## FORM OF ORDER SHEET

Court of	
Appeal No.	1286/2024

· 	e	peal No. 1286/2024
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	4/9/2024	The appeal of Mr. Shahid Khan presented today
	,·.	by Mr. Muhammad Maaz Madni Advocate. It is fixed for
		preliminary hearing before Single Bench at Peshawar on
		12/9/2024. Parcha Peshi given to counsel for the appellant.
·		By the order of Chairman
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		Note: A Marine Committee of the Committe

The appeal of Mr. Shahid Khan received today i.e on 15.08.2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

1- Copy of extract from service book be placed on file, to ascertain from what date the salary and annual increment of the appellant was started.

No. 620 /Inst./2024/KPST,

Dt. 15/8 /2024.

OFFICE ASSISTANT
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Muhammad Maaz Madni Adv. High Court at Peshawar.

Re-submitted, please

03/09

## KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

#### **CHECK LIST**

Case Title: SHAHID KHAN V/S GOVT. OF KP & OTHER S# CONTENTS YES 1 This Appeal has been presented by: MUHAMMAD MAAZ MADNI Whether Counsel/Appellant/Respondent/Deponent have signed the 2 1 requisite documents? Whether appeal is within time? Whether the enactment under which the appeal is filed mentioned? 4 **/** 5 Whether the enactment under which the appeal is filed is correct? 1 Whether affidavit is appended? 6 1 Whether affidavit is duly attested by competent Oath Commissioner? 7 Whether appeal/annexures are properly paged? 8 Whether certificate regarding filing any earlier appeal on the subject, 1 9 furnished? Whether annexures are legible? 10 Whether annexures are attested? 11 Whether copies of annexures are readable/clear? 12 1 13 Whether copy of appeal is delivered to AG/DAG? Whether Power of Attorney of the Counsel engaged is attested and 1 signed by petitioner/appellant/respondents? Whether numbers of referred cases given are correct? Whether appeal contains cutting/overwriting? Whether list of books has been provided at the end of the appeal? 1 18 Whether case relate to this court? Whether requisite number of spare copies attached? Whether complete spare copy is filed in separate file cover? 21 Whether addresses of parties given are complete? 22 Whether index filed? 1 Whether index is correct? Whether Security and Process Fee deposited? On Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 25 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On Whether copies of comments/reply/rejoinder 26 1

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

Whether copies of comments/reply/rejoinder provided to opposite

27

Name:	Muhammad Maaz Madni
Signature:	
Dated:	12-08-2024

1

# BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

.==	1286	
APPEAL NO	1200	/2024

SHAHID KHAN

V/S

GOVT. OF KP & OTHERS

### INDEX

IS.NO.	2 DOCUMENTS	'ANNEXURE	PAGE 18
1.	Memo of appeal	*********	1-4
2.	Condonation of Delay petition	•••••	5
3.	appointment order dated 31.05.2014 & ble	A/AA	6-7/2
4.	Charge Report dated 31.05.2014	В	8
5.	Regularization Order dated 12.03.2018	С	9 – 11
6.	Judgement dated 06.11.2023	D	12 – 15
7.	Departmental Appeal dated 19.04.2024	E	16
8.	Wakalatnama	**********	17

Dated: 12th August, 2024

Through:

MUHAMMAD MAAZ MADNI,

APPELLANT

ADVOCATE HIGH COURT, PESHAWAR TF-291, 292, Deans Trade Centre, Peshawar Cantt:

0333-9313113, 0314-9965666

muhammad.m3adv@gmail.com

# BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

APPEAL NO. 1286 /2024

Khyber Pakhtukhwa Service Tribunat

Diary No. 14979

**SHAHID KHAN** S/O Fazli Subhan, SPST (B-14), Govt. Primary School, Kulalan, Charsadda.

Pated 15-08-20 24

... APPELLANT

#### **VERSUS**

- 1- THE DIRECTOR (ELEMENTARY & SECONDARY EDUCATION), Khyber Pakhtunkhwa, Peshawar.
- 2- THE DISTRICT EDUCATION OFFICER, District Charsadda.

..... RESPONDENTS



APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 READ WITH ALL ENABLING LAWS & RULES AGAINST THE ACT & OMISSION OF THE PART OF RESPONDENTS BY NOT ALLOWING INCREMENT FOR THE YEAR 2014 & NOT RELEASING OUT STANDING SALARIES FOR THE MONTHS OF JUNE, JULY & AUGUST 2014 AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL DATED 26-04-2024 AFTER LAPSE OF STATUTORY PERIOD OF NINETY (90) DAYS

#### PRAYER IN APPEAL:

That on acceptance of the instant service appeal the inaction of the respondents by not allowing the annual increment for the year 2014 and not releasing outstanding salaries for the months of JUNE, JULY & AUGUST 2014 may very kindly be declared illegal and the respondents may very graciously be directed to allow the annual increment for the year 2014 with all back benefits and release of outstanding salaries for the month of JUNE, JULY & AUGUST 2014 while applying the PRINCIPLE OF PARITY. Any other remedy which this august Tribunal deems appropriate that may also be awarded in favor of the appellant.

### Respectfully Sheweth:,

#### FACTS:

#### Brief facts giving raise to the instant appeal are as under:

1. That appellant is a regular employee of the respondent Department and was initially appointed as Primary School Teacher (BPS-12) on adhoc basis vide order dated 31/05/2014 after fulfilling all the legal & codal formalities required for the post and since then the appellant is performing his duty quite efficiently whole heartedly and upto the entire satisfaction of his high ups.

2. That appellant after receiving the appointment order dated 31/05/2014 submitted his arrival report and took over the charge of his post on date 31/05/2014 the same date the appellant received the appointment order.

3. That service of all the adhoc teachers were regularized vide Regularization Act, 2017 and accordingly the services of the appellant was also regularized vide order dated 12/03/2018 from the date of appointment i.e. 31/05/2014.

Copy of Regularization Order dated 12.03.2018 is attached as **Annexure** .... **C**.

4. That, one of my colleagues who was appointment with the appellant on the same day filed Service Appeal No. 7597/2021 title Abdul Musawir versus Govt. Of KP & others decided vide dated 06/11/2023 and allowed the same benefit to the appellant (Abdul Musawir).

5. That while following the Principle of Parity the appellant also filed Departmental Appeal dated 19/04/2024 in light of the judgment dated 06/11/2023 which was allotted with dairy no. 709 but no response has been received so far after lapse of statutory period.

Copy of Departmental Appeal dated 26.04.2024 is attached as **Annexure** ... E.

6. That feeling highly aggrieved and is left with no other remedy but to file the instant service appeal before this Honourable Tribunal on the following grounds:

## GROUNDS OF APPEAL

- A-That act of the respondent by not allowing annual increment for the year 2014 & not releasing the monthly salary for the month of June, July & August 2014 is against the law, rules, facts, void ab initio, Norms of Natural Justice and materials available on the record hence not tenable in the eye of Law and needs interference of this Tribunal.
- **B-** That appellant has not been treated in accordance with law and rules by the respondent Department on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C-That appellant has properly submitted his charge report well in time on 31/05/2024 and even then, the appellant was not allowed the benefit of Annual Increment for the year 2014 and also the outstanding salaries for the month of June, July & August 2014.
- **D**-That under Article 38 (e) of the Constitution of Islamic Republic of Pakistan, 1973 that:

"State is bound to reduce disparity in the income and earning of the individuals including persons in the various services of Pakistan."

therefore, the respondent has to act upon the ibid Article of the constitution and had to remove the disparity from the service of the appellant by allowing Annual Increment for the Year 2014 and releasing the monthly salary outstanding for the month of June, July & August 2014.

- **E-** That the respondent has acted in an arbitrary and malafide manner by not allowing annual increment for the year 2014 & not releasing the monthly salary for the month of June, July & August 2014.
- **F-** That act of the respondents is against the Fundamental Rights as enshrined in the Constitution & also against various judgments passed by the Apex Supreme Court of Pakistan.
- G-That act of the respondents by not allowing annual increment for the year 2014 & not releasing the monthly salary for the month of June, July & August 2014 without fulfilling the codal formalities required in the subject matter and hence the same is against the norm of Natural Justice.
- **H-** That appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

Dated: 12-08-2024

Appellant Dhan

SHAHIÐ KHAN

Through:

Advocate, High Court, Peshawar

#### **CERTIFICATE**

No, such like appeal has been filed or pending on the subject matter between the parties before this Honourable Tribunal.

ADVOCATE

## AFFIDAVIT

I, **SHAHID KHAN** S/O Fazli Subhan, do hereby solemnly affirm on oath that the contents of the appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Tribunal.

DEPOMENT 21407-5793986-5



# BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

CM No	/2024	in	APPEAL NO	/2024
SHAHID KHAN		V/S		GOVT. OF KP

### APPLICATION FOR CONDONATION OF DELAY (IF ANY)

#### Respectfully Sheweth:,

- I. That the appellant/petitioner has filed the above titled service appeal before this Honourable Tribunal which has not been fixed so far.
- 2. That the appellant/petitioner has challenged arears of outstanding salaries for the month of June, July & August and Increment for the year 2014.
- 3. That case of the appellant/petitioner involves financial matter hence, no limitation runs against financial matter in light of various judgment of the superior courts of the country 2021 SCMR page 1320 citation (b).
- 4. That this Honourable Tribunal decided the case titled Abdul Musawir VS Govt. in light of judgment 2020 SCMR page 959 the appeal of the appellant/petitioner is well within time.
- 5. That it is well settled principle laid down by the Supreme Court of Pakistan in cases referred as 2023 SCMR page 8 and 2022 SCMR page 448 citation (i), the same question of Law has been decided by this Honourable Tribunal in the above-mentioned case same question has been decided.
- 6. That any grounds would be agitated at the time of argument with prior permission of this Honourable Tribunal.

It is, therefore, most humbly prayed that on acceptance of the instant petition the delay (if any) may kindly be condoned in filing of the appeal.

Date: 12/08/2024

Appellant

Through:

MUHAMMAD MAAZ MADNI,

Advocates, High Court, Peshawar

#### AFFIDAVIT

It is solemnly affirm that the contents of the above application are true and correct to the best of knowledge & belief and nothing has been concealed from this Honourable Tribunal

**DEPONENT** 21407-5793986-5

Appointment Order PST (M) Ad hoc -Based

### OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) CHARSADDA

## APPOINTMENT

Consequent upon recommendation of the District Selection Committee, appointment of the following candidates are hereby ordered against the post of PST School based/UC based in BPS-12 (Rs: 7000-500-22000) @Rs: 7000/= fixed plus usual allowances as admissible under the rules on ad hoc basis on Contract under the existing policy of the Provincial Government, in Teaching Cadre on the terms and condition given below with effect from the date of their taking over charge :-

S.# 101/144	Name SHAHID KHAN 21407-5793986-5	School Name GPS Shah Afza Abad	Score 118.25
· 1			ĺ

## TERMS & CONDITIONS.

101.docx

- NO TA/DA etc is allowed.
- Charge reports should be submitted to all concerned in duplicate. 2.
- Appointment is purely on temporary & contract basis initially for one year. 3. 4.
- They should not be handed over charge if they exceed 35 years or below 18 years of
- Appointment is subject to the condition that the certificate/documents must be verified from the concerned authorities by the DEO(concerned) Any one found producing bogus Certificate will be reported to the law enforcing agencies for further action.
- His services are liable to termination on one month's notice from either side. In case of 6. resignation without notice his one-month pay/allowances shall be forfeited to the
- Pay will not be drawn until and unless a certificate to the effect by DEO(concerned) is issued that his certificates are verified 8.
- He should join his post within 10 days of the issuance of this notification. In case of failure to join their post within to days of the issuance of this notification, his appointment will expire calomatically and no subsequent appeal etc shall be
- Health and Age Certificate should be produced from the Mcdical Superintendent 0. concerned before taking over charge. 10.
- Before handing over charge he will sign an agreement with the department, otherwise this order will not be valid.
- He will be governed by such rules and regulations as may be issued from time to time by
- His services shall be terminated at any time, in case his performance is found unsatisfactory during his contract period. In case of misconduct, he shall be preceded under the rules framed from time to time.

## Appointment Order PST (M) Ad hoc -Based

His appointment is made on School based, He will have to serve at the place of posting, and his service is not transferable to any other station.

Before handing over charge once again their document may be checked if they have not the required qualification, they may not be handed over charge.

> (Siraj Muhammad) District Education Officer (Male) Charsadda

Endst: No: 4807-4958 Dated: Charsadda the. 31/5/2011;

Copy forwarded for information and necessary action to the: -

1. Director E&SE Deptt: Khyber Pakhtunkhwa Feshawar.

2. Deputy Commissioner Charsadda

3. District Accounts Officer Charsadda

4. SDEO (M) Charsadda

5. SDEO (M) Tangi

6. Official Concerned

7. M/File

District Education Of (Male) Charsadda

	3 AA"
3	Non- The entries in this page should be renewed or re-attested at least every five years and the signature to lines 3 and 10 should be dated.
	1 Name: Shahid Khan
	2. Race: Afghan
ng a	3. Residence: Shafiq Kali Mufti Abad Lic Mohammad Nari CHD
ader 1100	4. Father's name and residence: Fazal Subhan
114 2	Date of birth by Christian era as 15-8-1982  nearly as can be ascertained:  Fifteent August Nintein Eight
ED (M)	Date of birth by Christian era as 15-8-1982  nearly as can be ascertained:  Fifteent August Nintein Eight  6. Exact height by measurement:  S foot 5 inches
Univarity	Personal marks for identification:
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D. T. O. M.	Middle Finger Fore Finger
e Receda	l'humb
RNO 244836 POTRA 540 met	9. Signature of Government Servant:
- Market	10. Signature and designation of the Head of the Office, or other Attesting SD. F.O (M) Officer. (EASE)
E O (M) arsadda	Character

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15 12 10 Leave -Reeson of Allocation of period of Reference to any recorded punishleave on average pay upto four months for which leave salary is debitable to another Government gneture and Designation Sthe head of the office rether attesting officer in attestation of Signature of the head of the termination Nature Signature of the and duration such as promotion, ment or censure Date of head of the office Signature of office or other or praise of the termination or or other attesting Government Servant of leavs taken. transier, attesting officer Government appointment officer. Servalit dismissal, columns 1 to 8 Period etc.) . which debitable Service Verified w.e.f\_/9/ other record of this office SDEO (N -19747-20188 daled SIDE O (Male) Charsadda

1) (1) (8) B". آپ سمی شامرخان و لر ففل سحان کی آوری 4807-4958 pt /3/1 (BPS-12) 5 PST -33. الرون عالى الحراس الم مرک ساه آخفل از ی فیرنالوی میں بوطی ہے +2014 331 April 215 41 Jul 2/12 Cino 01/2/D Hed \_. 31-05-204 31-5-2014



\*OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) CHARSADDA (9)

## I NOTIFICATION

in pursuance of The Khyber Pakhtunkhwa Employees of the Elementary & Secondary Education (Appointment and Regularization of Services) Act, 2017 (Khyber Pakhtunkhwa Act No.1 of 2018) and Elementary & Secondary Education Department Gavt: of Khyber Pakhtunkhwa Notification No. SO (S/F)E & SED/3-2/2018 / SITT /Contract dated Peshawar the 16/02/2018, services of the following (433) Primary School Teachers appointed through NTS on Adhoc basis on Contract w.e.f (31-05-2014 to 15-07-2017 ), are hereby regularized in BPS-12, on the same posts in Teoching Cadre on the terms and condition given below with effect from the date of their oppointment as metioned against each in the Interst of public service.

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	Hed No. MTS	Mame and Father Name	CNIC No	Name of School	Total Marks out of 200	υjε	Appeintment seder No. & Dets	Date of Jaking Dver Charge	Crismillum No. & Clase
	1560039	Muhammad Khalid S/O Yousef Ali	17102-6537002 5	GPS Station KIIS	132,89	Abazai	4807-4958 Dated:32/05/2014	01-09-14	23935-74078 Osted:28/04/7017
,	1560071	Marjan All S/O Saced Gui	17101-9766071- 5	GPS Sheikh KZ	121.21	Agra	4207-4956 Dated:31/05/2014	01-09-14	23938-24078 Osted 28/04/7017
3	1560014	Mian Adil Shah S/O Mian Kifayat Ullah	17192-6844013- 5	GPS Agra Bala	116.33	Agra	4807-4958 Dated:31/05/2014	01-09-14	23938-24078 Dated:28/04/2017
4	1561340	Muhammad Amin S/O tsrar Muhammad	17101-9188159- 3	GPS Agra Bala	114.58	Agri	4807-4958 Dated:31/05/2014	02-09-14	21938-240/8 Opted:28/04/2017
5	1560163	Tilawat Shah S/O S.Wellayat Shah	17101-0113694- 5	GPS Mandital	133.59	Ballagram	4807-4958 Dated:31/05/2014	01-09-14	23938-240/8 Gated 28/04/2017
6	1560941	Muhammad Shoaib S/O Fida Muhammad	17101-0315588- 7	GPS Athera	129.66	Battagram	4807-4958 Cated:31/05/2014	01-05-14	23938-24078 Dated 28/04/2017
7	1560994	Shah Anwar S/O Rahim Khan	17101-0399895- 3	GPS Marczai	124.24	Battagram	4807-4958 Dated:31/05/2014	01-09-14	73938 74078 17sted /K/04/2017
8	1560125	Muhammad Asim S/O Pervez Khan	17101-7492491- 7	GPS Mathra New	121,45	Battagram	4807-4958 Dated:31/05/2014	01-09-14	23938 240/8 Dated:28/04/2017
9	1561110	Shah Khalid S/O S,Jaffar Shah	17301-4432180- 5	GPS Mathra Qadeem	119.3	Battagrem	4807-4958 Dated:31/05/2014	02-09-14	/3938 74078 Dated:28/04/7017
10	1560007	Nasir Khan S/O Nadur Khan	17101-0307693-	GPS Khisro Khan	135.48	Befriola	4807-4958 Deted:31/05/7014	01-09-14	23938-24078 Uated:28/04/2017
11	1550845	Muhammad (shtiaq \$/O Muhammad Nabi	17101-3765891- 7	GPS Mien Shakh No.6	132,34	Behlota	4807-4958 Dated:31/05/2014	01-09-14	73938-24078 Dated.28/04/2017
12	1561037	Yasoen Khan S/O Fawad Khan	17101-2716399- 9	GPS Shaheedan	132.18	Behipla	4207-4958 Osted:31/05/2014	01-09-14	71918-24078 Dated:28/04/2017
13	7761364	Nizam Ullah S/O Ubaid Ullah	17101-6378689- 5	GPS Islam Abad Dargal	135.83	Dargaj	4807-4958 Dated:31/05/2014	01-09-14	23938-24078 Dated:28/04/2017
14	1561254	Muhammad Al-S/O Faqir Tan	17101-0300785- 9	GPS Nahagi	118.45	Daulat Pura	4807-4958 Dated:31/05/2014	01-09-24	23938-74078 Dated:28/04/2017
15	1560109	fizam Uf Haq S/O Abdul Dayan	17101-6170115- 7	GPS Ambadher-1	116.29	Daulat Pura	4807-4958 Oated:31/05/7014	01-09-14	73938-24078 Dated 78/04/7017
16	1560214	Asif Ullah S/O Noorqat Ali Shah	17101-0826588- 1	GPS Caulot Pura	114 51	Daulat Pura	480/-4958 Oated:31/05/2014	01-09-14	23938-24078 Dated:78/04/2277
:,	1560175	Umar Gul S/O Ziarat Gut	17101-6375764 1	GPS Ažiz Abad-2	171.66	Dheri Zardad	4807-4958 Dated:31/05/7014	01-09-14	/3918-/40/6 Outed:28/04/2817
•	1561321		17101-0342715- 1	GPS Jan Abad	114,33	Dheri Zardad	4807-4958 Dated:31/05/2014	01-09-14	/3938-74078 Dated:28/04/2017
,	1560954		17101-0328797- 7	GPS Kalyas	104.56	Dheri Zardad	4807-4958 Dated:31/05/2014	01-09-24	23938-24078 Oated:28/04/7017
•	1960938	Tafar AL S/O Muhammad		GPS Dosehra-3	116,17	Dosehra	4807-4958 Dated:31/05/2014	01-09-14	73938-74078 Dated:78/04/7017
71	1540990		17101-2739656	GPS Ratyans-2	111.12	Dosehra	4807-4958		73938-740/B
"	156)448		17101-1671324	GPS Sheh Dhend			Oated:31/05/2014 48D/-4958	01-09-14	Dated:28/04/2017 73938-74078
"	1563366		17102-7470651- 9	GPS Karimo Banda		Dosehra	Dated:31/05/2014 4807-4958	01-09-14	23938-24078
4	194100%		17101-59G317B		173.06	Gendheri	Dated:31/05/2014 4807-4958	01-09-14	Dated:28/04/2017 7.1918-74078
-	-same		1/101 0114790	GPS Mable Dher		Ghunda Karkana	Oated:31/05/2014 4807 4958	01-09-14	Oated./8/04/7017 2.19'16 74078
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	"	1560005	Khafi Ultah S/O Khair Ultah	17101-0401414- 5	GPS Utmanter 3	124.07	MC Utmanzai	6807 6152 Oated 31/05/2014	D1 09 14	25'21 5,74 Union 28/84/2017	
-	60	1561533	Fashad AB S/O Khan Bahader	17101-1658119- 9	GPS Kåligon	100 25	MC Utmanzai	4807-4758 Dated 51/05/3014	02-09-14	21816 (4076 Deted 28/04/2017	1
	61	1560915	Muhammad Adil Jan 5/O Jan Alam	17101-9006856- 5	GPS Boss Khel-)	104.12	MC-1 Chersadda	4807-4958 Osted:31/05/2014	01-09-14	73916 74279 Dated 28/04/2017	ĺ
	67	1561158	Moazam Ian S/O Muhammad Aslam	17101- <b>800</b> 6111-	GPS Carol sthel-1	122 53	MC-1 Charsadda	4507-4958 Dated 31/05/2014	01-09 14	2193A-24076 Dated 74/04/7012	
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•	3	1561320	Majid Shah S/O Ian Bad Shah	17101-8067215-		109 49		4807-4958 Dated:31/05/7014	01-09-14	7391# /407# Dated 78/04/7017	
	65	1561269	(nam UI Hassan S/O Awaf	<del></del>			MC-2 Chursadda	4807-4958 Ostod:31/05/7014	01-09-14	71938-14018 Oated 78/04/2037	
	66	1361189	Muhammad Zerahan S/O Abdul Ur Rauf	17101-9729175- 5	GPS Ethal Allia	115.17	MÇ-2 Charsadda	4807-4958 Outed:31/05/2014	01-09-14	23938 /4078 Deted 28/04/7017	
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-	69	1560015	Zefar Khan S/O Ineget Uffah Khen	17101-7165544- 7	GPS Shabqadar Fort-2	99.7	MC-3 Shi bqadai	4807-4958 Dated:31/05/2014	01-09-14	73936-74078 Dated 28/04/2017	
	70	1560863	Dilawar Shah S/O Rafiq Shah	17101-4419772- \$	GPS Book thei Frang	114.04	MC-3 Chd	4807-4958 Outed:31/05/2014	01-09-24	13938-24078 Qated 18/04/2017	
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ļ	73	1560866	Adnan Hussain S/D Gulab Husain		GPS Gonda	122	MC-3 Shabqadar	4807-4958 Dated:31/05/2014	01-09-14	74936 74078 Dated:78/04/2017	
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	75	1551779	Mohammad Roshan Khan Sayyed Masood Ahmad	17101-2505470-	GPS Attable		MC-3 Shabqadar	4807-4958 Dated:31/05/2014	01-09-14	23938-24078 Dated 78/04/2017	
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431	2033002129	Asii Ur Rehman(Olsabia Quota) S/O Gui Rehman	17102-9394848- 204	GPS Ohalli	121.59	Dhatu	27547-51 Dated:23/05/2017	01-09-17	<u></u>
432	201700483	Syed Wileyat Sheh S/O Syed Fareh Sier Shah	17107-93 <b>54848</b> - 205	GPS Haldar Klili	109,59	Shodag	28873-76 Dated:15/07/2017	01-09-17	
433	20310009k3	Yahya Jan S/O Olbat Khan	17107-9394848- 206	GPS Mahmood Abed	171.61	Chindrodag	28877-60 Dated:15/07/2017	01-09-17	

#### TERMS & CONDITIONS.

- 1.) Their services shall be governed by the Khyber Pakhtunkhwa Civil servants Act, 1973, the Khyber Pakhtunkhwa (Appaintment, Deputation, Posting & Transfer of Teachers, Lecturers, Instructors & Doctors) Regulatory Act, 2011 and such rules & regulations as may be issued from time to time by the Government.
- 2.) Their services shall be considered regular and they shall be eligible for pension / dedication of GPF and in terms of the Khyher Pakhtumkhwa Civil Servants Act, 1973 as amended in 2013.
- 3.) Their services are liable to termination on one months' notice from either side in case of resignation without notice, their one month's pay allowances shall be forfeited to the Govt.
- 4.) They shall possess the same qualification and experience required for a regular post.
- 5.) Their regularization shall not affect the promotion quota of existing halders of pasts in respective service cautres.
- 6.) The regularization will not be in favour of those, who have not taken over charge or has remained absent from duty or resign / terminated from service and also not for those who are under disciplinary proceedings.
- 7.) Their pay shall be released subject to verification of academic documents/testimonial from the concerned Board-University by the SDEO concerned
- 8.) The employées whose services are regularized under The Khyber Pakhtunkhwa Employees of the Elementary and Secondary Education (Appointment and Regularization of Services) Act, 2017 (Khyber Pakhtunkhwa Act No.1 of 2018) or in the process of attaining service at the commencement of The Khyber Pakhtunkhwa Employees of the Elementary and Secondary Education (Appointment and Regularization of Services) Act, 2017 (Khyber Pakhtunkhwa Act No.1 of 2018) shall rank junior to all civil servints belonging to the same service or cadre, as the case may be, who are in service on regular basis on the commencement of The Khyber Pakhtunkhwa Employees of the Elementary and Secondary Education (Appointment and Regularization of Services) Act, 2017 (Khyber Pakhtunkhwa Act No.1 of 2018), and shall also rank junior to such other persons, if any, who, in pursuance of the recommendation of the Commission made before the commencement of this Act, are to be appointed to the respective service or cadre, irrespective of their actual date of appointment
- 9.) The seniority interest of the employees, whose services are regularized under this Act within the same service or codre, shall be determined on the basis of their continuous officiation in such service or codre:
- 10.) Their seniority shall be determined on the basis of their continuous service in codre, provided that if the date of continuous service in the case of two or more employees is the same, the employees older in age shall rank senior to the younger one

(SIRAI MUHAMMAD)

DISTRICT EDUCATION OFFICER

(MALE) CHARSADDA

Ends No 19747-20188 F.NO. (Regularization PST 2018) Dated: 12 / 03 2018

Copy forwarded for information to the ..

- 1. Duzetur LASE Depti. Khyber Pakhtunkhwa Peshincar,
- 2. District Nazim Charsaukla
- 3 Deputs Commissioner Chursadda
- 4. District Montteing Officer, IMII Charsadda
- 5 SDLO (M) Charsadda
- 6 MDFO (M) Tungs
- SDI O (M) Shabqadar
- District Account Officer Charackla
- 9 Official concerned

In Office lde

DY:DISTRICT EDUCATION OFFICER





### KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWA

Service Appeal No. 7597/2021

BEFORE: MRS. RASHIDA BANO

MEMBER(J)

MR. MUHAMMAD AKBAR KHAN

MEMBER (E)

Abdul Musawair S/O Muhammad Ali, SPST, BPS-14, GPS Anar Kali, Charsadda, R/O Amir Abad, P.O Rajjar, Tehsil & District Charsadda.

(Appellant)

#### **VERSUS**

- 1. The Director Elementary & Secondary Education Department, Peshawar.
- 2. The District Education Officer (M), Charsadda.
- 3. The Accountant General, Khyber Pakhtunkhwa, Peshawar Cant.

.... (Respondents)

Mr. Muhammad Maaz Madani

Advocate

For appellant

Mr.Muhammad Jan

District Attorney

For respondents

Date of Institution.......15.10.2021

Date of Decision.......06.11.2023

#### **JUDGMENT**

RASHIDA BANO, MEMBER (J): The instant service appeal has been instituted under section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as below:

"On acceptance of this appeal, the inaction of the respondents by not allowing the annual increment for the year 2014 and releasing outstanding salaries for the month of June, July & August 2014 may very kindly be declared illegal and the respondents may kindly be directed and also release the outstanding salaries for the months of June, July & August 2014."

Brief facts of the case, as given in the memorandum of appeal, are that appellant was initially appointed as Primary School Teacher (BPS-12) on adhoc basis vide order dated 31.05.2014. Later on services of the appellant was regularized in the year 2017 from the date of his appointment. He was promoted

[3]

to the post of Senior Primary School Teacher (BPS-14) vide order dated 12.03.2018. The appellant facing huge discrepancy in the monthly salary due the reason that increment for the year 2014 was not allowed and the salaries for the month of June, July and August 2014 was not released. Despite the factum of pay fixation party of respondent No.3 allowed the increment for the year 2014 but till date the same is neither been included nor been allowed in the salary of the appellant. Feeling aggrieved, he filed departmental appeal, which was rejected, hence the instant service appeal.

- 3. Respondents were put on notice who submitted written replies/comments on the appeal. We have heard the learned counsel for the appellant as well as the learned District Attorney and perused the case file with connected documents in detail.
- 4. Learned counsel for the appellant argued that appellant has not been treated in accordance with law and rules and respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan, 1973. He further argued that the act and omission of the respondents by illegally deducting annual increment for the year 2014 and not releasing salaries is against the law, facts, material available on record and norms of natural justice hence not tenable in the eye of law is liable to be struck down. He submitted that appellant has properly submitted his charge report and mark his attendance in the attendance register on 31.05.2014 and he is held entitled for annual increment for the year 2014.

ATTESTED

5. Learned District Attorney contended that the appellant has been treated in

accordance with law and rules. He further contended that initially the appellant was appointed on 31.05.2014, but the appointment order of the appellant and his colleagues were amended and in this regard a corrigendum was issued. The amended order directed the appointees to take charge from 01.09.2014, because of long summer vacations to save the public exchequer.



Perusal of record reveals that appellant was appointed as Primary School 6. Teacher vide appointment order dated 31.05.2014 and it is admitted fact that appellant submitted his arrival report on the same day i.e 31.05.2014. He was regularized from the date of his appointment vide notification dated 15.03.2018. According to the terms and conditions as mentioned in the appointment order of the appellant, he could draw his pay with effect from 01.09.2014, however in view of section 17 of Civil Servants Act, 1973 and FR17 the appellant is entitled for the payment of his salaries with effect from 31.05.2014, the date on which he submitted his arrival report. The appellant is thus entitled to receive salary for the months of June, July and August 2014. Moreover, while counting their service from 31.05.2014, six months service period as required for grant of annual increment stood completed and the appellant is also held entitled for the annual increment of 2014. So far as the question of limitation is concerned, suffice it is stated that being a financial matter, the appellant is having a continual cause of action, therefore, limitation will not have any adverse implication on the claim of the appellant.

- 7. For what has been discussed above, the appeal in hand is allowed as prayed for and the appellant is held entitled to all back benefits. Costs shall follow the events. Consign.
- 8. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this  $6^{th}$  day of November, 2023.

(MUHAMMAD AKBAR KHAN)

Member (E)

(RASHIDA BANO) Member (J)

Kaleemulleii

Certified to be true copy

EXAMMER

Knyber Pakhtukhwa

Service Tribunal

Peshawar

Date of Presentation of Ar	plication_	<u>.                                    </u>	~24
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06.11.2023

- Learned counsel for the appellant present. Mr. Muhammad Jan learned District Attorney for the respondents present.
- Vide our detailed judgement of today placed on file, the 2. appeal in hand is allowed as prayed for and the appellant is held entitled to all back benefits. Costs shall follow the event. Consign.
- Pronounced in open court in Peshawar and given under 3. our hands and seal of the Tribunal on this 6th day of November,

2023.

(Muhammad Akbar Khan)

Member (E)

MOTE

Member (J)

THE DISTRICT EDUCATION OFFICER (MALE) District Charsadda.

Dian No. 709-16/4/24

Subject:

APPLICATION FOR THE GRANT OF INCREMENT FOR THE YEAR 2014
AND SALARIES FOR THE MONTHS OF JUNE, JULY & AUGUST 2014.

Respected/Sir,

Most respectfully, it is stated that I am working under your kind control in District Charsadda. I was appointed as PST (BPS-12) vide order Endst No. 4807-4958 dated 31-05-2014. After performing duty for sufficient time my service was regularized with the promulgation of the Act of 2017.

While our official service commencement date was 31/05/2014, the government began issuing our salaries from 01/09/2014, and according to the said salary our increment for the year 2014 was not allowed to me.

Furthermore, I wish to highlight a recent development within our department wherein one of my colleagues namely Abdul Musawir successfully pursued legal action and approached Khyber Pakhtunkhwa Service Tribunal Peshawar to rectify this issue and his case was graciously allowed. As a result, the department issued the petitioner with all withheld salaries and corresponding increments in alignment with initial appointment date.

In the light of this precedent and the principle of equal treatment for all employees, I am respectfully requesting that the department extends the same consideration to me as the said petitioner and I have been appointed with the same Endst Number and on same date, May 31, 2014.

In this respect, it is therefore requested that salaries for the months of June, July & August 2014 and increment for the year 2014 may kindly be allowed to me in line with the principles of justice and

fairness, piea	se.	ì
Thank you fo	or your time and consideration.	4
Obediently Y		:
Name:	Shahid Khan	ļ
Designation:	SPST	į
School:	GRS Kulalan	•
Contact No:	0307 8519045	
Signature:	- Shot do ser	
Date:	16/04/2024	3

## (POWER OF ATTORNEY)

# BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

	Serv	rice Appeal No/2024
SHAHID KHAN	VS	GOVT. OF KP & OTHERS
ı,Shahid	Khando	hereby nominated and appointed
MUHAMMAD Maccounsel in the above matter act and answer in the above business is transferred in the appeals, statements, account connection with the said macdocuments or copies of documents or subpoend other writs or subpoend other execution, warrants or out; and to apply for and reto arbitration, and to employ	A A Z M A D N I, Advocate for me/us and on my/out we court or any appellate e above matter as and its, exhibits, compromises of atter arising there from an uments, depositions etc at a and to apply for and go order and to conduct are ceive payment of any or any an other legal practitions.	rocate High Court, Peshawar, to be r behalf as agreed to appear, plead, e court or any court to which the is agreed to sign and file petition, or other documents whatsoever, in ad also to apply for and receive all and to apply for and issue summons et issued any arrest, attachment or my proceedings that may arise there all sums or submit the above matter ner authorizing him to exercise the ocate whenever he may think fit to
AND to do all acts le respects whether herein spec AND I/WE hereby agree to under or by virtue of these always that I/WE undertak authorized agent shall informay be dismissed in default, responsible for the same. All his nominee, and if awarded	ified or not, as may be pro- ratify and confirm all la present or of the usual parts of calling the at the time of calling the advocate and make to it be proceeded ex-parts costs awarded in favour against shall be payable be	wful acts done on my/our behalf; practice in such matter, PROVIDED of the case by the court I/MY him appear in the court, if the case, the said counsel shall not be held shall be the right of the counsel or
contests of which have been of Acces 2024.	explained to and underst	tood by ME/US thisday
EXECUTANT (Shahid Khan)		
Accepted subject to the term	s regarding fees:	
MUHAMMAD MAAZ MA ADVOCATE HIGH COURT, PESH BC No. (BC-11-1460) CNIC No. 17101-9263898	AWAR	

OFFICE: KHATTAK LAW ASSOCIATES,

TF-291 & 292, Deans Trade Centre, Peshawar Cantt:.

Contact#: 0333-9313113, 0314-9965666