


FORM OF ORDER SHEET

Court of _____

Appeal No. 1442/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	11/09/2024	<p>The appeal of Mr. Sajid Khan presented today by Mr. Gul Tiaz Khan Advocate. It is fixed for preliminary hearing before touring Single Bench at D.I.Khan on 22.10.2024. Parcha Peshi given to counsel for the appellant.</p> <p>By order of the Chairman  REGISTRAR</p>

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

Appeal No 1442 /2024

Sajid Khan PST Government Primary School Janakki Tehsil &
District Tank.Appellant

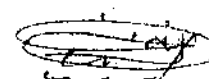
VERSUS

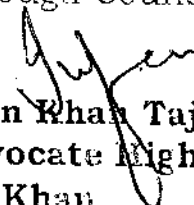
The District Education Officer (Male) Tank.Respondent

INDEX

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1	Grounds of Appeal	-	1-6
2	Copies of Writ Petition alongwith order dated 22.12.2021	A&B	7-13
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Dated: 9/09/2024


Your Humble Appellant,
Through Counsel


Irfan Khan Taju Khel
Advocate High Court
D.I.Khan

I

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

Appeal No. 1442 /2024

Sajid Khan PST Government Primary School Janakki Tehsil &
District Tank.Appellant

VERSUS

The District Education Officer (Male) Tank.Respondent

APPEAL U/S 4 OF KPK SERVICE TRIBUNAL ACT 1974
AGAINST THE ORDER OF WITHHOLDING AND NON-
DISPOSAL OF REPRESENTATION OF THE APPELLANT
DATED 28.05.2024 FOR FIXATION OF PAY WITH EFFECT
FROM 13.05.2020 WITHIN THE STATUTORY PERIOD OF 90
DAYS

Respectfully Sheweth,

1. That the address given in the memo of Appeal are sufficient for the purpose of service of the parties.
2. That the Appellant is a citizen of Islamic Republic of Pakistan and being a citizen of the country, the appellant has the rights and obligations under the constitution.
3. That the Education Department KPK advertised different posts in the year 2019 in the Education department including the posts of PST to be appointed in District Tank and the appellant being qualified and eligible to be appointed as PST also applied for the same.
4. That the Appellant was not appointed as PST in spite of eligibility on merit, therefore, the appellant filed a Writ

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Petition No. 431-D/2020 in the Peshawar High Court D.I.Khan Bench which came up for hearing before a Division Bench on 22.12.2021 and the same was allowed with observation and direction to respondent to consider the appellant for appointment against the post of PST as per his merit position as the appellant has wrongly been deprived of his appointment on merit. Copies of Writ Petition alongwith order dated 22.12.2021 are enclosed as **Annexure - A&B** respectively.

5. That after decision of the High Court the order of the High Court was not implemented, therefore, the appellant then filed a petition for initiating contempt proceeding against the respondent and during the pendency of contempt petition, the appellant has been appointed as PST vide office order Endst: No. 3499-3505/DEO-M/Conditional Order/2022 dated 05.08.2022 but the appellant has been given seniority with effect from 13.05.2020 as per merit position alongwith the other appointees which have already been appointed but appellant was deprived and name of the appellant has been placed as serial No. 546 of the seniority list. Copies of appointment order and relevant page of the seniority list are enclosed as **Annexure - C&D** respectively.

6. That it is settled preposition of service laws that an employee/ civil servant is entitled for fixation of pay with effect from seniority position and it is an admitted fact

Jyer

that the appellant has been given seniority with effect from 13.05.2020 but pay fixation has not been made by the respondent, therefore, the appellant submitted representation dated 28.05.2024 containing the request for fixation of pay which has duly been forwarded to the office of respondent by the head teacher of GPS Janakki District Tank but the same has not been decided by the office of respondent within the statutory period of 90 days. Copy of representation is enclosed as **Annexure - E**.

7. That feeling aggrieved from the impugned actions/Inactions of respondent's office not to decide the presentation of appellant has not been decided within the statutory period of 90 days, therefore, having no other way, the appellant is obliged to knock the door of this honourable Tribunal under its appellate jurisdiction inter alia on the following grounds:

GROUNDS:

- A. That the appellant has been held entitled for consideration of seniority with effect from 13.05.2020 as per merit position under the observations of honourable High Court and the appellant was rightly given seniority as per terms & conditions of appointment order i.e. serial No. 13 but the appellant has not been granted fixation of pay with effect from 13.05.2020 on which date the other candidates have been appointed but appellant was deprived,

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therefore, it is not the fault of appellant to deprive him from his financial benefits i.e. fixation of pay.

- B. That it was not the fault of appellant rather he was deprived by the office of the respondent of his vested rights of appointment on 13.05.2020 which rights were subsequently granted by the honourable High Court in the shape of acceptance of Writ petition of appellant.
- C. That the appellant is fully entitled for fixation of pay with effect from 13.05.2020 from which date the appellant has been granted seniority as per serial No. 13 of the appointment order and non-fixation of the pay of appellant is vested fundamental rights guaranteed under the Constitution of Pakistan as well as under the provision of Civil Servants Act.
- D. That there is a precedent case / judgment dated 29.05.2018 of this honourable Court of D.I.Khan Bench passed in W.P No. 686-D/2014 wherein similar relief i.e. (Seniority and pay fixation) has been granted to the petitioner and he was held entitled to the seniority from the date when his other colleagues were appointed pursuant to the same advertisement. Copy of judgment is enclosed as **Annexure F**.
- E. That it is the legal and moral obligations of office of respondent to decide the representation of the appellant within reasonable time, with reason and to communicate

Jafa

the result of the same to the appellant but he failed to do so.

F. That provisions of Article-4 of the constitution provide constitution guarantee to the peoples and citizens that the executive cannot take their rights of life, liberty and property without legal justification but appellant has been deprived by the respondents of his legal and vested rights.

G. That this Honourable Tribunal has vast powers under the constitution and is the custodian of constitution and fundamental rights of the citizens of the country.

H. That Counsel for Appellant may please be allowed to raise additional grounds during the course of arguments.

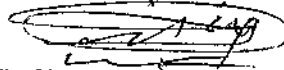
In view of the submissions made above, it is, therefore, humbly prayed that on acceptance this Appeal, this Honourable Tribunal may very graciously be pleased to pass an order declaring the impugned actions / inactions of the office of Respondent to be void, illegal, against law, without lawful authority and without jurisdiction and as a consequence thereof, respondent may please directed to consider the case of appellant for fixation of pay with effect from 13.05.2020 so as to meet the ends of justice and fair play.

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Any other relief deemed appropriate in the prevailing circumstances may also be granted.


Dated: 9/09/2024

Your Humble Appellant,



Sajid Khan

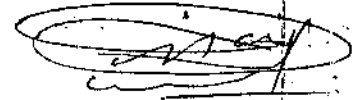
Through Counsel



Irfan Khan Taju Khel
Advocate High Court
D.I.Khan

CERTIFICATE:

Certified that it is a first Appeal before this Honourable Tribunal by the appellant on the subject.



Appellant

AFFIDAVIT:

I, Sajid Khan PST Government Primary School Janakki Tehsil & District Tank, the appellant do hereby solemnly affirm and declare on Oath that the contents of the Appeal are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honourable Tribunal.


DEPONENT



12101-9440260-9

09/9
024

Received at the Court Bench
31/08/2020

3. That the respondents shown vacant posts of PST in different union councils for the year 2019, wherein union council Waraspoon, there were six (6) vacant posts on PSTs

2. That the petitioner No.1 is DVM along with PTC, Petitioner No.2 is Master in Zoology and having M.Ed requisite qualification, applied for the post of PST. Copies of testimonials are enclosed herewith as Annexure-B.
Petitioner No.4 is master in Islamiyat as well as M.Ed and Petitioner No.5 is MSc in Islamiyat as well as B.Ed, Petitioner No.3 is master in Islamiyat as well as PTC, Petitioner No.1 is Master in PTC, Petitioner No.2 is Master in

ANNEXURE A

4. That the respondents advertised different post in education department including the posts of PST teachers in district Tank. Copy of publication is enclosed herewith as

BRIEF FACTS

Note:- Addresses given above are sufficient for the purpose of service of parties.

WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN 1973.

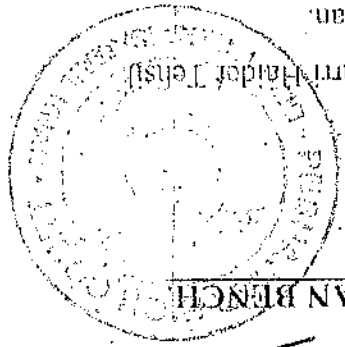
(Respondents)

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

Versus

(Petitioners)

1. Sajid Khan Son of Hassan Ghulam Resident of Janky, Post office Karri, Haider Tehsil & District Tank present Model town, Post Office P.T.I, Dera Ismail Khan.
2. Amanullah son of Haider Khan Resident of village and post office Kirri Haider Tehsil & District Tank.
3. Foseefullah son of Sher Ali Resident of village and post office Kirri Haider Tehsil & District Tank.
4. Asad Bilal son of Akhtar Munir Shukir Resident of village and post office Kirri Haider Tehsil & District Tank
5. Zia Fir Rehman son of Muhammad Zaman Resident of Maghza, Post office Umar Adha, Tehsil & District Tank.



Writ Petition No. _____/2020.

BEFORE THE PESHAWAR HIGH COURT, DERA ISMAIL KHAN BENCH

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in the union council. Copy of list showing vacancies is enclosed herewith as Annexure-C.

- 4. That the respondents then issued tentative merit list, wherein the names of the petitioners are appearing at serial No. 3,5,6,8 and 9 respectively but astonishingly in the merit list it has been mentioned that the list is displayed only for one post in the UC Waraspoon. Copy of merit list is enclosed herewith as Annexure-D
- 5. That subsequently one Zahid Mahmood shown at serial No.1 was appointed as PST in UC instead of six candidates.
- 6. That being aggrieved and having no other appropriate remedy, the petitioners approach this Honourable Court for the redressal of their grievances on inter-alia the following grounds:

GROUNDS.

- 1. That all the petitioners are qualified for the post of PST and all of them did qualify the requisite exam of FTS and obtained marks, which placed them in the merit list as mentioned above.
- 2. That it is admitted fact that there were SIX (6) vacancies of PST in the UC Waraspoon, district Tank, for which applications were asked for and thereafter FTS was conducted and a tentative merit list was also prepared, therefore the petitioners, after securing highest marks in the test, got better position in the merit list, got wasted right to be appointed as PST and the respondents after test and interview could not decrease the number of posts of PST in the UC, after duly advertisement and displaying the list of the vacant posts in entire district.
- 3. That there is no occasion for the respondents not to fill the other vacancies except for the mala fide on the part of the respondents because tomorrow again these post have to be advertise to fill the same but of course through the candidates of their own choice.
- 4. That the petitioner has been discriminated by the official respondents without any law full justification by not appointing the petitioners, despite the availability of vacancies and candidates having qualified the test.
- 5. That it is settled principal of law by now that when the posts are advertised and merit lists are prepared then seats/ vacancies available cannot be decreased in any manner.
- 6. That the counsel for the petitioner may be allowed to raise additional grounds during the course of arguments.

It is, therefore, humbly prayed that the respondents may be directed to act in accordance with law, rules and policy of the government and the petitioner may be declared as qualified candidate for the post of PSTs. Any other relief as deemed


 JUDGE
 DISTRICT COURT
 Waraspoon, District Tank

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(3)


appropriate in the circumstances of the case not specifically asked for may also be granted to the petitioner.

INTERIM RELIEF:

Pending disposal the writ petition, respondents may be restrained from filling the five vacants posts of PST in any manner.

Your humble petitioner;
Through counsel.

Dated: 18.05.2020


(Saleemullah Khan Ranazai)
Advocate Supreme Court.

BOOKS REFERENCES.

1. Constitution of Islamic Republic of Pakistan 1973.
2. Service Laws.
3. Reported Judgment on the subject matter.

CERTIFICATE

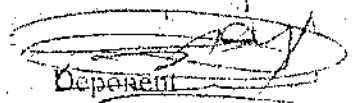
Certified that it is the first petition on the subject matter from the petitioner's side and nothing has been concealed from this Honourable Court.

Dated: 18.05.2020


(Saleemullah Khan Ranazai)
Advocate Supreme Court.

AFFIDAVIT.

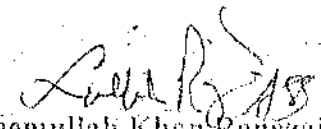
I, Sajid Khan son of Hassan Ghulam Resident of Janiky, Post office Karri Haider Tehsil & District Tank present Model town, Post Office PTJ, Dera Ismail Khan, the petitioner No.1, do hereby solemnly affirm and declare on Oath that the contents of writ petition are true and correct according to my knowledge and belief and nothing has been concealed from this Honourable Court.

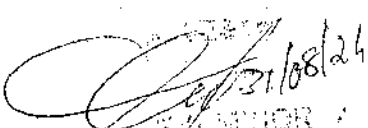

Deponent

12101-8440260

Identified by

Dated: 18.05.2020


(Saleemullah Khan Ranazai)
Advocate Supreme Court.

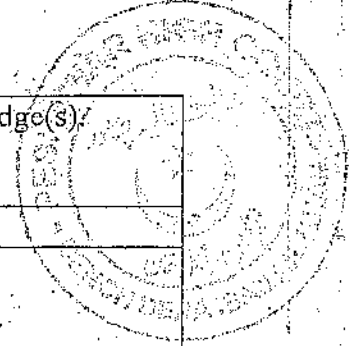

SAJID KHAN
EXAMINOR
Dera Ismail Khan

B

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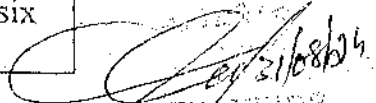
PESHAWAR HIGH COURT, D.I.KHAN BENCH

FORM OF ORDER SHEET



Date of order or proceedings	Order or other proceedings with signature of Judge(s)
(1)	(2)
22.12.2021	<p><u>W.P. No.431-D/2020 with Interim Relief & C.M.Nos.601-D/2020, 851-D/2021.</u></p> <p><u>Present:-</u> Mr. Salimullah Khan Ranazai, Advocate for the petitioners.</p> <p>Mr. Kamran Hayat Miankhel, Addl. A.G. for the respondents.</p> <p>***</p> <p><u>Sahibzada Asadullah, J.-</u> Through the instant writ petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, the petitioner has prayed for directing the respondents to act in accordance with law, rules and policy of the Government with further prayer that petitioner be declared qualified candidate for the post of primary school teacher.</p> <p>2. Brief facts as narrated in the writ petition are that the petitioner No.1 is possessing degrees of DVM, PTC, M.A Islamiyat and B.Ed. as well as M.Ed, whereas petitioner No.5 has done his M.Sc. in Zoology and also possessing M.Ed. degree; that the petitioners applied for the posts of Primary School Teacher, which were shown vacant by the respondents in different union councils, whereas six</p>

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EXAMINER
Peshawar High Court Bench,
D.I. Khan

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posts in union council Waraspoon were shown vacant; that the respondents issued a tentative merit list, wherein names of the petitioners appeared at serial Nos.3, 5, 6, 8 and 9, respectively, but it was to their surprise when one post in union council Waraspoon was shown in the merit list. Hence, this constitutional petition.

3. In pursuance of the order of this Court, the respondent No.4 furnished para-wise comments, wherein stance of the petitioner was rebutted on the ground that only one post of PST was vacant in union council Waraspoon, District Tank, but erroneously six posts were advertised due to establishment of Govt. Primary School Kirri Maghzai Arzi Khan Kalai in the same union council in the year 2016-17; vide Chief Planning Officer E&SE Department letter No.CPO/SPO-1/PO/E&SE-1/ADP/2016-2017/Provincial dated Peshawar the 08.6.2017, issued by the Government of Khyber Pakhtunkhwa; that subsequently, in the light of the decision by Provincial Cabinet Khyber Pakhtunkhwa meeting held on 26.10.2017, it was notified that lady teachers be appointed in newly boys established schools. It has been further alleged by the answering respondent that the male candidates including the petitioners could not be appointed because the posts in the said school were sanctioned

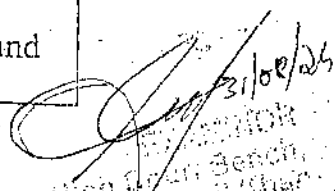
21/10/24
SANDOR
in Bench

by the Finance Department for recruitment of female candidates. The learned counsel for the petitioner also filed rejoinder to the comments, where stance of the respondents was rebutted.

4. Arguments heard and record gone through.

5. Before proceeding further, it is pertinent to mention that certain C.Ms. i.e. C.M. No.601-D/2020, 851-D & 940-D/2021 have been filed for submission of additional documents, which are allowed and the documents annexed thereto are made part and parcel of the writ petition.

6. The record tells that six posts were advertised for recruitment of primary school teachers in union council Waraspoon against which the petitioner and one other held to be on merit for selection, however, but only one candidate was appointed and rest of five posts, according to respondents, were converted for appointment of female lady teachers. As per direction of this Court, a document placed on the record by Sub Divisional Education officer (Male), Tank, via C.M. No.940-D of 2021 shows twelve primary schools were established in union council Waraspoon. In such view of the matter, the plea taken by respondents for refusing to appoint the petitioners has no leg to stand


31/08/24
High Court Bench
Islamabad

upon. The learned Additional Advocate General when confronted with the above, he candidly admitted the same fact.

7. In view of what has been discussed above, this writ petition is admitted and allowed, resultantly, the respondents are directed to consider the petitioners for appointment against the post of PSTs in any of the 12 schools, since they have been selected on merit and wrongly held that there was only one school in union council of the petitioners.

Announced.
DI: 22.12.2021.

(A)
S
JUDGE

[Handwritten Signature]
JUDGE

*Office
17/12/21*

[Handwritten Signature] 31/08/24

EX/MINOR
Peshawar High Court Bench,
Dehra Jaisal Khan

OFFICE OF THE DISTRICT EDUCATION OFFICER
MALE TANK
 DISTRICT OFFICE, MALE TANK, DISTRICT OF NORTH EAST PUNJAB
 PH: 01834-251035, 251036

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in the light of judgment of Honorable Peshawar High Court Bench Dera Ismail Khan
 dated 18-01-2022, appointment of the following candidates as
 regular employees on merit against the vacant post of Primary School Teacher
 under rules (RS. 1970-1430-62070) @ RS. 1970/- fixed plus usual allowances as
 provided in the Government in teaching cadre in the terms and conditions given below with effect
 from 18-01-2022 to the date of the order of this office against aforementioned judgment of
 the High Court Bench Dera Ismail Khan and any other contrary as and when issued by
 the Government.

Sl. No.	Name of Candidate	Qualification	Age	Grade	Score	Remarks
1	Sheela	B.A. (Hons.)	06-05-96	GP	110.114	GP (M) Hader
2	Muskan Chahin	B.A. (Hons.)	15-11-90	GP	113.111	GP (M) Janaki
3	Deepa Singh	B.A. (Hons.)	16-02-91	GP	116.743	GP (M) Hader
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The appointments is purely on contract basis initially for one year with effect from
 18-01-2022 to 03-08-2023.
 The appointment is subject to the condition that the certificate/documents must be verified from
 the concerned authorities by the District Education Office (Male) Tank, anyone found producing
 false documents will be reported to the law enforcing agencies for further action and said
 appointment will be cancelled automatically & candidate concerned will have no right of appeal
 in any form. Expenditure on verification on verification will be borne by the appointees.
 Candidates are liable to terminate on one month notice from either side. In case of resignation
 or termination, one-month pay will be forfeited to the Government Treasury.
 Candidates must produce their own and valid certificate regarding verification of their
 qualifications and other documents within 15 days of the issuance of this order. In case of failure to do so
 within stipulated period, their appointment will stand expired automatically and
 they will not be eligible for re-employment.
 The Government should produce their own certificate duly signed by the District
 Education Officer (Male) Tank before taking any action.
 This order is issued by this office.

The contract period in case of resignation will be provided...
 The contract shall be terminated if any time in case of performance...
 The contract shall be terminated if any time in case of performance...

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9. Before handing over charge, once again their documents may be checked by the DDO concerned, if they have not the required relevant qualifications as per rules they may not be handed over charge of the post.
10. They will have to undergo mandatory 9 months in-service professional training at RITE/PITE or at any other training venue / institution.
11. They should not be handed over charge if they exceed 35 years or below 19 years of age. Age relaxation case may be submitted to competent authority (if required).
12. The appointments are made on school based, on ad-hoc and on contract based. They will have to serve at the place of posting, and their services are not transferable to any other school.
13. Their seniority will be considered with effect from 13-05-2020 as per merit position.
14. This order will be considered null and void if the August Supreme Court reverse the judgement of Honourable High Court Bench Dera Ismail Khan.
15. Charge reports should be submitted to all concerned in duplicate.
16. No TA/DA is allowed.

---Sd---
(NISAR AHMAD)
District Education Officer
(Male) Tank


Enr Ist. No. 3/PP-3505/DEO-M/Conditional Order/2022

Dated Tank the 5/8/2022

Copy of the above is forwarded for information & necessary action to the:-

1. Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
2. District Accounts Officer, Tank.
3. District Monitoring Officer (EMA) Tank.
4. Sub-Divisional Education Officer (Male) Tank.
5. Teacher/Candidate Concerned.
6. Office File.

Attested
J. A.
D. A. W.


Dy. District Education Officer
(Male) Tank

16 D

Sr	Name of Official	Father's Name	Present place of Posting	Desig.	BPS	Qualif.	Prof. Qualificati on	B./A/ B.Sc Divi	Subject in BA/Bsc	Date of Birth	Date of entry into Service	Date of promotion to the present post	Score	Remarks
526	SAIF UR REHMAN	ABDUL QADIR	GPS NO.1 AMA KHEL	PST	BPS-12					17-03-1991	18-03-2020		122.05	
527	MUHAMMAD SALEEM	MUHAMMAD HAWAZ	GPS NO.2 SHERAN	PST	BPS-12	MA Ist.		Znc	Arts	15-03-1992	18-03-2020		121.84	
528	FARMAN ULLAH	HASAN ULLAH	GPS NO.1 KOT KAT	PST	BPS-12					14-10-1993	18-03-2020		121.46	
529	SHAH KHALID	KALO KHAN	GPS NO.1 PAI	PST	BPS-12					04-04-1997	18-03-2020		121.43	
530	MUHAMMAD ZAHID	HAUSHAK ALAM	GPS LAKHO MICHAN KHEL	PST	BPS-12					14-09-1955	18-03-2020		121.34	
531	JAMIL AHMAD	HAUHAMMAD QASIM	GPS DAUD KHEL	PST	BPS-12					04-04-1992	18-03-2020		120.89	
532	AFRABIYAS	SHUKAT ALI	GPS WANDAZALO	PST	BPS-12					14-05-1993	18-03-2020		120.62	
533	MUHAMMAD NOMAN	MISAL KHAN	GPS NO.1 RANWAL	PST	BPS-12	B.Sc	M.Ed	1st	Physic	24-04-1996	18-03-2020		118.23	
534	DR. HAWAZ	AMIR HAWAZ	GPS DOST MUHAMMAD	PST	BPS-12	MA	M.Ed	1st		18-11-1989	18-03-2020		117.65	
535	ADAM ANWAR	ANWAR JAN	GPS SALLAR ABAD	PST	BPS-12	BSC E.E. J.				04-06-1998	18-03-2020		116.88	
536	TARIQ MEHMOOD	SULTAN MUHAMMAD	GPS DABBARA NO.1	PST	BPS-12	B.Sc	PTC B.Ed	2nd	Stat	04-12-1994	18-03-2020		113.58	
537	IRFAN ULLAH	SAID HAWAZ	GPS MURANG	PST	BPS-12					14-08-1992	18-03-2020		107.44	
538	MUHAMMAD ALTAJ	AJAB KHAN	GPS SAADAT KORONA	PST	BPS-12	B.Sc Bio	PTC	1st		25-03-1997	18-04-2020		116	
539	NIJAZ MUHAMMAD	SAAD ULLAH	GPS MURTAZA	PST	BPS-12	B-Tech	PTC	1st	M/P	05-03-1993	18-04-2020		108.67	
540	ZAHID MEHMOOD	NAIK MUHAMMAD	GPS KOT GUL BAKHRAM	PST	BPS-12					16-04-1991	13-05-2020		128.35	
541	MUHAMMAD ILYAS	HUSSAIN AHMAD	GPS NO.3 TANX	PST	BPS-12	Pharma D		1st		15-10-1993	13-05-2020		126.9	
542	MUHAMMAD HIKMAT YAR	ABDUL QADIR	GPS SHIEKH SULTAN	PST	BPS-12	B-Tech (H)		1st	M/P	10-04-1992	13-05-2020		117.1	
543	AMAN ULLAH	HAIDER KHAN	GPS WARDOKI	PST	BPS-12					16-02-1991	05-08-2022		116.749	
544	SAEED ANWAR	ABDUL HAMID	GPS ABIZAR	PST	BPS-12	BSc MA Ist.	PTC M.Ed	2nd	Comp.	25-12-1992	13-05-2020		115.72	
545	MUNAWAR KHAN	SAID ALAM KHAN	GPS NO.1 UKBARI	PST	BPS-12					05-05-1989	13-05-2020		116.7	
546	SAJID KHAN	HASSAN GHULAM	GPS JAHANG	PST	BPS-12	B.Sc		1st	Zoolo.	15-11-1990	13-05-2020		113.111	Court case seniority will be considered wef 13-05-2020

Attested
 Jaffer
 Dawar

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(3) That the applicant has been held entitled for consideration of seniority w.e.f 13-05-2020 as per M/conditional order / 2022 dated: 05-08-2022. Copy of appointment order is enclosed herewith for kind perusal.

(2) That in compliance to the Judgement of Honourable Peshawar High Court, Dikhan Bench Dated: 18-01-2022 passed in W.P No. 431-D / 2020, the applicant has been appointed as PST in GPS-Jamala District Tank vide office order Hdst No. 3499-3505/DHO-M/conditional order / 2022 dated: 05-08-2022. Copy of appointment order is enclosed herewith for kind perusal.

(1) That the Applicant is a citizen of Islamic Republic of Pakistan and being a citizen of the Country has the rights and obligations under the constitution.

The Applicant submits the following few lines for your sympathetic consideration please.

Respected Sir,

Through: Proper Channel
Subject: REQUEST FOR FIXATION OF SENIORITY AND FIXATION OF PAY W.E.F 13-05-2020.

The District Education Officer (M) Tank

To

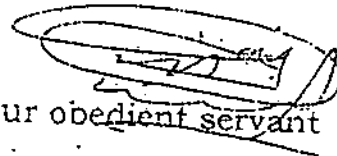
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at S.No. 13 of terms and conditions as laid down in the appointment order but this terms and condition i.e. Serial No. 13 has not been fully implemented and the applicant seniority and pay fixation has not been fixed properly in accordance with rules, hence this written request.

In view of the submissions made above, it is, therefore, humbly prayed that the term and condition of S.No. 13 may please be given effect and sanction for fixation of seniority and pay fixation of the applicant w.e.f 13-05-2020 may please be accorded please so as to meet the ends of justice.

Dated: 28/05/2024



Your obedient servant

Sajid Khan
PST GPS Janaki
Tehsil and District Tank

*Forwarded in original
to the D.E.O (M) TANK
for consideration please*

*Attested
Jyoti
A.S.W.*

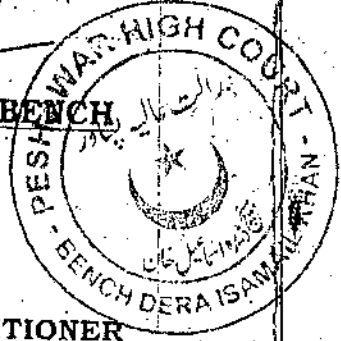
*Head Teacher
GPS JANAKI TANK*

[Signature]
28/05/2024
Head Teacher
GPS Janaki
Tehsil Tank

1 F 19

BEFORE THE PESHAWAR HIGH COURT D.I.KHAN BENCH

W.P.No. 686/2014



Kaleem Ullah S/o Azhar Ubaidullah
R/o Jhok Qureshi, UC Muryali, District D.I.Khan

03427979349.....PETITIONER

VERSUS

- (1) Govt. of KPK through Chief Secretary, Civil Secretariat Peshawar
- (2) Secretary of Education, Govt. Of KPK, Civil Secretariat Peshawar
- (3) Secretary Establishment & Administration Deptt., Govt. Of KPK, Civil Secretariat Peshawar
- (4) The Director Elementary & Secondary Education Deptt: Govt. Of KPK, Peshawar.
- (5) The District Education Officer (Male) D.I.Khan
- (6) Zameer Hussain S/o Bashir Hussain PST GPS Jhok Qureshian District D.I.Khan.....RESPONDENTS

WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN 1973.

Respectfully Sheweth,

- 1) That the addresses of the parties given in memo of petition are sufficient for the purpose of services of the parties.
- 2) That the petitioner is bona fide resident of Jhok Qureshi District D.I.Khan and has the qualifications up to B.Sc with PST certificate. Copies of testimonials are enclosed as Annexure A, A-1 to A-4.
- 3) That the petitioner was earlier appointed as PST in the GPS Noon District D.I.Khan in the year 2007 but later on services of the petitioner including others i.e. 1613 teachers were terminated as a consequence of issuance of order by the standing committee of Provincial Govt. Of KPK.
- 4) That the petitioner like other affectees sought the legal remedy upto august Supreme Court of Pakistan and as a consequence thereof, the petitioner then filed service appeal in the KPK service tribunal and the Learned tribunal was pleased to

WP.686-D of 2014 (Kaleemullah:Vs.Govt.of KPK)(Grounds)

EXAMINOR

Peshawar High Court Bench,
Dera Ismail Khan

31/1/24

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JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT, D.I.KHAN BENCH
(Judicial Department)

Writ Petition No.686-D of 2014

Kaleemullah

Versus

Govt: of Khyber Pakhtunkhwa through Chief Secretary,
Peshawar and five others

JUDGMENT

Date of hearing: 25.9.2018
For Petitioner: Mr. Gul Tiaz Khan Marwat Advocate
For respondents No.1 to 4: Mr. Adnan Ali, Asstt: A.G.
For respondent No.6: Mr. Ahmad Ali Khan Advocate

IJAZ ANWAR, J.- Through the instant petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, the petitioner Kaleemullah has called in question the order dated 05.12.2014 of District Education Officer (M), D.I.Khan whereby Zameer Hussain, respondent No.6, was appointed as PST and posted in GPS Jhok Qureshian and instead seeks his appointment as PST.

2. The facts as narrated in the petition are that the petitioner was earlier appointed as PST, but his services alongwith others were terminated in consequence of the order of Standing Committee of Provincial Government of Khyber Pakhtunkhwa; that the petitioner sought his remedy up to august apex Court and then filed service appeal. The Service Tribunal constituted a committee



EXAMINER

Peshawar High Court Bench,

D.I. Khan

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under the chairmanship of Secretary Education, Government of Khyber Pakhtunkhwa. The committee besides other recommendations, also recommended that Executive District Officer Education, D.I.Khan is required to advertise the vacant posts immediately and complete the recruitment process before 15th March, 2012 and the terminated teachers may be provided opportunity to compete if they are qualified for the post. That after recommendations of enquiry committee, the petitioner again filed Service appeal which is still pending but in the meanwhile, the posts of PSTs were again advertised in January, 2014; that the petitioner qualified the test of NTS and also participated in the interview, where after tentative proposed list was prepared, wherein the petitioner's name appeared at serial No.70; that due to litigation since 2007, the petitioner became overage by three years and ten months; that he moved various applications for processing his case for relaxation of upper age limit, but the matter could not be finalized and finally on 05.12.2014, appointments were made including the appointment of respondent No.6, but the petitioner was ignored. Hence the instant petition.

3. Arguments heard and record perused.

EXAMINOR
Peshawar High Court Bench,
Dera Ismail Khan 03/19/14

4. Perusal of the record reveals that the respondents advertised different posts including the post of PST (Male) BPS-12. Both the petitioner and respondent No.6 applied and appeared in the written test conducted by National Testing Service Pakistan. When the final merit was prepared, the petitioner obtained 104.40 marks while respondent No.6 obtained 97.78 marks, however, both of them were overage. The petitioner was overage by 03 years 10 months and 19 days on the last date of submission of applications while respondent No.6 was overage by 01 year and 10 months. Astonishingly when the appointment order dated 05.12.2014 was issued, respondent No.6 was appointed while the petitioner was denied on the ground of being overage.

5. In accordance with Khyber Pakhtunkhwa Initial Appointment to Civil Posts (Relaxation of Upper Age Limit) Rules, 2008, a candidate is required to seek age relaxation prior to the appointment. The candidates belonging to general categories are required to seek up to two years age relaxation from the appointing authority and beyond that from the Establishment Department. The comments submitted by the respondents show that respondent No.6 was allowed age relaxation by the appointing authority while the applications submitted by

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EXAMINOR
Dera Ismail Khan Bench
29/24

the petitioner, much prior to the issuance of appointment, were spoiled in red-tapism.

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6. During the course of hearing, learned counsel for respondent No.6 relied upon two judgments of this Court in W.P.No.13-D/2015 decided on 07.3.2018 and W.P.No.208-D/2015 decided on 31.10.2017 authored by one of us (Mr. Justice Shakeel Ahmad). However, on perusing the judgments, it transpired that the facts of those cases are different from the one in hand, because in the instant case, there was an objection that the application for age relaxation was not routed through proper channel, while the record speaks otherwise. Both the appointing authority and the competent authority were duly approached for age relaxation. Similarly, the Establishment Department vide letter dated 14.11.2014, forwarded the request of the petitioner to the Secretary, Government of Khyber Pakhtunkhwa, Elementary & Secondary Education Department. Surprisingly, the same was further forwarded by the Secretary office to the Directorate of Education vide letter dated 21.11.2014 and then again the Directorate send the same to District Education Officer (M) D.I.Khan, but the petitioner was never conveyed the outcome as thereafter, only cogent reasons and sound justification for age relaxation were asked besides copy of minutes of DPC,

ATTEST

EXAMINOR

Mashawar High Court Bench,
Dera Ismail Khan 3/19/24

when in the meanwhile; vide letter dated 05.12.2014, appointment orders were issued. All this shows that the petitioner being vigilant enough performed his part of obligations in approaching the authorities for age relaxation, but there was complete slackness on the part of the official respondents in processing the same.

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7. There is yet another very important aspect of the case. The petitioner remained in service of the respondents department from the year 2007 till 2012. It is alleged that appointment of the petitioner was illegal and he was terminated from service alongwith many other civil servants who are still litigating before the Service Tribunal. These are the justified and cogent reasons for the relaxation of upper age limit. Even if we refer to Khyber Pakhtunkhwa Initial Appointment to Civil Posts (Relaxation of Upper Age Limit) Rules, 2008, it would transpire that where a civil servant remained in government service for a period of two years, he is entitled to automatic age relaxation of ten years. In such circumstances, had the case of the petitioner been expeditiously processed, he would have gotten age relaxation and ultimate appointment because of his higher merit position.

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EXAMINER
Peshawar High Court
03/9/24

8. We have also considered the appointment of respondent No.6 and found that though he was having low merit i.e. 97.78 marks, but when the petitioner was kept out of the contest, he was next in merit and thus was appointed. However, there was no fault on his part either in depriving the petitioner of appointment or getting undue favour from the respondents. We are thus not inclined to disturb respondents No.6, who is in the service of the respondents department since 05.12.2014, but at the same time, would not leave the petitioner as remediless, because he was deprived of his due right of appointment.

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9. For the stated reasons, the petitioner has made out a case for the indulgence of this Court. We thus allow this petition to the extent that the petitioner shall be allowed appointment against first available vacancy. He shall also be entitled to the seniority from the date when his other colleagues were appointed pursuant to the same advertisement. It is, however, clarified that he shall not be entitled to arrears of salaries, except fixation of pay.

Announced.
Dt. 25.9.2018.
Habib

JUDGE

JUDGE

(DB)
Hon'ble Mr. Justice Ijaz Anwar
Hon'ble Mr. Justice Shakeel Ahmad


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
EXAMINER

Punjab High Court Bench,
Dera Ismail Khan

03/09/2018

off
28/9

Peshawar High Court Bench District
 Authorized Under Section 20
 Cannon-6-Shahdada
 23/12/24
 EXAMINER
 Certified to be true copy


29/2
 Additional amount on 23/12/24
 Copying fee deposited Rs 200/-
 No of papers 200/-
 Copying fee Rs 40/-
 Urgent Fee
 Total Fee Rs 28/-
 Copy ready for delivery 23/12/24
 Copy delivered on 23/12/24
 Signature of Examiner 

Attested & Accepted
Wfn Khan Talwar

Gul Taz Khan Marwari
Advocate High Court
Distt: Bar
Dehra Ismail Khan (KPK)

Accepted

Accepted

Sajid Iqbal/Appealant

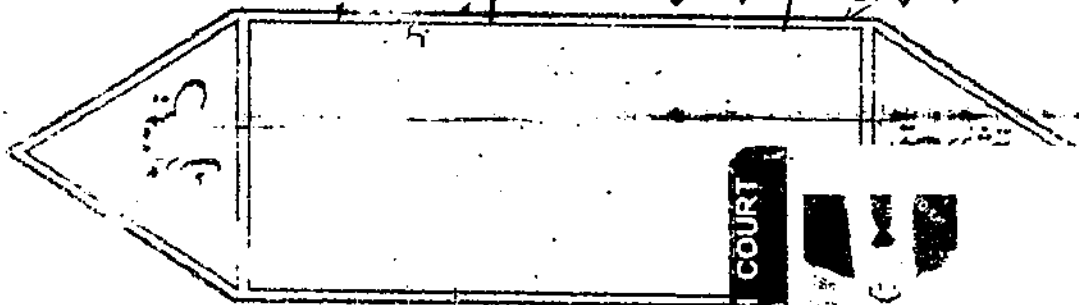
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2024/9

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ADVOCATE HIGH COURT



MUHAMMAD IRFAN KHAN

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