-Faisal Arab, J

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Senior Court Associate
Supreme Court of Pakistan
Islamabad

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ISLAMABAD
24th May, 2017

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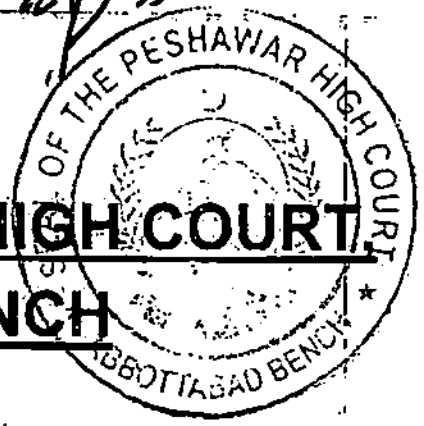
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No of Pages	2
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Date of Completion	23/5/17
Date of Delivery	23/5/17
Compared by/Pratt	23/5/17

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Annex "D"

1



BEFORE THE PESHAWAR HIGH COURT
ABBOTTABAD BENCH

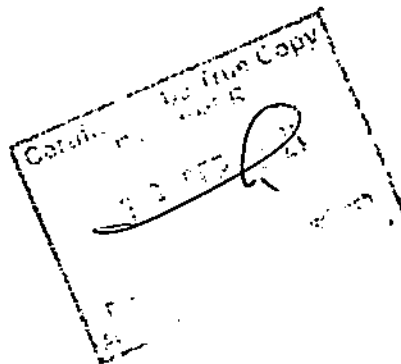
Review No. /2018

- ADe*
1. Arif Khan son of Khan Bahadar Khan, resident of village Nawanshehr Near Ilyasi Mosque, Tehsil and District, Abbottabad.
 2. Rashid Khan son of Gohar Rehman Khan, Ex-class-IV Deputy Commissioner Office, Abbottabad, R/o Rajoya Tehsil and District, Abbottabad.
 3. Muhammad Mansoor son of Maqsood ur Rehman, DM, R/o Salhad, Abbottabad.

...PETITIONERS

VERSUS

1. Commissioner Hazara Division Abbottabad.
2. Deputy Commissioner Abbottabad.
3. EDO Education (Male), Abbottabad.
4. EDO Education (Male), Kohistan.
5. EDO (Female) Abbottabad.



...REAL RESPONDENTS

6. Waseem Gul Khan son of Ali Ansar Khan, Post CT, R/o Village Nikka Pani, Post office Qalandarabad, Tehsil and District, Abbottabad.
7. Sajjad Ahmed son of Muhammad Yaseen Post CT, R/o Mohallah Upper Kehal, Tehsil and District, Abbottabad.

*NO. 415
22/11/18*
*NO. 6023
28/11/18*

*NO. 6267
30/11/18*

FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH

RE-FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH

RE-FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH

8. Abid Hussain Shah son of Syed Rasool Shah, Post: CT, r/o Saer Gah, Post office Dhamtor, Tehsil and District, Abbottabad.
9. Muhammad Azam Khan son of Aslam Khan, Post CT R/o Jadoon colony, House No. 790-1-TC Mohallah Qila Nawansher Committee, Tehsil and District, Abbottabad.
10. Muhammad Javed Khan son of Muhammad Ajab Khan post CT R/o Village and P.O Jhangi, Tehsil and District, Abbottabad.
11. Shamorz Khan, son of Khwaj Muhammad Khan Post CT R/o House No. 37/2 TC Mohallah Mohammad Zai, Nawansher Abbottabad.
12. Muhammad Mansoor son of Maqsood ur Rehman Post DM, R/o: Salhad Tehsil and District Abbottabad.
13. Abdul Hafeez son of Abdur Rasheed Post Clerk R/o Chhaetri, Post Office Ruchh Behn, Tehsil and District Abbottabad.
14. Saleh Shah S/o Manzoor Shah, Post PST, R/o Garlanian, Post office Tarnavaee.
15. Tariq Mehmood son of Muhabat Khan Post PTC, r/o Garranzaee Dhamtor, Tehsil and District, Abbottabad.
16. Arshad Khan son of Muhammad Akbar Khan Post PTC, R/o Garranzaee Dhamtor, Tehsil and District Abbottabad.
17. Zahid Khan son of Safdar Khan Post PST R/o Link Road, Mohallah Nawansher Tehsil and District Abbottabad.
18. Gul Faraz Khan son of Muhammad Ishaq Khan Post PST R/o Muhammad Kand Musazai, Nawansher, Tehsil and District Abbottabad.
19. Azhar Masood son of Muhammad Miskeen Post PST R/o Lower Salhad Tehsil and District Abbottabad.
20. Muhammad Imran son of Muhammad Zaman post PST R/o House No. 121/3 KL Upper Kehal Tehsil and District, Abbottabad.
21. Rashid Khan S/o Gohar Rehman Post Class-IV R/o P.O Rajohia, Tehsil and District Abbottabad.
22. Wazir Ahmed son of Ilm Khan Post r/o Kot Kandia P.O Kameela Tehsil Daasu District Abbottabad.
23. Noor Baz Khan son of Zol Khan Malik Post PST R/o Jabraal P.O Kameela Tehsil Daasu District Kohistan.
24. Zahid Hussain Shah son of Syed Munawar Shah Post DM R/o Dhamtor Tehsil and District Abbottabad.

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3

25. Syed Ishtiaq Hussain Shah Son of Syed Anwar Shah, Post PST R/o Neelor, P/O Nawansher Tehsil and District Abbottabad.
26. Aurangzeb son of Muhammad Zaman Post PST P.O Akhreeela U/C Beeran Gali Village Chatri, Tehsil and District, Abbottabad.
27. Jamil Khan son of Umer Din Post CT Lodhi Abad P.O Qalandarabad Tehsil and District Abbottabad.
28. Arif Khan son of Ali Bahadur Khan post driver of Commissioner hazara R/o near Ilyasi Mosque Tehsil and District Abbottabad.
29. Khalil ur Rehman son of Mian Muhammad Post AT R/o Taramchhala, Post Office Batonsi, Tehsil and District Abbottabad.
30. Liaqat Hussain son of Gulzaman Post PST R/o Village Majot P/O Namal Tehsil and District Abbottabad.
31. Atta ur Rehman son of Abdul Waheed Azhar Post AT R/o Chapri Majhuan P/O bodla Tehsil havelian District Abbottabad.
32. Obaid ur Rehman son of Hafiz Abdul Wahid, Post AT R/o Chapri, Majhuan, Post Office Bodla, Tehsil Havelian District Abbottabad.
33. Sajjad Ahmed son of Muhammad Sadiq, Post PST R/o Tandhara Glean Post office Sherwan, Tehsil and District Abbottabad.
34. Taj Malook son of Haji Tata, Post PST, r/o P.O Kumela, Tehsil Dassu District Kohistan.
35. Abdur Rasheed, son of Gul Khan Post PST, R/o P.O Kumela Tehsil Daasu District Kohistan.
36. Fazal-e-Raziq son of Aziz ur Rehman Post PST R/o Village and Post Office Malsa, Tehsil and District Abbottabad.
37. Wajid Hussain son of M. Hussain Khan Post PST, resident of Salhad Tehsil and District, Abbottabad.
38. Mst Farzana Bibi wife of Khurshid Ahmed Post PST r/o Village and Post Office Beerangali, Tehsil and District, Abbottabad.
39. Muhammad Muneer son of Sheereen Post PST R/o Village Doga Seo, Tehsil Daasu District Kohistan.

...PROFORMA RESPONDENTS





REVIEW PETITION UNDER SECTION 114 READ WITH ORDER 47 AND SECTION 151 CIVIL PROCEDURE CODE OF 1908 AGAINST THE JUDGMENT AND ORDER OF THIS HONOURABLE COURT DATED 06/09/2018. VIDE WHICH THE COC NO. 44-A/2016 WAS DISMISSED AS WITHDRAWN TO THE EXTENT OF OTHER PETITIONERS OF COC NO. 44-A/2016, AND DIRECTED TO PRESENT PETITIONERS APPROACHED THE COMPETENT FORUM FOR THEIR GRIEVANCES.

PRAYER:-

ON ACCEPTANCE OF INSTANT REVIEW PETITION, THE IMPUGNED JUDGMENT AND ORDER DATED 06/09/2018 MAY KINDLY BE REVIEWED TO THE EXTENT OF PRESENT PETITIONERS AS PER THE RULE OF NATURAL JUSTICE OR ANY OTHER RELIEF WHICH IS DEEMED APPROPRIATE MAY BE ANNOUNCED.

Respectfully Sheweth,

1. That the petitioners and others filed a writ petitions No. 516-A/2013, 546-A/2013, 516-A/2015, 702-A/2014 before this Honourable court for their reinstatement as per the sacked employed act. And this Honourable court, allowed writ petitions of petitioners & other and orders to respondents to

reinstate the petitioners and other. Copy of judgment and order passed by this Honourable court in writ petitions No. 516-A/2013, 546-A/2013, 516-A/2015, 702-A/2014 are annexed as Annexure "A" & "B".

2. That after the acceptance of above mentioned writ petitions the present petitioners and other approached to concerned official, but the concerned official refused to reinstate the present petitioners and others, then the petitioners & others filed a COC No. 44-A/2016 for the implementation of order of this Honourable court. Copy of COC No. 44-A/2016 is annexed as Annexure "C".
3. That the respondents appeared before this Honourable court and submitted official documents through which some petitioners of COC were appointed by the concerned officials.
4. That on 06/09/2018 during the course of hearing the representative of education department stated at the bar that the petitioner No. 7, 16 & 22 are not eligible for reinstatement of their previous posts, on the submission of representative of Education Department this Honourable court dismissed the COC and directed the present petitioners to approach the competent forum for their grievances. Photocopy of judgment and order dated 06/09/2018 is attached as Annexure "D".

5. That feeling aggrieved by the judgment & order of this Honourable court dated 06/09/2018, the petitioners approaches this Honourable court for review of the same, inter-alla; on the following grounds:-

GRUNDS:-

- a) That petitioner No. 2 namely Rashid was the servant of Deputy Commissioner Office, and at the time of hearing no official was appeared on behalf of said Deputy Commissioner and this fact is clear in judgment/ order dated 06/09/2018.
- b) That during the pendency of COC No. 44-A/2016, the petitioners submitted CM No. 1046-A/2017. Attested copy of CM No. 1048-A/2017 is attached as Annexure "E" but order dated 06/09/2018 is silent about the above mentioned CM..
- c) That on the submission of verbal statement of official representative of Education Departments, this Honourable Court dismissed the COC No. 44-A/2016 and ordered to petitioners approach a competent forum for their redressal, which is liable to be set-aside to the extent of present pettiness.
- d) That the petitioners and Performa Responded CoC No. 44 A 2016 in writ petitions Nos. 516-A/2013, 546-A/2013, 516-A/2015, 702-A/2014, connected judgment dated 24/05/2016, Wherein COC No. 60 in writ Petition No 1155-A 2015 titled "Rashid Iqbal V/s KPK Govt. & others" have directed in para No. 6 of the judgment ibid. "That the respondent have

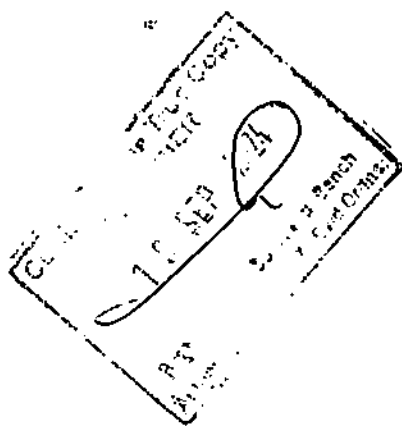
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 10/09/2018
 10/09/2018

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arranged the requisite training through RITE & PITE for the petitioner's within 3 years, petitioners have already been submit the application dated 21/04/2018 and 20/02/2018 respectively for the required training for the said post and that period which were consumed by respondents for regarding arrangement of course for the required training for the said posts shall count on their part, and petitioner have entitled for extension of time for the said period. More so, all the training institutes have been abolished the PTC/CT course in future, therefore direction may kindly be given to respondent in respect of arrangement for requisite training/ course RITE & PITE. Copy of application, letters of respondents and advertisement are annexed as Annexure "F".

- e) That the petitioner and Performa respondents are entitled to reinstatement from the date of termination ^{or} are from the date of passing of KPK sack employees appointment act 2012 with all back benefits in respect of original posts at the time of termination in term of 2(g) read with section 3 of the KPK sack employees appointment act 2012 and federal sack employees reinstatement act 2010 read with article 143 of the constitution of Pakistan 1973 with all amendments up to date in the light of judgments passed by the apex Court of Pakistan as well as Honourable High Courts, right from the date of 1998 to up till now and directions may kind be given to the respondents to issue the corrigendum instead of fresh appointment copy of fresh Appointment or Annex as Annexure "G".



- f) That other point will be agitated at the time of arguments.
- g) That the instant review petition is well within time.

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It is therefore humbly prayed that on acceptance of instant review petition, the impugned judgment and order dated 06/09/2018 may kindly be reviewed to the extent of present petitioners and proforma respondent as per the rule of natural justice or any other relief which is deemed appropriate may be announced.

...PETITIONER

Through:

(ZAFAR IQBAL)
Advocate High Court, Abbottabad.

Dated:- _____/2018

VERIFICATION:-

Verified that the contents of instant *Review Petition* are true and correct to the best of my knowledge and belief and that nothing has been concealed therein.

Dated:- _____/2018

...PETITIONER

(ZAFAR IQBAL)
Advocate High Court, Abbottabad.

52

**BEFORE THE PESHAWAR HIGH COURT,
ABBOTTABAD BENCH**

Review No. /2018

Arif Khan & others.....PETITIONERS

VERSUS

Commissioner Hazara Division Abbottabad & othersRESPONDENTS

REVIEW PETITION
AFFIDAVIT

1. I, Arif Khan son of Khan Bahadar Khan, resident of village Nawanshehr Near Illyasi Mosque, Tehsil and District, Abbottabad *petitioner*, do hereby solemnly affirm and declare on Oath that the contents of instant *Review Petition* are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Court.

DEPONENT

Dated:- 22/10 2018

13101. 0996056-9

عارف خان
...PETITIONER

IDENTIFIED BY:-

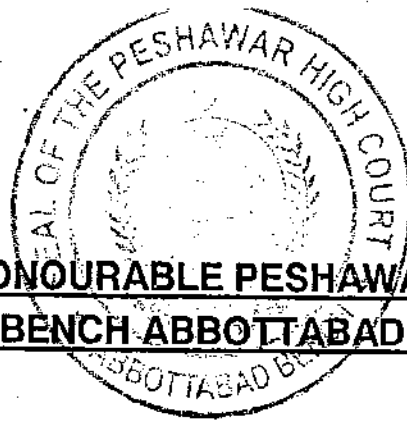

(ZAFAR IQBAL)
Advocate High Court

AFFIDAVIT
S.No. 6819/155
That I, the above was verified on Solem. Oath on 22 day of Oct 2018 at Nawanshehr District Hazara was identified by Arif Khan who is personally known to me

Oath taken before me
(Magistrate/Registrar)
Peshawar High Court (Circuit Bench)

22/10/18

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BEFORE THE HONOURABLE PESHAWAR HIGH COURT,
BENCH ABBOTTABAD.

CM.NO. 458 -A/2020

IN

Review Petition No. 31 -A/2018

Arif Khan Son of Ali Badhar Khan, resident of Village Nawansher near Illyasi Mosque, Tehsil and District Abbottabad etc.

...PETITIONER

V E R S U S

Commissioner Hazara Division Abbottabad etc

...RESPONDENTS

REVIEW PETITION

PETITION FOR PLACING ON RECORD FOR

THE JUST DECISION OF CASE.

Respectfully Sheweth,

1. That, the review petition is pending for adjudication before this Honourable Court and fixed for 08-09-2020.
2. That, the judgment of Supreme Court of Pakistan in Civil Petitions No.468-P, 469-P,471-P & 472-P of 2016 decided on 27-03-2020 in case title, Secretary of Education (Elementary & Secondary Education) Peshawar Khyber Pakhtunkhwa etc VS Muhammad Sheryar etc, modify the

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PESHAWAR HIGH COURT
07/9/2020

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judgment of KPK Service Tribunal (Camp Court Swat) in appeal No1202/2013, 1203/2013 decided on 12-07-2016 in case title Muhammad Sheryar etc VS Secretary of Education (Elementary & Secondary Education) Peshawar Khyber Pakhtunkhwa etc vide which learned supreme Court in Para No.6 of judgment ibid " it is however observed that the petitioner will be allowed counting of their service for the protracted period for payment of pensionary benefits". (Copy of judgment of Supreme Court of Pakistanis and CP No.468-P etc decided on 27-03-2020 and judgment of KPK Service Tribunal in appeal No.1202/2013 etc decided on 12-07-2016 are annexed Annexure "A" & "B")

3. That, in the light of above mentioned judgments of Apex Court of Pakistan and reinstatement /appointment Nos Endst No.727/32/PST(M)/Apptt: dated 05-07-2013 of sack employees in similar yard stack like, petitioners are entitle for same reinstatement instead of appointment. (Copy of appointment orders No. Endst No.727/32/PST(M)/Apptt: dated 05-07-2013 is annexed as Annexure "C")

4. That the above mentioned document is most relevant for just decision of case.

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ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT

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5. That this petitioner may kindly be treated as part and parcel of instant review petition.

It is, therefore, humbly prayed that the instant review petition may kindly be accepted and consider part and parcel of the instant review petition and record may kindly be place on file for the just decision of case.

[Signature]
...PETITIONER

Through:

[Signature]

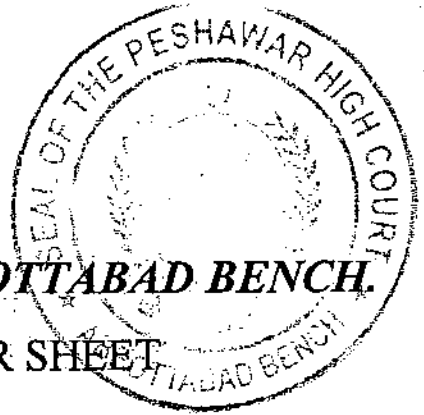
(ZAFAR IQBAL)

Advocate High Court, Abbottabad.

Dated: 05/09 /2020

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FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD

57



PESHAWAR HIGH COURT, ABBOTTABAD BENCH.

FORM OF ORDER SHEET

Court of.....

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

Date of Order of Proceedings	Order or other Proceedings with Signature of Judge (s)
1	2
12.01.2021.	<p><u>Review Petition No. 31-A/2018.</u></p> <p>Present: Mr. Zafar Iqbal, Advocate for petitioners.</p> <p>Raja Muhammad Zubair, AAG for official respondents with Sohail Ahmed Zeb, Litigation Officer for respondent No. 3</p> <p>***</p> <p><u>MOHAMMAD IBRAHIM KHAN, J.</u> Facts of the case in brief as per contents of instant review petition are that the petitioners alongwith others filed writ petitions No. 515-A/2013, 546-A/2013, 516-A/2015, 702-A/2014 for their reinstatement in service; which were allowed with directions to respondents/departments to instate the petitioners. Hence, the petitioners approached to the concerned department but in vain, consequently, they filed COC No. 44-A/2016 for implementation of order of this Court. The respondents appeared and produced document showing the appointments of some of the petitioners of COC. On 06.09.2018 during the course of hearing representative of education department stated at the bar that the petitioner No. 7, 16 and 22 are not eligible for re-instatement to their previous posts, therefore, the Court dismissed the COC and directed the present petitioners to</p>

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approach the competent forum for their grievance. Petitioners feeling aggrieved from the said order dated: 06.09.2018 filed this review petition mainly on the ground that the above COC was dismissed on statement of representative of Education Department despite the fact that the petitioner No. 2 namely Rashid was the servant of respondent/Deputy Commissioner Office and at the time of hearing no official of Deputy Commissioner appeared before the Court.

2. Learned AAG alongwith representative of respondent No. 3 produced copy of order bearing No. 4978-80 dated: 16.09.2020, whereby respondent/District Education officer (M), Abbottabad reinstated the petitioner No.3 (Muhammad Mansoor Khan).

3. Learned counsel for petitioner at the very outset of the proceedings referred to the judgment of august Supreme Court of Pakistan dated: 27.03.2020 passed in Civil Petitions No. 468-P, 469-P, 471-P and 472-P of 2016 and stated at the bar that petitioners would not press this review petition any more if the case of petitioners No. 1 and 2 is sent to the concerned department/respondents No. 1 and 2 to decide the same in the light of above judgment dated: 27.03.2020, as far as the case of petitioner No. 3 is concerned, he submitted that he has been reinstated in service therefore, to his extent he would not press this petition anymore.

4. In view of the above without discussing the

merits of the case, we dispose of this review petition with directions to the respondents No. 1 and 2 (competent authority) to look into the grievance of the petitioners No. 1 and 2 in the light of judgment of august Supreme Court of Pakistan dated: 27.03.2020 passed in Civil Petitions No. 468-P, 469-P, 471-P and 472-P of 2016 and decide the same in accordance with law within a period of one month from receipt of this order.

[Signature]
JUDGE

[Signature]
JUDGE

RECEIVED
HON'BLE JUSTICE MOHAMMAD IBRAHIM KHAN
CHIEF JUSTICE

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(60)

Amner

"Q"

IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

PRESENT:

MR. JUSTICE GULZAR AHMED, HCJ
MR. JUSTICE IJAZ UL AHSAN

CIVIL PETITIONS NO.468-P, 469-P, 471-P & 472-P OF 2016.

(Against the judgment dated 12.07.2016 passed by the Khyber Pakhtunkhwa Service Tribunal Camp Court, Swat in Appeals No.1202 and 1203 of 2013).

Muhammad Sheryar.
(in CP.468-P/16)

Anwar Zeb.
(in CP.469-P/16)

The Secretary to Education (E&S), Government of Khyber Pakhtunkhwa, Peshawar and others.
(in CPs.471-P & 472-P/16)

...Petitioner(s)

Versus

The Secretary to Education (E&S), Government of Khyber Pakhtunkhwa, Peshawar and others.
(in CPs.468-P & 469-P/16)

Muhammad Sheryar.
(in CP.471-P/16)

Anwar Zeb.
(in CP.472-P/16)

...Respondent(s)

For the Petitioner(s):

Mr. M. Asif, ASC.
(For Petitioners in CPs.468-P & 469-P/16 &
For Respondents in CPs.471-P & 472-P/16)

Barrister Qasim Wadood, Addl.
A.G. KP.
(in CPs.471-P & 472-P/16)

Date of Hearing:

27.03.2020.

ORDER

GULZAR AHMED, CJ. - We have heard the learned Additional Advocate General, Khyber Pakhtunkhwa appearing for the Petitioners in Civil Petitions No.471-P and 472-P of

ATTESTED

Senior Court Associate
Supreme Court of Pakistan
Islamabad

(61)

2016 as well as Mr. Muhammad Asif, learned ASC for the petitioners in Civil Petitions No.468-P and 469-P of 2016. The petitioners in Civil Petitions No.468-P and 469-P of 2016 (to be referred as the petitioners) were employed as PTC Teachers. Their services were terminated in the year 1997 against which they filed service appeals before the Khyber Pakhtunkhwa Service Tribunal (*"the Tribunal"*) which vide judgment dated 04.01.2013 accepted the appeals with direction to the Respondents to consider their grievances. Pursuant to this direction of the Tribunal, the petitioners were reinstated in service, vide Office Order dated 05.07.2013 from the date of their taking charge but back benefits were not allowed to them for the period they remained out of service. The petitioners again filed service appeals before the Tribunal which vide impugned judgment dated 12.07.2016 accepted the appeals.

2. The learned counsel for the petitioners contends that the petitioners were entitled to grant of back benefits but we are unable to see as to how such back benefits could have been allowed to them more so when in the earlier judgment of the Tribunal dated 04.01.2013 no such relief was allowed to the petitioners and by the impugned judgment dated 12.07.2016 also apparently no such relief has been granted to them. He adds that some other similarly placed employees have been given back benefits.

3. We have asked the learned counsel for the petitioners to show us as to whether in the memo of appeal

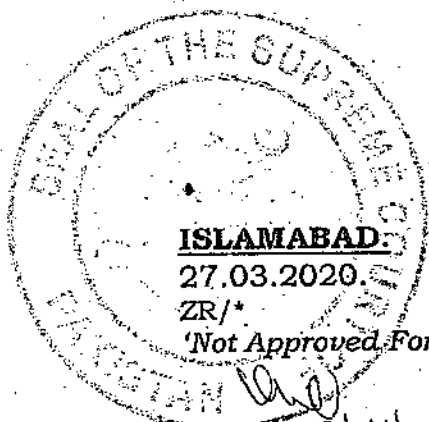
ATTACHED

Senior Counsel Associate
Supreme Court of Pakistan
Islamabad

before the Tribunal such point has been urged or any other ground in this regard was taken. He went through the memo of appeal and conceded that no such assertion in the memo of appeal was taken by the petitioners. The Tribunal has disallowed back benefits to the petitioners twice and it is obvious that such has been disallowed to the petitioners for the reason that they have not served the department for the said period and there is no material on record on the basis of which relief of back benefits could be allowed to them. There appears no illegality in the impugned judgment. Even otherwise, no substantial question of law of public importance in terms of Article 212(3) of the Constitution of the Islamic Republic of Pakistan, 1973 has been raised.

5. For what has been discussed above, all the listed petitions being devoid of merit stand dismissed and leave to appeal is refused.

6. It is however observed that the petitioners will be allowed counting of their service for the protected period for payment of pensionary benefits.



17/4/20
17/4

Bel. H.G.
Certified to be True Copy.
Senior Court Associate
Supreme Court of Pakistan
Islamabad

10423/14

Date of Presentation	22.7.14	Civil Original
No of Wards	1	
No of Pages	6	
Request for Fee Waiver	500	
Copy Sent to	32	
Court Fee Stamp	22	
Date of Receipt	23.7.14	
Date of Delivery		
Compared by	24-7-14	
Received by		

(63)

Annex "R"

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 572/2019

Date of Institution ... 22.04.2019
Date of Decision ... 18.03.2021



Muhammad Haroon son of Khalil ur Rehman, G.P.S Phulra
District Mansehra.

(Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary
Elementary & Secondary Education Peshawar and two others.

(Respondents)

Muhammad Arshad Khan Tanoli,
Advocate

For appellant.

Riaz Khan Paindakheil,
Assistant Advocate General

For respondents.

ROZINA REHMAN
ATIQU UR REHMAN WAZIR

MEMBER (J)
MEMBER (E)

JUDGMENT

ROZINA REHMAN, MEMBER : This judgment is intended to dispose of

04 connected service appeals which are:

1. Service Appeal No.572/2019
2. Service Appeal No. 573/2019
3. Service Appeal No. 574/2019
4. Service Appeal No. 575/2019

ATTESTED

15/15/21

SCANNED
K.E.S.T
Peshawar

(64)

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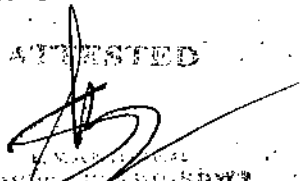
In view of common questions of law and facts, the above captioned appeals are being disposed of by this order.

2. The relevant facts leading to filing of instant appeals are that appellants were appointed as C.Ts in the year 1993-94 and were terminated from service in the year 1997-98. After the announcement of Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012, they were required to be reinstated in service but the appellants were not appointed accordingly, therefore, they filed Writ Petition before the Hon'ble High Court for their appointment under the said Act and it was during the pendency of the Writ Petition when appointment orders were accordingly issued on 04.12.2017. Some of the employees under the said Act were appointed in 2012-13 but the appellants were appointed on 04.12.2017, therefore, they filed departmental appeal which was not responded to, hence the present service appeal.

3. We have heard Muhammad Arshad Khan Tanoli Advocate for appellants and Riaz Khan Paindakheil learned Assistant Advocate General for the respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Muhammad Arshad Khan Tanoli Advocate learned counsel appearing on behalf of appellants, inter-alia, argued that the respondent No.3 was supposed to appoint appellants under the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012 when the said Act was promulgated in the year 2012 but their appointment order was issued on 04.12.2017 which is against law and discriminatory.

ATTENDED


Khyber Pakhtunkhwa
Service Tribunal

(65)

3

Learned counsel further argued that some of the employees who were juniors to appellants were appointed, whereas, appellants were reinstated later on which act is against the principle of equality and natural justice. He submitted that appellants are to be treated at par with other employees in the said Department and lastly, he submitted that similar employees were given benefit by the Apex Court by counting of their service for the protected period for payment of pensionary benefits, therefore, request was made for the stated relief.

5. As against that, learned A.A.G submitted that appellants were appointed as P.S.Ts but later on, their appointments were declared illegal and they were terminated. The Government of Khyber Pakhtunkhwa promulgated Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012 and the appellants were appointed as P.S.Ts under Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012 as well as upon the direction of august High Court Abbottabad Bench. He submitted that as per Section-5 of the Sacked Employees (Appointment) Act, 2012, sacked employees shall not be entitled to seniority and other back benefits and that such nature cases were dismissed by the Service Tribunal. He, therefore, requested for dismissal of instant service appeals.

6. From the record, it is evident that appellants and others who were appointed back in 1994-95 were terminated in 1996-97. Sacked Employees (Appointment) Act, 2012 was specifically promulgated to extend relief to such sacked employees. Appellants were not

ATTACHED

Service Tribunal
Khyber Pakhtunkhwa
Peshawar

considered for the reason best known to the respondents. The respondents however, considered other similar cases just after promulgation of the Act ~~ibid~~ which was discriminatory on the part of respondents. It was upon the intervention of the Hon'ble Peshawar High Court that appellants were reinstated at a belated stage in 2017 but with immediate effect. The main concern of the appellants is that such employees would reach the age of superannuation before earning qualifying service for pensionary benefits. We have observed that appellants had possessed all the qualifications as prescribed in the Act like others. It is also on record that co-employees tried their level best for back benefits and their cases were dismissed by this Tribunal as their earlier stance ^{was} to get all service benefits. Feeling aggrieved from the judgment of this Tribunal CPLAs were filed in the Apex Court and relief of back benefits to co-employees was refused by the Apex Court too. However, Apex Court allowed counting of their service for the protected period for payment of pensionary benefits. The present appellants have a strong case as they had every right to be reinstated just after promulgation of the Act as they were having requisite qualification as prescribed in the Act. Their claim was accepted by the august High Court and reinstatement was ordered.

7. The present appellants have also prayed for all service back benefits with a request for counting of their service for the protected period in the light of judgment of the Apex Court which was passed in the case of co-employees. So, from the record, it is crystal clear that

ATTESTED

 Officer in Charge
 Service Tribunal
 Peshawar

68



E.P No. 584/2023

- 23.01.2024
1. Learned counsel for the petitioner present. Mr. Habib Anwar, Additional Advocate General alongwith Mr. Mobashir Ahmad, Assistant for the respondents present.
 2. Representative of representative of the respondent submitted copy of Notification dated 07.12.2023, wherein pensionary benefits have been allowed to the petitioner subject to the outcome of CPLA.
 3. In view of the above, instant appeal is disposed of being fully satisfied. Consign.
 4. *Pronounced in open court at camp court Abbottabad and given under my hand and seal of the Tribunal on this 23rd day of January 2024.*

R.
 (Rashida Bano)
 Member (J)
 Camp Court, Swat

Kaleemullah

ATTESTED

[Signature] 15/5/23

MEMBER
 Kh. Qasim Raza
 Service Tribunal
 Swat

Date of Presentation of Application 15/5/23

Number of Page = 4

Copying Fee 20/-

Urgent 5/5

Total 25/-

Name of Shahzad

Date of 15-5-23

Date of Delivery of Copy 15-5-23

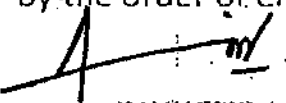
Form- A

(89)

FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 584/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	16.08.2023	<p>The implementation petition of Mr. Muhammad Haroon is submitted today by Mr. Muhammad Arshad Khan Tanoli Advocate. It is fixed for implementation report before Single Bench at Abbottabad on _____ . Original file be requisitioned. AAG has noted the next date.</p> <p>By the order of Chairman  REGISTRAR</p>

70

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

Execution Petition # 584/2023

C.M No. _____ /2023

IN

Service Appeal No. 572/2019

Muhammad Haroon PST GPS Phulra District Mansehra.

...APPELLANT

VERSUS

DEO Male District Mansehra & others.

...RESPONDENTS

APPLICATION FOR IMPLEMENTATION

INDEX

S. #	Description	Page #	Annexures
1.	Application alongwith affidavit	1 to 4	
2.	Copy of service appeal	5-11	"A"
3.	Copy of judgment dated 18.03.2021	12-17	B

W H
...APPELLANT

Dated: _____ /2022

Through

(Muhammad Arshad Khan Tanoli)
Advocate Supreme Court of Pakistan
at Abbottabad

71

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

Execution Petition # 584/2023

C.M No. _____/2023

IN

Service Appeal No. 572/2019

Muhammad Haroon PST GPS Phulra District Mansehra.

...APPELLANT



VERSUS

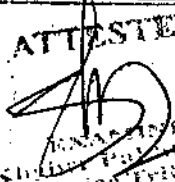
1. Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education, Khyber Pakhtunkhwa, Peshawar.
2. Director, Elementary & Secondary Education (E&SE), Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (Male) Mansehra.

...RESPONDENTS

SERVICE APPEAL

IMPLEMENTATION PETITION FOR
IMPLEMENTATION OF JUDGMENT DATED
08/03/2021 IN SERVICE APPEAL NO.572/2019. THE
HONOURABLE TRIBUNAL WHEREIN THE
APPELLANT WAS ALLOWED COUNTING OF HIS
PREVIOUS SERVICE FROM THE DATE OF
PROMULGATION OF THE KP SACKED
EMPLOYEES (APPOINTMENT) ACT 2012 ONLY
FOR PAYMENT OF PENSIONARY PLAINTIFFS,
BUT RESPONDENT DID NOT IMPLEMENT THE
JUDGMENT 08.03.2021 OF THE HONOURABLE
TRIBUNAL.


Respectfully Sheweth:-

ATTESTED

REGISTRAR
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

1. That the applicant/appellant fled a service appeal No.572/2019 before this Honourable Tribunal regarding the counting of service towards the payment of pensionary benefits from the date of promulgation of the KP sacked Employees (Appointment) Act 2012. Copy of service appeal No572/2019 is attached as Annexure "A".

2. That this Honourable tribunal allowed the service appeal of the applicant/appellant and directed the respondents to count his service for payment of pensionary benefits from the date of promulgation of KP sacked Employees (Appointment) Act 2012 vide judgment dated 18/03/2021. Copy of judgment dated 18/03/2021 is attached as Annexure "B".

3. That, the applicant/appellant provided judgment dated 18/03/2021 of this Honourable Tribunal to the respondent, but the said respondent did not count service of the appellant as directed by the Honourable Tribunal so far.

ATTESTED

Attesting Officer
Service Tribunal
Peshawar

4. That willfull non-implementation of the judgment of this Honourable Tribunal amounts to the contempt of court.

In view of above, it is prayed that respondents may be directed to count service of the petitioner from the date of promulgation of KP sacked Employees (Appointment) Act 2012 forthwith failing which contempt of court proceedings may be initiated against the respondents.

M. H. K.

...APPELLANT

Through

Dated: _____/2022

(Signature)
(Muhammad Arshad Khan Tanoli)
Advocate Supreme Court of Pakistan
at Abbottabad

ATTESTED

(Signature)

Secretary
Service Tribunal
Peshawar

74

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

C.M No. _____/2022

IN

Service Appeal No. 572/2019

Muhammad Haroon PST GPS Phulra District Mansehra.

...APPELLANT

VERSUS

DEO Male District Mansehra & others.

...RESPONDENTS

APPLICATION FOR IMPLEMENTATION

AFFIDAVIT

I, *Muhammad Haroon PST GPS Phulra District Mansehra*, do hereby solemnly affirm and declare that the contents of foregoing application are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Tribunal.

M. Haroon
DEPONENT

~~Amended~~

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Res

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHUWA, PESHAWAR

Service Appeal No. _____/2019

Muhammad Haroon son of Khalil ur Rehman, GPS Phulra District Mansehra.

...APPELLANT

VERSUS

1. Government of KPK through Secretary Elementary and Secondary Education, Peshawar.
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
3. District Education Officer (Male) District Mansehra.

...RESPONDENTS

SERVICE APPEAL UNDER SECTION 4 OF
SERVICE TRIBUNAL ACT 1974 FOR
DECLARATION TO THE EFFECT THAT THE
APPELLANT WAS REINSTATED IN SERVICE
WITH EFFECT FROM 04/12/2017 VIDE
APPOINTMENT ORDER ENDST NO. 20672-702
DATED 04/12/2017 UNDER THE KHYBER
PAKHTUNKHWA SACKED EMPLOYEES
APPOINTMENT ACT 2012, AS WELL AS IN THE
LIGHT OF JUDGEMENT OF PESHAWAR HIGH

Attested

mm

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76

COURT BENCH ABBOTTABAD IN WRIT PETITION
NO. 516-A/2013 DECIDED ON 24/05/2016 THE
APPELLANT WAS TO BE REINSTATED IN
SERVICE I.E. HIS DATE OF TERMINATION FROM
SERVICE I.E. 06/03/1996 OR FROM THE DATE OF
PROMULGATION OF THE ACT, 2012 WITH ALL
SERVICE BACK BENEFITS BUT RESPONDENT
NON.3 APPOINTED / REINSTATED THE
APPELLANT IN SERVICE ON 04/12/2017 WHICH
IS DISCRIMINATORY, PERVERSE AGAINST THE
LAW.

PRAYER: ON ACCEPTANCE OF THE INSTANT
SERVICE APPEAL, RESPONDENTS MAY
GRACIOUSLY BE DIRECTED TO REINSTATE THE
APPELLANT EITHER 06/03/1996 OR FROM THE
DATE OF PROMULGATION OF SACKED
EMPLOYEES APPOINTMENT ACT, 2012 WITH ALL
SERVICE BACK BENEFITS AND THE SAID
PERIOD MAY ALSO BE COUNTED TOWARDS
PENSIONARY BENEFITS. ANY OTHER RELIEF
WHICH THIS HONOURABLE TRIBUNAL DEEMS
APPROPRIATE MAY ALSO BE GRANTED TO THE
APPELLANT.

Attest

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Respectfully Sheweth;-

Brief Facts of the case are as under:-

1. That the appellant was appointed as CT in the year 1993-94 and was terminated from service in the year 1997-98. Copies of appointment order and termination order are annexed as Annexure "A" & "B".
2. That Govt. of Khyber Pakhtunkhwa announced KPK Sacked Employees Appointment Act, 2012 wherein all the sacked employees who were appointed in the year 1993-1996 and terminated from service in the year 1997-1998 are to be reinstated in service. Copy of Khyber Pakhtunkhwa Sacked Employment Act, 2012 is attached as Annexure "C".
3. That the respondent No. 3 did not appoint the petitioner as per KPK Sacked Employees Act, 2012 in time. Hence, the appellant filed writ petition 516-A/2013 before Honourable High Court, Bench Abbottabad for his appointment under the said Act. Copy of Writ Petition is attached as Annexure "D".

Attested

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P278

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4. That during the pendency of the writ petition, respondent No 3 issued appointment order vide No 20672-702 dated 04/12/2017. Copy of appointment order dated 04/12/2017 of the appellant is attached as Annexure "E".
5. That the respondent No.3 also appointed some similar employees under the said Act in the year 2012-13 but appointed the appellant on 04/12/2017 which is discriminatory, perverse, against the law and the appointment order of the appellant should have been issued either from the date of termination from service in the year 1997-98 or from the dated Promulgation Sacked Employees Appointment Act 2012. The appellant filed departmental appeal to respondent No.2 for redressal of his grievance in December 2017 but respondent No.2 did not bother to reply the appellant so far. Copy of departmental appeal is attached as Annexure "F".
6. That feeling aggrieved, the instant appeal is filed inter-alia, on the following grounds:-

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GROUNDS:

a) That respondent No.3 was supposed to appoint the appellant under KPK Sacked Employees Appointment Act 2012, as and when the said Act was promulgated in the Year 2012 but respondent No.3 finally issued appointment order of the appellant 04/12/2017 which is against the law and discriminatory. Hence the appellant is entitled to have all the service back benefits w.e.f the date of termination of service in the Year 1997-98 as has been granted by the Federal Govt. to its employees in the Year 2010.

b) That respondent No.3 appointed some similar employees who are juniors in age from the appellant, whereas the appellant has been appointed/reinstated in service on 04/12/2017 which is against the principle of equality and natural justice as well as principle of good governance.

c) That District Education Officer under the control of respondents No.1 & 2 issued

Attested
M

appointment orders of similar employees in other districts under the said Act in the year 2013. Copies of similar employees who were appointed in other districts are attached as Annexure "G".

d) That the appellant is to be given all service back benefits i.e salary either the date of termination and period of service i.e. in the year 1997-98 to 04/12/2017 is to be counted towards length of qualifying service for pensionary benefits.

e) That respondents-department has led the appellant to the place which is utterly unknown to the principle of jurisprudence and natural justice. The appellant is to be treated at par with other employees under the control of the respondents-department.

f) That when the law prescribe something which is to be done in a particular manner that must be done in that manner and not otherwise.

Attested

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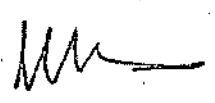
9-10

(81)

- g) That there is no other efficacious and adequate remedy available to the appellant, except the present appeal.
- h) That other points shall be raised before the Honourable Tribunal at the time of arguments.

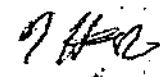
It is, therefore, humbly prayed that, on acceptant of the instant service appeal, respondents may graciously be directed to reinstate the appellant either from the year 1997-98 or from the date of promulgation of Sacked Employees Appointment Act, 2012 with all service back benefits and the said period may also be counted towards pensionary benefits. Any other relief which this Honourable Tribunal deems appropriate may also be granted to the appellant.

Attested



Dated: _____/2019

Through


...APPELLANT

(~~Munir Ahmad Arshad Khan Tanoli~~)
Advocate High Court, Abbottabad

VERIFICATION:-

Verified on oath that the contents of foregoing appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.


...APPELLANT

~~Annex- 3~~

~~P-2~~

(82)



BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

Service Appeal No. 572/2019

Muhammad Haroon son of Khalil ur Rehman, GPS Phulra District Mansehra.

...APPELLANT

Khyber Pakhtunkhwa
Service Tribunal

Salary No. 641

Dated 22/4/2019

VERSUS

1. Government of KPK through Secretary Elementary and Secondary Education, Peshawar.
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
3. District Education Officer (Male) District Mansehra.

...RESPONDENTS

Re-submitted to registry
3/5/19

SERVICE APPEAL UNDER SECTION 4 OF
SERVICE TRIBUNAL ACT 1974 FOR
DECLARATION TO THE EFFECT THAT THE
APPELLANT WAS REINSTATED IN SERVICE
WITH EFFECT FROM 04/12/2017 VIDE
APPOINTMENT ORDER ENDST NO. 20672-702
DATED 04/12/2017 UNDER THE KHYBER
PAKHTUNKHWA SACKED EMPLOYEES
APPOINTMENT ACT 2012, AS WELL AS IN THE
LIGHT OF JUDGEMENT OF PESHAWAR HIGH

Re-submitted to registry and filed

Registrar
3/5/19

ATTESTED

[Signature]
Registrar
Khyber Pakhtunkhwa Service Tribunal
Peshawar

[Signature]

[Signature]

83 18

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 572/2019



Date of Institution 22.04.2019
Date of Decision 18.03.2021

Muhammad Haroon son of Khalil ur Rehman, G.P.S. Phulra
District Mansehra.

(Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary
Elementary & Secondary Education Peshawar and two others.

(Respondents)

Muhammad Arshad Khan Tanoli,
Advocate

For appellant.

Riaz Khan Paindakheil,
Assistant Advocate General

For respondents.

ROZINA REHMAN
ATIQUUR REHMAN WAZIR

MEMBER (J)
MEMBER (E)

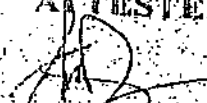
JUDGMENT

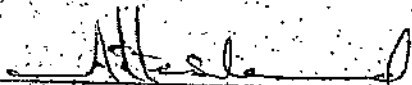
ROZINA REHMAN, MEMBER: This judgment is intended to dispose of

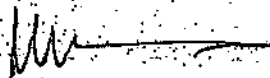
04 connected service appeals which are:

1. Service Appeal No. 572/2019
2. Service Appeal No. 573/2019
3. Service Appeal No. 574/2019
4. Service Appeal No. 575/2019

ATTESTED


Khyber Pakhtunkhwa
Service Tribunal
Peshawar





11/1

(84)

R/A

In view of common questions of law and facts, the above captioned appeals are being disposed of by this order.

2. The relevant facts leading to filing of instant appeals are that appellants were appointed as C.Ts in the year 1993-94 and were terminated from service in the year 1997-98. After the announcement of Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012, they were required to be reinstated in service but the appellants were not appointed accordingly, therefore, they filed Writ Petition before the Hon'ble High Court for their appointment under the said Act and it was during the pendency of the Writ Petition when appointment orders were accordingly issued on 04.12.2017. Some of the employees under the said Act were appointed in 2012-13 but the appellants were appointed on 04.12.2017, therefore, they filed departmental appeal which was not responded to, hence the present service appeal.

3. We have heard Muhammad Arshad Khan Tanoli Advocate for appellants and Riaz Khan Paindakheil learned Assistant Advocate General for the respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Muhammad Arshad Khan Tanoli Advocate learned counsel appearing on behalf of appellants, inter-alia, argued that the respondent No.3 was supposed to appoint appellants under the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012 when the said Act was promulgated in the year 2012 but their appointment order was issued on 04.12.2017 which is against law and discriminatory.

ATTESTED

REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR

Attested

Mu

Learned counsel further argued that some of the employees who were juniors to appellants, were appointed, whereas, appellants were reinstated later on which act is against the principle of equality and natural justice. He submitted that appellants are to be treated at par with other employees in the said Department and lastly, he submitted that similar employees were given benefit by the Apex Court by counting of their service for the protected period for payment of pensionary benefits, therefore, request was made for the stated relief.

5. As against that, learned A.A.G submitted that appellants were appointed as P.S.Ts but later on, their appointments were declared illegal and they were terminated. The Government of Khyber Pakhtunkhwa promulgated Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012 and the appellants were appointed as P.S.Ts under Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012 as well as upon the direction of august High Court Abbottabad Bench. He submitted that as per Section 5 of the Sacked Employees (Appointment) Act, 2012, sacked employees shall not be entitled to seniority and other back benefits and that such nature cases were dismissed by the Service Tribunal. He, therefore, requested for dismissal of instant service appeals.

6. From the record, it is evident that appellants and others who were appointed back in 1994-95 were terminated in 1996-97. Sacked Employees (Appointment) Act, 2012 was specifically promulgated to extend relief to such sacked employees. Appellants were not

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Attested

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ATTESTED
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DIRECTOR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR


(86)

12/18

considered for the reason best known to the respondents. The respondents however, considered other similar cases just after promulgation of the Act (ibid) which was discriminatory on the part of respondents. It was upon the intervention of the Hon'ble Peshawar High Court that appellants were reinstated at a belated stage in 2017 but with immediate effect. The main concern of the appellants is that such employees would reach the age of superannuation before earning qualifying service for pensionary benefits. We have observed that appellants had possessed all the qualifications as prescribed in the Act like others. It is also on record that co-employees tried their level best for back benefits and their cases were dismissed by this Tribunal as their earlier stance ^{was} to get all service benefits. Feeling aggrieved from the judgment of this Tribunal CPLAs were filed in the Apex Court and relief of back benefits to co-employees was refused by the Apex Court too. However, Apex Court allowed counting of their service for the protected period for payment of pensionary benefits. The present appellants have a strong case as they had every right to be reinstated just after promulgation of the Act as they were having requisite qualification as prescribed in the Act. Their claim was accepted by the august High Court and reinstatement was ordered.

7. The present appellants have also prayed for all service back benefits with a request for counting of their service for the protected period in the light of judgment of the Apex Court which was passed in the case of co-employees. So, from the record, it is crystal clear that

ATTESTED


 Member Peshawar
 Service Tribunal
 Peshawar

Attested

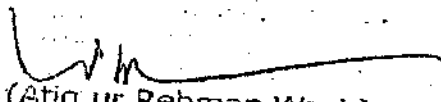
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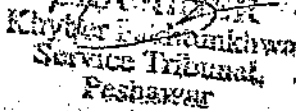
despite promulgation of an Act in the year 2012, appointment order of the appellants were issued in the year 2017 and that too, on the directions of the august High Court. No doubt, similar appeals of the sacked employees were dismissed regarding the back benefits but the Apex Court allowed the co-employees counting of their service for the protected period for payment of pensionary benefits only. Case of the present appellants is at par with those sacked employees who were granted this benefit by the Apex Court, therefore, these appeals are accepted to the extent that appellants are allowed counting of their services from the date of promulgation of the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012 only for payment of pensionary benefits. No order as to costs. File be consigned to the record room.

ANNOUNCED.
18.03.2021


(Atiq ur Rehman Wazir)
Member (E)
Camp Court, Abbottabad


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

Certified to be true copy


Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 06/4/21
Number of Words 2000
Copying Fee 20/-
Urgent ✓
Total 20/-
Name of Applicant _____
Date of Completion of Copy 06/4/21
Date of Delivery of Copy 06/4/21

Attested



کورٹ فیس

وکالت نامہ

Servici Tribunal de Pa Reshawar

بعدالت

M. Haroon

DEO etc

عنوان

Appellant

مخانب:

Application

نوعیت مقدمہ:

باعث تحریر آنکہ

مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی و جواب وہی کل کاروائی متعلقہ آن مقام

Hd. M. Arshad Khan Tanoli Asc of

کو وکیل مقرر کر کے اقرار کرتا ہوں کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا نیز وکیل

صاحب موصوف کو کرنے راضی نامہ و تقرر ثالث و فیصلہ بر حلف و دینے اقبال دعویٰ اور بصورت دیگر ڈگری

کرنے اجراء وصولی چیک روپیہ و عرضی دعویٰ کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا اور بصورت

ضرورت مقدمہ مذکور کی کل یا کسی جزوی کاروائی کے لئے کسی اور وکیل یا مختار صاحب قانونی کو اپنے ہمراہ اپنی

جگہ تقرر کا اختیار بھی ہوگا و صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا

ساختہ پروا ختمہ مجھ کو منظور و قبول ہوگا۔ دوران مقدمہ جو خرچہ و ہر جانہ التوائے مقدمہ کے سبب ہوگا اس کے

مستحق وکیل صاحب ہوں گے۔ نیز بقایا رقم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی پیشی مقام دورہ پر ہو یا

حد سے باہر ہو تو وکیل صاحب موصوف پابند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اور اگر مختار مقرر کردہ میں

کوئی جزو بقایا ہو تو وکیل صاحب موصوف مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست برآمد

استجارت نالش بصیغہ مفلسی کے دائرہ کرنے اور اس کی پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔

لہذا وکالت نامہ تحریر کیا تاکہ سند رہے۔

المقام:

Abbottabad

بمقام:

Accepted

M. Arshad Khan Tanoli
Asc of Pareshan Hd

Mishkour Advocate
کاملاً نوٹیشن کجری (پہلا باب)