The appeal of Mr. Shams ur Rehman received today i.e on 23.09.2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- According to sub-rule-4 of rule-6 of Khyber Pakhtunkhwa Service Tribunal rules 1974 respondent nos. 4 66 are un-necessary/improper parties, in light of the rules ibid and on the written direction of the Worthy Chairman the above mentioned respondent number be deleted/struck out from the list of respondent.
- 2- Appeal has not been flagged/marked with annexures marks.
- 3- Annexures of the appeal are not in sequence.
- 4- The name of the appellant be highlighted in each and every order.
- 5- Annexures of the appeal are not in sequence.
- 6- Three copies/sets of the appeal along with annexures i.e. complete in all respect for Tribunal and one for each respondent may also be submitted with the appeal.

814 _____/Inst./2024/KPST, _/2024.

SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

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

NO 1

Hose- objection has been removed from

Wayer ALS Slut Adv 10-5126292

To 6-

Serial

BEFORE THE CHAINMAN SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR 0 5 1575/2024

Shams-ur-Rehman

VERSUS

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

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3.	termination order No. 172-73 dated 23/01/1997	"B"	11-14
4.	appointment order as mentioned above dated 09/11/2017	"С"	15-19
5.	application dated 28/01/2021 bearing Diary No.673	"D"	20
6.	petitioner's application to the Chief Minister dated 19/12/2023	"Е"	21
7.	order of the worthy Chief Minister dated 08/01/2024	"F"	22
8.	aforementioned application of Mr. Sohail and others dated 10/01/2024 and other relevant documents	"G"	23
9.	application dated 10/01/2024 bearing Diary No.225 dated 11/01/2024	"H"	24
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... RESPONDENTS

...APPELLANT

Dated:- 21-09-2024

Through:

5.4.

...APPELLANT

(SYED ALTAF HUSSAIN SHAH) Advocate High Court, Abbottabad

10

BEFORE THE CHAINMAN SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR APBEEL NO 1575 2924

Shams-ur-Rehman S/o Syed Shamshad Ali Shah Bukhari Residence of Kunj Qudeem, Tehsil and Distirct Abbotabd Presently Pst Bps-12 GPS No. 3 Circle City Abbottabad.

VERSUS

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

... RESPONDENTS

APPELLANT

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

PRAYER:-

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

BEFORE THE CHAINMAN SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

A NO 1575/2024 Shams-ur-Rehman S/o Syed Shamshad Ali Shah Bukhari Residence of Kunj Qudeem, Tehsil and Distirct Abbotabd Presently Pst Bps-12 GPS No. 3 Circle City Abbottabad.

...APPELLANT

VERSUS

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

... RESPONDENTS

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

PRAYER:-

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

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

Respectfully Sheweth,

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

- That the appellant was appointed as PST GPS Garhi Noorpur in Education Department in DEO (Male) Abbottabad vide the appointment order dated 23/05/1996. Copy of appointment order dated 23/05/1996 is annexed as Annexure "A".
- That, subsequently, after 07 months of his service, the appellant alongwith several others, were terminated from service vide the order dated 23/01/1997. Copy of the termination order No. 172-73 dated 23/01/1997 is annexed as Annexure "B".

3. That, inconsequence of the judgment dated 24/05/2016 of the Honourable High Court, the appellant, instead of reinstatement in service was reappointed as PST GPS Khokhar vide the order dated 09/11/2017. Copy of the appointment order

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as mentioned above dated 09/11/2017 is annexed as Annexure "C".

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

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others dated 10/01/2024 was also sent to respondent No.3 for further necessary action and the same was received vide diary No.224, dated 11/01/2024. Copy of the aforementioned application of Mr. Sohail and others dated 10/01/2024 and other relevant documents are attached as Annexure "G".

8. That respondent No.3 DEO-(M) Abbottabad, in pursuance of the order dated 10/01/2024, directed the appellant to bring another application regarding extension of benefits of protected period of his service which was submitted accordingly vide diary No.225 dated 11/01/2024 to the respondent. Copy of the application dated 10/01/2024 bearing Diary No.225 dated 11/01/2024 is annexed as Annexure "H".

That respondent No.3, in order to proceed further, sought guidance of respondent No.2 in respect of the aforementioned application of the appellant vide the letter No.294 dated 12/01/2024. Copy of the aforementioned letter dated 12/01/2024 is annexed as Annexure "T".

9.

 That the respondent No.2 vide letter dated 06/02/2024, requisitioned the appellant service record for further consideration of the matter. Copy of the letter No.202/AD LIT-II dated 06/02/2024 is annexed as Annexure "J".

11. That in compliance with the above direction, the appellant service record was intimated vide letter No.724 dated 14/02/2024 which was duly received in the office of the respondent No.2 vide diary No.1617 dated 16/02/2024. Copies of the aforementioned documents are attached as Annexure "K" & "L".

12. That respondent No.2 ultimately, vide his order dated 22/03/2024, refused to give his ascent in favour of the appellant and inconsequence thereof, the appellant representation stood rejected vide the impugned order dated 30/04/2024. Copy of the decision of respondent No.2 dated 22/03/2024 in that of the impugned order dated 30/04/2024 are attached as Annexure "M".

13. That the appellant feeling aggrieved against the above cited impugned order bearing No.2516-19, dated 30/04/2024, passed in communicated to the appellant on the same date, preferred his departmental appeal to the respondent No.1 vide the diary No.2187 dated 27/05/2024 but the same, despite lapse of the statutory period, has not yet been decided, hence, the instant appeal, inter-alia, following grounds. the Copy of the on departmental appeal of the appeal dated 27/05/2024 is annexed as Annexure "N".

<u>GROUNDS:-</u>

a)

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

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24/05/2017 in C.P No.401-P, 427-P to 431-P and 468-P of 2016. Copies are attached as Annexure "O". In this view of the matter the impugned orders of the respondents are illegal are unwarranted are liable to be set-aside.

The respondents have failed to comply, in letter and spirit with the directions of the Honourable High Court dated 12/01/2021 issued or passed in review petition No.31-A/2018 and thus the impugned order rejecting the appellant's representation is the result of gross non-reading of the law on the subject and such the impugned order is liable to be set-aside. Copies are attached as Annexure "P".

Had the respondent perused or followed the judgment of the Apex Court as rendered in C.P No.468-P etc, dated 27/03/2020, there was no reason, nor justification for the respondents to deny the appellant his right and entitlement to the benefits as contemplated therein. Copies are attached as Annexure "Q".

The appellant, beside the law and judgments as cited above, was also entitled to requisite benefit on the analogy of the case of the one Muhammad Haroon and others V/s govt. of KPK decided on 18/03/2021. Copy of the cited case is attached as Annexure "R".

That the respondents while rejecting the appellant's representation, has also ignored the provisions of law has contained Section 2(g) read with Section 3 of the said employees appointment

c)

d)

e)

b)

Act 2012, hence, the impugned order is without lawful authority and jurisdiction and such is liable to be quashed and reversed.

f)

g)

h)

i)

The appellant, as per the entries as the record in service book is a permanent employment of the Education Department. After termination, the appellant continued to pursue the matter before competent forum until the issue was decided in the last judgment of the Apex Court and therefore, they should be no break in his service this entitling him to the benefit as he claimed in his representation.

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The service of the appellant needs to be counted towards his pensionary benefits rejection of the appellant's representation. Therefore is against all the norms of justice and fair play and such the impugned order is liable to be struck down.

The appellant had possessed all necessary qualification at the time of his appointment and therefore, was entitled to be treated at par with other serving teachers. Denial of his legal rights and entitlement vide the impugned order, is denial of the justice, and therefore, the impugned order is liable to be set-aside.

That the appellant being a regular employee, appointed accordance with law on the basis of his qualification, is entitled to all such benefits as a permissible to other civil servants and teacher, therefore, his case needed to be considered justly and without any discrimination etc. That the instant appeal filed will within time before this Honourable Tribunal. The instant appeal exempted from the court fee.

 k) That the other points shall be agitated by the permission of this Honourable Tribunal at the time of argument.

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

...APPELLANT

Through:

Dated:- 21-09-2024

(SYED ALTAF HUSSAIN SHAH) Advocate High Court, Abbottabad

VERIFICATION:-

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

Dated:- 21-09-2024

li-jus s ...APPELLANT

j)



BEFORE THE CHAINMAN SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

Shams-ur-Rehman

VERSUS

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

... RESPONDENTS

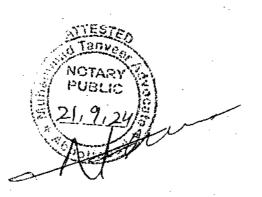
...APPELLANT

AFFIDAVIT

I, Shams-ur-Rehman S/o Syed Shamshad Ali Shah Bukhari Pst Bps-12 GPS No. 3 Circle City Abbottabad, do hereby solemnly affirm and declare on oath that the contents of instant **Appeal** are true and correct to the best of my Knowledge and belief and nothing has been concealed from this Honourable tribunal.

و کست ...Deponent

Dated:21-09-2024



Annesture "A

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

APPOINTMENT.

The appointment of the following Candadate/is/are hereby ordered against vacant PTC post, in BPS-7 Rs.1480/%P.M.Fixed plus usual allowances as admissibe under the rules, in the interest of public service with effect from the date of his/their taking over charge on the fillowing tirms and conditions.:-

S.NO. Name/Parantage./Address.

School where appointed.

1:- Chamsur-Rehman s/o Late-Syed Shamshad Ali-Shah, (Ex-Army)Kunj Gadeem , A', Abad. GPS Garhi Noorpur against vacant PTC Post.

CONDITIONS:-

The appointment is purely made on temporary basis and subject to termination at any time without notice any reason. 2:- Appointment made under all services conditions laid down by the Government form time to time.

3:= He is directed to produce his Health and Age certificate from the Medical superintendent DHQ Hospital Abbottabadad.
4:= Charge reports should be submitted to all concrned.

5:- He should not be handed over the charge of the post if his Age exceed 30 years or below 18 years.

> (B.M.AYUB) DISTRICT FDUCATION OFFICER(M) PRIMARY ABBOTTABAD.

Endst:NO. 170 9-10

Dated A. abad the 23 - 5 /1996.

The SDEO(M) Abbottabad. 2-3:- The Teachee s, concerned.

DISTRICT EDUCATION OFFICER(M) PRIMARY ABBOTTABAD.

Annez "B" (II

WITHDRAWAL OF APPOINTRUBRY OF HN-THAINED TEACHERS.

- · ·

As decided to the meeting held on 21.11.96 in the ODA Office Reshawar and in the light of N/NG 6 of the minutes issued under Hemo No.7593-655 F.No.407/DPE/PRD/Hioutes of the meeting ADE-1996-97 (PSD) - C Dated Peshawar the 29.11.1996, and the advice of the Director Primary Education NWFU Peshawar dated 31.12.1996 all suppointments of Un-trained teachers made on or after 1.7.95 are berety withdran with effect from 31.01.97 after Noon. Sub Divisional Education Officer, is advised to releive such teachers and consure that no salary is drawn in respect of any untrained teacher absorbed after 1.7.1995.

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APPOINTMENT OF SACKED EMPLOYEES AGAINST PST POST

In pursuance to the Judgment of Honorable Peshawar High Court Abbottabad Bench in W.P. No.516-A / 2013 announced on 24.5.2016 & recommendation of the Departmental Selection Committee, appointment of the following sacked employees is hereby ordered against the vacant posts of PST, in BP5-12 (Rs. 13320-960-42120) plus usual allowances as admissible under the rules under the existing policy of the Provincial Government, in Teaching Cadre on the terms and conditions given below with effect from the date of their taking over charge:

Vlerit	Name of Sacked	Father's Name	CNIC #	Date of Birth	Qualific	D.O.Ist	Date of	Previous :	Present place of
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19	M. Sabir	M. Ajab	13101-		6	7	8	9	10
	Khan	Khan ;	4662322-5	21.5.96	SSC/ PTC	23.04.1995	-	GP5 Dannah	GPS Nalohta
2/17 (a)	Kamran Abbasi	R. Badi Uz Zaman	13101- 6162229-1	1/1/1970 ·	SSC	11.10.1995		GPS Panjoot	GPS Banani
5/17 (b)	Aftab Zaffar	Muzaffar Khan	13302- 1865548-3	1/4/1970	ŞSC	26.10.1995	04.9.96	GMPS Badiala	GPS Sohlan
4/21	Kouser Ali Shah	S. Ismaii Shah	13503- 2951713-3	2/10/70	SSC	09.7.1995	25.6.97	GPS Pattan Khurd	GPS Sirta
5/23	M.Sajid	M. Sadiq	13101- 9853294-9	3/5/1970	SSC	16.4.95	23.1.97	GMPS Thanda	GPS Lakhala
6/27	S. Ishtiaq Hussain Shah	S. Anwar Shah	13101- 0845397-7	27.3.70	SSC	9-5-96		Chowa GPS NEELOR	GPS Rian Da Maira
7/28	Shahzad Fareed	S. M. Fareed	13101- 3733177-1	4/4/1970	SSC	30.07.95	13.02.97	GPS ZIARAT DANNA	GBS Mast Maira
8/30	Gul Fraz Khan	M. Ishaq Khan	13101- 1602665-1	28.4.70	M.A	26.1.95	23.01.97	GPS DHERI KIALA	GPS Banda Said Khan
9/31	M.Sameen	M. Firdoas	13101- 6387381-1	28.4.70	SSC	20.12,54	23.01.97	GMPS RATTI DHERI	GPS Sando Gali
10/32	M.Sadique	Gui Khatab Khan	13101- 1849598-9	23.5.70	SSC	19.4.95	1998	GPS Basawir	GMPS Ochar No.1
11/33	Wajid Husssain	M. Hussain	13101- 4215472-5	7/2/1970	F.A	16.4.95	1996	GP5 TAKRIALA	GPS Chukali
12/34	Aurang Zeb	M. Zaman	13101- 0987179-1	8/7/1970	SSC, PTC	7.9.95	6.1997	GP5 Akhreela	GPS Chattian
13/35	loam ullab Khan	Gul Muhammad Khan	13101- 3115584-5	30.12.70	SSC	12.12.95	23.01.97	GPS Banda Gazan	GPS Tarhana Ghariban
14/36	Saifur Rehman	M. Aslam Khan	13101- 0998797-1	1/2/1971	SSC	30.05.96	t	GPS No1 Nawanshehr	GPS Kuthiala
15/38	Saeed akhtar	Aurangzeb	13101- 2422564-3	3/8/1971	B.A, PTC	25.06.97	• <u>+</u>	GPS JATAL	GPS Upper Kur
16/39	Ayaz Gul	Fazalur Rehman	13101- 4879360-5	3/10/71	SSC	01.07.1990	Nov-93	GMS TAIWAL	GPS Saman Pain
17/40	M. Ijaz khan	Mohəbbat Khan	13101- 0968758-7	3/12/71	SSC, PTC	14.3.95	23.01.97	GMPS GULGRAN	GMPS Fathe Bandi
18/41	M. Awais khan	Sarwar Khan	13101- 0842362-1	31.3.1971	SSC	25.5.96	·· · ····	+	GPS Banda Batang -I
1)/42	Aurangzeb	M. Ramzan	13101- 0843012-5	5/4/1971	SSC	15.5.96	31.01.97	GPS DANNA BAGAN	GPS Dakhan Bagan
20/43	Sher Dil	M. Sabir	13101- 0872962-1	5/1/1971	D.COM	26.10.95	23.01.97	GPS	GPS Gaveera
21/44	Jamshaid khan	M. Nazeer Khan	13101- 3125389-5	5/4/1970	F.A	26.1.95			GPS Tannan
22/47	Muhamma d Khalid	Gul Zaman	13101- 0876232-1	13.1.72	SSC	18.12.95	23.01.97	GPS MERHES	GPS Larri
23/48	M. Javeed	M. Ismail	13101- 7693226-3	2/3/1972	SSC	31.12.95	23.01.97	GPS THORA	GPS Kuthwai

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· 7	abar / hahzad /		13101- 8372917-3	25/02/72	FA	26/10/199 5	24.05.97	GMS Danna Misryal	GPS Dobather	
N 630	A. Bashir I	Mir Dad	13101-	3/1/1972	ssc	27.07.1995	25.05.97	GPS DANNA	GPS Fatha	
	ļ		7284275-9		· .		· · · ·	LORA	Abad	
5/51 N	A Nawaz		37405- 0727925-3	22/03/72	FA	30/05/199 6		GPS Langrial	GPS Darwaza	
ŀ	iaqat Iussain		13101- 0965611-7	4/6/1972	F.A	08.07.1996		GPS KOLIALIAN	GPS Langaloot	
	iohali Akram	M. Akram	13101- 2774343-3	4/12/72	SSC	25.03.96	·	GP5 MALIKPURA	GPS Pandu Thana	
9/55 5	Sarfraz	Gul Zaman	13101- 5935381-1	16.4.72	SSC/PT C	8.5.95	13.2.97	GPS ANDER SERI	GPS Tannan	
	Azhar Masood	M. Maskeen	13101- 0457563-5	5/2/1972	SSC	16.04.1996	24.6.97	GPS No 1 Abbottabad	GPS Pandu Thana	1
1/57	M. Fiaz	Taj Muhammad	13101- 0879862-9	5/12/72	SSC, PTC	05.12.1995	23.01.97	GPS MALKOTE	GPS Pumanmar	1
2/59	Afsar Mir	Abdul Ghani	`13101- 8483090-5	8/1/72	D.COM	30.02.96	23.01.97	GPS NAWAN SHEHR NO: 1	GPS Darabar	4
1	Tariq Mehmood	Mohabat Khan	13101- 0951088-9	13.9.72	D.COM	11.4.96	23.1.97	GPS Sarbhana	GPS Khukwala	-
	Wagar Anwar	M. Nawar	13101- 3181859-9	1/2/1973		08.3.95	25.06.97	GPS MARI	GPS Danna Khan Kalan	-
35/63	Waheed Gul	Kala Khan	13101- 0849553-7	1/11/73	FA/PTC	16.4.95		GMS Kushal Abad	GPS Lara Ghora	-{
36/64	M. Zəffar Iqbal	Abdul Qayyum	13101- 0915108-1	15.1.73	F.A, PTC	29.4.95	25.06.97	GPS PANGOORA	GPS Bagh Darra	-
37/65	Jamil Akhtar	Sarfraz Khan	37405- 0331857-1	19.2.73	F.A, * PTC	14.4.95	25.06.97	GPS DHERI RAKHALA	GPS Lari Sydian	, –
38/66	Ashfaq Ahmad	Rehmat Deen	13101- 9532939-5	24.2.73	F.A, C PTC	4.4.95	04.07.97	GPS KHALORIAN	GPS Serian Bagh	
39/67	lshfaq Ahmad	M. Hafeez Akhtar	42301- 3242482-7	24.2.73	ssq A	07.01.96	23.1.97	GMP5 Pathreri	GPS Jalsi Tajwa	ıl
40/68	M.Tanveer	Gul Faraz Khan	13101- 0912758-3	3/2/1973	ssc (24 4.96	25.06.97	GPS KHORI	GMPS Massah Syedan	
41/69	Shakeel Ahmad Abbasi	Ejaz Ahamed Abbasi	13101- 1788288-7	3/3/1973	F.A	01.08.1995	;	GPS DHAKAN MOLIA	GPS Sangal	
42/70	Saleh Shàh	Manzoor Shah	13101- 0938005-1	3/4/1973	F.A	15.996	24.05.97	GMPS DHOBIAN	GPS Pagga	•••
43/71	Adnan Rashid	Abdur Rashld Mir	13101- 3543565-3	22.4.73	F.A	28.12.95	13.02.97	GPS BATANG	l GPS Qalandarabad	
44/72	S. Hajjaj Shah	Shabeer Shah	13101- 0909865-7	10/10/73	MA, LLB	15.01.199	5 25.06.97	GPS DANNA SURJAL	GPS Tootni	_
45/74	Kousar Ur Rehman	M. Akbar	13101- 3881112-3	-24.11.73	SSC	12.12.95	1997	GPS ATTARIAN	GPS Balkhu	
46/75	Zahid Khan	Saldar Khan	13101- 1796781-5	14.2.74	SSC	24.08.95		GPS SURJAL	GP5 Tahra	
47/76	Waqar All	Fareed Muhammad	13101- 7783844-1	15.12.74	SSC	17.01.199	5 25.6.96	GPS U/Mals	a GPS Missar	
48/77	Khurshid Karnal	Kamaldeen	13101- 1910608-3	17.2.74	SSC	26.10.95	1997	GPS ATTERIAN	GPS Nakka Gali	
49/78	Azeem Khan	Azəm Khan	13101- 3977297-7	17.2.74	F.A	26.10.95	-	GPS NARRIA	·	gu
50/80	Shakir Ur Rehman	Atta Ur Rehman	13101- 6205832-3	4/10/74	SSC	10.12.95		GPS DHERIA		
51/81	Aurangzeb Khan	Wali Muhammao Khan	13101- d 0964634-9	13.4.74	SSC	30.05.96		GP5 Nowshe	er GP5 Wazeera	э п
52/82	Muhamma d Imran	a M. Zaman Qureshi	13101- 3793683-9	51.4.74	SSC	6.11.95	05.03.97	GP5 AKHOR	A GPS Seri Kha Kalan	'n
53/83	M. Safeer	Muhd Munawar	13101- 0300613-3	\$/1/1974	ssc	01.04.96	25.06.9	7 GMP5 RATT DHERI	1 GPS Katha	
54/84	M. Sabir	Khani Zaman	13101- 6367717-3	5/7/197	4 5SC	10.01.96	5 25.06.9		GMPS Naka Bhurj	

Attract 2117/24

	Ghulam	M. Yousaf	· · · · · · · · · · · · · · · · · · ·						
-	Murtaza		13101- 3942002-1	15.5.74	SSC [.]	03.01,96	<u> </u>	GPS	GMPS Dakhan
.0/86	Asif Hussain	Muhammad Sarwar	13101- 1359149-7	15.6.74	SSC	08.03.199 S		KHANDORI GPS BANDA MUGHLAN	Khan Kalan GPS Ramkot
57/87	Sajid Mehmood	Gohar Rehman	13101- 6440111-9	18.7.74	SSC	05.11.95	23.01.97	GPSAKHORA	GPS Khanspur
58/90	Zahid Khan	Aslam Khan	13101-	13.1,75	SSC	21.1.95	23.01.97	GPS	GPS Jaggiau
59/91	Sardar Mohsin	Sardar Saeed	1980395-9 61101-	2/10/75	F.A	22.01.95	22.02,97	BASWAIR	·
60/92	Saeed	Ahmad	1971458-1					SANGRERI	GPS Upper Salhad
	M .Zahid	M. Ashraf	13101- 0908751-1	22.2.75	F.A	17.1.95	13.02,97	GPS HATROL	GPS Surjal
51/93	Ajmal Khan	Hakim Dad	13101- 0911245-9	3/5/1975	SSC	11.4.96	<u> </u>	GPS KU LORA	GPS
52/94	M. Nisar	H.M. iqbal	13101- 6214670-9	3/12/75	F.A	25.2.96	23.01.97	GPS Upper	Qalandarabad GPS Rankot
3/95	Khurram Shahzad	Muhammad Ilyas	42201- 7177190-1	4/4/1975	ssc	24.8.95	23.01.97	Salhad GPS UPPER	GPS Manu De
64/96	Nasir Mehmood	Fazal Mehmood	13101-	5/9/1975	F.A	3.10.96	05.03.97	THAUGER GPS BALHAR	Ban GPS Kali Dar
65/97	Zahid Fareed	Ghulam	0843251-9	18.5.75	SSC	26.10.95	25.05.97	GPS KHATA	
56/98	Malik Rashid	Fareed Malik	9057318-1 13101-	1/1/1976	F.A,	24.8.95	25.06.97	SATORA GPS LARI	GPS Ihangi Sydian
	Mehmood	Wazeer Muhammad	5693898-9		РТС		23.00.37	SYEDAN	GPS Hurnara
7/99	M. Arshad Khan	Akbar Khan	13101- 3957866-7	15.1.76	SSC (30.05.96		GPS BERI BAGLA	GPS Khun
8/100	Rashid Iqbal	M. Iqbal	13101- 4881793-7	23.1.76		10.06.96	24.05,97	GPS MISKOTE MANSEHRA,	GPS Beri
9/101	Muhd Azam	M. Saleem	13101- 3550798-1	2/1/1976	F.A.	25.04.95	25.04.95	KD GMPS	GPS Nimshera
/0/103	Sajjad Ahmad	M. Sadiq	13101- 4601505-1	3/10/76	sso	06.05.96	23.01.97	GMPS THUNDA	GPS Bareela
1/104	Noshad	Ali Zaman	42401- 2063793-5	15.4.76	SS.	8.1.96	1997	CHOHA GPS PATHEL,	GMP5 Mehal
2/105	Shahid Gul	Rustam	13101-	5/4/1976	ssc ssc	11.4.95	1007	SHERWAN	
3/106		Khan 	7257538-5			11.4.95	1997	GPS JALGRAN	GPS Mandroach
	inamuliah Khan	Habibullah Khan	37405- 0545208-5	6/10/76	F.A, PTC	12.11.95	01.05.97	GPS UPPER	Q/Abad GPS Atteran
4/107	Amir Riaz	M. Riaz	13101- 0916235-1	7/2/1976	, F.A	03.01.96		JAGEER GPS JUNIAN	GPS Upper
5/108	S. Azmat Ali Shah	S. Nahamat Shah	13101- 0833607-9	·18.7.76	F.A, PTC	05.05,96	24.06.97	GPS DANNA	B/Gali GPS Baldheri
6/109	Fazal-E- Razaq	Aziz Ur Rehman	13101- 2582353-3	20.8.76	F.A	16.9.96		SURJAL GPS JANDAR	Maira GPS Phalkote
7/111	Sagheer Ahmad	M. Yousaf	13101-	12/2/76	ssc	12.03.95	21.06.97	BARI GPS BADIAL	GPS More
8/112	Mohsin Ali Shah	S. Wazeer Hussain	0932404-1 13101- 9827427-5	28.12.76	SSC	9.5.96		GPS LAHORE	GPS More Kalan GPS Thesi
9/113	Rahees	Shah Abul Sadiq	13101-	1/6/1977					
0/114	Khan Zahid Irfan	M. Urfan	0979017-1		SSC	11.04.96		GPS GAMBEER	GPS Baldheri
1/116	Naveed	Khan	13101- 1789174-1	1/8/1977	SSC	25.09,1996		GPS BANDI SATHAL	GMPS Trimma
	Akhtar	Tika Khan	13101- 9572586-7	3/5/1977	F.A	23.05.96	25.06.97	GPS SUMMA KARAGA	GPS Gajjal
2/117	Jabar Khan	Goher Rehman Khan	13101- 9107971-5	4/2/1977	BA	27.11.95		GMPS Loharan	GPS Kokal Barseen
3/118	S. Zahid Hussain	S. Pir Zaman Shah	13101- 3717211-7	4/2/1977	F.A	08.06.96	23.01.97	GPS KEHRI	GPS Bigakot

Attested Lun 2/9/24

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+19	M. Sabir	Qalander	13101-	15.5.77		r			e qu
	 	Khan	0927807-1	20.007	FA	15.11.95	-	GMPS Brongiala	GPS Banj B.Gal
85/120	Sher Muhamma d	Malik M. Ayub	13101- 5368598-1	6/5/1977	SSC	26.10.95	23.01.97	GPS BASWAIR	GPS Chanjah
36/121	M. Tageer	M. Bashir	13101- 8928663-9	6/6/1977	B.A	11.4.96	23.01.97	GPS	GPS Banda
7/122	Naseem	Lal Khan	13101-	27.5.77	F.A,	16 13 05		PHALKOTE	Nabi
	Khan		0870554-3		PTC (20.05. 2003)	16.12.95	23.01.97	GPS SADDRA	GPS Chahan
8/123	M. Saeed	M. Asiam	13101- 7905917-9	7/1/1977	SSC	27.9.95	1997	GP5	GPS Kerj
9/124	M. Zaffar Khan	M. Younas Khan	13101- 0851560-3	25.7.77	B.A	11.4.95		KANTHIALI GMPS SARBAN	Sarafali GPS Mangal
0/125	Muhamma d Nawaz	Fəizul Rehmən	13101- 3556640-9	22.3.78	F.A, PTC (26.02.	22.05.96	<u> </u>	COLONY GP5 MAIRA BAGNOTOR	GPS Tupia
1/126	Shams Ur Rehman	Shamshad Ali	13101- 4419462-3	15.4.78	2204) B.A/PS T	23.5.96	23.01.97	GPS GARI NOOR POOR	GPS Kt.okhar

TERMS & CONDITIONS

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

Att steet

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

Sd

Qazi Tajjamal Hussain District Education Officer (M) Abbottabad

Copy forwarded for information and necessary action to the: -

- 1. Additional Registrar Peshawar High Court Abbottabad Bench w/r to Judgment passed in W.P No.S16-A / 2013 announced on 24.5.2016
- 2. Director E&SE Khyber Pakhtunkhwa, Peshawar.
- 3. District Comptroller of Accounts Abbottabad.
- 4. Sub Divisional Education Officer (M) Abbottabad & Ravelian
- 5. P5 to the Secretary to Govt. Khyber Pakhtunkhwa E&SE Department Peshawar.

/EB-II/ PST /Sacked

- 6. AP EMIS local office.
- 7. Candidates Concerned.

8. Master File.

Endst No

Dated 09/11 /2017

District Education Officer (M) Abbottabad Q

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hz/6/10 2. pir/150' 200 1195- 8808086-18E0 PSI are in the controlling 150, 2010 WAN - 25 18 10 15 (MAN) 7077910.70007077. הזקורה הזקצייה היאה השיים האין ודר אב ההפת החוקרי - ریسان الدانی شدایما، دره بلوس ک agin nappanamaz. wip of DE 21027 2108 6 5661 7 8661 9.9 00 האהריא האלי האיז היא האור פרו היאה האותיא Le purpose of Connerry benied for the will be mor's vr. oror / 8/+2 c min n n 2 d s vr 0 - 10/1/01 7 - 9/10) The second contraction and the second contraction of the second s د fresh appt Electro Libratic La Los Las Los 2017 me L ٢٩٠٠، ٢٠٠٠، ٢٠٠٠، ٢٠٠٠، ٢٠٠٠، ٢٠٠٠، ٢٠٠٠، ٢٠٠٠، ٢٠٠٠، ٢٠٠٠، ٢٠٠٠، ٢٠٠٠، ٢٠٠٠، ٢٠٠٠، ٢٠٠٠، ٢٠٠٠، ٢٠٠٠، ٢٠٠٠، ٢٠٠ ٢٠٠٠، ٢٠٠٠، ٢٠٠٠، ٢٠٠٠، ٢٠٠٠، ٢٠٠٠، ٢٠٠٠، ٢٠٠٠، ٢٠٠٠، ٢٠٠٠، ٢٠٠٠، ٢٠٠٠، ٢٠٠٠، ٢٠٠٠، ٢٠٠٠، ٢٠٠٠، ٢٠٠٠، ٢٠٠٠، ٢٠٠٠ i Suches Acristante in ferring a la fin 5610:-Sim many al (m) mon im 12 (60)

Annex "E" QI بخدمت جناب وزيراعلى خبر بحثوثوا

عنوان! سیکڈ ایمپلائز بابت حصول حق استفادہ حالیہ مروس 2017 میں 2012 سے 2017 تک کی سروں میں دیگر فائدہ جات کوشامل کر کے Notification بابت عمل درآ مرکاتھم صادر کیا جائے۔

جناب عالى!

1۔ سیکڈ ایمپلائز ضلع ایب آباد کو 2017 میں Reinstatement کی بجائے Fresh Appointment کے آرڈز تحت Sacked کے آرڈز تحت Sacked میکڈ ایمپلائز ضلع ایس Sacked کے آرڈز تحت Sacked میکڈ ایمپلائز فل تقیق میں میکڈ ایمپزیم کورٹ آف پاکستان کے مریحاً خلاف تھے نقل

3۔ پیر کہ سیکڈ ایمپلائز ایب آباد کے حق میں پیثادر ہائی کورٹ ایب آباد بینچ نے سپریم کورٹ کے فیصلہ 2020-20-27 کواپنے حالیہ فیصلہ محررہ 12-01-2021 کے زریعے Endorsed کیاہے اور سروسٹر بیونل خیبر پختونخوانے 2021-12-2013 اور 2021-18-31 کے زیریعے سپریم کورٹ کے فیصلے محررہ 2021-03-20-27 تشریح کرتے ہوئے فائدہ دیاہے نقل فیصلہ 2021-12-2013-20-18 سروسٹر بیونل خیبر پختونخوا میں۔

4- بيكه ندكوره بالا فيصله سپريم كورث محرره 2020-03-27 صلع سوات كى حد تك پيلے سے نافضل عمل ہے نقل فيصله 2020-03-27 سپريم كورث و فيصله مروس ثر بيونل خيبر پختونخوا Appointment Orders DEO (Male) Swat محرره Appointment Orders DEO محرره 2013-07-2019 محرره 10-07-2020 و 15-07-2021 لفHواول بين -

5۔ بیکہ نذکورہ بالا فیصلوں پر Accountant General KPK Law and محررہ 2022-2022 و Govt of KPK Law and 5 Parliamentary Affair Department محررہ 10-2021 و 17-03-2022 کی دائے بابت نفاذ کئے جانے موجود ہے فقل کا پی لف L,M,N,O بی ۔

استدعاب سيكذا يميلانز كوفدكوره بالاعنوان كے تحت فائده دے كر Notification بابت نفاذ اعمل درآ مدكر نے كانتكم صادر كيا جائے۔ الرقوم: 2023-12-19

5. 15. 2. Lan شردارمحن سعيد فلي فكل فون نمبر:5588224-0334

العارض سيكذا يميلانز يحكمة تعليم ضلع ايبث آبابهم بذريع ملك سميل المرام فون نمبر:5717334-3260

Attited Mary

سيدش الرحن بخارى فون نمبر:9808088-0321

TOVALL

ATTEN YAR BURNEN ASS ALSINE DIT

Secondary Education Department The Secretary to Cove of Kindler Partituina Delet Pestawar 84 January 2024 EZOZ/SIEGOOV/T W/ON/SHD (UPSI/AFT) OS ON

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

Abbottabad alongwith enclosures for examination under rules/policy, please. District a copy of appeal/application submitted by Sacked Employees of District esobne of bne svode befor tosidue subject noted sbove and to enclose

(ກະລັບໄປ) າຣວສີດ ກດຍົວອຽ (1640AGS effuged2)

PS to Principal Secretary to Chief Minister, Knyber Pakintunkhwa.

Endst: No: & Date even.

- : of babieviol yque

End: as above.

Dear Sir

beflite. Jutatul 112 02: T15 DEED - as A (8) - 38,43 YRAT3R338 70 401930 (1-+1)-0 (Π) (-1-) (-1-) (-1)/2 (Π) (-1-) (-1)/2

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Annex G



GOVERNMENT OF KHYBER PAKHTUNKHWA ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Block "A" Civil Secretariat, Peshawar

Dhone No. 001 (

Phone No. 091-9223531

Email: kpese.solit3@gmail.com

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

To,

The District Education Officer (M), Abbottabad.

SUBJECT: <u>APPLICATION IN RESPECT OF MUHAMMAD SOHAIL AND</u> <u>OTHERS.</u>

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

Section Officer (Lit-III)

Endst.NO & date as above. Copy forwarded to:-

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

Drie

Section Officer (Lit-III

Attartich

2) AMARK

The District Education Officer

(M) Abbottabad

Subject

Τo

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

Respected Sir.

It is Submitted as under:-

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

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

YOURS SINCERE Process Syed Shams-ur-Rehman (PST Malik Sohail Akram (PST) S. Mohsin Saeed (PST) Syed Hujaj Shah (PST) Ph# 0333-5717334 0321-9808088

Dated: 11/01/2024

THE DISTRICT EDUCATION OFFICER (M) Dated: 12-101/2024

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

Annex I

ABBOTTABAD

То

3

The Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.

4 30-

Subject:

Diary Nos Diary Nos Date 12/1/24

FOR BENEFIT OF EXTENSION OF **APPLICATION** IN CP NO. 468-P DATED JUDGMENT ETC 2016 27-03-2020 READ WITH JUDGMENT OF AUGUST SUPREME COURT OF PAKISTAN 2009 SCMR 1

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

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

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District Education Officer. WABDottabad

11/01

Attal 1 m 21 g/24

B Anner J

(Registered) ATE ELEMENTARY & SECONDARY EDUCATION KHYDER PAKIITUNKIIWA, PESILAWAR.

20% No AD (Ut-II) Dated Poshawar the 06 108 /2024

The District Education Officer, (Male) Abbottabad.

GUIDANCE. lubject

Memo:

1 nm directed to refer your letter No, 294/Lit dated 12-01-2024, whereby, you have sought guidance regarding extension of the benefits of an un-reported Judgment dated 27-03-2020 passed by the Apex Court of Low in CP No. 468-17/2016 to the appellants namely Syed Shams Ur Rehman PSTs etc in view of their representation dated 11-01-2024, whereby, they are seeking the extension of the benefit of Judgment 2009 SCMR page-Lito the extent of extension of pensionary benefits to the appellant

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

(i). Coples of the 1" appointment orders of the oppellants.

(ii). Copies of the termination from service orders of the oppellants.

(iii). Copies of the fresh/re-oppointment orders of the appellants in the light of the Klyber Pakhlunkhwa Sacked Employees Act of 2012.

(iv). Original service books of the appellants.

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

An early action will be highly appreciated being court matter.

Assistant Director (Lit-II)

E&SE Khyber Pakhtunkhwa, Peshawar,

Endet: No:

Dated Peshawar the /2024

Conv forwarded for information to liter-Section Officer (LII-II), E&SE Department Khyber Pakhtunkhwa; Peshawan PA to Director, E&SE Khyber Pakhlunkhwa Peshawar. 3. Office Copy.

3.24,

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

Attential Lw 2/17/24



CS scanned with CamScanner

@ Anner Lpk

E OF THE DISTRICT EDUCATION OFFICER (M) ABBOTTABAD

No. 724 _/Lit

Dated: 1/1 /02/2024

密 0992-9310102, 0992-330131 ① EDO.Education.Atd@gmail.com

To

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

Subject:

GUIDANCE.

Memo:

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

	S.No	Name of teacher		Documents
16#F	1.	Mr. Shamas ur Rehman, PST, GPS Khokhar	i. ii. iii. iv.	Original Service Book Copy of 1 st appointment order Copy of termination order Copy of fresh appointment order in the light of KP Sacked Employees Act 2012.
724	2.	Mr. Syed Hajjaj Shah, PST, GPS Gurdawara Gali	-	do
is def	3.	Mr. Mohsin Saeed, PST, GPS Upper Salhad		do
16/2/2024	4.	Mr. Sohail Akram, PST, GPS Dobathar		do
	L		<u> </u>	

DISTRICT EDUCATION OFFICER (M) ABBOTTABAD

Copy forwarded to the:-

· 1.

2.

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

Sd

DISTRICT EDUCATION OFFICER (M) ABBOTTABAD

Att wheel

THE DISTRICT EDUCATION OFFICER (M) ABBOTTABAD

nner



То

Dated: <u>3</u>²/04/2024 ☎ 0992-9310102, 0992-330131 ℃ EDO.Education.Atd@gmail.com

No. 2516-19 /Lit

1. Mr. Sohail Akram, PST, GPS Dobathar Circle Qalandarabad

2. Mr. Shams ur Rehman, PST, GPS Khokhar Circle Abbottabad

3. Mr. Syed Hajjaj Shah, PST, GPS Gurdawara Gali Circle Abbottabad

4. Mr. Sardar Mohsin Saeed, PST, GPS Upper Salhad Circle Abbottabad

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

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

DISTRICT EDU **CATION OFFICER (M)** ABBOTTABAD

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A dismissed & leave to upp



Τo

DIRECTORATE ELEMENTARY & SECONDARY EDUCATION KHYBER PAKHTUNKHWA, PESHAWAR.



A Chi

No $\frac{\partial U \partial 3}{\partial D}$ (Legal)

Dated Peshawar the $\frac{22}{23}$ /2024

Poleting of per allochek Plu Tulke Par allochek Plu Tulke og per allochek

District Education Officer, (Male) Abbottabad.

Subject: - <u>GUIDANCE</u>

Memo:

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

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

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

- The learned counsel for the petitioners contends that the petitioners were entitled to the grant of back benefits but we are unable to see as to how such back benefits could have been allowed to them more so, when in the earlier fudgment of the Tribunal dated 04-01-2013 no such relief was allowed to the petitioners & by the impugned Judgment dated 12-07-2016 also apparently no such relief has been granted to them. He adds that some other similarly placed employees have been given back benefits.
- We have asked the learned counsel for the petitioners to show as to whether in the memo of appeal before the Tribunal such point has been urged or any other ground in this regard was taken. He went through the memo of appeal & conceded that no such assertion in the memo of appeal was taken by the petitioners. The Tribunal has dis allowed back benefits to the petitioners twice & it is obvious that such has been dis allowed to the petitioners for the reason they have not served the Department for the said period & there is no material on record on the basis of which relief of back benefits could be allowed to them. There appears no illegality in the impugned Judgment. Even otherwise, no sensational question of public importance in terms of Article-212 (3) of the constitution of 1973 has been raised".

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

Allotel

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

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

Perusal of the service record of the above four PSTs, revels that Mr. Shams Ur Rehman was appointed against the FTC post /in BPS-7 on fixed pay vide order dated 23-05-1996 & was terminated from service vide order dated 23-01-1997 by the then District Education Officer (M) Abbottabad, where against they appreached the Honorable High Court in WP No. 516/2013 which was decided on 24-05-2016 & in compliance of the said judgment, he was re-appointed as PST afresh vide order dated 09-11-2017 with the condition vide S.No. 32 of the said order that they shall not be entitled for the seniority, promotion or back benefits with further condition that his appointment against the said post shall be deemed to have been made afresn in terms of Section-5 of the KP sacked employees Act, 2012 it is important to note that Mr. Sobail Akram was appointed against the PTC post vide order dated 25-03-1996 on fixed pay & was removed from service vide order dated 23-01-1997; however, he was re-appointed against the PST post in BPS-12 vide order dated 09-11-2017 with the same TORs as refereed in the case of Mr. Shams Ur Rehman PST of District Abbottabad. Perusal of the service record of the Mr. Munsin Saeed shows that he was inducted against the PTC post on 22-01-1995 as per entry made in his service book & was terminated from service vide order dated 13-02-1997 on the grounds of illegal ab-initio void & against the prescribed rules, however, vide order dated 09-11-2017 the was also inducted as PST in BPS-12 airesh with the same TORs as referred in the case of Mr. Shams Ur Renman. Furthermore, Mr. Syed Hujaj was appointed against the PST post on dated 19-01-1995 & was terminated from service on 13-02-1997 on the grounds of illegal ab-initio void & against the prescribed rules, however, vide order dated 09-11-2017, he was also inducted as PST in BPS-12 afresh with the same TORs as referred in the case of Mr. Shams Ur Rohman in the forgoing Paras, however, perusal of the list at S.No. 327, 335, 342 & 365 regarding the afove-said PST's it is evident that they have improved their respective academic qualification from SSC to FA, BA & MA during the course of service as PST in District Aboottabad & were appointed afresh vide order 09-11-2017 against the PST (M) Post in BPS-12 under the provision of Section-3 of Sacked Employees.Act: 2012 which is reproduced as under:

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

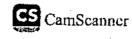
Similarly, Section-5 of the Act ibid says that:

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

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

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

Atlated 21/9/24





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

Note:

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

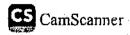
3/204 DIRECTOR (Estab-I) ASSISTANT

____/F.No.Litigation-II/CP:468-P/2016 /Sacked/Employees/file. Endst: No: /2024. Dated Peshawar the

- Copy forwarded for information to the:---
- Additional Secretary (General) E&SE Department Khyber Pakhtunkhwa.
 Additional Director (Estab-M) E&SE Khyber Pakhtunkhwa .
- 3. Deputy Director (Legal) E&SE Khyber Pakhtunkwha.
- Office Copy. 4.

ASSISTANT DIRECTOR (Estab-I)

Allstel 249/24



Annex

Date = 27/5/24 بخدمت جناب سيرثري (KPK(E&SED) پشاور

بنام

مش الرحن GPS،PST ككوكم سركل ايب آباد

دائر يكثر (KPK (E&SED) پيثاور () ايب آباد KPK(E&SED)DEO (1 D.A.O ايب آباد بذريعه KPK،A.G پشاور (٣ فنانسKPK،A.G بذريعهKPK،A.G پشاور (٣

د بيار منكل اييل: _

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رسپانڈنٹان

EgsEDS Dept 11 plky

__ ا پیلانٹ

Diany: N=2187

اپیل بر طاف تم محررہ 2024-04-30 ازاں جناب DEOصاحب ایب آباد جسکی رو سے درخواست اپیلانٹ بابت شار کرنے عرصه ملازمت Protected Period بغرض Pensionary benefits خارج فرمائي گئي۔ بمنظور ی ایپل هذا درخواست ایپلانت منظور فر مانی جا کر عظم جناب DEO صاحب محرره استدعا:ب

30-04-2024 و22-04-22 كومنسوخ كالعدم فرمايًا جاوب اور إيلانت كاعرصه ملازمت (Protected Period) کاس کے عرصہ ملازمت میں شار کر کے اپلانٹ کو Pensionary benefits کا حقد ارقر اردیا جائے۔

جناب عالى:- مضمون اييل ذيل عرض ہے۔

به كدا بيلانت مورخه 1995-01-19 كو محسشيت PTC محكمة تعليم مين تعديات كيا كما قط اور بعدة مورخه __| 13-02-1997 كومتعدد يكرملازمين كساتھ شرمديك كرديا كيا۔

بيركد سال <u>2012</u>ء مين KPK Sacked Employees (Appointment)Act-2012 _____۲ وجود میں آیا اور مذکورہ بالا Terminated ملازمین کو ملازمت پر بحال کیتے جانے کا حقّد ارقر اردیا گیاتا ہم قانون مذکورہ بالا يرعمل درآمد مين تاخير كى باعث بيشتر ملازمين كوعدالت عاليه مي رث Petition نمبر 2013-A/2013 دائر كرنا یر می جسکے نتیجہ میں رٹ میں شامل جملہ Terminated ملازمین کو بحال کرنے کا تھم صا در فرمایا کیا گیا اور الے ٹرمینڈ عرصہ کو Protected Period کے طور پر Pensionary Benifit ملازمت شار کرنے کا حکم ہوا _ (کفل

Allstel 2119724

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

£.

س۔ یہ کہ ذکورہ بالا فیصلہ عدالت عالیہ اور سپر یم کورٹ کے فیصلہ بحوالہ ا SCMR SCMR کو بنیا دیناتے ہوئے اور ندکورہ فیصلہ جات کا فائدہ اتھانے کی غرض سے اپیلانٹ نے ایک درخواست مورخہ 2009-12-11 کو جناب DEO ایبٹ آباد کے پاس دائر کی جس پر مناسب ہدایت کے حصول کیلئے DEO صاحب نے جناب ڈائر کیٹر صاحب سے ہدایت طلب فرمائی۔ (نقل درخواست الف ہے)۔

^۲ میرکہ جناب ڈائر کیٹرصاحب (E&SE) نے درخواست ایپلانٹ پراپنی رائے دیتے ہوئے درخواست اپٹلانٹ کو مطابق قانون Dispose of کرنے کی ہدایت کی گر جناب DEO صاحب نے بحوالہ عظم محررہ 2024-04-30 درخواست اپلانٹ خارج فرمادی۔ (نقل عظم محررہ 2024-04-30 لف مے) ۵۔ میرکہ بوجو ہات ذیل عظم از ان جناب DEO صاحب محررہ 2024-04-30 طاف قانون غیر مجاز انہ اور درست اختیارات کے عدم استعال کا نتیجہ ہے لہذا نا قابل بحالی و قابل منسوخی ہے۔ اور درخواست اپیلانٹ منظور کیے جانے کے لائق ہے:۔

گراؤنڈز:-

(i) یہ کہ جن ملاز مین کی برطرفی کے عرصہ ملازمت کو Protected Period قرار دے کراہے Protected Period قرار دے کراہے Pensionary Benifit کی غرض سے شار کرنے کا تھم صادر فرمایا اس کا فائدہ ان تمام دیگر ملاز مین کو بھی دیا جانا ازروئے قانون لازمی ہے جو کہ Piaced یہ Similarly تصور ہوتے ہیں ادرا پیلانٹ بھی اس فائدہ کا حقدارتھا تائید میں سپر یم کورٹ نے بچی منٹ نمبری لف اپیل حذا ہیں۔

(ii) ہیکہ اپیلانٹس نے سپریم کورٹ کی فیصلہ محررہ 2020-27-29 کی غلط تشریح کی ہے جو کہ سر اسر خلاف قانون اور مسلمہ اصولوں کے منافی ہے نیز لاہور کے فیصلہ محررہ 9002 - 08 - 29 کو صوبائی فیصلہ سپریم کورٹ محررہ 2020-2020-27 جو نظر انداز کر کے پنجاب کے فیصلہ کی روشن میں kpk سپریم کورٹ کے فیصلہ کی صریحاً نفی کی ہے اور مجوزہ اصولوں کی روشن میں KPK سرکاری ملاز مین کے حقوق کو متوازی اصول کی روشن میں خلاف اصول رائج کوتر جی دی ہے جو آئین پاکستان سروس قانون و پالسیز دسروس اصول عدالت عالیہ وعظمی کے فیصلہ جات کی روشن میں قابل ردونا قابل

(iii) ییکہ Back Benefits اور Similar Employees کی تشریح کرتے وقت ذاتی انتخاب کی تشریح کرتے وقت ذاتی Pick & Choose کی انتریک ہے نہ کہ قانون متعلقہ آئین پاکستان Pick & Choose کے اصول کی تشریح وبغیر ذاتی مرضی کی تشریح و معابق ہے سپر یم کورٹ فیصلہ محررہ 2020-03-27 کے اصول کی تشریح و بغیر ذاتی

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منشاء دمرضی کے مطابق COC کے زمرے میں آتی ہے جو کہ ہرلحاظ سے تحت آئین وقانون وغلط خلاف اصول ہونے کی بناء پر قابل ردد قابل گرفت ہے اس ضمن میں اپیلانٹ اپنا جملہ جن محفوظ رکھتے ہیں۔

(iv) یہ کہ رسپاڈ نٹان نے اپیلانٹ کی درخواست کو خارج کرتے وقت سپریم کورٹ کے فیصلہ محررہ 2020-03-27-27 کی تعبیر وتشر تک سپریم کورٹ کے فیصلہ جات کے رائح اصول ہائے کے مطابق نہ کی ہے سپریم کورٹ کے دونوں متوازی لاء امر اصولوں میں سے جدید اصول بابت مذکورہ فیصلہ کی تعبیر وتشر تک کے بجائے سابقہ اصول کو خلاف آئین قانون و پالسیز و عدالت عالیہ وعظمی کے فیصلہ جات کی صریحاً نفی کر کے اپنی مرضی و منشاء و کے مطابق اپیلانٹ کے حق کو غصب کرنے کی کوشش کی ہے جملہ امور تحت آئین وقانون نا قابل رود قابل اخراج ہیں۔

(۷۱) ید کر سپانڈنٹان نے درخواست اپلانٹ کوخارج کرتے وقت اس امرکوبھی نظرانداز کیا ہے کہ مجوز ہا یکٹ کی سیکشن 3 تحت فیصلہ بحالی کوسرے سے نظرانداز کیا ہے اور تحت فیصلہ بحالی کوبھی ذاتی تعبیر دتشریح کر کے تو بین عدالت کے مرتک ہوئے ہیں جو کہ پخل رسپانڈنٹان نا قابل رفتار دقابل اخراج ہیں۔

(vii) ید کررسپانڈنٹان نے سیکشن 3 اور 5 کی تعبیر وتشری کرتے وقت تحت فیصلہ بحالی کے مطابق سیکشن (2)2 کو ملاکر نہ پڑھنے کی قانونی غلطی کی ہے اور اس کی تعبیر وتشری عدالت ہائے کے منشاء ومرضی کے خلاف اپنی ذاتی منشاء ومرضی کے مطابق محض اپیلانٹ کے حقوق کو خضب کر کے سپریم کورٹ کے فیصلہ جات کے ساتھ مذاق کیا ہے رسپانڈ نٹان کا یہ فعل تو بین عدالت کے زمرے میں قابل گرفت اور نا قابل رفتار اور قابل اخراج ہے۔ نیز سپریم کورٹ کے حالیہ فیصلہ کا کی مطابق عدالت کے زمرے میں قابل گرفت اور نا قابل رفتار اور قابل اخراج ہے۔ نیز سپریم کورٹ کے حالیہ فیصلہ کو ایک Choose کر کے تعبیر وتشریح تحت رائج قانون و اصول کے مطابق نہ کی ہے اور یہ فرایا ہے کہ حالیہ فیصلہ کا ایک پہلوم آبل اطلاق کر کے جب کہ دوسرے پہلو ہو کہ روز کی ہے جس کی رو ہے محوزہ ایک فلا تو اور ایک تو کا دو ایک تر اور معرف کی کہ محالہ میں تا ہو کہ کہ مطابق نہ کی ہے اور سے کہ مالی میں میں کر کے معالیہ میں کا کی کہ کا دو ہو کی کو ک

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(ix) اپیل هذا کوسابقہ درخواست ہائے تخت فیصلہ جات کالازمی جز دقصور فرمایا جاوے اور اس کی روشن میں فیصلہ فرمایا جاوے۔

(x) جملہ بقایا امور بوقت بحث معہ جذیات اپیل کی روشی میں اتھائے جا کیں گے اپیل اندر معیار وقابل ساعت ہے۔ لہذا استدعا ہے کہ بخن اپیلانٹ برخلاف رسپانڈ نٹان درخواست اپیلانٹ معہ سابقہ درخواست ہائے ور ایکارڈ و فیصلہ جات عدالت عالیہ وعظیٰ وآ کین وقانون اور سابقہ پالیسی کی روشی میں صحح تعبیر وتشریح کے اصول کو مدنظر رکھ کرسول ملاز مین کی اپیل اور درخواست کو منظور فرماتے ہوئے سابقہ تھم رسپانڈ نٹان کو خارج فرمایا جاوے اور سپر کیم کورٹ کے فیصلہ محررہ کی اپیل اور درخواست کو منظور فرماتے ہوئے سابقہ تھم رسپانڈ نٹان کو خارج فرمایا جاوے اور سپر کیم کورٹ کے فیصلہ محررہ بائے عنائیت فرمائی جاوے تا کہ انصاف کا تقاضہ پوراہو سکے۔

المرقوم:2024<u>/5/</u>202

Jus D مم الرحن GPS،PST كحوكم مركل ايبية آباذ شاختى كاردْنمبر:3-13101-4419462 موباتل تمبر:9808088-221

Allston 21/9/24

BEFORE THE PESHAWAR HIGH COURT

Anner

ABBOTTABAD BENCH

Writ Petition No. <u>576</u> /2013

TABAD

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

15. Umar Khitab S/O Daray Khan CT, Govt Middle School TODA Bargaheen, Kohistan. FIED

- 37
- 16. Qari Maqbool-ur-Rehman QT, GHS, Thakra Teh & District Mansehrra.
- 17. Muhammad Haroon (Ex-PTC) GPS Neel Batla Teh & District Mansehra.
- Iftikhar Ahmed (Ex-PTC) GPS Kahawah Teh & District Mansehra.
- Abdul Manan (Ex-TT) GHS Mansehra No. 1 Tehsil & District Mansehra.
- 20. Kala Khan Ex-PST Tehsil & District Mansehra.
- 21. Sarfraz Ex-PST Tehsil & District Mansehra.
- 22. Bibi Shazia Maroof Ex-PST Tehsil & District Mansehra.
- 23. Rehmat Ali S/O Haq Nazar CT GMS Sherakot District Kohistan.
- 24. June Din S/O Muhammad Farooq DM GHS Pattan Kohistan.
- 25. Rasheed Ali S/O Muhammad Ziad CT GMS Aleel Kohistan.
- 26. Fazal-e-Rabi S/O Nam-e-Haq CT GMS Dargeen Kohistan.
- Fazal-e-Haq S/O Muhammad Ayub Khan CT GMS Mujgali Kohistan.
- 28. Bher-e-Karam S/O Bher-e-Room DM GMS Jaba Made Khail Kohistan
- 29. Muhammad Saleem S/O Muhammad Miskeen Junior Clerk Govt Higher Secondary School Dhodial District Mansehra.
- 30. Muhammad Miskeen GMS Baila Mansehra

.....PETITIONERS

....RESPONDENTS

VERSUS

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

Re- FIAN Tella ్రం

Judgment Sheet IN THE PESHAWAR HIGH COURT, ABBOTTABAD BEN JUDICIAL DEPARTMENT

Writ Petition No. 516-A/2013.

JUDGMENT

Date of hearing			
Petitioners_ Jffib	hankhan ly m	Mohammadas	Shad Khan
Respondents. Boy	etc M2- Moh	mmad Ageen	Ablaci
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ESHAWARHIG

TABAD

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ROOH-UL-AMIN KHAN, J.- Through this single judgment we intend to dispose of connected W.P.No. 20-A/2014 titled "Akram Khan & 05 others Vs. Government of Khyber Pakhtunkhwa through Secretary Education (E&SE) Peshawar & 03 others", W.P.No. 546-A/2013 titled "Waseem Gul Khan & 47 others Vs. Government of Khyber Pakhtunkhwa through Secretary Education (E&SE) Peshawar & 14 others", W.P.No. 676-A/2015 titled "Abdul Razzag Vs. Government of Khyber Pakhtunkhwa through Secretary Education (E&SE) Peshawar & 02 others", W.P.No.105-A/2015 titled "Mst. Saima Noreen & 04 others Vs. Government of Khyber Pakhtunkhwa through Secretary Education (E&SE) Peshawar & 03 others", W.P.No. 189-A/2015 titled "Muhammad Zafar Iqbal. Vs. Government of Khyber Pakhtunkhwa through Secretary Education (E&SE)

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

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

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

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3. In essence, grievance of the petitioners is that they were receuited by the respondents after fulfilling all the legal and codal formalities but their services were terminated in the year 1996-97 on the basis of political victimization, however, the Provincial Government promulgated the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012 for reinstatement of the employees, who had been appointed on regular basis to a civil posts in the Province and equipped with the prescribed qualification and experience of sacked employees at the time during the period from 01.11.1993 to 30.11.1996.

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

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

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

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

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

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

7.1



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

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where it has been held as under: -

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

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

in the following terms: -

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

to acquire the requisite training certificate;

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

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

Announced: 24.05.2016

JUDGE

<u>/*Saif */</u>

IN THE SUPREME COURT OF PAKISTAN (APPELLATE JURISDICTION)

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

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

Government of KPK through Secretary Elementary & Secondary Education, Peshawar				In all cases	
etc.	-	· · ·		Petitioner(s)	
		VERSU	<u>JS</u>		
1. 2. 3. 4. 5. 6. 7.	Iftikhar Khan etc. Akram Khan etc. Khalid Khan etc. Mst. Saima Noreen etc. Muhammad Zafar Iqbal Rashid Iqbal etc. Waseem Gul etc.			In C.P.401-P/2016 In C.P.427-P/2016 In C.P.428-P/2016 In C.P.429-P/2016 In C.P.430-P/2016 In C.P.431-P/2016 In C.P.464-P/2016 Respondent(s)	

For the petitioner(s):

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

were

For the respondent(s):

Sh. Riaz-ul-Haq, ASC. Syed Rifaqat Hussain Shah, AOR.

Date of Hearing:

ORDER

24.05.2017

MIAN SAOIB NISAR, CJ. The respondents

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

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

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4 T. CPs 401-P/16 etc

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recruitment to the posts of CT/PTC, therefore they are not entitled to be reinstated because according to the definition of 'sacked employee' provided in Section 2(g) of the Act, only such employees, who were eligible for appointment and had been sacked, could be reinstated as per the law. We have been apprised by the learned counsel for the З. respondents that according to the advertisement and appointment letters issued to the respondents, two kinds of candidates could be appointed: (i) those who have the requisite academic qualifications and training; (ii) those who have the requisite academic qualifications but do not possess the necessary training. As regards the second category, such persons would be provided with an opportunity to complete the training within a specific period. This is exactly what the learned High Court has allowed in the relief granting portion of the impugned judgment. Undoubtedly, this is in consonance with the Department's own advertisement and the terms and conditions of service, therefore, the learned High Court did not fall into any error by requiring the Department to allow the respondents to complete the training within a specific period of time and to take action against them in case of failure to do so. No exception can be taken to the impugned judgment, which is upheld. Resultantly, Civil Petition No.401-P/2016 is dismissed on merit. The connected petitions are also dismissed on the above score and for being time-barred as no sufficient cause has been shown for condonation of delay.

Sd/-Mian Saqib Nisar,HCJ Sd/-Umar Ata Bandial,J Sd/-Faisal Arab, Certifier / 1/08/True Copy Kré Aesopia is Versezfation: ... Ne of Word No of Follos Sary Paelin.

ISLAMABAD. 24** May, 2947 Not approved for reporting

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Annex ' Î PESHAWAD **BEFORE THE PESHAWAR HIGH** ABBOTTABAD BENCH Review No. /2018 Alt 1. Arif Khan son of Khan Bahadar Khan, resident of village Nawanshehr Near Illyasi Mosque, Tehsil and District, Abbottabad. 2. Rashid Khan son of Gohar Rehman Khan, Ex-class-IV Deputy Commissioner Office, Abbottabad, R/o Rajoya Tehsil and District, Abbottabad. 3. Muhammad Mansoor son of Magsood ur Rehman, DM, R/o Salhad, Abbottabad. ... PETITIONERS VERSUS 1. Commissioner Hazara Division Abbottabad. 2. Deputy Commissioner Abbottabad. 3. EDO Education (Male), Abbottabad. 4. EDO Education (Male), Kohistan. 5. EDO (Female) Abbottabad. ... REAL RESPONDENTS 6. Waseem Gul Khan son of Ali Ansar Khan, Post CT, R/o Village Nikka Pani, Post office Qalandarabad, Tehsil and District, Abbottabad. 7. Sajjad Ahmed son of Muhammad Yaseen Post CT, R/o Mohallah Upper Kehal Tensil and District, Abbottabad. RE-FILED TODAY **RE-FILED** 7 TODAY TT TO ADDITIONACREGISTILAR ADDITIONAL REFIISTRA

8. Abid Hussain Shah son of Syed Rasool Shah, Post: CT, i/o Saer Gah, Post office Damtor, Tehsil and District, Abbottabad.

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

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- 25. Syed Ishtiaq Hussain Shah Son of Syed Anwar Shah, Post PST R/o Neelor, P/O Nawansher Tehsil and District Abbottabad.
- 28. Aurangzeb son of Muhammad Zaman Post PST P.O'Akhreela U/C Beeran Gali Village Chatri, Tehsil and District, Abbottabad.
- 27. Jamil Khan son of Umer Din Post CT Lodhi Abad P.O Qalandarabad Tehsil and District Abbottabad.
- 28. Arif Khan son of Ali Bahadur Khan post driver of Commissioner hazara R/o near Ilyasi Mosque Tehsil and District Abbottabad.
- 29 Khalil ur Rehman son of Mian Muhammad Post AT R/o Taramchhala, Post Office Batonsi, Tehsil and District Abbottabad.

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- 30. Liaqat Hussain son of Gulzaman Post PST R/o Village Majot P/O Namal Tehsil and District Abbottabad.
- 31 Atta ur Rehman son of Abdul Waheed Azhar Post AT R/o Chapri Majhuhan P/O bodia Tehsil havelian District Abbottabad.
- 32 Obaid ur Rehman son of Hafiz Abdul Wahid, Post AT R/o Chapri, Majhuhan, Post Office Bodia, Tensil Havelian District Abbottabad.
- 33. Sajjad Ahmed son of Muhammad Sadiq, Post PST R/o Tandhara Glaan Post office Sherwan, Tensil and District Abbottabad.
- 34. Taj Malook son of Haji Tata, Post PST, r/o P.O. Kumela, Tehsil Dassu District, Kohistan.
- 35. Abdur, Rasheed, son of Gul Khan Post PST, R/o P.O Kumela Tehsil Daasu District Kohistan
- 36. Fazal-e-Razig son of Aziz ur Rehman Post PST R/o Village and Post Office Malsa, Tehsil and District Abbottabad.
- 37. Wajid Hussain son of M. Hussain Khan Post PST, resident of Salhad Tehsll and District: Abbottabad.
- 38. Mst Farzana Bibi wife of Khursheed Ahmed Post PST r/o Village and Post Office Beeranngali, Tehsil and District, Abbottabad.
- 39. Muhammad Muneer son of Sheereen Post PST R/o Village Doga Seo, Tehsil Daasu District Kohistan.

....PROFORMA RESPONDENTS

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

۵.

PRAYER:-

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

Respectfully Sheweth,

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

(5)

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

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2. That after the acceptance of above mentioned writ petitions the present petitioners and other approached to concerned official, but the concerned official refused the reinstate the present petitioners and others, then the petitioners & others filed a COC No. 44-A/2016 for the implementation of order of this Honourable court. Copy of COC No: 44-A/2016 is annexed as Annexure C.

3. That the respondents appeared before this Honourable court and submitted a official documents through which some petitioners of COC were appointed by the concerned officials.

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4. That on 06/09/2018 during the course of hearing the representative of education department stated at the bar that the petitioner No. 7, 16 & 22 are not eligible for reinstate of their previous posts, on the submission of representative of Education Department this Honourable court dismissed the COC and directed the present petitioners to approach the competent; forum for their grievances. Photocopy of judgment and order dated 06/09/2018 is attached as Anriexure[#]D^{*}.

- 6
- 5. That feeling aggrieved by the judgment & order of this Honourable court dated 06/09/2018, the petitioners approaches this Honourable court for review of the same, inter-alla, on the following grounds:-

GROUNDS:-

:a).

b)

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- That petitioner No. 2 namely Rashid was the servant of Deputy Commissioner. Office, and at the time of hearing no official was appeared on behalf of said Deputy Commissioner and this fact is clear in judgment/ order dated 06/09/2018.
 - That during the pendericy of COC No. 44-A/2016, the petitioners submitted CM No. 1046-A/2017. Attested copy of CM No. 1046-A/2017 is attached as Annexure "E" but order dated 06/09/2018 is silent about the above mentioned CM.

That on the submission of verbal statement of official representative of Education Departments, this Honourable Court dismissed the COC No. 44-A2016 and ordered to petitioners approach a competent forum for their redressal, which is liable to be set-

d)

That the petitioners and Performa Responded CoC No. 44 A 2016 in writ petitions Nos. 516-A/2013, 548-A/2013, 516-A/2015, 702-A/2014, connected judgment dated 24/05/2016 Wherein COC No. 60 in writ Petition No 1155-A 2015 titled "Rashid Iqbal V/s KPK Govt. & others" have directed in para No. 6 of the judgment ibid. "That the respondent have arranged the requisite training through RITE & PITE for the petitioner's within 3 years, petitioners have already been submit the application dated 21/04/2018 and 20/02/2018 respectively for the required training for the said post and that period which were consumed by respondents for regarding arrangement of course for the required training for the said posts shall count on their part, and petitioner have entitled for extension of time for the said period. More so, all the training institutes have been abolished the PTC/ CT course in future, therefore direction may kindly be given to respondent in respect of arrangement for requisite training/ course RITE & PITE. Copy of application, letters of respondents and advertisement are annexed as Annexure "F".

7

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

That other point will be agitated at the time of arguments.

That the instant review petition is well within time.

g)

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;e);

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. • Æ 8 It is therefore humbly prayed that on acceptance of Instant review petition, the impugned judgment and order dated (06/09/2018 may kindly be reviewed to the extent of present petitioners and proforma respondent as per the rule of natural justice or any other relief which is deemed appropriate may be announced. ļľ ...PETITIONER ų. Through: /2018 Dated:-(ZAFAR (QBAL) Advocate High Court, Abbottabad. VERIFICATION:-Verified that the contents of instant Review Petition are true and correct to the best of my knowledge and belief and that nothing has been concealed therein. i /2018 :Dated:-... PETITIONER (ZAFA Advocate High Court, Abbottabad.

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

9

Review No. /2018

Arif Khan & others.....PETITIONERS

VERSUS

Commissioner Hazara Division Abbottabad & othersRESPONDENTS

REVIEW PETITION AFFIDAVIT

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

DEPONENT

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22/10/12

ی رف فی ق ...PETITIONER

IDENTIFIED BY:-Advocate High Court,

2018<u>، / رايد 1</u>2018

3.No 6813/155 3. Mars Aller of the SS ind the above was verified on Solem. 22 day of eer Wohen Att We Bunthe Or Film White or sonally k. . visino Trinoizach Dath Si Massion's Addition & Registrar); Hight a str (Circuit) Bor

BEFORE THE HONOURABLE PESHAWAR HIGH COURT, BENCH ABBOTTABAD.

SHAWAD

Review Petition No.

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

...PETITIONER

CM.NO. 455 -A/2020

-A/2018

VERSUS

Commissioner Hazara Division Abbottabad etc

...RESPONDENTS

REVIEW PETITION

PETITION FOR PLACING ON RECORD FOR

THE JUST DECISION OF CASE.

Respectfully Sheweth,

2.

That, the review petition is pending for adjudication before this Honourable Court and fixed for 08-09-2020.

That, the judgment of Supreme Court of Pakistan in Civil Petitions No.468-P, 469-P,471-P & 472-P of 2016 decided on 27-03-2020 in case title, Secretary of Education (Elementary & Secondary Education) Peshawar Khyber Pakhtunkhwa etc VS Muhammad Sheryar etc, modify the

ADDITIONAL REGISTRAR PESHAWAR HIGHT COURT

FI

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

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

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

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ADDITIONAL REGISTRAL PENHAWAR HIGHT COUR

FILED TO

3.

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

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

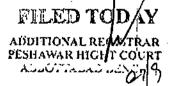
حارف کی ت PETITIONER...

Through:

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Dated:-05/04 /2020

(ZAFAR IQBAL) Advocate High Court, Abbottabad.



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BEFORE THE HONOURABLE PESHAWAR HIGH COURT, BENCH ABBOTTABAD.

<u>CM.NO. 25</u> -A/2020 IN Review Petition No. 3/ -A/2018

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

... PETITIONER

VERSUS

Commissioner Hazara Division Abbottabad etc

...RESPONDENTS

REVIEW PETITION PETITION FOR PLACING ON RECORD FOR THE JUST DECISION OF CASE. AFFIDAVIT:

I, Arif Khan Son of Ali Badhar Khan, resident of Village Nawansher near Illyasi Mosque, Tehsil and District Abbottabad *petitioner*, do hereby solemnly affirm and declare on Oath that the contents of instant *application* are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Court.

13101 - 0832056 - 10 6 00 - 13101 - 0832056 - 12101 - PETITIONER

/2020 Dated:-> **IDENTIFIED BY:-**

(ZAFÁ **IOBAL** Advocate High Court, Abbottabad.

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AWARHICT PESHAWAR HIGH COURT, ABBOTTABAD BENCH FORM OF ORDER SHE

Court of POTTABAD

Case No. of.

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



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

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

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

In view of the above without discussing the

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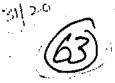
merits of the case, we dispose of this review petition with directions to the respondents No. 1 and 2 (competent authority) to look into the grievance of the petitioners No. 1 and 2 in the light of judgment of august Supreme Court of Pakistan dated: 27.03.2020 passed in Civil Petitions No. 468-P, 469-P,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

JUDGE

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Annex a



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IN THE SUPREME COURT OF PAKISTAN (APPELLATE JURISDICTION)

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

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

<u>2016.</u> (Against the judgment dated 12.07.2016 passed by the Khyber Pakhtunkhwa Service Tribunal Camp Court, Swat in Appeals No.1202 and 1203 of 2013).

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

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

...Petitioner(s)

<u>Versus</u>

The Secretary to Education (E&S), Government of Khyber Pakhtunkhwa, Peshawar and others. (m CPs. 468-P & 459-P/16)

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

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

...Respondent(s)

For the Petitioner(s):

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

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

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Suprend

Date of Hearing:

27.03.2020.

ORDER

GULZAR AHMED, CJ.- We have heard the learned

Additional Advocate General, Khyber Pakhtunkhwa appearing

for the Petitioners in Civil Petitions No.471-P and 472-P of

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

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

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

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

NO.455-P. 489-P. 471-P& 472-P DF 2016.

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

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

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Annex R"

<u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR</u>

Service Appeal No. 572/2019

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

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

(Appellant)

khuvi

VERSUS

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

... (Respondents)

Muhammad Arshad Khan Tanoli, Advocate ... For appellant.

Riaz Khan Paindakheil, Assistant Advocate General ... F

For respondents.

ROZINA REHMAN ... MEMBER (J) ATIQ UR REHMAN WAZIR ... MEMBER (E)

JUDGMENT

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

04 connected service appeals which are:

1. Service Appeal No.572/2019

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

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

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

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

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

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

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

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

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

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

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

ANNOUNCED. 18.03.2021

(Atiq ur Rehman Wazir)

Member (E) Camp Court, Abbottabad

TESTED

nut Date

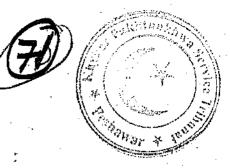
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Marrie of Carriers Date of Denvery

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

E.P No. 584/2023



23.01.2024 1.

1. Learned counsel for the petitioner present. Mr. Habib Anwar, Additional Advocate General alongwith Mr. Mobashir Ahmad, Assistant for the respondents present.

2. Representative of representative of the respondent submitted copy of Notification dated 07.12.2023, wherein pensionory benefits have been allowed to the petitioner subject to the outcome of CPLA.

3. In view of the above, instant appeal is disposed of being fully satisfied. Consign.

4. Pronounced in open court at camp court Abbottabad and given under my hand and seal of the Tribunal on this 23^{rd} day of January 2024.

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

ise Tribunal State States

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FORM OF ORDER SHEET

Court of____

Implementation Petition No. 584/2023

Order or other proceedings with signature of judge S.No. Date of order proceedings 1 2 The implementation petition of Mr. Muhammad 16.08.2023 1 Haroon is submitted today by Mr. Muhammad Arshad Khan Tanoli Advocate. It is fixed for implementation report before Single Bench at Abbottabad on ____. Original file be requisitioned. AAG has noted the next date. By the order of Chairman 711 REGISTRAR

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BEFORE THE HOP	NOURABLE SERV	ICE TRI	BUNAL K	HYBER
	KHTUNKHWA PE	<u>ESHAWA</u>	R	
Friecution	2 Petition	(#	5841	2025
<i>C</i> , <i>C</i>		C.M]	No	_/202 2
		<u> </u>	IN	

Service Appeal No. 572/2019

Muhammad Haroon PST GPS Phulra District Mansehra.

...APPELLANT

VERSUS

DEO Male District Mansehra & others.

...RESPONDENTS

APPLICATION FOR IMPLEMENTATION

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1.	Application alongwith affidavit	1 to 4	TARREATES
2.	Copy of service appeal	5-11	"A"
3,	Copy of judgment dated 18.03.2021	12-17	B

Dated: ____ /2022

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PELI ANT Through

(Mutranimad Arshad Khan Tanoli) Advecate Supreme Court of Pakistan at Abbottabad



BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

Potetion # SHECU C.M No

Service Appeal No. 572/2019

Muhainmad Haroon PST GPS Phulra District Mansehra.

VERSUS

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

..RESPONDENTS

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.APPELI

SERVICE APPEAL

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

Respectfully Sheweth:-

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

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

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

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

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

Dated: /2022

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Through

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(Multanmad Arstrad Khan Janoli) cate Supreme Court of Pakistan at Abbottabad

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BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

C.M No.____/2023 IN | Service Appeal No. 572/2019

Muhammad Haroon PST GPS Phulra District Mansehra.

...APPELLANT

.RESPONDENTS

VERSUS

DEO Male District Mansehra & others.

APPLICATION FOR IMPLEMENTATION

<u>AFFIDAVIT</u>

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

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BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA, PESHAWAR

Service Appeal No.____/2019

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

...APPELLANT

VERSUS

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

... RESPONDENTS

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



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

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

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Respectfully Sheweth;-

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Brief Facts of the case are as under:-

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That the appellant was appointed as CT in the year 1993-94 and was terminated from service in the year 1997-98. Copies of appointment order and termination order are annexed as Annexure "A" & "B".

That Govt. of Khyber Pakhtunkhwa announced KPK Sacked Employees Appointment Act, 2012 wherein all the sacked employees who were appointed in the year 1993-1996 and terminated from service in the year 1997-1998 are to be reinstated in service. Copy of Khyber Pakhtunkhwa Sacked Employment Act, 2012 is attached as Annexure "C".

That the respondent No. 3 did not appoint the petitioner as per KPK Sacked Employees Act, 2012 in time. Hence, the appellant filed writ petition 516-A/2013 before Honourable High Court, Bench Abbottabad for his appointment under the said Act. Copy of Writ Petition is attached as Annexure "D". That during the pendency of the writ petition, respondent No 3 issued appointment order vide No 20672-702 dated 04/12/2017. Copy of appointment order dated 04/12/2017 of the appellant is attached as Annexure "E".

That the respondent No.3 also appointed some

similar employees under the said Act in the year

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2012-13 but appointed the appellant on 04/12/2017 which is discriminatory, perverse, against the law and the appointment order of the appellant should have been issued either from the date of termination from service in the year 1997-98 or from the dated Promulgation Sacked Employees Appointment Act 2012. The appellant filed departmental appeal to respondent No.2 for redressal of his grievance in December 2017 but respondent No.2 did not bother to reply the appellant so far. Copy of departmental appeal is attached as Annexure "F".

That feeling aggrieved, the instant appeal is filed

inter-alia, on the following grounds:-

GROUNDS:

a)

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

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

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

c)

b)

Attested

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

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

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

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

d)

e)

f)

otherwise.

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That there is no other efficacious and adequate remedy available to the appellant, except the present appeal.

That other points shall be raised before the h) Honourable Tribunal at the time of arguments.

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

Through

/2019

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(Multiplinite Austral Khan Tanoli) Advocate High Court, Abbottabad

VERIFICATION:-

Dated: ___

Attested

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

APPELLANT

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Where F

BEFORE THE SERVICE TRIBUNAL KHYBIR PAKHTUNKHUWA, PESHAWAR

Service Appeal No 2019

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

APPELLANT Stylbus milelytuktion Horvice Tribunut Foliny Np. 641

VERSUS

Government of KPK through Secretary Elementary and Secondary Education, Peshawar.

2. Director Elementary& Secondary Education Khyber Pakhtunkhwa Peshawar

District Education Officer (Male) District Mansehra.

... RESPONDENTS

V HALLED . C. M.

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

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AND THE LIGHT OF JUDGEMENT OF PESHAWAR HIGH



FORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWA

Service Appeal No. 572/2019

Date of Institution Date of Decision 18.03.2021



M.A.

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

(Appellant)

VERSUS

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

... (Respondents)

Muhammad Arshad Khan Tanoli, Advocate

Riaz Khan Paindakheil, Assistant Advocate General

... For respondents.

ROZINA REHMAN ATIQ UR REHMAN WAZIR ... MEMBER (J) MEMBER (E)

JUDGMENT

ROZINA REHMAN, MEMBER : This judgment is intended to dispose of 04 connected service appeals which are:

1, Service Appeal No. 572/2019

2. Service Appeal No. 573/2019

3. Service Appeal No. 574/2019

4. Service Appeal No. 575/2019



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

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

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

4. Muhammad Arshad Khan Taroli Advocate learned counsel appearing on behalf of appellants inter-alia, argued that the respondent No.3 was supposed to appoint appellants under the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012 when the said Act was promulgated in the year 2012 but their appointment order was issued on 04.12,2017 which is against law and discriminatory.

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

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

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

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considered for the reason best known to the respondents. The respondents however, considered other similar cases just after promulgation of the Act bid which was discriminatory on the part of . respondents. It was upon the intervention of the Flon ble Peshawar. High Court that appellants were reinstated at a belated stage in 2017 but with immediate effect. The main concern of the appellants is that such employees would reach the age of superannuation before earning qualifying service for pensionary benefits. We have observed that appellants had possessed all the qualifications as prescribed in the Act. like others. It is also on record that co-employees tried their level best for back benefits and their cases were dismissed by this Tribunal as their earlier stance, to get all service benefits. Feeling aggrieved from the judgment of this Tribunal CPLAs were filed in the Apex Court and relief of back benefits to co-employees was refused by the Apex Court too. However, Apex Court allowed counting of their service for the protected period for payment of pensionary benefits. The present appellants have a strong case as they had every right to be reinstated just after promulgation of the Act as they were having requisite qualification as prescribed in the Act. Their claim was accepted by the august High Court and reinstatement was ordered. 7. The present appellants have also prayed for all service back benefits with a request for counting of their service for the protected

period in the light of judgment of the Apex Court which was passed in the case of co-employees. So, from the record, it is crystal clear that

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

ANNOUNCED. 18.03.2021

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

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

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Date of Canadicellan of Capp 06 Date of Delivery of Copy.

M. Arstrad Chan 2) ob Ministration (1) and (1) 704001 11- April 100 Hactedit : له يم ا الراجعة and todd - - - - - بر الراري الم الما الم -لأيدريك المصادك معلم مساحات فالرادين والريد المراري المسافع المستعين في المت الجسا ىالىزىتىسايى، بىنەركەلىدىنەندۇرلاي يەلىسىمى سەمىي مەم سەلەركىتى تۇير ن في ما يك الحالة الدي ما ما في معاني ما يوند الحديث الما يد المرابع ما ما من المساح الما يوم والحسر المسلح ك لاالأيد سبه يحرب مديقة فخر اعمال لورد ، عني تربح مديقة كالديماء ولأيد الموقية بيا المحربة بتنا ، يربينه ال لارابداك ليدخدار ليتوالا صيب بالادر الأبارة والأجرب لمن الأجرارة بالتفالار بحاقي بتأخير اجز لذاءا مرج المرابي التب المدانع إلى المرج حركاب الارديد لالولى المريد المنع مسابع ت بعظيما الأجديد التقالاف كالمتح عدر لابدان مع مل لأعواد للمريد بسويول عليه الدان المر ن ي ي ي ي الماري الأجوي القاضية و مليفية م الله بما يد التطارف الم المعدي الماري الماري المعالية الم Ald M. Arshall uchan inversion 1940 1940 - (at 13/07 رات سات فأندل للألاب بالد ، لايد في الحداء حرف لذا لا معد مديد مواتر کر چرد ا بسهيه Appleader on ن. ب. ب. انجر. Mpeadan-: () اعبو 070 12 als NORROH W. UPO Reshawan Service Tarbural 69 ~ Strand as for