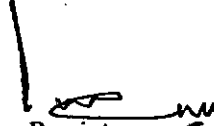


The appeal of Mr. Muhammad Farooq received to-day i.e. on 29.01.2021 by registered post which is returned to the counsel for the appellant with the direction to submit Two more copies/sets of the appeal along with annexures i.e. complete in all respect within 15 days in file covers.

No. 230 /S.T,


Dt. 01/02 /2021


Registrar
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Mr. Masood-ur-Rehman Advocate,
High Court Bannu.

R/sir,

After removal of office
objection case is submitted
over again.


10-2-21

7

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Service Appeal No. _____/2021.

Muhammad Farooq Khan

...(Appellant)

Versus.

Government of Khyber Pakhtunkhwa through Secretary Education Khyber Pakhtunkhwa Civil Secretariat Peshawar and others.

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Dated: 27/1/21

Appellant

Muhammad Farooq Khan

Through,

**Masood Ur Rehman Wazir
Advocate, High Court, Bannu**

1

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No. 2814 /2021.

Diary No. 1706
Dated 29/01/2021

Muhammad Farooq Khan S/O Muhammad Ayaz PST Teacher posted at
GPS Nekum Kakki Tehsil & District Bannu.

...(Appellant)

Versus.

1. Government of Khyber Pakhtunkhwa through Secretary Education Khyber Pakhtunkhwa Civil Secretariat Peshawar.
2. Director Education Khyber Pakhtunkhwa Peshawar.
3. District Education Officer Male Bannu.
4. District Account Officer Bannu.
5. Farooq Khan S/O Muhammad Arif PTC Teacher R/O Sabo Khel Mandan Bannu.

.....Respondents / defendants

SERVICE APPEAL U/S 4 OF KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT 1974 FOR GRANT OF SENIORITY/ARREAR OF PAY
AND OTHER BACK BENEFITS W.E.F 30/05/2000 TO 09/08/2019
WHICH IS GRATED TO RESPONDENTS NO.5 ALONGWITH ABOVE
HUNDRED OTHER CANDIDATES WHO ARE APPOINTED THROUGH
COURTS ORDER FROM 25% QUOTA A.I.O.U 1999 QUOTA AND
DENIED TO PETITIONER WHICH IS DISCRIMINATORY AND
VIOLATION OF ARTICLE 25 OF CONSTITUTION OF ISLAMIC
REPUBLIC OF PAKISTAN 1973.

Filed to-day
ew
Registrar
29/01/2021

PRAYER: ON ACCEPTANCE OF INSTANT SERVICE APPEAL AND
GRANTING SENIORITY ARREAR OF PAY AND OTHER
BACK BENEFITS WHICH IS GRANTED TO RESPONDENTS
NO.5 ALONGWITH ABOVE HUNDRED OTHER PST
TEACHERS APPOINTED FROM 25% QUOTA A.I.O.U
1999 AND OTHER PST TEACHERS FROM 30/05/2000
TILL THEIR APPOINTMENT ORDER WHO ARE
STANDING ON SAME FOOTING HENCE PETITIONER

Re-submitted to -day
and filed.

ew
Registrar
15/2/2021

2

**MAY BE GRANTED SENIORITY ARREAR OF PAY AND
OTHER BACK BENEFIT.**

RESPECTFULLY SHEWETH:

- 1) That, respondent No.1 to 4 issue advertisement for appointment of PTC teacher' on dated 07/02/1999.
(Copy of advertisement as annexure "A)
- 2) That, on response appellant submitted application for appointment appeared in test and interview and denied appointment on the soul ground that he has got PTC certificate from Ilama Iqbal Open University Islamabad.
- 3) That, the august Supreme Court of Pakistan in C.A No. 1904, 1906, 1907 of 2000 decided that all certificates are equal hence in 2004 in writ petition No.75/2004 titled Shaukat Ullah VS Provincial Government 25% quota is allocated to those candidate who are denied from appointment in 1999. **(Copy of writ petition is annexure as "B")**
- 4) That on dated 09/08/2019 Petitioner is appointed as PTC teacher on direction of Court from 25% denied candidate quota and upto High Court Judgment is maintained. **(Copies of Court order and appointment order are annexed as C & D)**
- 5) That respondent No. 5 along with other hundred PTC teachers who are appointed on denied 25% quota were given seniority arrear of pay and other back benefits on the direction of Honourable Peshawar High Court Bench Bannu and writ petition No. 242-B/2014 and writ petition No.543A/2012 titled Baber Ilahi vs Govt of KPK & other decide by Peshawar High Court Abbottabad Bench. **(Copy of the Judgment of PHC Bannu Bench is annexed as E)**

3

6) That petitioner made departmental appeal on dated 09/06/2020 to the respondent No.1 but till date not decided hence approach this Honourable Service Tribunal enter alia the following grounds. **(Copies of service appeal & registry receipt are annexed as F & G)**

GROUND:

- A) That, petitioner is not treated according to law, rules and regulations and as per Judgment deliver by the Peshawar High Court Bannu Bench and Abbottabad Bench and it is well established principle of law that once question of law is decide a competent forum then its benefits will be also extended to those Civil Servant who are not before the Court (2009 SCMR page 1).
- B) That, respondents made discrimination to giving back benefits seniority arrears to respondents No.5 along with hundred others while refusing to appellant which is against norms of good administration.
- C) That, when from same merit list interview list giving back benefit of service from 2000 while refusing to appellant is against article 25 of the Constitution of Islamic Republic of Pakistan 1973 and against legitimate expectation, good governance.
- D) That, every monthly pay giving fresh cause of action to the petitioner hence petitioner is entitled to claim seniority along with other benefits granted to others appointees of 25% quota while refusing to appellant so coming in the ambit of term & condition of civil servant hence this tribunal has got the jurisdiction and appeal of the appellant is with in time.
- E) That, appellant is victim of the discriminatory treatment and it is the for most duty of the Court/Tribunal to save the citizen/employees from discriminatory treatment and decide the fundamental

4

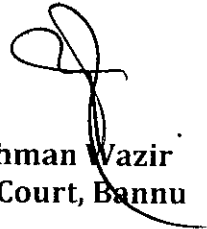
rights granted by the Constitution of Islamic Republic of Pakistan 1973 which is coming in the ambit of this Honourable Tribunal.

It is, therefore, humbly prayed that on acceptance of instant service appeal and appellant may granted seniority, arrear of pay and other back benefits from 30/05/2000 till 09/08/2019 which is granted to respondents and other PST teachers from 30/05/2000 till appointment order who are standing on same footing as appellant.

Dated:

Appellant 

Muhammad Farooq Khan

Through, 

Masood Ur Rehman Wazir
Advocate, High Court, Bannu

5

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Service Appeal No. _____/2021.

Muhammad Farooq Khan

...(**Appellant**)

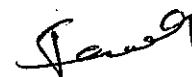
Versus.

**Government of Khyber Pakhtunkhwa through Secretary Education Khyber
Pakhtunkhwa Civil Secretariat Peshawar and others.**

Affidavit

I Muhammad Farooq Khan S/O Muhammad Ayaz PST Teacher posted at GPS Nekum Kakki Tehsil & District Bannu, do hereby solemnly affirm and declare that the contents of the above noted appeal are true correct and noting has been kept secret or concealed from this Honourable Court.


Mehrez Khan Wazir
Oath Commissioner
Bannu

Deponent 
Muhammad Farooq Khan


29/1/21

6

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Service Appeal No. _____/2021.

Memo of addresses.

**Muhammad Farooq Khan S/O Muhammad Ayaz PST Teacher posted at
GPS Nekum Kakki Tehsil & District Bannu.**

...(Appellant)


Versus.

- 1. Government of Khyber Pakhtunkhwa through Secretary Education
Khyber Pakhtunkhwa Civil Secretariat Peshawar.**
- 2. Director Education Khyber Pakhtunkhwa Peshawar.**
- 3. District Education Officer Male Bannu.**
- 4. District Account Officer Bannu.**
- 5. Farooq Khan S/O Muhammad Arif PTC Teacher R/O Sabo Khel
Mandan Bannu.**

.....Respondents / defendants

Dated: 27/1/21

Appellant



Muhammad Farooq Khan

Through,

**Masood Ur Rehman Wazir
Advocate, High Court, Bannu**

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2003

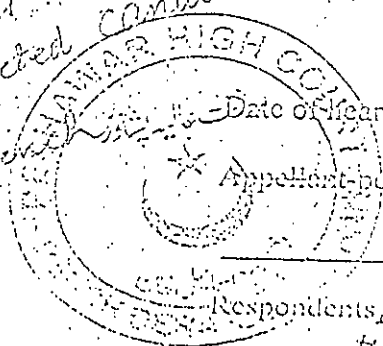
JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT, DILKHAH BENCH.
(JUDICIAL DEPARTMENT)

25% Quota

to affected candidates
Dilkhah Bench

No. 75 of 2003

JUDGMENT



Date of hearing: 28-4-2004

Appellant-petitioner: (Shaukatullah + others) by S. Rafiq Akbar
Advocate

Respondents: Govt. of NWFP by Muhammad Shauq
through Secretary Primary Education D.P. of Govt.
Education by M. Farid Nawaz Khan E.D.O.

0-3

TARIO PARVEZ KHAN, J.- By this common judgment

we intend to dispose of Writ Petitions No.75/03, 120/03 and 43/04 as all the petitioners in the three petitions are holder of Primary Teaching Certificate but from Allama Iqbal Open University.

They all applied for their appointment in the Education Department but were denied the appointment on the basis of a policy then prevalent i.e. if there shall be available vacancies of PTC teachers, the Education Department shall advertise it. 25% shall be filled on District wise basis and 75% on the basis of Union Council/batch wise. It was further subjected to those candidates who have qualified/obtained their Primary Teaching Certificate from Government Elementary Schools/College/Institutions shall get preference over candidates who have similar qualification i.e from Allama Iqbal Open University.

ATTESTED

EXAMINER
Peshawar High Court
Dilkhah Bench
26/10/11

ATTESTED

EXAMINER
Peshawar High Court
Dilkhah Bench

they are

2. At some stage in our Province difference of opinion arose between the two Benches of equal jurisdiction, therefore matter was placed before a Full Bench of this court in Writ Petition No. 374/98 (Barber Elahi and others Vs. Director of Education Primary Schools NWFP Peshawar and others). The Full Bench on 20.5.2000 held that certificate obtained from Government Institutions and the one obtained from Allama Iqbal Open University should be taken not only equal but at par and if the then policy of the Government was allowed to continue was held to be discriminatory.

3. The Government dissatisfied from the Full Bench judgment of this court filed petition before august Supreme Court of Pakistan as well as certain private individuals and the august Supreme Court upheld the decision of this court vide judgment dated 28.5.2002 and in para 7 of its judgment observed as under:-

"In most of the appeals, learned counsel stated at the Bar that the appellants/respondents were duly selected by the relevant Selection Committees of the Government on merits but their appointments have been withheld on account of order of status quo passed by this Court while granting leave to appeal on 17.8.2000. Since these appeals are being finally disposed of, such selectees subject to academic qualifications shall be immediately appointed to their respective posts as, prima facie, there is no other imbargo in their way. We are informed at the Bar that a large number of vacancies of PTC Teachers exist at the moment. Such of the appellants who were non-suited in C.A. No.1910 of 2000 shall be sympathetically considered for appointment in the first instance and, if they are

ATTESTED

EXAMINER

Peshawar High Court
D.K. Bench

ATTESTED

EXAMINER
Peshawar High Court

otherwise qualified and suitable for the job, they must be given preference over new entrants. In case some of the affected appellants/respondents are over-age by passage of time, Provincial Government shall consider their case with utmost compassion and fairness by relaxing upper age limit. Needless to urge that technicalities should not thwart the course of justice, as legal procedures are essentially meant to regulate the proceedings and to advance the cause of justice rather than to frustrate the ends of justice."

CTC

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14-3-10

4. We have heard learned counsel for the petitioners and learned Deputy Advocate General who is appearing alongwith Mr. Farid Nawaz EDO Bannu.

The latter informs that notwithstanding judgment of Full Bench of this Court and the august Supreme Court of Pakistan but now policy for appointment to the post of PTC Teacher has been changed by the Provincial Government and batch wise appointment/consideration has been omitted, thus the petitioners if at all would like to be appointed as PTC Teachers shall compete on open merit.

5. We doubt that the contentions raised by learned counsel for the respondents, when seen on the touchstone of justice and when applied to the case of the petitioners, would be tenable.

Present policy apart, the petitioners who were similarly placed as were the petitioners before Full Bench of this court and the parties before august Supreme Court of Pakistan could not be discriminated nor denied any advantage merely on the ground that they did not approach the High Court or the

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ATTESTED

EXAMINER
Bachawal High Court

ATTESTED

EXAMINER
Bachawal High Court
Bannu District

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Supreme Court at that stage when other petitioners were knocking the door of the courts for seeking redress.

6. The purpose of our reproducing para 7 of the judgment of the august Supreme Court is to get support that where the petitioners were discriminated against candidates holding certificate from Government Elementary Institutions and when such discrimination was set aside by the High Court and by the august Supreme Court, their non-consideration in the first instance on the basis of the then prevalent policy was not legal and if it was not legal they shall be having a legal right to ask for their appointment.

C.T.C
J

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J

14-3-12

7. Whether in the given scenario petitioners have got an outright right of appointment? We doubt it cannot be answered in affirmative. However, respondents are directed that the petitioners if apply against the vacancies of PTC Teachers they shall be given their own merit position as against new entrants keeping in view the fact that at the time they first appeared they were to be considered on batch wise basis with other candidates of the same batch.

C.T.C
J

Now, as the policy of appointment on batch wise basis has been done away with we, therefore, while allowing these writ petitions direct the respondents that since refusal meted out to the petitioners has been tested by the august Supreme Court of Pakistan and Full Bench of this court whereby they have been held to be at par with candidates holding certificates from Government institutions, respondents-Government shall henceforth adopt the procedure that whenever the vacancies of PTC Teachers occurred they shall be accordingly notified. The

ATTESTED

EXAMINOR
Sindh High Court
Khyber Bench

26/10/11

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petitioners or any other candidates similar to the case of the
petitioners shall be allocated 25% seats of the available
vacancies. 75% vacancies shall go to the new entrant. This
25% is for those who were denied because of holding
certificate from Allama Iqbal Open University and such 25%
would be filled amongst them but on the basis of their own
merit separately prepared.

C.T.C
J

8. By the time that all the candidates like petitioners and
similarly placed persons are adjusted but on merit, those found
fit on merit if because of earlier denial to their appointment by
the Government, the Government shall relax age as
permissible under the law. With these recommendations we
allow these three writ petitions but with no order as to costs.

INAMULLAH
CIVIL Judge-XIII
Bannu
14-3-04

Announced:
28.04.2004.

s/- Tariq Parvez Khan - J
s/- Ejaz-ul-Hussain Shabir - J

Qaseem

28/4

ATTESTED
EXAMINOR
Peshawar High Court
Q. Khan Bannu

26/10/11

Attest. Registrar

ATTESTED
EXAMINOR
Peshawar High Court
Q. Khan Bannu

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Ameed E 13

THE COURT OF MUHAMMAD NASIM, DISTRICT JUDGE,
BANNU

Civil Appeal No. 96 / 13 of 2019

Date of Institution: 21-02-2019

Date of Decision: 09-05-2019

Muhammad Farooq Khan S/O Muhammad Ayaz Khan R/O Kotka
Saleh Khan Kakki, Tehsil & District Bannu..... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Education
Peshawar & another.... (Respondents)

JUDGMENT

1. This appeal calls into question order & judgment dated 31.01.2019 of learned Civil Judge-VI, Bannu vide which the suit instituted by the appellant against the respondents, seeking declaration that the respondents were bound to appoint the appellant as a PTC Teacher, was dismissed.

2. The facts in brief are that the respondents advertised certain posts for PTC Teachers in 1999. The appellant alongwith others applied for the same. However, a discrimination was made between the candidates on the basis of educational testimonials, those having PTC Certificate from Government institutions were given preference over the appellant and such other candidates who had obtained their PTC Certificates from Allama Iqbal Open University. After certain

Muhammad Farooq Khan Vs Secretary Education & another
(Civil Appeal No.96/13 of 2019)

25 DEC 2019

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Geography Department
District Court Bannu

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litigation, the matter was finally resolved by the august Supreme Court of Pakistan vide judgment dated 28.05.2002 in CA No.10 of 2000 and it was held that:

"since all the educational institutions situated within the country are duly recognized by the University Grants Commission and their certificates and diplomas are given equivalence by the said commission, there is no warrant for discriminating the candidates qualifying from institutions other than Elementary PTC Colleges managed & controlled by the Government of NWFP."

3. In sequence to the above judgment of the august Supreme Court of Pakistan, the Hon'ble Peshawar High Court D.I.Khan Bench while disposing of certain cases of such discriminated candidates, held the following in its judgment dated 28.04.2004 in WP No.75 of 2003:

"Now as the policy of appointment on batch wise basis has been done away with, we, therefore, while allowing these writ petitions direct the respondents that since refusal meted out to the petitioners has been tested by the august Supreme Court of Pakistan and Full Bench of this court whereby they have been held to be at par with candidates holding certificates from Government institutions, respondents-Government shall henceforth adopt the procedure that whenever the vacancies of PTC teachers occurred they shall be accordingly notified. The petitioners or any other candidates similar to the case of the petitioners shall be allocated 25% seats of the available

(10)

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vacancies. 75% vacancies shall go the new entrant. This 25% is for those who were denied because of holding certificates from Allama Iqbal Open University and such 25% would be filled amongst them, but on the basis of their own merit separately prepared."

4. In response to the above and certain other judgments of the courts on the same subject matter, different individuals affected by the recruitment conducted by the respondents in 1999, were appointed subsequently. The appellant claiming to be one of such affected candidates approached the respondents for his appointment, but was denied any relief. The appellant then instituted the above mentioned suit claiming that during the appointment procedure conducted in 1999, he was not appointed, which was in violation of the above mentioned judgments of the Supreme Court of Pakistan and Peshawar High Court D.I.Khan Bench. The appellant further claimed that certain other candidates who were below in merit to him and certain such candidates who were not even affected, were appointed by the respondents.

5. The respondents contested the suit by filing written statement wherein they took the defence that in the light of judgments of the superior courts a quota of 25% was fixed for the affected candidates of 1999 and a list of such candidates was prepared, but the appellant did not fall in the said list having lesser score. It was further taken as a ground that since appointments were made on batch wise / sessions

Muhammad Farooq Khan Vs Secretary Education & another
(Civil Appeal No.96/13 of 2019)

ATTESTED

Page 3 of 7

23 DEC 2020

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Lower Courts Bannu

(11) 16
wise basis with the latest session of 1995-96; that the appellant not belonging to the session of 1995-96 had no right to be appointed. It was further claimed that the appellant was not amongst the denied persons.

6. The learned trial court in the light of pleadings of the parties framed the following issues:

- i. Whether the plaintiff has got a cause of action?
- ii. Whether the plaintiff has not come to the court with clean hands?
- iii. Whether the court has got the jurisdiction?
- iv. Whether the suit is bad for misjoinder and non-joinder of the parties?
- v. Whether the defendants have recruited/appointed candidates having low score from the plaintiff on the basis of 25% quota in the light of judgment of High Court? If so, its effects.
- vi. Whether the plaintiff has a low score and he is not the affectee of 1999, therefore he is not entitled to appointed?
- vii. Whether plaintiff is entitled to the decree as prayed for?
- viii. Relief.

7. The learned trial court after recording evidence of both the sides, and hearing the parties decided issue No 2 ,3 & 4 against the respondents. While deciding issues No.5 & 6 the learned trial court held that in the inquiry conducted upon the order of Honourable Peshawar High Court Bannu Bench, the appellant was not

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recommended as a denied candidate of 1999; that the appellant did not challenge the said inquiry finding before any forum. The learned trial court therefore held that being not an affectee of 1999 the appellant was not entitled to be appointed to the post of PST Teacher on the basis of 25% reserve quota.

8. The learned trial court also held that one Farid Khan of 1995 Session with a score of 45.37 was appointed and therefore, only those candidates having higher score than 45.37 and the degree of Allam Iqbal University, were the denied candidates. The learned trial court, therefore, proceeded to dismiss the suit of the appellant vide the impugned judgment & order.

9. The learned counsel for the appellant argued that the learned trial court did not properly appreciate the evidence produced by the appellant; that the judgment of Honourable Peshawar High Court Bannu Bench as relied by the learned trial court, was not maintained by the august Supreme Court of Pakistan vide its order dated 24.03.2016 in Appeal No.18/2016 titled "Gul Marjan etc Vs Govt. of KPK". The learned counsel contended that it was proved on record that candidate with lesser score than the appellant, and belonging to the later sessions than the appellant, were appointed by the respondents.

10. The learned District Attorney argued that the appointments of the candidates, as agitated by the appellant, were in fact made on the orders of the courts and no discrimination was made with the

Muhammad Farooq Khan Vs Secretary Education & another
(Civil Appeal No.96/13 of 2019)

ESTED
23 DEC 2020 Page 5 of 7

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Peshawar

(23) 18
appellant; that the appellant being not falling under the category of denied candidate was rightly non-suited by the learned trial court.

11. I have heard the learned counsel for both the parties.

12. It is to be seen that judgment of the Honourable Peshawar High Court Bannu Bench, as relied by the learned trial court for dismissing the suit of the appellant, was not maintained by the august Supreme court of Pakistan vide orders mentioned above.

13. As regards the subtlety of the appellant for his appointment as PST teacher, it appears from Ex: PW-1/1 that the appellant did his Primary Teaching Certificate Exam (PTC) in 1995, so the objection raised in the written statement that the appellant did not belong to session of 1995, is without any substance. According to the interview list Ex: PW-1/2 the appellant had scored a total score of 41.45 and was placed at serial No. 143.

14. The respondents in their written statement had stated that there are only two vacancies for the Union Council Kakki and two candidates namely Farid Khan of 1995 with score 45.37 and Tariq Aziz of 1996 Session with a score of 55.79 were appointed. If this the correct position then the appellant belonging to the Session of 1995 with a score of 41.45 was second in merit to the person of Farid Khan for the vacancies of Union Council Kakki and thus entitled to be appointed as such.

15. In the circumstance that the learned trial court while deciding Issues No. 5 & 6 could not rightly appreciate the evidence available

Muhammad Farooq Khan Vs Secretary Education & another
(Civil Appeal No.96/13 of 2019)

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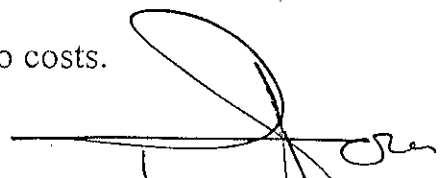
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on the record and therefore, the findings recorded by the learned trial court are not maintainable.

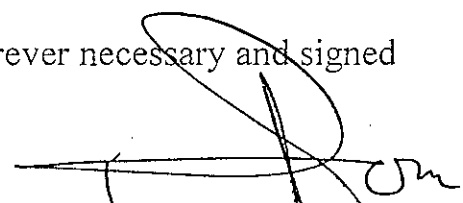
16. In view of the above, the findings of the learned trial court on the issues No. 5 & 6 are reversed. It is further held that the appellant has got a cause of action and he is entitled for the decree as prayed for. The appeal is, therefore, allowed by setting aside the impugned judgment & order of the learned trial court. Suit of the appellant is decreed as prayed for with no orders as to costs.

Announced
09.05.2019


MUHAMMAD NASIM
District Judge, Bannu

CERTIFICATE

Certified that this judgment consists of Seven (07) pages. Each page has been read, checked, corrected wherever necessary and signed by me.


MUHAMMAD NASIM
District Judge, Bannu

1- Registration No: 6818

2- Date of Presentation of Application: 23/12/20

3- Date of Receipt of the file: 23/12/20

4- Date of Preparation of copy: 23/12/20

5- Date of Delivery of copy: 23/12/20

6- No: of copies / words: 91

7- Ordinary Fee: 18/-

8- Urgent Fee: 18/-

9- Total Fee: 36/-

10- Signature of Copyist: _____

ATTESTED
23 DEC 2020
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Bannu Courts Bannu



OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) BANNU

Outside Miryan Gale Bannu, Khyber Pakhtunkhwa, Pakistan

Email: bannuedu@yahoo.com

Phone: & Fax: 0928-660005

20



APPOINTMENT ORDER.

In light of minutes of the meeting held on 19/07/2019 in connection with implementation of the judgment dated 09-05-2019 of Learned District Judge Bannu and consequent upon the recommendation of the Departmental Recruitment Committee in presence of execution proceedings before the CJ IV, the undersigned is pleased to issue appointment order in respect of the below mentioned candidate on conditional basis as Civil Revision is pending adjudication, in the light of ibid judgment against the vacant post of PST B-12 plus usual allowances as admissible under the rules in the best interest of public service with immediate effect or from the date of taking over charge, subject to the terms & conditions given below.

S.NO	Name & Father's Name	Union Council	Place of Posting	BPS	Remarks
1.	Muhammad Farooq Khan S/O Muhammad Ayaz Khan R/O Salih Khan Kakki	Kakki	GPS Khairullah	12	A.V Post
2.	Muhammad Israr Khan S/O Rais Khan R'O Kakki Khass	Kakki	PS Nekum kakki	12	A.V Post

Terms & Conditions:

1. The appointment order will be effective w.e.f 01-09-2019 after summer vacation.
2. That Civil Revision has been pending since 18-03-2019 in the court of Additional Registrar and after acceptance/proceedings the appointment order of the petitioner shall be reconsidered in the light of decision.
3. His /Their services will be liable to termination on one month's notice from either side, in case of resignation without notice his one month's pay & allowances shall be forfeited in favour of Govt:
4. His/their services can be terminated at any time; in case his performance is found unsatisfactory during probationary period. In case of misconduct he will be proceeded under E&D Rules 2011 & the rules framed from time to time.
5. The decree holders have no need of relaxation of upper age as they were within age at the time of submission of application.
6. In case of any fake document certificates, Domicile, NIC or any other mistake in the said appointment order detected later on, the undersigned reserves the right of amendment in the appointment order accordingly.
7. In case the candidate has provided fake/fabricated documents information then his order will be withdrawn from the date of issue, he will have to deposit all the salaries in favor of Govt.
8. His degrees/certificates and testimonials will be verified by this office, however if verification charges are involved then the appointee concerned will bear himself.
9. He will produce Health & Fitness certificates from MS DHQ Hospital Bannu before taking over charge.
10. Seniority will be reckoned from the date of appointment.
11. The Drawing & Disbursing Officer concerned should check their original documents before taking over charge and also pay the monthly salary to original person/ concerned Govt: Servant each month otherwise he will be responsible for any wrong drawl.
12. If the above terms and conditions are accepted to him then he should join the post and submit their charge report within 15 days positively.
13. NO TA/DA is admissible.

M. Aman Khan

---sd---
District Education Officer
(Male) Bannu
SDEO Circle
Bannu
Dated: Bannu the, 09/08/2019

Endst. No: 11528-36/AE-I (M) Pny

Copy for information to the:

1. Registrar Peshawar High Court Bannu Bench.
2. Director, Elementary & Secondary Education KPK Peshawar.
3. Civil Judge NO.XI Bannu.
4. Deputy Commissioner Bannu.
5. District Accounts Officer, Bannu.
6. SDEO(M) Bannu with the remarks that his pay shall be released by the undersigned after due course of procedure.
7. District Attorney Bannu.
8. Teacher Concerned.
9. Office copy

M. Aman Khan
09.08.19

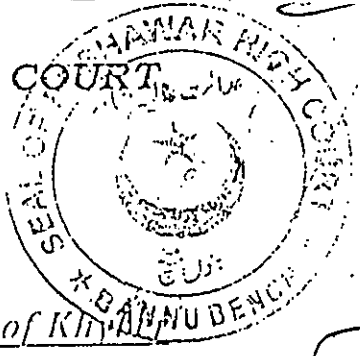
District Education Officer
(Male) Bannu

21



Ameq E

JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT
BANNU BENCH.
(Judicial Department)



W.P No. 242-B of 2014

Farooq Khan etc Vs Government of Khy

Pakhtunkhwa etc

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JUDGMENT

Date of hearing 04/04/2016

Appellant-Petitioner Farooq Khan and others By

Pir Muhammadullah Shah Adv.

Respondent Secretary and others By Qudusullah

Khan Grandpaw Asst. A.S. s/o. Farzand Ali Kupelt.

HAIDER ALI KHAN J.- Farooq Khan and 16 others
petitioners seek constitutional jurisdiction of this Court praying
that :

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"On acceptance of instant Writ
petition, this honourable court
may very graciously be directed
the respondents to verify the
service books of petitioners
since 2000 and may also
granted arrears/salaries since
30/05/2000 till 2003"

ATTESTED
EXAMINER
Peshawar High Court
Bannu Bench

22

Brief facts giving rise to the instant Writ petition are that initially some posts of Primary School teachers (PST) were advertised on 07/02/1999 in the Daily News paper by the District Education Officer (M), Bannu (respondent No.4), to which the petitioners had also applied being eligible and qualified for the said posts of PST having certificates of Primary School teachers from Allama Iqbal Open University Islamabad; that after qualifying the test and interview, merit list was prepared and those who were having Primary teaching certificates (PTC) from Elementary Colleges were appointed while the petitioners were not considered by the respondents at par with P.T.C teachers, having certificates from Government Elementary Colleges; that the petitioners approached the Peshawar High Court D.I.Khan Bench against such like discrimination vide Writ petition No.79/1999 which was allowed on 30/05/2000 by treating the petitioners at par with others while appointment orders of those who were appointed in pursuance of advertisement dated 07/02/1999, having certificates of P.S.T from Government Elementary Colleges, were also declared illegal, void ab-initio and having no sanctity in the eyes of law; that the said decision of Peshawar High court, D.I.Khan Bench was challenged by said appointed candidates before the august Supreme court of Pakistan in C.A No.1904 of 2000, CA No.1906 of 2000 and C.A No. 1907 of 2000 which were decided in their favour on 28/05/2002 and in compliance of that order, appointment orders

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ATTESTED
 EXAMINER
 Peshawar High Court
 Bannu

of the petitioners were issued. Relevant portion of said order dated 01/07/2002, issued by Executive District Officer, Literacy and Education, Bannu is reproduced herein below:-

"His arrear/appointment will be considered with effect from 30.05.2000 as per the decision/judgment of the Hon'ble Peshawar High Court, DIKhan Bench (announced on 30/05/2000), but their pay will be drawn with effect from taking over charge, i.e 01/09/200".

4) The petitioners time and again requested the respondents to verify the service books of petitioners since 2000 and they may also be granted arrears/salaries since 30/05/2000 till 2003" but invain, hence the instant Writ petition.

3. The comments were invited from the concerned respondents, which were submitted accordingly, wherein prayer for dismissal of instant Writ petition has been made.

4. We have heard valuable arguments of the learned counsel for the parties and gone through the record appended with the petition.

5. Learned counsel" for petitioner argued that respondents refused to verify the service books of petitioners since 2000 and to grant arrears/salaries since 30/05/2000 till 2003" with malafide and without any justification. He relied on

APPEALS
PESHAWAR HIGH COURT
BANNU BENCH

judgment delivered by this court in WP No.62 of 2008 on 10/05/2011.

6. From perusal of the record, it appears that the appointment orders of the petitioners were outcome of the judgment of the Peshawar High court and in this respect, petitioners have faced the ordeal of lengthy litigation upto the august Supreme Court of Pakistan and after their appointment orders, their service books were issued and entries were also made therein. Admittedly grievances of petitioners stand redressed except verification of service books of petitioners, while in similar circumstances Abbot Abad Bench of this Court has allowed the following Writ petitions whereby the petitioners of those petitions were held entitled for their arrears/back benefits. The act of the respondents was also declared against the constitution:-

"WP No.543-A/2012, titled Babar Illahi & others VS Government of Khyber Pakhtunkhwa etc decided on 29/03/2011 as well as Writ petition No.62/2008 of 2008, titled Muhammad Saeed & others Vs Government of Khyber Pakhtunkhwa, etc, decided on 10/05/2011"

7. Thus it is very much clear that it is incumbent upon the respondents to consider and to verify their respective service books from the date of their appointment and similarly their

ATTESTED

EXAMINER
Peshawar High Court

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salaries need to be fixed right from their dates of appointment and are also entitled for their arrears and salaries.

8. In light of the above, coupled with the judgments of this court as well as august Supreme Court of Pakistan, this writ is allowed and respondents are directed to verify the service books of petitioners in accordance with law.

Announced:
Dt. 04/04/2016

Sd/- Muhammad Ghazwan Khan, J
Sd/- Haidar Ali Khan, J

CERTIFIED TO BE TRUE COPY
09/05/16
Examiner
Peshawar High Court Bench
Authorised Under Article 51 of
The Punjab Local Government Order 1984

Azmat Awan

(183) (26)

AN JUDGMENT SHEET

IN THE PESHAWAR HIGH COURT,
ABBOTTABAD BENCH.

JUDICIAL DEPARTMENT

W.P No. 543-A of 2012

Handwritten initials and marks: "A", "CIC", and a large flourish.

JUDGMENT

Date of hearing 13-06-2013.

Appellant(s)/Petitioner (s) Babar Elahi and three others by Mrs. Rahela original advocate

Respondent (s) Govt. K.P.H Etc by A.A. Khan original advocate



MRS. IRSHAD QAISER, J:-

Babar Elahi and three

other petitioners seek the Constitutional jurisdiction of this Court praying that;

“The act of respondents for nonpayment of their arrears/salary from the year 2000 to 2003 may kindly be declared illegal, unlawful, without lawful authority, malafide, against the natural justice, capricious, corum non judice, and respondents be kindly directed to release the salary/arrears of the petitioners form the year 10.04.2000 to 28.04.2003 with immediate effect.”

2. As per contents of the petition, petitioners filed writ petition No.205/2011 for declaration to verify the service of the petitioners with effect from 10.04.2000 to 2003. That on 29.03.2011, this Court directed the respondents to verify their service books according to law. That on 15.05.2012 TDO (respondent No4) issued order vide Endst No.5427-35 dated 15.05.2012 vide which the

Certified to be True Copy
26.6.13
Peshawar High Court
Abbottabad Bench
Authorized Under Sec 25 Acts Ord 1974

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service/appointment of the petitioners were treated from 10.04.2000 on the ground that they are not entitled for arrears prior to 28.04.2003. That the petitioners were dragged into litigation by the respondents from year 2000 up till now and petitioners are entitled for their service from the year 2000 but due to their default the petitioners were inducted in to service from the year 2003. That service books of the petitioners were verified and fixed from the year 2000. Respondents have submitted their comments.

3. Arguments heard and record perused with the assistance of learned counsel for the parties.

4. In their comments the respondents have admitted the issuance of letter Endst. No.5427-35 dated 15.05.2012 and in response to para No.5 of writ petition they stated that in compliance with the judgment of this Court, the service of the petitioners were regularized with effect from 10.04.2000 except the salary due to the reason that they are not performing of duty during this period.

5. It appears from the record that on the basis of above letter the following entries were made in the service books of the petitioners "consequent" upon the judgment of the Peshawar High Court Abbottabad Bench dated 10.05.2011 issued vide Endst No.5427-35 dated 15.05.2012, the date of appointment is 10.04.2000 instead of 28.04.2003.

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 Certified to be True Copy
 Peshawar High Court
 Abbottabad Bench

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6. Record shows that petitioners were constrained to fall in to long ordeal litigation for their right, since 1998 and after struggle, the respondents issued order dated 15.5.2012 on the basis of order of this Court. But that order is contradictory and confusing because in main order it is stated that their appointment be treated w.e.f 10.04.2000 while subsequently three paras in the shape of note were added. In para No.1 it is stated that they are not entitled for arrear prior to 28.04.2003 due to reason that they have not performed their duties w.e.f 10.04.2000 to 28.04.2003 while in Para No.2 it is mentioned that their salaries should be fixed w.e.f 10.04.2000 instead of 28.4.2003 on presumption basis.

7. If the date of appointment of petitioners are considered from 10.04.2010, their salary was also fixed from 10.04.2000 instead of from 28.04.2003, then they are fully entitled for their arrears/back salary and the act of respondents is against the viries of constitution. Thus, para No.1 of note of order dated 15.05.2012 is deleted being illegal, against the law and natural justice.

8. Keeping in view the circumstances stated hereinabove, the writ petition is admitted and allowed.

Announced:
13.06.2013

S.D. JUDGE

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Accepted for the file. 13.06.13
Dr. Lakshmi Narayan
Additional Bench
Bench

A max F

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بخدمت جناب سیکرٹری ایجوکیشن خیبر پختونخواہ پشاور

عنوان: اپیل / برادرسیناریٹی

جناب عالی!

گزارش ہے کہ سائل نے 1995 میں PTC کورس علامہ اقبال اوپن یونیورسٹی اسلام آباد سے پاس کیا ہے اور ایم اے، پی ٹی سی، سی ٹی، بی ایڈ تک تعلیم یافتہ ہے۔ سائل نے سال 1999 میں محکمہ ایجوکیشن بنوں سے پی ایس ٹی پوسٹ کے لئے کاغذات جمع کیے تھے۔ اس وقت سائل ٹیسٹ اور انٹرویو پاس کر کے میرٹ پر تعیناتی کا حقدار تھا۔ لیکن سائل کو بد نتیجے سے تعینات نہ کیا گیا۔ اور ایلیمنٹری کالجز کے امیدواران جو سائل سے سیشن اور میرٹ اسکور میں کم تھے تعینات کیے گئے۔ اس وقت سیشن وائز پالیسی تھی۔ جو 25% ضلع میرٹ اور 75% یونین کونسل کی بنیاد پر بھرتیاں کی جاتی تھیں۔ سیشن اور میرٹ کے لحاظ سے سائل تعیناتی کا حقدار تھا۔ لیکن سائل کو اس وجہ سے نظر انداز کیا گیا کہ سائل نے پی ٹی سی کورس عامہ اقبال اوپن یونیورسٹی اسلام آباد سے پاس کیا تھا اور اس طرح علامہ اقبال یونیورسٹی سے PTC کورس کے پاس شدہ امیدواران کو تعیناتی سے محروم رکھا گیا۔ اور ایلیمنٹری کالجز سے PTC کورس کے پاس شدہ امیدواران جو سائل سے سیشن میں کم اور Low میرٹ اسکور تھے۔ سال 1999 میں تعینات کئے گئے اور سائل کی ڈگری ماننے سے انکار کیا، جس پر عدالت عالیہ اور عدالت عظمیٰ نے DEO بنوں کے احکامات کو امتیازی سلوک قرار دے کر سائل اور دوسرے امیدواران کو پچیس فیصد کوٹہ دیا اور علامہ اقبال اوپن یونیورسٹی اور ایلیمنٹری کالجز کی ڈگریاں مساوی قرار دی۔ سائل نے پچیس فیصد کوٹہ کے تحت DEO بنوں کو تعیناتی کے لیے بار بار درخواست دی لیکن سائل پر اس طرح وقت گزارا کہ آج اور کل ہم آپ کو تعینات کر رہے ہیں۔ آخر سائل نے مجبور ہو کر عدالت سے رجوع کیا۔ عدالت سول کورٹ، سیشن کورٹ، پشاور ہائی کورٹ، بنوں بیچ اور سپریم

کورٹ آف پاکستان نے سائل کے تھرانے میں سے ہے۔ اس کے بعد انہوں نے
کو سائل کو PST پوسٹ پر تعینات کرنے پر آمادگی ظاہر کی۔

جناب والا سائل کو عدالت سے یہ بھی پتہ چلا کہ انہوں نے 1999 میں ٹیسٹ اور انٹرویو پاس کرنے، میرٹ پر پورا
اترنے اور تعینات کرنے کے حقوق ایسے ہی حاصل کیے ہیں۔ انہوں نے سائل کے ساتھ دوبارہ دھوکہ، فراڈ،
نا انصافی اور رولز ریگولیشن کے خلاف سب سے زیادہ مورخہ 2019ء 8۔9 سے تعینات کیا ہے۔ اور 1999ء
سینیاریٹی سے محروم رکھا ہے۔ جبکہ سائل نے سال 1999 میں ٹیسٹ اور انٹرویو پاس کیا تھا اور سال 1999ء میں سائل
سے کم میرٹ والے امیدواران کو بھرتی کیا تھا۔ ان بھرتی شدہ امیدواروں کو 1999 سے سینیاریٹی مع Benefit
دی گئی ہے۔

جناب والا سائل نہایت غریب ہے۔ سائل کا تاریخ پیدائش 1973ء 3۔15 ہے۔ سائل کی عمر تقریباً 45 سال
ہے۔ اگر سائل کو 1999ء کی سینیاریٹی سے محروم رکھا گیا تو ہمیشہ کے لیے سائل پر بھرتی کے دروازے بند ہو جائیں گے
لہذا سال 1999ء میں بھرتی شدہ دیگر امیدواروں کی طرح سائل کو بھی بھرتی سے سینیاریٹی مع Benefit
جانے کا حکم صادر فرمادیں۔ سائل دعا گو ہے۔

مورخہ 2019ء 8۔9



سائل محمد رفیق عثمان

موبائل نمبر: 0337 9740486

وکالت نامہ

سرور کراچی لٹریچر

بعد الترتیب

۲۰ء منجانب ج اسوات
محمد فاروق بنام صوبائی حکومت

مورخہ

مقدمہ

جرم سرور اسلے

باعث تحریر آنکہ

تھانہ

مقدمہ مندرجہ بالا عنوان بالا میں اپنی طرف سے واسطے بیروی و جواب دہی وکل کاروائی متعلقہ ان مقام کیلئے
مسعود الرحمن در اس پر دستخط کرنے کا اختیار مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار
ہوگا۔ نیز وکیل صاحب کو راضی نامہ تقرر ثالث و فیصلہ پر حلف دینے جو ابد ہی اور اقبال دعویٰ اور بصورت ڈگری کرانے اجراء اور وصولی
چیک، روپیہ اور عرضی اور درخواست ہر قسم کی تصدیق زر اس پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت ڈگری کرانے اجراء اور وصولی چیک
، روپیہ اور عرضی اور درخواست ہر قسم کی تصدیق زر اس پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم بیروی یا ڈگری یک طرفہ یا اپیل کی
برآمدگی اور منسوخی دائر کرنے اپیل نگرانی و نظر ثانی و بیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے
واسطے کسی اور وکیل یا مختیار قانونی کو اپنے ہمراہ یا کوئی اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو بھی وہی جملہ مذکور بالا اختیارات حا
صل ہوں گے اور اس کا ساختہ و پرداختہ بھی منظور قبول ہوگا۔ اور دوران مقدمہ میں جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب سے ہوگا۔ اس
کے مستحق وکیل صاحب موصوف ہوں گے۔ نیز بقایا و خرچہ کی وصولی کرنے کا بھی اختیار ہوگا۔ اگر کوئی کوئی تاریخ پیش مقام دورہ پر ہو یا شیش
سے باہر تو وکیل صاحب پابند نہ ہوں گے کہ بیروی مقدمہ مذکور کریں۔ نیز اگر کسی بھی وجہ مثلاً بیماری، معذوری، غلالت وغیرہ کی وجہ سے
عارضی یا مستقبل بیروی مقدمہ نہ کر سکیں تو بھی وکیل صاحب یا اس کے لواحقین کو بقایا فیس (اگر کوئی ہے) ادا کرنے کا کے پابند ہونگے اور ادا
شدہ فیس کی واپسی کا تقاضہ کرنے کا حق نہیں ہوگا۔ مضمون وکالت نامہ سن اور سمجھ کر وکالت نامہ لکھ دیا تاکہ سندر ہے۔

۲۰ء

ماہ

المرقوم

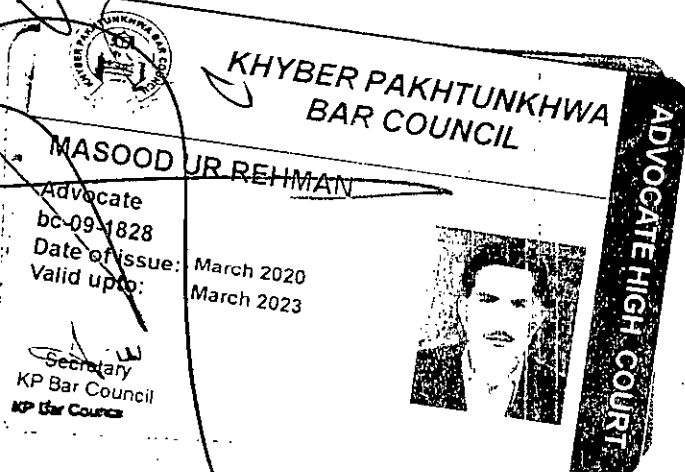
العبد

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العبد

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KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

S.B

No.

APPEAL No. of 20

2814 & 2815

21

M. Farooq Khan & M. Israr Khan
Appellant/Petitioner

Versus

Regd

(Court of KP) through Very Tech Peshawar
RESPONDENT(S)

Notice to Appellant/Petitioner

Masood us Rehman-wa218
Advocate High court Bannu.

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal

on 13/10/2021 at 9:00 am.

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

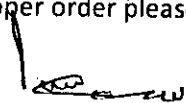



Registrar
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 2814 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	15/02/2021	<p>The appeal of Mr. Farooq Khan resubmitted today by post through Mr. Masood-ur-Rehman Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR 15/2/2021</p>
2-	30.04.2021	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>30/4/21</u></p> <p> CHAIRMAN</p>
	17.08.2021	<p>Due to demise of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 17.08.2021 for the same as before.</p> <p> Reader</p> <p>Nemo for the appellant. Notices be issued to appellant/counsel for next date. Case to come up for preliminary hearing on 13.10.2021 before S.B.</p> <p> Chairman</p>

13.10.2021

Clerk of learned counsel for the appellant present.

Clerk of learned counsel for the appellant seeks adjournment on the ground that learned counsel is not available today. Adjourned. To come up for preliminary hearing before the S.B on 14.12.2021.


(MIAN MUHAMMAD)
MEMBER (E)

14.12.2021


Appellant alongwith his counsel present.

Learned counsel for the appellant seeks adjournment Adjourned. To come up for preliminary hearing on 23.02.2022 before S.B.


(MIAN MUHAMMAD)
MEMBER (E)

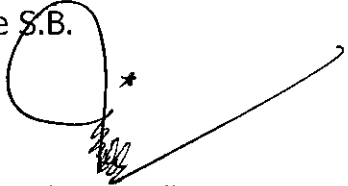
23.02.2022

Due to retirement of the Hon'able Chairman, the case is adjourned to 19.05.2022 for the same before D.B.


Reader

19.05.2022

Learned counsel for the appellant present and requested for adjournment on the ground that he has not prepared the brief. Adjourned. To come up for preliminary hearing on 18.07.2022 before S.B.



(Mian Muhammad)
Member (E)