


FORM OF ORDERSHEET

Court of _____

Misc. application No. 1186/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	15/10/2024	<p>The Misc. application in appeal no. 1164/2019 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.</p> <p>By order of the Chairman  REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

CM No:- 1186 /2024
IN
SERVICE APPEAL No. 1164/2019

MUHIB ULLAH

VS

GOVT & OTHERS

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Applicant

THROUGH:

NOOR MUHAMMAD KHATTAK
ADVOCATE SUPREME COURT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

CM No:- 1186 /2024
IN
SERVICE APPEAL NO. 116 4/2019

Khyber Pakhtunkhwa
Service Tribunal

Dwary No. 16743

Dated 15-10-24

Mr. Muhib Ullah, S/o Akbar Said Khan, appointed as SST
GHS Darara District Lower Dir.

..... **APPELLANT**

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department, 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 2 all the connected services appeal numbers also incorrect which was detailed below
 - a. Written as Service Appeal No 1665/2019 instead of Service Appeal No 1165/2019

- b. Written as Service Appeal No 1666/2019 instead of Service Appeal No 1166/2019
- c. Written as Service Appeal No 1667/2019 instead of Service Appeal No 1167/2019
- d. Written as Service Appeal No 1668/2019 instead of Service Appeal No 1168/2019
- e. Written as Service Appeal No 1669/2019 instead of Service Appeal No 1169/2019



iii. 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

Noor Muhammad Khattak
Advocate Supreme Court

Through:-

AFFIDAVIT

I, Muhib Ullah (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

4A" - 3 -



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No.1164/2019

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

Muhib Ullah S/O Akbar Said Khan, Appointed as SST, GHS Darara District
Upper Dir. ... (Appellant)

VERSUS

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

Mr. Noor Muhammad Khattak
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

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

[Handwritten signature]

notification dated 24.07.2014 be also inserted in service rules of 2018 and the appellant be considered for promotion to the post SS-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.1665/2019
2. Service Appeal No.1666/2019
3. Service Appeal No.1667/2019
4. Service Appeal No.1668/2019
5. Service Appeal No.1669/2019

3. Brief facts of the case as given in the memorandum of appeal are that, the appellants were appointed as Secondary School Teacher BPS-16 in Education Department vide order dated 13.04.2018 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

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Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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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 13.04.2018 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 Elementary 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).

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

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Service Tribunal
Peshawar



VAKALATNAMA
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

CM No 24 /2024

Muhibullah

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Govt

(RESPONDENT)
(DEFENDANT)

I/we Muhibullah
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**