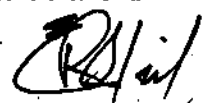


FORM OF ORDER SHEET

Court of _____

Appeal No. 2031/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	21/10/2024	<p>The appeal of Mr. Arshad Javed resubmitted today by Mr. Muhammad Saeed Khattak Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 24.10.2024. Parcha Peshi given to counsel for the appellant.</p> <p>By order of the Chairman  REGISTRAR</p>

The appeal of Mr. Arshad Javed received today i.e on 03.10.2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copy of relieving order of appellant mentioned in para-4 of the memo of appeal is not attached with the appeal be placed on it.
- 2- Annexure-H attached with the appeal is illegible be replaced by legible/better one.

No. 870 /Inst./2024/KPST,

Dt. 03/10 /2024.

Amatulhuda
ADDITIONAL REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Muhammad Saeed Khattak Adv.
High Court at Peshawar.

R/sir,

In reply to objection No 1 regarding non-~~non~~ attachment of relieving order mentioned in para-4 it is submitted that the same bearing no 23972 E-III dated Peshawar the 24-10-2007 is already available on file attached as annex-D at page no 12.

In reply to para 2's objection it is submitted that same is legible, otherwise too if needed can be produced. Its better copy during the arguments if directed by the Hon'ble Bench.

Please be placed before the Bench.

Amatulhuda
8/10/2024.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 2831 /2024.

Arshad Javed (Appellant)

VERSES

The Secretary & anothers. (Respondents)

I N D E X

S.No	Description of Documents	Annex	Pages
1.	Memo of Service Appeal		1-4
2.	Affidavit		5
3.	Copies of both the orders	"A"	6,7
4.	Copy of the NOC	"B"	8
5.	Copy of the Notification	"C"	9-11
6.	Copy of the relieving order	"D"	12
7.	Copy of the representation	"E"	13-15
8.	Copy of the impugned order	"F"	16
9.	Copy of the Notification	"G"	17
10.	Copy of Notification No. FD (SO SR-D)12-4/2020	"H"	18
11.	Copy of to judgment	"I"	19-32
12.	Copy of the minutes of meeting	"J"	33,34
13.	Wakalatnama		35

Appellant

Through:

Muhammad Saeed Khattak.

Advocate, High Court Peshawar

And

Ikram Ul Haq

Advocate, High Court Peshawar

Dated: /09/2024

E-Mail:- inil_122@yahoo.com

Cell Number: - 0333-9931761, 0301-8820565

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 2031/2024.

Arshad Javed Senior Subject Specialist BPS-18 GHSS Chamkani Peshawar.

.....(Appellant)

VERSES

1. *The Secretary Elementary and Secondary Education Department, KPK, at Peshawar.*
2. *Govt of KPK, Finance Department through its Secretary at Peshawar.*

.....(Respondents)

Service Appeal U/S 4 Of The KPK Service Tribunal Act 1974 against the impugned order dated 22/08/2024 Whereby departmental representation dated 10/08/2024 of the Appellant was Regretted.

Prayer-in-Appeal

On acceptance of the instant service appeal the impugned order dated 22/08/2024 may very graciously be set aside and the request of the appellant regarding pay protection and Aears of the service rendered in Police Public School Since September 1991 till 2007 may kindly be allowed.

Respectfully sheweth,

- 1) *That the appellant was initially appointed as a teacher in BPS-15 in September 1991, then was promoted to BPS-16 in February 1996. (Copies of both the orders are attached as annex-A).*
- 2) *That in the year 2004 Some posts of Head Master (BPS-17) were advertised by KPK Public Service Commission for which the appellant applied through proper Channel and NOC of the department concerned was Submitted in the office of Public Service Commission. (Copy of the NOC is attached as Annexure "B")*
- 3) *That the appellant qualified the exam and was appointed as Head Master in BPS-17 in the department of Respondent No.1 on 24 09-2007 Vide Notification*

No SO (3)3-1/2006/ Head Master (Male). (Copy of the Notification is attached as Annexure "C").

- 4) That the appellant was relieved from Service vide No. 23972 /E-III dated Peshawar, by the concerned official. (Copy of the relieving order is attached as Annexure "D").
- 5) That, there after the appellant joined the post of Head Master and performing his duties whole heartedly till date. In the mean while the appellant continued his efforts for protection of pay & provisions of arrears, but every time his Request was delayed on one pretext or the other then a proper representation was made in the Honour of Respondent No.1 on 10/08/ 2024. (Copy of the representation is attached as Annexure "E").
- 6) That the representation of the appellant was forwarded to the department of Respondent No.2 where it was regretted vide impugned order dated 22/08/2024. (Copy of the impugned order is attached as Annexure "F").
- 7) That the appellant submits, proposes the instant service appeal inter alia on the following amongst others, -

GROUNDS:

- A. That the appellant has not been treated in accordance with law nor equal protection of law has been given to him.
- B. that the appellant has been discriminated, which is the violation of Article 25 of the constitution of Islamic Republic of Pakistan as there exist various examples in the departments wherein such like benefit were extended to the official concerned I Deputy Secretary (Reg - II) vide No FD(SR-1)12-1/2011 Dated Peshawar the 4th June, 2011 its letter addressed to various officials' states as under,

"I am directed to refer to the Government of Pakistan, Finance Division, Islamabad letter No. FNo.4(2)R-II/1996-235/2010, dated 08-06-2010 and Judgment dated 01-08-2009 of Federal Service Tribunal Islamabad in appeal No.1921(R)CS 2005 in respect of Mr. Sajjad Rashid and others on the subject noted above and to state that in pursuance of the above quoted letter, the Government of Khyber Pakhtunkhwa has decided that henceforth the benefit of protection of pay to the employees of autonomous bodies on their subsequent

appointment in Government Service is not admissible as the employees of autonomous bodies are not Civil servants within the meaning of Civil Servant Act 1973. However, the benefits of pay protection will be admissible to employees of such autonomous organizations who have adopted scheme of basic pay scales in to-to on their appointment in government offices, provided they have applied for the post through proper channel. (Copy of the Notification is attached as annexure "G")

- C. That similarly the respondent No.2 in its Notification dated 15-06-2020 having No. FD (SO SR-11) 12-4/2020 awarded /accorded sanction to continuation of service and protector of basic pay last drawn by Mian Farooq Iqbal as Lecturer (BPS-17) Department of Mining Engineering universes of Engineering & technology Peshawar on his appointment as Inspector of Mines (BPS-17) in inspectorate of mines in the pay Scale of Rs. 2065-155-3925 w-e-f 10-07-1987 on the direction of KPR service Tribunal & the supreme Court of Pakistan. (Copy of Notification No. FD (SO SR-11) 12-4/2020 as attached as Annexure "H").
- D. That in the light of the precedent established by the Supreme Court of Pakistan in a Case law reported 2009 SCMR the appellant is entitled for to Same relief which has already granted to other employees in similar nature situation.
- E. That the appellant served as a teacher in Police Public School whose employees have already been declared as public servants vide its judgment dated 29-02-2012 in Writ Petition No 3113/2010 wherein the appellant was only a petitioner. (Copy of to judgment is attached as annexure "I")
- F. That he impugned order dated 22-08-2024 is also in violation of "Minutes of the meeting of the caretaker provincial cabinet December 11th 2023 wherein it was held /decided that the forum in light of recommendation of the committee headed by the then Secretary Home & T. as now Additional Chief Secretary (Home) approved Revised minutes and extended the benefits to all those employees of police public School Peshawar who were appointed during the period 1989 & 2012. The appellant was appointed on 7-9-1991, therefore is entitles for the benefits On this sense too, the impugned order is liable to be set aside. (Copy of the minutes of meeting is attached as Annexure "J")

- G. That the impugned order dated 22-8-2024 was received by the appellant. 10-09-2024, therefore the instant appeal is well within time, otherwise to being a matter pertaining to salary, increments and pension which is a recurring cause of action.
- H. That any other ground can also be taken during the argument with permission of this Hon'ble Tribunal.

It is therefore most humbly prayed that on acceptance of the instant service appeal, the impugned order dated 22/08/2024 may very graciously be set aside and the request of the appellant regarding pay protection and Aears of the service rendered in Police Public School Since September 1991 till 2007 may kindly be allowed.

Any other relief which has not been specifically asked for and deem fit in the circumstances of the case may also be granted to the appellant.

Appellant

Through

Muhammad Saeed Khattak
Advocate, High Court Peshawar
And
Ikram Ul Haq
Advocate, High Court Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. */2024.*


Arshad Javed(Appellant)

VERSES

The Secretary & anothers.(Respondents)

AFFIDAVIT

I, Arshad Javed Senior Subject Specialist BPS-18 GHSS Chamkani Peshawar, do hereby solemnly affirm and declare on oath that the contents of the accompanying Service Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.



A circular stamp with a signature over it. The signature is written in black ink. Below the signature, the date '02/10/24' is written in black ink.

DEPONENT

17301-7334861-7
CNIC NO.

(6)

Annexure - A

POLICE PUBLIC SCHOOL, JAHRIJ ROAD, PESHAWAR.

Office Order

No. 54/Estt/PPS

Dated: 7-9-91

Subject:- Appointment as Teacher

Reference office order No. 121/Estt /PPS, dated 27 November, 1990.

In view of satisfactory performance, Mr. Arshad Javed, son of Mr. Hazrat Gul, is appointed as Teacher at the School with effect from 1 September, 1991 (PW).

He shall be allowed to draw the start of BPS-15 (fixed), along with the usual allowances as admissible in the School.

He shall remain on probation for one year with effect from the same date, which can be extended up to two years.

Being a simple B.A., he shall not be confirmed in his post and he shall not earn any increment till such time that he acquires B.Ed. Furthermore, he shall have no claim to seniority in the absence of the requisite qualification.

His service is terminable from either side on a notice of 15 days or salary in lieu thereof.

His employment shall be regulated per School Service Rules.

[Signature]
Principal,

Police Public School, Peshawar.

(PR)

Copy to:-

- 1. Mr. Arshad Javed, Junior Master.
- 2. The Personal File of Mr. Arshad Javed.
- 3. The Head Mistress, Police Public School, Peshawar.
- 4. The Accounts Clerk, Police Public School, Peshawar.

[Signature]
LECTURER
Jinnah College For
Women University of
Peshawar.

[Handwritten notes]
S/Prin
[Signature]

[Handwritten initials]
ATTESTED

POLICE PUBLIC SCHOOL, JAMRUD ROAD, PESHAWAR.

Office Order

No. 15/Estt/PPS

Date: 26-3-96

Subject:-

Placement in BPS-16

On acquiring the requisite qualification of B.Ed., the appointment of Mr. Arshad Javed, Junior Master, is regularised and he is hereby placed in BPS-16 as Assistant Master with effect from 10 February, 1996 (FN).

His employment shall continue to be governed by the School Service Regulations 1992.

A/Principal,
Police Public School, Peshawar.

(IR)

Copy to :-

1. Mr. Arshad Javed, Assistant Master.
2. The Personal File of Mr. Arshad Javed, Assistant Master.
3. The Head Mistress, Police Public School, Peshawar.
4. The Bursar, Police Public School, Peshawar.
5. The Accountant, Police Public School, Peshawar.
6. The Superintendent, Police Public School, Peshawar.

B. N. Khan
S/O. Khan

ATTESTED

C.T.C
[Signature]

⑧
CERTIFICATE OF DEPARTMENTAL PERMISSION

Annexure 'B'
FORM 'D'

TO BE COMPLETED BY THE CANDIDATE

Name ARSHAD JAVED
 Father's Name HAZRAT GUL
 Post held Assistant MASTER
 Office/Department Police Public School & college Janrud Road Peshawar
 Post applied for Head Master
 Commission's advertisement number 01/2004

Place Peshawar
 Date 13-12-04

[Signature]
 Signature of Candidate

TO BE COMPLETED BY DEPARTMENT/OFFICE

The candidate is permitted to apply for the said post.

- (a) He/She is employed in this Department/Office as Assistant Master since 01 September, 1991 in BPS-16 u.e.f. 10-02-1996
- (b) He/She holds this post in permanent ✓ / advisory / acting capacity
- (c) His/Her accepted domicile as per official records is Peshawar NWFP
In case of his selection he shall be released from the School/College Service as per School/College Service Rules (as per Policy) in force.

Peshawar
15-12-2004

Name and Designation of the Officer
Principal, 15/12/04
Police Public School & college,
Janrud Road, Peshawar

[Signature]
15/12/04

Secretary,
 W.F.P. Public Service Commission,
 Peshawar.

Received
[Signature]

[Signature]
 Assistant Professor
 Jinnah College for Women
 University of Peshawar

ETC
 ATTESTED
[Signature]

(9)

Annexure - "C"

GOVERNMENT OF NWFP
SCHOOLS & LITERACY DEPARTMENT.

Dated Peshawar the 24-09-2007.

NOTIFICATION.

NO.SO(S)3-1/2006/HeadMaster (Male). Consequent upon the recommendations of the NWFP Public Service Commission, the Competent Authority has been pleased to appoint the following Headmasters in HPS-17 (Rs.8210-615-20510) plus usual allowances as admissible under the rules on Regular basis but without pension and gratuity in terms of Section-19 of the Civil Servant Act 1973 as amended vide NWFP Civil Servants (Amendment) Act, 2005 with immediate effect under the provision of Establishment & Administration Department Circular bearing No.SDR-6(E&AD) 13-1/2005 dated 10-8-2005:

S.No	Name with Father's Name	Address.
1-	Abdul Bais Khan S/O Mir Abbas Khan	Hinjal Sherza Khan Near Mall Mandi Bannu City.
2-	Abdul Qadir S/O Abdus Sattar Vill: & PO Pabbi Moh: Khan Khail II, No.641 Tehsil & District Nowshera.	
3-	Abdul Qadir S/O Yoremas Nadir SET, GHS Koshi District Chitral.	
4-	Abdul Sattar Shah S/O Syed Hussain Shah Abdul Sattar Shah PO Box No. 148 G.P.O Abbottabad.	
5-	Abdul Wadood S/O Abdul Mateen GHS No. 1 Havelian Tehsil & Distt: Abbottabad.	
6-	Abdur Rehman S/O Abdul Qadir Moh: Ayub Khail Vill: PO Zaida Tehsil & District Swabi.	
7-	Abdur Rehman S/O Mohammad Alam Vill: Anar Khel (Zeri Gul) HO Sheraki Tehsil & District Kohat (FR Kohat).	
8-	Abid Ullah Afridi S/O Shah Baz Khan, Mr. Abidullah S/O Shah Baz Khan SET at GHS Aza Khel FR Kohat PO Beli Tong Distt: Kohat.	
9-	Afzal Hussain S/O Taza Gul. Vill: Shinku Banda Tehsil & PO District Hangu.	
10-	Ahmad Saeed S/O Muhammad Amin, Moh: Sultan Abad Vill: & PO Adina Tehsil and District Swabi.	
11-	Amir Badshah S/O Mohib Ullah, Vill: Shinjai PO & Tehsil Munda District Dir Lower.	
12-	Amir Zaman S/O Fazal Rehman, Iqbal Medical Store Sakhatkot Bazar Tehsil Dargai Mahakand Agency.	
13-	Amjad Ali S/O Manzoor Hussain, Amjad Ali S/O Manzoer Hussain II, No. MC 2296 Moh: Khan Bundar District Munschna.	
14-	Anwar Khan S/O Dr. Ismail Khan, II, No. 1306 St: 94 I-10/I Islamabad. -do-	
15-	Anwar Saeed S/O Ghazi Mar Jan, Vill: & PO Ahmadabad Tehsil Takht-e-Nayrati District Karak.	
16-	Aqil Shah S/O Mehdi Shah, Opp: Govt: Post Graduate College Pindi Road Kohat.	
17-	Arshad Hussain S/O Noor Afzal, Vill: & PO Kohi Barmol Tehsil & Distt: Mardan	
18-	Arshad Javed S/O Hazrat Gul, Police Public Schools & College Jurrud Road Peshawar.	
19-	Ashraf Ali S/O Safdar Ali, SET GHS Kiranpur Kurram Agency Parachinar.	
20-	Assim Saeed S/O Mohammad Saeed, Basti Ustrana Shumali near Boys Primary School Dera Ismail Khan.	
21-	Atiq-Ur-Rehman S/O Amir Jan, Vill: Kote Kala PO Dabi Tehsil & Distt: Karak.	
22-	Bad Shah Mir Khan S/O Sher Ali Khan, Vill: & PO Tujari Tehsil & Distt: Lakki Marwat.	
23-	Bakht Muhammad Khan S/O Sahib Khan, Vill: & PO Shabqadar Fort Muhl: Hafimzai Tehsil & District Charsadda.	
24-	Faqir-Ud-Din S/O Muhammad Daud, II, No. 581 Sector No. 1 Khakhdar Town Ship District Haripur.	
25-	Fazidullah Shah S/O Syed Hameed Shah, Vill: & PO Jamal Garbi Tehsil & Distt: Mardan.	
26-	Fazal-e-Kabir Afridi S/O Fatch Khan, Agency Education Officer Khyber at Jannard.	
27-	Fida Muhammad S/O Amir Muhammad, Moh: Musa Khel Vill: & PO Baja Tehsil & District Swabi.	
28-	Gohar Zaman S/O Faqir Gul, Vill: Inzargai PO Kaitung District Mardan.	
29-	Gulzar Ali S/O Haji Asim Khan, Fazzia Degree College Rival pur Cantt District Nowshera.	
30-	Gulzar Ali S/O Sardar Bahadur, Vill: & PO Dagi Moh: Luma Khel District Swabi.	
31-	Hamid Khan S/O Safar Khan, Vill: & PO Mayar Moh: Shatabaz Khanj District Mardan.	
32-	Hamid Ullah Jan S/O Ali Majan, Vill: & PO Ghundi Mir Khan Khel Moh: Nandar Khel Tehsil & District Karak.	
33-	Hassan Jan S/O Adam Khan, Hassan Jan C/O Petrol Pump Charsadda Sugar Mills Charsadda.	
34-	Hashmat Ali S/O Fazal-e-Wahab Khan II, No. 132 St: 06 Sect. N Phase-IV Hayatabad Peshawar.	
35-	Hayatullah Jan S/O Ghazi Mar Jan Vill: Kalanger PO: Saki District Bannu.	
36-	Hidayatullah S/O Inayatullah, Vill: & PO Sawagai (Chanda) Tehsil Dargar District Buner.	
37-	Imayaz Khan S/O Muhammad Tahir, Moh: Nezer Khel Swabi, Vill: & PO and District Swabi.	

ATTESTED

C₂

e.T.C

Q. A. 75

	Qadim.		
7-	Abdur Rehman S/O Mohammad Alani.	Headmaster (BS-17) On appointment as HM his Services placed at the disposal of Director of Education (FATA) for further posting.	-do-
8-	Abid Ullah Afridi S/O Salah Buz Khan	Headmaster (BS-17) On appointment as HM his Service: placed at the disposal of Director of Education (FATA) for further posting.	-do-
9-	Afzal Hussain S/O Taza Gul	Headmaster (BS-17) On appointment as HM his Services placed at the disposal of Director of Education (FATA) for further posting.	-do-
10-	Ahmad Saeed S/O Muhammad Amin.	Headmaster (BS-17) GHS Nawagi Buner.	-do-
11-	Amir Badshah S/O Mohib Ullah.	Headmaster (BS-17) GHS Sadhar Kafay Dir Lower.	-do-
12-	Amir Zaman S/O Fazal Rehman.	Headmaster (BS-17) GHS Kharki Dheri Malakand.	-do-
13-	Anjid Ali S/O Manzoor Hussain	Headmaster (BS-17) GHS Pungai Mansehra	-do-
14-	Anwar Khan S/O Dr. Ismail Khan.	Headmaster (BS-17) GHS Kakhtori Haripur.	
15-	Anwar Saeed S/O Ghazi Mar Jan.	Headmaster (BS-17) GHS Kanda Karak.	-do-
16-	Aqil Shah S/O Mehdi Shah	Headmaster (BS-17) GHS Kari Shakh Kohat.	-do-
17-	Arshad Hussain S/O Noor Afzal.	Headmaster (BS-17) GHS Badar Banda Mardan.	-do-
18-	Arshad Javed S/O Hazrat Gul.	Headmaster (BS-17) GHS Malogai Peshawar.	-do-
19-	Ashraf Ali S/O Safdar Ali.	Headmaster (BS-17) On appointment as HM his Services placed at the disposal of Director of Education (FATA) for further posting.	-do-
20-	Assim Saeed S/O Mohammad Saeed.	Headmaster (BS-17) GHS Kacha Mali Khel DIK.	-do-
21-	Atiq-Ur-Rehman S/O Amir Jan.	Headmaster (BS-17) GHS Tharki Koi Karak.	-do-
22-	Bad Shah Mir Khan S/O Sher Ali Khan.	Headmaster (BS-17) GHS Bahrin Khel Lakki Marwat.	-do-
23-	Bakht Muhammad Khan S/O Sahib Khan.	Headmaster (BS-17) On appointment as HM his Services placed at the disposal of Director of Education (FATA) for further posting.	-do-
24-	Faqir-Ud-Din S/O Muhammad Daud.	Headmaster (BS-17) GHS Dobandi Haripur.	-do-
25-	Faridullah Shah S/O Syed Hameed Shah.	Headmaster (BS-17) GHS Ghari Dolatzi Mardan.	-do-
26-	Fazal-e-Kabir Afridi S/O Patch Khan.	Headmaster (BS-17) On appointment as HM his Services placed at the disposal of Director of Education (FATA) for further posting.	-do-
27-	Fida Muhammad S/O Amir Muhammad.	Headmaster (BS-17) GHS Jandi Swabi	-do-
28-	Gohar Zaman S/O Faqir Gul.	Headmaster (BS-17) GHS Boghra Buner.	-do-
29-	Gulzar Ali S/O Haji Asim Khan.	Headmaster (BS-17) GHS Pir Sabak Nowshera.	-do-
30-	Gulzar Ali S/O Sardar Bahadur	Headmaster (BS-17) GHS Sibandari Swabi.	-do-
31-	Hamid Khan S/O Saifoor Khan.	Headmaster (BS-17) GHS Hetti Landaki Mardan.	-do-
32-	Hamid Ullah Jan S/O Ali Mujan.	Headmaster (BS-17) GHS Jatta Ismail Khel Karak.	-do-
33-	Hassan Jan S/O Adam Khan.	Headmaster (BS-17) GHS Khisari Nowshera.	-do-
34-	Hashmat Ali S/O Fazal-e-Wahab Khan	Headmaster (BS-17) GHS Miran Zai Charsadda.	-do-
35-	Hayatullah Jan S/O Ghazi Mar Jan.	Headmaster (BS-17) GHS Toughal Khel Bannu.	-do-
36-	Hidayatullah S/O Inayatullah.	Headmaster (BS-17) GHS Chinar Buner.	-do-
37-	Humayer Khan S/O Muhammad Tahir.	Headmaster (BS-17) GHS Beka Swabi.	-do-
38-	Ifikhar Ali S/O Muhammad Yousaf.	Headmaster (BS-17) GHS Hund Swabi.	-do-
39-	Ihsan Ullah S/O Abdul Nabi.	Headmaster (BS-17) GHS Wardaga Charsadda.	-do-
40-	Ihsan Ullah S/O Rahim Shah.	Headmaster (BS-17) GHS Essak Khawari Ka. ak.	-do-
41-	Ihtiram Khan S/O Rozi Khan.	Headmaster (BS-17) GHS Bohni Peshawar.	-do-
42-	Ihtishamul Haq S/O Ihtishamul Haq.	Headmaster (BS-17) GHS Banda Sheikh Ismail Nowshera.	-do-
43-	Ikrimullah Khan S/O Abdul Majid Khan.	Headmaster (BS-17) GHS Bonza Khel Bannu.	-do-

ATTESTED

[Handwritten signature]

No.	Name	Post	Remarks
116-	Shamsul Islam S/O Haji Khajil Khan. (Late)	Headmaster (BS-17) GHS Kandi Kalu Khel Peshawar.	-do-
117-	Sher Nawab S/O Sher Ali Khan.	Headmaster (BS-17) GHS Sham warai Naryab Hangu.	-do-
118-	Sherin Gul S/O Aziz Gul	Headmaster (BS-17) On appointment as HM his Services placed at the disposal of Director of Education (FATA) for further posting.	-do-
119-	Syed Abu-Turab Haider S/O Syed Shah Pir Mian Kaziml.	Headmaster (BS-17) GHS Datta Mansehra.	-do-
120-	Tahir Haseeb S/O Guhlan Elahi (Late)	Headmaster (BS-17) GHS Lida Haripur.	-do-
121-	Tanzeer Ahmad S/O Muhammad Aslam.	Headmaster (BS-17) GHS Datta Abbottabad.	-do-
122-	Fariq Jamal S/O Said Jamal	Headmaster (BS-17) GHS Jewar Mardan.	-do-
123-	Zahid Hussain S/O Muzaffar Khan.	Headmaster (BS-17) GHS Khari Gally Abbottabad.	-do-
124-	Zain ullah Khan S/O Muhammad Shahzada.	Headmaster (BS-17) GHS Uharati, Meehan Khel Bannu.	-do-
125-	Zari Aman S/O Faqir Khan.	Headmaster (BS-17) GHS Topi Duner.	-do-
126-	Falak Naz S/O Habib Gul	Headmaster (BS-17) GHS Sikandari Mardan.	-do-
127-	Jehangir Adil S/O Sher Dil Khan.	Headmaster (BS-17) GHS Larma Peshawar.	-do-
128-	Muhammad Ibrahim S/O Abdul Hye.	Headmaster (BS-17) On appointment as HM his Services placed at the disposal of Director of Education (FATA) for further posting.	-do-
129-	Anwar Shah S/O Shah Zaman.	Headmaster (BS-17) On appointment as HM his Services placed at the disposal of Director of Education (FATA) for further posting.	-do-
130-	Sardar Hussain S/O Badam Khan.	Headmaster (BS-17) On appointment as HM his Services placed at the disposal of Director of Education (FATA) for further posting.	-do-
131-	Muhammad Hyas Khan S/O Usman Khan.	Headmaster (BS-17) On appointment as HM his Services placed at the disposal of Director of Education (FATA) for further posting.	-do-

TERMS & CONDITIONS.

- 1- Their services will be considered regular but without pension or Gratuity in term of Section-19 of the NWFP Civil Servant Act, 1973 as amended vide NWFP Civil Servants (Amendment) Act, 2005. They will however be entitled to Contributory Provident Fund in such a manner and at such rates as may be prescribed by the Government.
- 2- Their services will be liable to termination on one month's notice from either side. In case of resignation without notice, their two month's pay/allowances shall be forfeited to Government.
- 3- The appointee should join her post within 30-days of the issue of this notification. The Director, Schools & Literacy, NWFP, Peshawar would furnish a certificate to the effect that the candidates have joined the post or otherwise, after one month of the issue of this Notification, failing which their candidature will expire automatically and no subsequent appeal etc shall be entertained.
- 4- They would be on probation for a period of two years extendable for another one year.
- 5- They will be governed by such rules and regulations as may be issued from time to time by the Government.
- 6- Their services can be terminated at any time, in case their performance is found unsatisfactory during probationary period. In case of misconduct, they will be proceeded against under the NWFP Removal from Service (Special Power) Ordinance, 2000 and the Rules framed from time to time.
- 7- Charge report should be submitted to all concerned.
- 8- No TA/DA will be allowed to the appointees for joining their duty.

SECRETARY.

ATTACHED

(12)

Annexure 'D'

POLICE PUBLIC SCHOOL & COLLEGE, JAMRUD ROAD, PESHAWAR.

OFFICE ORDER

No. 25/2/07

Dated 07-02-2008

Subject:- Relieving Order – Arshad Javed

As approved by the competent authority, Mr Arshad Javed, Assistant Master in BPS-16 of this institution was relieved of his duties with effect from 30-09-2007 (AN) in order to enable him to join his new assignment in education department.

P. B. Wali
Principal,
Police Public School & College,
Peshawar.

Copy for information and necessary action to :-

1. Mr Arshad Javed, Assistant Master, Police Public School & College.
2. The Personal File of Mr Arshad Javed, Assistant Master.
3. The Vice Principal, Police Public School & College, Peshawar.
4. The Superintendent, Police Public School & College, Peshawar.
5. The Accountant, Police Public School & College, Peshawar.

To

The Secretary,
Elementary and Secondary Education Department
Khyber Pakhtunkhwa.

Through Proper Channel.

Subject: Request for Pay Protection and Provisions of Arrears to Mr Arshad Javed SS (BS-18) in light of Recommendations of Provincial Cabinet

Reference to the subject noted above it is stated I Mr. Arshad Javed is serving in Elementary and Secondary Education Department as Subject Specialist BPS-18 in GHSS Chamkani Peshawar. I am serving in E&SE department since 24th September, 2007 after qualifying Public Service Commission examination (BPS-17). Before joining E&SE department I was serving in Police Public School Peshawar as a teacher in BPS-16. Dear Sir, I request for Pay Protection and provision of Arrears in light of Recommendations of Provincial Cabinet. Sir, I refer to the subject noted above in light of following grounds.

1. Police Public School, Jamrud Road Peshawar was notified as an Educational Institution under the NWFP Educational and Training Institutions Ordinance 1971. They adopted scheme of BPS and pension for their employees.

(See Annexure 1)

2. I was appointed in Police Public School as a teacher in BPS-15 in September, 1991. (See Annexure 2)

3. I was promoted to BPS-16 in February 1996. (See Annexure 3)

ET.C
ATTESTED
[Signature]

4. In 2004 some posts of Head Master (BPS-17) were advertised, by the Khyber Pakhtunkhwa Public Service Commission for which I applied Through Proper Channel. (See Annexure 4)
5. After qualifying the Public Service Commission and I was appointed as Head Master BPS-17 in Elementary and Secondary Education Department in 2007. (See Annexure 5)
6. I was properly relieved by the Additional Inspector General of Police and directed to join my new job. (See Annexure 6)
7. Police authorities claimed that Police Public School was a private institute and not the government institute. The matter was forwarded to the Honorable Peshawar High Court. I was also the petitioner, the court in its verdict in 2011 clearly declared that employees of Police Public School are civil servants till 2011, while I left the school in 2007. (See Annexure 7)
8. Provincial cabinet has also accepted the status of employees of Police public school as public servants till 2011, while I joined the Elementary and Secondary Education department in 2007. (See Annexure 8)
9. Sir, high court verdict and Provincial cabinet approval of all back date benefits for the staff of Police Public school are also supporting my claim of Pay Protection
10. I applied for the pay protection in 2023 through E&SE department to Finance department for pay protection but they rejected my case on the plea that I

C.T.C
ATTESTED

[Handwritten Signature]

(15)

joined the E&SE in 2007 while pay protection letter was issued in 2011.

(See Annexure 9)

11. But sir, now when the new developments mentioned above I again apply for pay protection on strong footing as all the ambiguities about the Police public school have been removed after High Court and Provincial Cabinet decisions.

12. Therefore, it is requested that I may please be offered pay protection and arrears since joining E&SE department in 2007 from Police Public School.

13. Cases of Similar nature of pay protection in favour of Ex-Principal Nazir Ahmad with effect from 16-02-1999 to 13-03-2020 and Ex-lecturer Farooq Iqbal of Engineering University with effect from 10/07/89 to 15/06/2020 of Pay Protection approved by the Finance department are also attached with for ready reference. (See Attachment 10)

Contact No 03339119704

Yours Sincerely

Arshad Javed

Senior Subject Specialist BS-18
GHSS Chamkani Peshawar.

Dated 10-08-2024

Copy for Information to

- 1: DEO (M) Peshawar
- 2: Director E&SE Khyber Pakhtunkhwa

e.T.C
ATTESTED

Qu



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

Annexure

Annex 10

Finance Department Civil Secretariat Peshawar <http://www.finance.gkp.pk> [facebook.com/GokPFD](https://www.facebook.com/GokPFD) twitter.com/GokPFD

NO. FD(SOSR-1)12-4/2023/Mr Arshad Javed
Dated Peshawar the: 11-10-2023

To

The Section Officer (Budget),
Elementary & Secondary Education Department,
Peshawar.

Subject: PAY PROTECTION CASE OF MR. ARSHAD JAVED SS
(BS-18).

I am directed to refer to your letter's No. SO(B&A)1-16/Pay Protection dated 25.09.2023 on the subject noted above and to state that Finance Department's policy letter No.FD(SR-1)12-1/2011 dated 04.06.2011 is effective from the date of its issuance while the officer concerned had jointed the new service prior to issuance/effectiveness of pay protection policy, therefore, the case is regretted being not covered under the said policy.

M/F
[Signature]
11/10/23
SECTION OFFICER (SR-1)

e.t.c
ATTESTED
[Signature]

NO. FD (SR-1) 12-1/2011
Dated Peshawar the: 4th June, 2011

1. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
2. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
3. The Secretary to Governor, Khyber Pakhtunkhwa.
4. The Secretary to Chief Minister, Khyber Pakhtunkhwa.
5. The Secretary, Provincial Assembly, Khyber Pakhtunkhwa.
6. The Secretary Finance FATA, FATA Secretariat, Peshawar.
7. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
8. All Heads of Attached Departments in Khyber Pakhtunkhwa.
9. All District Coordination Officers in Khyber Pakhtunkhwa.
10. All Political Agents / District & Sessions Judges in Khyber Pakhtunkhwa.
11. The Registrar, Peshawar High Court, Peshawar.
12. The Chairman, Public Service Commission, Khyber Pakhtunkhwa.
13. The Chairman, Services Tribunal, Khyber Pakhtunkhwa.

Subject: FIXATION / PROTECTION OF PAY ON APPOINTMENT FROM ONE POST TO ANOTHER.

Dear Sir

I am directed to refer to the Government of Pakistan, Finance Division, Islamabad letter No.FNo.4(2)R-III/1996-235/2010, dated 08-06-2010 and Judgment dated 01-08-2009 of Federal Service Tribunal, Islamabad in appeal No.1921(R) CS/2005 in respect of Mr. Sajjad Rashid and others on the subject noted above and to state that in pursuance of the above quoted letter, the Government of Khyber Pakhtunkhwa has decided that henceforth the benefit of protection of pay to the employees of autonomous bodies on their subsequent appointment in Government Service is not admissible as the employees of autonomous bodies are not civil servants within the meaning of Civil Servant Act 1973. However, the benefit of pay protection will be admissible to employees of such autonomous organizations who have adopted scheme of basic pay scales in to-to on their appointment in government offices, provided they have applied for the post through proper channel.

C.T.C Yours Faithfully,

ATTESTED)

g.w. (MASOOD KHAN)
Deputy Secretary (Reg-II)

Endst: of even No. & date.

Copy forwarded for information to:

1. All the Heads of Autonomous / Semi Autonomous Bodies of Khyber Pakhtunkhwa.
2. Director, Local Fund Audit, Khyber Pakhtunkhwa, Peshawar.
3. Director, Treasuries and Accounts, Khyber Pakhtunkhwa, Peshawar.
4. All District Comptrollers of Accounts, Senior District Accounts Officers and District/Agency Accounts Officer in Khyber Pakhtunkhwa / FATA.
5. Director, FMIU, Finance Department
6. PS to Minister Finance, Khyber Pakhtunkhwa.
7. P S to Secretary Finance.
8. PA to Spl: Secretary Finance.

(SHAUKAT ULLAH)
Section Officer (SR-I)

NOTIFICATION

(18) (REGISTRATION)

Annexure H

Dated Peshawar the 15.08.2020

NOTIFICATION No. 12-42020 in pursuance of the Service Tribunal Order of Appeal No. 10201, announced on 07.05.2017, and Subject to the Finance Department in CP No. 1308/2019 dated 27.11.2019. The Finance Department will, its approval of the competent authority, Chief Minister, Khyber Pakhtunkhwa, be pleased to accord sanction to continuation of service and protection of back pay of Rs. 31607 (Three thousand four hundred and Sixty Only) last drawn by Mian Farooq Iqbal as Lecturer (BPS-17) Department of Mining Engineering University of Engineering and Technology Peshawar on his appointment as Inspector of Mines (BPS-17) in Inspectorate of Mines, in the pay scale of Rs. 2065-155-3325 w.e.f. 10.07.1999.

The earlier notification of even No. dated 07.12.2018 of this Department stands withdrawn.

SECRETARY TO GOVERNMENT
OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

ENST. NO. & DATE EVEN

Copy for information and necessary action is forwarded to the:-

1. Registrar, Service Tribunal, Khyber Pakhtunkhwa, Peshawar
2. Member, Council, Khyber Pakhtunkhwa, Peshawar

ATTACHED

21-C

(Mustafiz Khan Marwat)
Addl. Secretary (Regulation)
FINANCE DEPARTMENT

ENST. NO. & DATE EVEN

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

1. To Secretary, Finance Department, Khyber Pakhtunkhwa
2. To Special Secretary, Finance Department, Khyber Pakhtunkhwa
3. To Secretary, Mines Development Department, Peshawar with reference to letter No. SO Appeal (MD)/1-175/2020 dated 18.09.2020
4. Section Officer (I) Finance Department, Peshawar, vide his file No. SO/L/175/2020
5. To Secretary, Finance Department, Peshawar
6. Officer concerned

BETTER COPY ANNEXURE "H"

(REGULATION WING)

Dated Peshawar the 15 06 2020

NOTIFICATION

No FD/SOSR412-4/2020, in pursuance of Khyber Pakhtunkhwa Service Tribunal Judgement in Service Appeal No 476/2014 announced on 07 03 2017 and Supreme Court of Pakistan Judgement in CP No 1308/2019 dated 27 11 2019, the Finance Department with the approval of the competent authority (Chief Minister Khyber Pakhtunkhwa is pleased to accord sanction to continuation of service and protection of basic pay of Rs 3460/- (Three Thousand Four Hundred and Sixty Only) fast drawn by Man Faro Iqbal as Lecturer (BPS-17), Department of Mining Engineering University of Engineering and Technology Peshawar on his appointment as inspector of Mines (BPS-177 Inspectorate of Mines, in the pay scale of Rs 2065-155-3025 we

10:07 1099

The earlier notification of even No dated 07 12 2018 of this Department stands withdrawn.

**SECRETARY TO GOVERNMENT
OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT**

ENDST NO & DATE EVEN

Copy for information and necessary action is forwarded to the -

1. Registrar, Service Tribunal Khyber Pakhtunkhwa
2. The Accountant General Khyber Pakhtunkhwa, Peshawar

**(Musharraf Khan Marwat)
Addi: Secretary (Regulation)
FINANCE DEPARTMENT**

ENDST: NO & DATE EVEN.

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

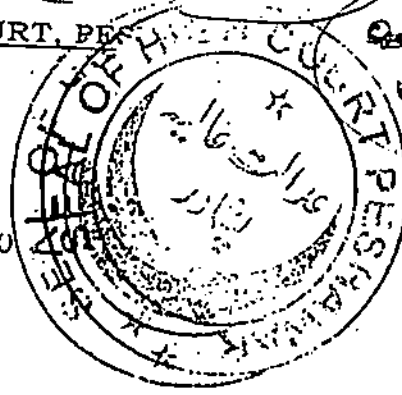
1. PS to Secretary, Finance Department, Khyber Pakhtunkhwa
2. PS to Special Secretary Finance Department, Khyber Pakhtunkhwa
3. PS to Secretary, Minerals Development Department Peshawar with reference the letter No SO Appeal(MDD)/1-1175/2020 dated 18-05-2020.
4. Section Officer (Lit-II) Finance Department Peshawar via his file No SOL 1/FD/2-1474/2014
5. PA to DS (Reg-1), Finance Department Peshawar.
6. Officer concerned

(19)

~~Annexure~~

Annexure I

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR



Writ Petition No. 3113 of 2010

1. Muhammad Zahir Shah S/O Abdul Qasim
Master Police Public School, Peshawar.
Resident of Kinal Town, Street No. 7, Nasir High Road, Tehsil &
District Peshawar.
2. Yousaf Khan S/O Hazrat Said
Master Police Public School & College, Peshawar.
R/O Murad Abad, Opposite Police Public School & College, Tehsil
& District Peshawar.
3. Hidayat Ullah S/O Nauroz Khan, PFI Police Public School &
College, Peshawar.
4. Mst. Shakira Waheed Mistress,
5. Mst. Perveen Ibrar Mistress,
6. Mst. Meraj Tahir, Mistress
7. Mst. Qamar Sultana, Mistress
8. Mst. Attiya Mumtaz, Mistress
9. Mst. Nasira Mumtaz, Mistress
10. Mst. Farida Jehanzeb, Mistress
11. Mst. Kausar Sarwar, Assistant Mistress
12. Mst. Naveeda Yousaf, Assistant Mistress
13. Mst. Razia Khalil, Assistant Mistress
14. Mst. Shaheen Perveen, Assistant Mistress
15. Mst. Jalwat Humna, Assistant Mistress
16. Fazle Rahim, Assistant Mistress
17. Mst. Shazia Rasul, Assistant Mistress
18. Fakhr-uz-Zaman, Assistant Master
19. Mst. Rana Mehar Nigar, Assistant Mistress
20. Arshad Javed, Assistant Master
21. Mst. Azra Sayed, Assistant Mistress
22. Mohammad Mumtaz, Assistant Master
23. Mst. Tahira Mudassar, Assistant Mistress
24. Mst. Seema Gul, Assistant Mistress
25. Hidayat Ullah, Assistant Master
26. Shahid Salim Khan, Junior Master
27. Fazal Gul, PET / PTI

C.T-C
ATTESTED
Q

ATTESTED
EXAMINER
Peshawar High Court

JUDGMENT SHEET
PESHAWAR HIGH COURT PESHAWAR
JUDICIAL DEPARTMENT.

M.P. No. 3/13 of Nov 2010

JUDGMENT

Date of hearing: 20-2-2012

Appellant: Mt. C. M. Zahid Shah, P.O. S.O. 3-24/85

Respondent: Chief Police Officer of Peshawar
and Mr. Asghar Ali Khan

MIAN FASIH-UL-MULK, J. Petitioners, through instant writ petition, have questioned the vires of Notification No.SO(UE)3-24/80 dated 1.2.1996 issued by the Secretary to Government of NWFP (now KPK) Education Department whereby in exercise of the powers conferred by Section 20 of the West Pakistan General Clauses Act 1956, the Governor NWFP was pleased to rescind the Government of NWFP Education Department Notification No.S.O (UE)3-24/85 dated 14.3.1989 and approved the de-linking of Police Public School Peshawar from the ambit of NWFP Educational and Training Institutions Ordinance 1971 with immediate effect.

C.T-C
ATTESTED
[Signature]

2. On 11.05.1971, North West Frontier Province Government Education and Training Institutions Ordinance, 1971 (N.W.F.P Ordinance No.III, of 1971)

ATTESTED
[Signature]
EXAMINED
Peshawar High Court

(hereinafter called the Ordinance) was promulgated for establishment of Boards of Governors for Government Education and Training Institutions. Under Section 2 of the Ordinance, the Provincial Government was competent to apply the Ordinance to such Institutions and from such dates as may be notified in the Official Gazette. Under Section 3 of the Ordinance any Educational Institution to which the Ordinance is applicable or applied shall have a Board of Governors and the Governor/Chief Minister of the Province is authorized under Section 4 of the Ordinance to appoint Members and Chairman of the Board. Under Section 20 of the Ordinance, the Board has been authorized to frame Statutory Regulations inter-alia providing for recruitments, tenure of office and terms and conditions of service of the employees of any such institutions.

3. In the year 1982, a School under the name and style of Police Public School (hereinafter called the School) was established and vide Notification No.SO(PJ)HD/6-29/88, dated 12.1.1989, the Government of NWFP in exercise of the powers conferred by sub-section (3) of Section 1 of the Ordinance was pleased to direct that all the provisions of the aforesaid Ordinance shall apply to the Police Public

e.T.C
ATTESTED
[Signature]

ATTESTED
 EXAMINER
 Peshawar High Court
[Signature]

School, Peshawar, with immediate effect. Vide Notification No. SO(U.E)3-24/85 dated 14.3.1989, a Board of Governors for the School was established with immediate effect, whereby Minister for Education, NWFP, was notified as its Chairman besides nomination of Vice Chairman, Members and Secretary by designation. Accordingly, the Board of Governors while exercising the powers conferred upon it through Clause 2(e) of Section 20 of the Ordinance framed the terms and conditions of Service Regulations, 1992, whereby staff/employees of the School for all intent and purposes was given statutory protection and status of Government Servants. However, vide impugned notification dated 01.02.1996, de-linking of the School was ordered from the ambit of the Ordinance.

4. As the impugned ordinance was not published in the official Gazette, therefore, when the Provincial Government introduced revision of basic pay scales in the year 2005 for its employees, such benefit was not extended to petitioners, who then came to know about disconnection of the School from the realm of the Ordinance.

5. Petitioners, therefore, challenged the aforesaid act of respondents through Writ Petition No.929 of 2007.

ATTESTED

EXAMINER
Peshawar High Court

e.T.C. # 1
ATTESTED
9

During pendency of the writ petition, petitioners No.1 to 3 were proceeded against for misconduct under the so-called terms and conditions of the Constitution 2007 of the Police Public School and College, Peshawar. Show cause notices were issued to them wherein intention of imposing major penalty of dismissal from service was disclosed, compelling the petitioners to again challenge such proceedings through Writ Petition No.1201/2010.

6. The aforesaid writ petition came up for hearing on 08.04.2010 wherein the following order was passed:-

"Whether the Police Public School could be taken outside the orbit of NWFP Government Educational Training Institution Ordinance, 1971 by virtue of a Notification, which has not been gazetted so far in terms of Section 20 of the General Clauses Act and whether the petitioners could be proceeded against under any other dispensation, which does not enjoy statutory sanction, is a question requiring consideration. Admit. Notice.

Inter Relief Notice for 14.04.2010. Till then the respondents may proceed with the inquiry but shall not pass final order."

e.T-C
ATTESTED
9

ATTESTED
EXAMINER
Peshawar High Court.

However, on 10.04.2010, when the above order was in the field, respondents issued orders of removal from service of petitioners No.1 to 3. Petitioners, in view of the above state of affairs, filed amended writ petition whereby orders of their removal from service were challenged. This Court, on 20.05.2010, granted status quo ante to petitioners No.1 to 3 and the impugned order dated 10.04.2010 was suspended.

7. Both the above writ petitions came up for hearing on 02.06.2010 but it was observed that vires of the notification dated 01.02.1996 has not been specifically challenged. Petitioners, therefore, requested for withdrawal of the writ petitions in order to specifically challenge the impugned notification; hence the present writ petition.

8. Learned counsel for the petitioners argued that petitioners have not been treated in accordance with law, as once a statutory protection was given to their terms and conditions of service, the impugned notification, being neither published in the official gazette nor ever brought into the notice of petitioners before agitating the matter of extension of the benefits of revised pay scales before the Court, the same loses its legal sanctity, is illegal and without lawful authority.

C.T.C
ATTESTED
4

ATTESTED
EXAMINER
Roshwar High Court

9. On the other hand, learned counsel for respondents defended the impugned notification on the grounds that the writ petition is hit by laches, as the notification was issued as early as in the year 1996 but the same was challenged in the year 2007 and that the impugned notification is now duly published in the official gazette dated 6th August 2011. They further alleged that the School is now being run under the Constitution 2007, where under respondent No.1 is fully competent to initiate proceedings against petitioners No.1 to 3, to which no legal exception could be taken.

10. We have heard learned counsel for the parties and have also gone through the record of the case.

11. On 04.11.2010, when instant writ petition was fixed for hearing, the learned AAG was asked as to whether the Notification of de-linking the Institution from the Ordinance was published in the official Gazette: he informed that it has not been published. It was observed that when it has not been published, it is more than clear that such Notification cannot have any effect. However, learned counsel for the parties requested for time to find the judgment of apex Court on the point.

C.T.C
ACCEPTED
9

ATTESTED
EXAMINER
Peshawar High Court

12. On the next date of hearing i.e. 10.11.2010, learned counsel for the petitioners referred to the judgments of the apex Court in the cases of Chief Administrator Augaf vs. Mst. Anna Bibi (2008 SCMR 1717), Haji Malik Amanullah Khan vs. Khyber Khan and others (2008 SCMR 1723) Muhammad Suleman etc. vs. Abdul Ghani (PLD 1978 Supreme Court 190) and Province of East Pakistan vs. Major Nawab Khawaja Hassan Askary and others (PLD 1971 Supreme Court 82) and contended that according to Section 2(41) of the West Pakistan General Clauses Act (VI of 1956), notification shall mean a notification published under proper Authority in the official Gazette. It was again observed that on the strength of the authorities referred to by learned counsel for the petitioner, he has quite successfully canvassed before the Court that the subsequent Notification for want of publication in the official gazette cannot be called a Notification within the term of section 2(41) of the General Clauses Act. However, it was again adjourned for the reason that the School was not represented by anybody.

13. So far as the question of fees is concerned, when the learned counsel for respondents were asked that

C.T.C
 ATTESTED
[Signature]

ATTESTED
 EXAMINER
 Peshawar High Court.

neither the notification was published in the official gazette nor served upon the petitioners, how negligence of petitioners could be established, he produced a copy of the said notification purportedly sent to the School and received by an official in the Accounts Branch. However, it would not mean that the petitioners were duly informed about the same. Laches is equivalent to statute of limitation, however, unlike statute of limitation, laches leaves it upto the Court to determine whether petitioners slept over their rights and have waited too long to seek relief. We in the facts and circumstances of instant case, do not find any unreasonable lapse of time on part of petitioners or their negligence to assert the matter before Court, when neither the impugned notification was published in the official gazette nor it was personally served on the petitioners.

14. Learned counsel for respondents, while placing reliance on the cases of Pakistan through Secretary, Ministry of Defence, and others vs. Late Ch. Muhammad Ahsan through Legal Heirs and others (1991 SCMR 2180), Muhammad Siddique vs. The Market Committee, Taudhanwala (1983 SCMR 785), argued that the mere fact that publication of notification was delayed, it will not invalidate or otherwise make its

C.T.C
 ATTESTED
 9

ATTESTED
 [Signature]
 Pakistan

operation retrospective from any date prior to the date when it was actually signed though not published in the official Gazette.

15. It is cardinal principle of construction that every statute is prima facie prospective unless it is expressly or by necessary implication made to have retrospective operation. Similarly, notifications which may affect the rights of the parties are treated to be prospective in nature unless the notification itself clearly indicates that it will have retrospective effect.

16. The word 'notification' according to section 2(41) of the West Pakistan General Clauses Acts VI of 1956 shall mean a notification published under proper authority in the official Gazette. The August Supreme Court of Pakistan in the case of Muhammad Suleman etc. vs. Abdul Ghani (PLD 1978 Supreme Court 190) has held:-

"Section 8(2) referring to curtailment of right of pre-emption and curtailment requiring to be done by notification published in official Gazette, withdrawal of such curtailment, held, also to be done by publication in form of notification in official Gazette and to be effective from date of publication of Gazette and not from any prior date."

C.T.C
ATTESTED
[Signature]

ATTESTED
[Signature]
EXAMINER
Peshawar High Court.

Again similar view was taken by the apex Court in the case of Karachi Metropolitan Corporation, Karachi vs. Messrs. S.N.H. Industries (Pvt) Limited, Karachi and 2 others (1997 SCMR 122S) in the following words:-

"As the word "notification" has not been defined in the Ordinance, the definition given in the West Pakistan General clauses Act shall be applied, which requires that any direction/order which is published under proper authority in the official Gazette is called a notification. Mere issuance of an order or direction will not amount to a Notification. Even if it is published in the newspapers, affixed on the Notice Board or is published in any other manner, it shall not amount to a Notification. Notification published in an official Gazette is a public document and carries certain presumptions of its legality and authority and its enforcement as well. Such attributes cannot be attached to an order or direction which is issued, notified or published without publication in the official Gazette."

In the recent judgment reported in PLD 2011 Supreme Court 347, titled Government of Sindh through Secretary Agriculture and Livestock Department

ATTESTED

EXAMINED
Peshawar High Court

C.T-C
ATTESTED

Q

others vs. Messrs Khan Ginners (Private) Limited and

57 others, the august Supreme Court of Pakistan, while placing reliance on the case of Muhammad Suleman (supra) has laid down that:-

"According to Section 2(41) of the General Clauses Act, 1956 a Notification means a Notification published under proper authority in an official Gazette. In this view of the matter before its publication in the official Gazette the Notification relevant to the present appeal's could not even be lawfully termed as a Notification."

17. In view of the above: we are of the view that by impugned notification, the vested rights of petitioners were taken away without its publication in the official Gazette, hence no retrospective effect can be given to it from the date when it was published in the official Gazette on 06.08.2011.

18. As stated above, the impugned notification, having lost its legal sanctity for the reasons stated above, all the acts done against petitioners particularly against petitioners No.1 to 3, fall to the ground, as under the notification dated 12.1.1989, respondent No.1 was not competent to act as a Chairman of the Board of

C.T.C
ATTESTED
9

ATTESTED
EXAMINER
Peshawar High Court.

~~30~~ 31

Governors under the so called Constitution of 2007. The entire superstructure built upon the same has no base to stand upon. It would be important to note that the said Notification was never acted upon and no meeting of any so-called Board of Governors of the School has ever been conducted. Annexure B with the writ petition is a certified copy of the judgment authored by the then Hon'ble Chairman Labour Appellate Tribunal, Peshawar in Appeals No.63 to 69 of 2000, decided on 15.10.2001. The Board of Governors, Police Public School and others were respondents in those appeals. The learned Appellate Tribunal while deciding the appeals held that the Police Public School is certainly an educational Institution being run under the control of Provincial Govt. Section 2(b), Section 2(f) and proviso (1) to Section 1 of the Industrial & Commercial Employment (Standing Orders) Ordinance, 1968 read with Section 2(ii)(g) of the Payment of Wages Act, 1936, taken collectively go a long way to prove that the School in question is neither an Industrial nor Commercial Organization and hence the provisions of the Labour Laws are not at all attracted to the employees of the Police Public School who are admittedly permanent employees thereof. Had the impugned notification been in the field, the same would

CT-C
ATTESTED
Q

ATTESTED
EXAMINER
Peshawar High Court

have been relied upon by the respondents in their defence.

19. The respondents have failed to follow the due process as required by law; hence the impugned notification has no binding force. If a legislation, which is aimed to extend some monetary benefits to the public can be given retrospective effect, the same in the case of taking away vested rights cannot be given retrospective effect, therefore, we accept this writ petition and declare the impugned notification dated 01.02.1996 as without lawful authority and ultra vires to the relevant provisions of the Constitution. The impugned departmental proceedings initiated against petitioners No.1 to 3 and the impugned orders dated 10.04.2010 whereby they were removed from service by respondent No.1 are also declared as illegal and without lawful authority. The respondents are directed to allow the petitioners all those benefits which have been extended to the employees of the Provincial Government. No order as to costs.

C.T.C
ATTESTED
(Signature)

Announced
29.02.2012

sd/ Attaullah Khan
sd/ Mian Farisul Mulk

(Handwritten signature)
5/3/12

CERTIFIED TO BE TRUE COPY
SP
5/3/12
Peshawar High Court
Authorised Under Rule 114
of the Court of Sessions Order 1964



(57) Annexure - 1

~~Annexure - 2~~

**GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT AND ADMN: DEPARTMENT
(CABINET WING)**

No.SOC(E&AD)9-17/Caretaker/2023.
Dated Peshawar the 03rd January, 2024

To
The Secretary to Govt. of Khyber Pakhtunkhwa
Elementary & Secondary Education Department.

**SUBJECT: MINUTES OF THE MEETING OF THE CARETAKER PROVINCIAL
CABINET (DECEMBER 11TH, 2023).**

Dear Sir,

I am directed to refer to the subject noted above and to forward herewith the following decision of the meeting of Caretaker Provincial Cabinet held on 11-12-2023 under the chairmanship of Caretaker Chief Minister, Khyber Pakhtunkhwa for implementation:

TABLE AGENDA ITEM NO. 01

Case No. 2023/17/NA01	PROVISION OF DECISION ON POLICE PUBLIC SCHOOL PESHAWAR
Presented By:	SECRETARY E&SE, KHYBER PAKHTUNKHWA

DISCUSSIONS:

Secretary Elementary & Secondary Education Department apprised the forum that in compliance to the judgment of Hon'ble Supreme Court of Pakistan, a committee under the Chairmanship of Secretary Home & T.A Department with representatives of Finance and Law Department was constituted to examine the case and provide a chance of personal hearing to the petitioners. The committee prepared its report after due examination of the available record and a patient hearing to the petitioners.

The recommendations of the committee were presented before the Provincial Cabinet with background, detail of litigants and final orders of the Hon'ble Supreme Court of Pakistan and proposals of the department. After detailed discussion, the Cabinet approved the recommendations of the committee. The implementation committee is of the opinion that the decision of Cabinet is restricted to the petitioners only, whereas the recommendation of the then Secretary Home & T.A Department now Additional Chief Secretary (Home) entail all such similar placed employees.

In order to cover all the similarly placed employees of Police Public School, the decision of the cabinet may be revised as under:

"The Cabinet unanimously approved recommendations of the committee constituted under the Home Secretary with the direction that Caretaker Minister for Education may constitute a committee comprising of representatives from Finance and Establishment Department which shall ensure oversight the expeditious implementation. It was further decided that this decision shall be restricted to the employees of Police Public School only as

C.T.C
ACCEPTED

(34)

one-time relief and will not be quoted as a precedent at any forum. Funds required in the implementation of the decision will be provided by the Finance Department"

After detailed discussion, the following decision was made unanimously.

DECISION:

The forum in light of recommendations of the committee headed by the then Secretary Home & T.As now Additional Chief Secretary (Home) approved revised minutes and extended the benefits to all those employees of Police Public School Peshawar who were appointed during the period 1989 to 2012.

Implementing Department: Elementary & Secondary Education

2. I am to request that an implementation report of the Cabinet decision as required under Rule 25 (2) of the Khyber Pakhtunkhwa Government Rules of Business, 1985 may kindly be furnished on top priority basis to the Cabinet Section, Administration Department.

Yours faithfully,

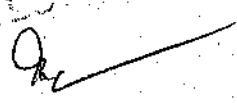

03/1/24.
Section Officer (Cabinet)

ENDST.NO. & DATE EVEN.

Copy to the :-

1. PS to Additional Chief Secretary (Home & Tribal Affairs) Department.
2. PS to Secretary Law, Parliamentary Affairs & Human Rights Department.
3. PS to Secretary Finance Department.
4. P.S to Secretary Administration Department.
5. PA to Additional Secretary (Cabinet) Administration Department.
6. PA to Deputy Secretary (Cabinet) Administration Department.


03/1/24.
Section Officer (Cabinet)

C.T.C
ATTESTED


WAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.
Service Appeal No. /2024.

Arshad Javed(Appellant)

VERSES

The Secretary & anothers. (Respondents)

I, The Appellant do hereby appoint, constitute and authorize

- ❖ Mr. Muhammad Saeed Khattak Advocate High Court Peshawar
- ❖ And Mr. Ikram Ul Haq Advocate High Court Peshawar,

In the above mentioned case to do all or any of the following acts, deeds and things:

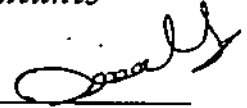
To appear/ plead and act for me/us in the case in reference as required by law/ matter

To sign, verify and file or withdraw all or any of the proceedings, petition, appeals, affidavits and applications for compromise submit the matter to arbitration for proper disposal of the case, submit or withdraw other documents, as may be deemed necessary or advisable by me/us for the conduct, prosecution or defense and further proceeding of the case at all its stages

To receive payment of and issue receipts for, all moneys that may be or become due and payable to me/us during the course of the proceedings and hereby agree that counsel mentioned above shall be entitled to withdraw from the prosecution/ conduct of the case if the whole or any part of the agreed fee remains unpaid. All acts and deeds so performed by my counsel shall be considered as acts and deed, performed by me/ us.

So I hereby sign the same after going through its contents, accepting the same and effective between us till it is cancelled or withdrawn by Counsel or us/ me.

Executants



Arshad Javed

CNIC No.

17301-7334861/7

Attested and accepted

Muhammad Saeed Khattak

And

Ikram Ul Haq
Advocates, High Court Peshawar.
And Federal Shari at Court of Pakistan.

0333 9931761