


FORM OF ORDER SHEET

Court of _____

Review Petition No. 1195/2024

| No. | Date of order proceedings | Order or other proceedings with signature of judge |
|-----|---------------------------|---|
| 1 | 2 | 3 |
| 1 | 16/10/2024 | <p>The Review Petition in appeal no. 897/2024 submitted today by Mr. Niz Muhammad Khan Advocate. It is fixed for hearing before Division Bench at Swat on 06.11.2024. Original file be requisitioned. Parcha Peshi is given to the counsel for the petitioner.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p> |

The review petition in appeal no. 897/2024 submitted to-day by Mr. Niaz Muhammad Khan Advocate is incomplete on the following score which is returned to the counsel for completion and resubmission within 15 days.

1- Attested copy of judgment is not attached with the petition.

No. 857 /Inst./2024/KPST,

Dt. 02/10 /2024.

Amatullah
ADDITIONAL REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Niaz Muhammad Khan Adv.,
High Court Dir Upper.

Sir,

*Resubmitted after necessary
completion.*

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

①

Review petition No. 1195 /2024

In

Appeal No. 897/2024

Irfan Ullah (PST) PST GPS Daskor Payeen BPS-12 District Dir Upper

VERSUS

1. The Director Elementary & Secondary Education Department
Khyber Pakhtunkhwa Peshawar.
2. District Education Officer Dir Upper.

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Petitioners

Irfan Ullah PST

GPS Daskor Payeen

(BPS-12) District Dir Upper

Through

Niaz Muhammad Khan
Advocate High Court

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

①

Review petition No. 1195 /2024

In

Appeal No. 897/2024

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 16248

Dated 02-10-2024

Irfan Ullah, (PST) PST GPS Daskor Payeen BPS-12 District Dir Upper

VERSUS

1. The Director Elementary & Secondary Education Department
Khyber Pakhtunkhwa Peshawar.
2. District Education Officer Dir Upper.

**REVIEW PETITION UNDER SECTION-114 CPC
1908 READ WITH RULE 27 OF THE Khyber
Pakhtunkhwa Service Tribunal Peshawar RULES
1974 TO THE EFFECT THAT THE JUDGMENT
DATED 03.09.2024 PASSED IN SERVICE
APPEAL NO. 897/2024 IS AGAINST THE
PRAYER OF THE SERVICE.**

On acceptance of instant revision petition
the judgment dated 03.09.2024 may please be
rectified in accordance to prayer appeal.

Any other relief not specified prayed for which
the appellant is entitled in the fact and
circumstances of the case may also be granted in
favor of the appellant.

②

RESPECTFULLY SHEWETH,

FACTS OF THE CASE

1. That the petitioner preferred service appeal No 897/2024 which has been allowed by Service Tribunal vide judgment dated 03.09.2024. (Copy is annexed herewith).
2. That the service has been allowed in term of reply of the respondent which is liable to be review of the following grounds:-

GROUND

- A. That the petitioners has filed the service appeal against the impugned Seniority dated 31.12.2022 whereby the seniority list of the appellant was been determined under basis of merit position and not of the basis of clause-9 of the terms and condition of regularization notification dated 21.03.2018 and sub section 2 of the Khyber Pakhtunkhwa employees of the E&SE Department requirement and the regularization Act 2017.
- B. That the Hon' able Tribunal relied upon the reply of the respondent and case decided only for the seniority of the PSTs and not for seniority from the year 2022 and also not with all constitutional back benefits of the appellant's from 1 upto 138 appellants. (List of the PST Teacher is attached).
- C. That on the same case the Judgment of the Hon' able Service Tribunal Khyber Pakhtunkhwa dated 16.02.2024 is attached.

(8)

D. That any other grounds adduced at the time of arguments with the prior permission of this Hon' able Tribunal.

It is, therefore, most humbly prayed that the judgment / order dated 03/09/2024 passed by this Hon'ble Tribunal may please be reviewed in terms of the definition of Clause of the Act and the respondent may please be directed to appoint the petitioners with all back benefits.

Dated 30.09.2024

10ms
Petitioners

Irfan Ullah PST

GPS Daskor Payeen

(BPS-12) District Dir Upper

Through

Niaz Muhammad Khan
Advocate High Court

AFFIDAVIT

I, Irfan Ullah (PST) PST GPS Daskto Payeen BPS-12 District Dir Upper do hereby affirm and declare on oath that the contents of this appeal is true and correct to the best of my knowledge and belief nothing has been concealed from this Hon'ble Service Tribunal.

Deponent *10/11/24*
[Signature]



(4)

Service Appeal No. 897/2024
Titled "Irfanullah-vs-Secretary Education, Kyber
Pakhtunkhwa, Peshawar and others"

ORDER
3rd Sept, 2024

KALIM ARSHAD KHAN, CHAIRMAN: Learned counsel for

the appellant present. Mr. Umair Azam, Additional Advocate General alongwith Syed Alamzeb Shah, ADEO for the respondents present.

02. There are 73 cases filed in the Tribunal. The instant appeal is ripe for arguments fixed before the Tribunal and other cases i.e.

appeal No. 1157/2024, 1158/2024, 1159/2024, 1160/2024,
1161/2024, 1162/2024, 1163/2024, 1164/2024, 1165/2024,
1166/2024, 1167/2024, 1168/2024, 1169/2024, 1170/2024,
1171/2024, 1172/2024, 1173/2024, 1174/2024, 1175/2024,
1176/2024, 1177/2024, 1178/2024, 1179/2024, 1180/2024,
1181/2024, 1182/2024, 1183/2024, 1184/2024, 1185/2024,
1186/2024, 1187/2024, 1188/2024, 1189/2024, 1190/2024,
1191/2024, 1290/2024, 1291/2024, 1292/2024, 1293/2024,
1294/2024, 1295/2024, 1296/2024, 1297/2024, 1298/2024,
1299/2024, 1300/2024, 1301/2024, 1302/2024, 1303/2024,
1304/2024, 1305/2024, 1306/2024, 1307/2024, 1308/2024,
1309/2024, 1310/2024, 1311/2024, 1312/2024, 1313/2024,
1314/2024, 1315/2024, 1316/2024, 1317/2024, 1318/2024,
1319/2024, 1320/2024, 1321/82024, 1322/2024, 1323/2024,
1324/2024, 1325/2024, 1326/2024 and 1327/2024 are fixed for
tomorrow in the preliminary hearing. Those cases are also

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15-10-24
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accelerated and are being decided alongwith this appeal today. The representative of the respondents namely Syed Alamzeb Shah, ADEO has produced copy of seniority list while learned Additional Advocate General preferred to paragraph-4 of the reply which is reproduced as under:

"Para-4 of the facts is incorrect, as per notification of worthy Director (E&SE) Department Khyber Pakhtunkhwa Peshawar directed all the DEOs vide order No. 4230-31/AD (Lit:II) dated 13.08.2024 stated that determination of seniority is intimated that seniority of the teacher who have been regularized under the Act, 2017 be determined in light of Section-4 (2) of the Act ibid in view of their continuous service from the date of appointment and if continuous service of two or more teacher is the same, the employee older in age shall rank senior to younger to younger on please. Moreover, it is pertinent to mention that the seniority of the appellant has been addressed in the aforementioned notification. The appellant has caused delays for both this honorable Tribunal and the department. Consequently, the appellants name has been included into the seniority list and will be consider for promotion based on seniority-cum-fitness in the forthcoming (DPC) proceedings. For the purposes of record and reference, the Notification attached to this documents as Annexure 'A' and the Seniority list is attached to this documents as Annexure 'B', which shall be deemed to be an integral part of this document."

03. When confronted with the above situation, learned counsel for the appellant says that during pendency of these appeals, grievances of the appellants have been redressed i.e of seniority, however, the representative of the respondents has also stated at the bar that the appellants will be promoted in accordance with

ATTESTED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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law and rules and in accordance with their seniority. Disposed of accordingly. Costs shall follow the event. Consign.

04. Pronounced in open court at camp court Swat and given under our hand and seal of the Tribunal on this 3rd day of September, 2024.

(Rashida Bano)
Member(Judicial)
Camp Court Swat

(Kalim Arshad Khan)
Chairman
Camp Court Swat

Adnan Shah, P.A.

Certified to the above copy

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Service Tribunal
Peshawar

15-10-24

(124)

15-10-24

Zarshad
3-9
157-
51-
21-
Zarshad
15-10-24
15-10-24

| | |
|----------------------------|----------------------------|
| بار کونسل نمبر _____ | سیریل نمبر 1117 |
| بار ایسوسی ایشن نمبر _____ | |
| رابطہ نمبر 03119042870 | |
| | تخصیص بار ایسوسی ایشن واڑی |

| | |
|--------------------------|----------------|
| بعدالت جناب _____ | |
| مخاطب: ایسوسی ایشن _____ | دعویٰ درخواست: |
| | علت نمبر: |
| | موردہ: |
| | جرم: |
| | تھانہ: |

باعث تحریر آنکھ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے برائے پیروی مقدمہ

آن مقام سار کیلئے سباز چھپانے کو مقررہ لکھنؤ کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کو کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث کرنے، دعویٰ جواب، اقبال و دعویٰ اور درخواست برائے سرسبزگی مقدمہ، منسوخی ڈگری یکطرفہ اجراء پیروی کرنے کا اختیار ہوگا، نیز وائیر کرنے اپیل نگرانی نظر ثانی و پیروی کرنے کا مختار ہوگا۔ اور مقدمہ مذکورہ کیلئے کل وقتی یا جزوی کارروائی کیلئے کسی وکیل یا مختار قانون دان کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کی ججے مذکورہ اختیارات حاصل ہوں گے۔ اور ان کا ساتھ پر واختہ منظور قبول ہوگا، بدوران مقدمہ جو خرچہ و ہر خانہ کسی بھی سبب سے حاصل ہوگا۔ وہ وکیل ہی کے ذریعے وصول کرنے کا حقدار ہوگا، کوئی تاریخ پیشی مقام مذکورہ بالا سے باہر ہو تو وکیل صاحب پیروی مقدمہ کے پابند ہو گے مقدمہ کسی عدالت میں بعدم پیروی خارج ہونے یا ڈگری یکطرفہ ہونے کی صورت میں وکیل صاحب ذمہ دار نہیں ہوں گے۔

مقام _____ کے لئے منظور ہے

المرقوم 20-09-2024 ایڈوکیٹ ادھنیا