FORMOF ORDERSHEET

Court of _____

Misc. application No. 1188/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	15/10/2024	The Misc. application in appeal no. 1615/2019 submitted today by Mr. Noor Muhammad Khattak Advocate. It is fixed for hearing before Division Bench at Peshawar on 23.10.2024. Original file be requisitioned. Parcha Pesi given to the counsel for the applicant. By order of the Chairman REGISTRAR

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

CM No:- 1188 /2024
IN
SERVICE APPEAL No. 1615/2019

HUSSAIN REHMAN VS GOVT & OTHERS

INDEX

S. NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Application with Affidavit	.....	1-2
2.	Copy of the Judgment dated 24.06.2024	"A"	3-7
3.	Vakalatnama		8

Applicant

THROUGH:

NOOR MUHAMMAD KHATTAK
ADVOCATE SUPEREME COURT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

CM No:- 1188 **/2024**
IN
SERVICE APPEAL NO. 1615/2019

Mr. Hussain Rehman, S/o Abdul Khaliq, appointed as SST GHS Banda Talash District Lower Dir.

..... **APPELLANT**

VERSUS

1- The Secretary Education (E&SE) Secretariat, Peshawar.
2- The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
3- The Director Elementary & Secondary Education Department, Peshawar.

..... **RESPONDENTS**

APPLICATION FOR CORRECTION / RECTIFICATION OF TYPOGRAPHICAL MISTAKES IN THE DATED 24/06/2024 PASSED BY THIS HONOURABLE TRIBUNAL.

R/Sheweth:-

1. That the captioned appeal was fixed for hearing on 24/06/2014, which was disposed of.

2. That there are so many typographical mistakes in the judgment this Honourable Tribunal, which are as under:-

   i. In prayer clause written as, *SST-IT BPS-17 instead of SS-IT BPS-17.*

   ii. In Para No 3 line No 2 written as, *Primary School Teacher instead of Secondary School Teacher*

   iii. In Para No 3 line No 3 written as, *General/Service instead of General Science.*

iv. In Para No 10 line No 15 & 16 written as, *Column No 3 instead of Column No 5.*
Copy of judgment dated 24/06/2024 is attached as annexure.....**A**

3. That all the mistakes mentioned above were neither intentional nor deliberate, but due to the reason mentioned above.

4. That there is no legal bar on the rectification of the same.

It is, therefore, most humbly prayed that on acceptance of this application, necessary correction may kindly be made in the judgment dated 24/06/2024 and be read as such.

Dated:- 03/10/2024

Applicant/Appellant

Through:-

Noor Muhammad Khattak
Advocate Supreme Court

AFFIDAVIT

I, Hussain Rehman (the applicant/appellant), do hereby solemnly affirm that the contents of this **application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

DEPONENT

"A" -3-

7BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.1615/2019

BEFORE: **MRS. RASHIDA BANO ... MEMBER(J)**
MR. MUHAMMAD AKBAR KHAN ... MEMBER(E)

Mr. Hussain Rehman S/O Abdul Khaliq, Appointed as SST, GHS Banda Talash, District Lower Dir. ... (Appellant)

VERSUS

1. The SecretaryElementary & Secondary Education Department, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
3. The Director Elementary & Secondary Education Department, Peshawar.

... (Respondents)

Mr.SaadatUllah Khan
Advocate ... For appellant

Mr. Muhammad Jan
District Attorney ... For respondents

Date of Institution.....29.07.2019
Date of Hearing.....24.06.2024
Date of Decision.....24.06.2024

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, non-considering of appellant for to the post of SST-IT BPS-17 may kindly be declared as illegal, without lawful authority and notification dated 24.07.2014 be also inserted in service rules of 2018 and the appellant be

considered for promotion to the post SST-IT on the basis of his Master Degree in Computer Science".

2. Through this single judgment we intend to dispose of instant service appeal as well as connected service appeals as in all these appeals common question of law and facts are involved which are given as under.

1. Service Appeal No.1616/2019
2. Service Appeal No.1617/2019
3. Service Appeal No.1618/2019
4. Service Appeal No.1619/2019
5. Service Appeal No.1620/2019
6. Service Appeal No.1621/2019
7. Service Appeal No.1622/2019
8. Service Appeal No.1623/2019
9. Service Appeal No.1624/2019
10. Service Appeal No.1625/2019
11. Service Appeal No.1626/2019
12. Service Appeal No.1627/2019
13. Service Appeal No.1628/2019
14. Service Appeal No.1629/2019

3. Brief facts of the case as given in the memorandum of appeal are that, the appellants were appointed as Primary School Teacher in Education Department vide order dated 18.04.2017 and was performing duties up to the satisfaction of their superiors; that previously in the rules pertaining to the year 2014 the cadre of appellant (Master in Computer Science) was eligible for promotion to the post Subject Specialist BPS-17; that later on meeting of the respondents was held on 10.08.2017 in which SSTs (General /Science) having M.Sc (Computer Science)/MIT maybe given 50% quota for promotion to the post of SS-IT BPS-17; that respondents in violation of the notification making promotions from SSTs (General/Science) but not considering the appellant for promotion to the post of SS-IT. Feeling aggrieved, they filed writ

petition before Hon'ble Peshawar High Court, Peshawar which was dismissed being non maintainable and directed the appellant to approach proper forum, hence the instant service appeal.

4. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents put appearance and contested the appeal by filing written reply raising therein numerous legal and factual objections. The defense setup was a total denial of the claim of the appellant.

5. We have heard learned counsel for the appellants and learned District Attorney for the respondents.

6. The learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned District Attorney controverted the same by supporting the impugned notification(s).

7. Appellants were appointed as SST (BPS-16) vide order dated 18.04.2017 and was performing their duties with full devotion. Respondent/department introduced vide notification dated 15.08.2016 posts of Information Technology teaching cadre in the Government High and Higher Secondary Schools of Khyber Pakhtunkhwa in Elcmentary and Secondary Department as Subject Specialist IT (SS.IT/Computer Science) BPS-17. Similarly E&SE department also earlier notified rules for teaching cadre on 24.07.2014, wherein two posts of Subject Specialist (BPS-17) was mentioned criteria for the promotion to Subject Specialist (BPS-17).

8. Perusal of record reveals that appellant seek modification in service rules notified on 24.04.2018 framed by the Government for IT Cadre of respondent department to the extent of inserting SST (General/Service) with

qualification of M.Sc Computer (Science/General), BS (CS), MIT in column No.5 of the rules by allowing promotion quota for appellants cadre SST (General/Science) with qualification of M.Sc (CS), BS(CS)/MIT. Record further reveals that appellants were appointed as SST having qualification of B.Ed, Master in Computer Science. In accordance with service rules framed and notified on 24.04.2018 method, qualification and eligibility for post of SS IT (BPS-17) has been mentioned in Column No.5 of the organogram wherein post of SST (General/Science) was not mentioned and only SST, it was mentioned which is as under;

> *a. Fifty percent by promotion on the basis of seniority cum fitness form amongst the SST-IT with at least five years service; and*
>
> *b. fifty percent by initial recruitment;*
>
> *c provided that if no suitable candidate is available for promotion, then by initial recruitment.*

So, cadre/post of appellants being appointed against the post SST (General/Science) having qualification of M.Sc Computer Science was ignored in 2018 Service Rules despite having higher education in the subject of computer science and were treated discriminately as they were deprived from the prospects of promotion, which every civil servant have during his service.

9. It is pertinent to mentioned here that SSRC in its meeting held on 10.08.2017 under Chairmanship of Secretary E&SE Department also approved the quota for SST (General/Science) to the Teachers SST who

have M.Sc Computer Science/BS(CS/MIT) for the promotion to the post of SSIT (BPS-17) but said in not implemented yet.

10. Thus appellants having higher education in the subject of Computer Science were treated discriminatory as they were deprived from further prospects of promotion, which every civil servant have during his service. Appellants are civil servants like all others specially in their own cadre and teaching line, ignoring appellants subject in 2018 service rule by mentioning only SST-IT subjects is the disparity and anomaly in service rules of the IT Cadre. Although appellants possessed professional qualification of B.Ed and M.Ed but due to not mentioning their post SST (General/Science) mentioning of it deprive appellants from promotion, which is against the settled norms of justice and Constitution of Islamic Republic of Pakistan beside Section 7 of (Appointment, Promotion and Transfer) Rules, 1989 and Section 9 of Civil Servants Act, 1973. So it is anomaly therefore, we sent the matter to the authority for considering appellant's subject of computer science and its inclusion in column No. 3 of the Service Rules of 2018 or in column No.3 of 2014 which is convenient. Costs shall follow the event. Consign.

11. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 24th day of June, 2024.

(MUHAMMAD AKBAR KHAN)
Member (E)

(RASHIDA BANO)
Member (J)

*Kaleemullah

Certified to be true copy
E... INER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 23-08-2024

Number of Words 5-P

Copying Fee 25/-

Urgent 5/-

Total 30/-

Date of Delivery of Copy 23-09-2024

Date of Delivery of Copy 23-09-2024

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

CM No_____/2024

Hussain Rehman (APPELLANT) (PLAINTIFF) (PETITIONER)

VERSUS

Govt (RESPONDENT) (DEFENDANT)

I/We Hussain Rehman

Do hereby appoint and constitute **Noor Mohammad Khattak Advocate Supreme Court** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated._____/_____/202

CLIENT

ACCEPTED

NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT

WALEED ADNAN

UMAR FAROOQ MOHMAND

&

KHANZAD GUL
ADVOCATES

OFFICE:
Flat No. (TF) 291-292 3rd Floor,
Deans Trade Centre, Peshawar Cantt.
(0311-9314232)