

20th July 2022 Counsel for the petitioner present. Mr. Noor Zaman Khattak, District Attorney alongwith Mr. Qazi Ayaz, SO (Litigation) for respondents present.

Representative of the respondents submitted an application for release of salaries of the respondents alongwith copy of note for Chief Secretary, Khyber Pakhtunkhwa which is placed on file and submitted that as soon as the summary/note is approved by the Chief Secretary, the compliance of the judgment will be submitted. To come up for implementation report on 21.09.2022 before S.B at camp court Abbottabad.



(Kalim Arshad Khan)
Chairman
Camp Court Abbottabad

21.09.2022

Petitioner present through her father namely Abdul Malik S/O Ghulam Khan bearing CNIC No.13503-0591507-5.

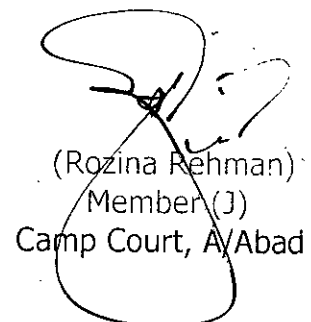
Kabir Ullah Khattak, Additional Advocate General alongwith Qazi Ayaz Litigation Officer for respondents present.

At the very outset Notification dated 17.08.2022 was produced vide which petitioner Tehmina Akhtar was conditionally reinstated into service w.e.f 07.10.2019 alongwith all back benefits subject to outcome of CPLA.

In this view of the matter, execution proceedings stand consigned being fully satisfied. File be consigned to the record room.

Announced.

21.09.2022



(Rozina Rehman)
Member (J)
Camp Court, A/Abad

13th June, 2022

None for the petitioner present. Mr. Kabirullah Khattak,
AAG for the respondents present.

Despite clear directions given on the previous date, respondents have not attended the Tribunal alongwith implementation report. The Accountant General Khyber Pakhtunkhwa is directed to attach salaries of the respondents till further orders by this Tribunal.

Copy of this order sheet be sent to the Chief Secretary Khyber Pakhtunkhwa to look into the conduct of the respondents and take necessary action against them under intimation to the Tribunal through its Registrar.

To come up on 20.07.2022 for further proceedings at camp court Abbottabad.



(Kalim Arshad Khan)
Chairman

21.02.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 20.04.2022 before S.B.



Reader

20th April, 2022

Counsel for the appellant present. Mr. Kabirullah Khattak, Addl. AG for the respondents present.

Learned AAG seeks adjournment to implement the judgment. Last opportunity is granted. To come up for implementation report on 13.06.2022 before S.B.



Chairman

Execution Petition No.13/2022

26.01.2022

Learned counsel for the petitioner present.

The petitioner through this Execution Petition has brought the judgment of this Tribunal for execution which was passed in his favor on 03.11.2021, in service appeal No. 4303/2020. She was reinstated into service from the date of her removal from service with all back benefits.

The petitioner has submitted that the judgment is still in field and has not been suspended or set aside by the august Supreme Court of Pakistan. Therefore, the respondents are legally bound to pass formal reinstatement order and he prayed for implementation of the judgment at his credit in letter and spirit.

Needles to say that the respondents are at liberty to challenge the judgment at credit of the petitioner before the august Supreme Court of Pakistan, if so advised; however, filing of the petition against the judgment before august Supreme Court of Pakistan does not absolve the respondents from their obligation from implementation of the judgment of this Tribunal in letter and spirit unless the same is suspended by a specific order of the august Supreme Court of Pakistan. If the respondents are not in possession of any such order, they are supposed to implement the judgment at credit of the petitioner but with liberty to get an affidavit from him for return/restoration of the benefits, if the judgment of this Tribunal at his credit is set aside by the august Supreme Court of Pakistan. Copy of Execution Petition alongwith copy of this order be sent to Respondent No. 3 for implementation report on or before the date fixed. Notice of Execution Petition be given to other respondents.



To come up for implementation report on 21.02.2022 before S.B.


CHAIRMAN

Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 13 /2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	06.01.2022	<p>The execution petition of Tehmina Akhter presented today in person may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This execution petition be put up before S. Bench at Abbottabad on <u>14-03-2022</u></p> <p style="text-align: right;"> CHAIRMAN</p>
2-		

**BEFORE THE KHYBER PAKTUNKHWA
SERVICES TRIBUNAL, PESHAWAR.**

EP NO: 13/2022

Appeal No. 4303/2020

Tehmina Akhter D/o Abdul Malik, Lecturer in English, Government Degree College Chitti Dheri Mansehra, R/o Village Dhangri Bala, Tehsil and District Mansehra.

.....APPELLANT

VERSUS

1. Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar.
2. Secretary, Government of Khyber Pakhtunkhwa, Higher Education, Libraries & Archives Deptt., Peshawar.
3. Director, Higher Education, Libraries & Archives Deptt., Peshawar.

.....RESPONDENTS

**APPLICATION UNDER SECTION 7(d) OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 FOR
EXECUTION OF THE DECISION.**

INDEX

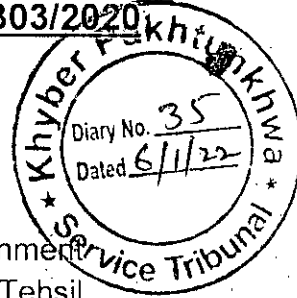
S. No.	Description of Documents	Date	Annex	Page No.
1.	Application			1-4
2.	Copy of Honourable Appellate Tribunal Judgment	03-11-2021	A	5-13
3.	Copy of Honourable Appellate Tribunal Correction Order	07-12-2021	B	14-15
4.	Copy of Application to the Department for implementation of the Tribunal Judgment	14-12-2021	C	16-17

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Applicant/Appellant

**BEFORE THE KHYBER PAKTUNKHWA
SERVICES TRIBUNAL, PESHAWAR.**

Appeal No. 4303/2020



Tehmina Akhter D/o Abdul Malik, Lecturer in English, Government Degree College Chitti Dheri Mansehra, R/o Village Dhangri Bala, Tehsil and District Mansehra.

.....Appellant

VERSUS

1. Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar.
2. Secretary, Government of Khyber Pakhtunkhwa, Higher Education, Libraries & Archives Deptt., Peshawar.
3. Director, Higher Education, Libraries & Archives Deptt., Peshawar.

.....RESPONDENTS

**APPLICATION UNDER SECTION 7(d) OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 FOR
EXECUTION OF THE DECISION**

Respectfully Sheweth:

1. That the titled Appeal was decided by the Honourable Tribunal on 03-11-2021 which has set aside the impugned notification dated 07-10-2019. Subsequently, rectification order was passed on 07-12-2021.
2. However, the concerned department has failed to implement the said Judgment of the Honourable Services Tribunal.

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3. That the appellant has also submitted application to the concerned authorities for the implementation of the said judgment, but no action has been taken so far.

PRAYER:

In view of the above, therefore, it is most respectfully prayed that the Honourable Tribunal shall direct the concerned authorities to implement its judgment in Appeal No.4303 dated 03-11-2021.

Tehmina

Applicant/Appellant

**BEFORE THE KHYBER PAKTUNKHWA
SERVICES TRIBUNAL, PESHAWAR.**

Appeal No. 4303/2020

Tehmina Akhter D/o Abdul Malik, Lecturer in English, Government Degree College Chitti Dheri Mansehra, R/o Village Dhangri Bala, Tehsil and District Mansehra.

.....Appellant

VERSUS

1. Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar.
2. Secretary, Government of Khyber Pakhtunkhwa, Higher Education, Libraries & Archives Deptt., Peshawar.
3. Director, Higher Education, Libraries & Archives Deptt., Peshawar.

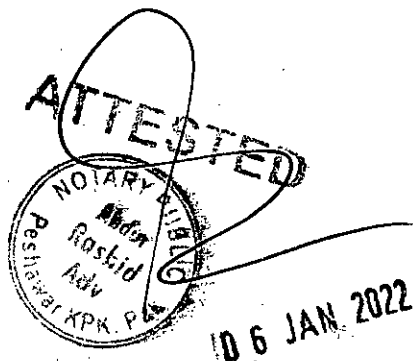
.....RESPONDENTS

**APPLICATION UNDER SECTION 7(d) OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 FOR
EXECUTION OF THE DECISION.**

AFFIDAVIT

I, Tehmina Akhter, the applicant, do hereby solemnly affirm and declare that contents of the accompanied Application are true and correct to the best of my knowledge, information and belief and nothing material has been concealed or withheld.

It is also verified on Oath on this 5th day of January, 2023, that contents of the above Affidavit are true and correct to the best of my knowledge, information and belief.



Tehmina

APPELLANT/APPLICANT

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**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL**

Appeal No. 4303 /2020

Khyber Pakhtun
Service Tribu
Case No. 3591
Date 12-05-20

Tehmina Akhter D/o Abdul Malik, Lecturer in English, Government Degree College Chitti Dheri Mansehra, R/o Village Dhangri Bala, Tehsil. and District Mansehra.

.....Appellant

VERSUS

1. Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar.
2. Secretary, Government of Khyber Pakhtunkhwa, Higher Education, Libraries & Archives Deptt., Peshawar.
3. Director, Higher Education, Libraries & Archives Deptt., Peshawar.

.....RESPONDENTS

APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED NOTIFICATION NO SO (C-111)/1-2/19/ DATED 07-10-2019 WHEREBY MAJOR PENALTY "REMOVAL FROM SERVICE" WAS IMPOSED ON THE APPELLANT IN A HIGHLY CAPRICIOUS MANNER, WITHOUT LAWFUL AUTHORITY, WITHOUT DUE PROCESS OF LAW, AND WITHOUT APPLYING THE JUDICIAL MIND, BASED ON MALAFIDE, MISINTERPRETATION, MISREADING AND MISCONCEPTION OF FACTS & LAW WHICH TANTAMOUNT TO MISCARRIAGE OF JUSTICE. THE SAME IMPUGNED NOTIFICATION

Filed to-day
Registrar
12/5/2020

ATTESTED
Khyber Pakhtun
Service Tribunal
Peshawar

5

MAY PLEASE BE DECLARED ILLEGAL , NULL AND VOID , WITHOUT LAWFUL AUTHORITY AND MAY BE SET ASIDE, DIRECTING THE RESPONDENTS TO REINSTATE THE SERVICES OF THE APPELLANT FROM THE DATE OF IMPUGNED NOTIFICATION DATED 07-10-2019 WITH ALL CONSEQUENTIAL BACK BENEFITS.

Respectfully Sheweth,

That the brief facts comprising the instant Appeal are enumerated as under: T

1. That on 15-11-2019, appellant was intimated by the principal of government girls degree college No.2 Mansehra, about the status of inquiry, and sent her a notification No. SO (C-111)/1-2/19/ Tehmina Akhtar, dated 7th October, 2019; whereby she has been removed from service by imposition of major penalty under E&D Rules, 2011.

(Copy of the impugned Notification dated: 07-10-2019

is attached as Annex "A")

2. That KPPSC advertised post vide **Advertisement No.01/2016** dated **09-03-2016** wherein at S#29 two posts were reserved in Higher Education Department for recruitment against disabled quota including one for Lecturer in English.

(Copy of advertisement is attached as annex "B")

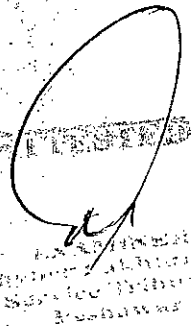
3. That appellant applied against reserved seats for disable persons on the strength of **Disability Certificate** issued by Directorate of Social Welfare and women development (PCRDP), Peshawar, on **29-10-2009** wherein her disability was mentioned as **anisometropic Amblyopia in right eye**.

(Copy of disability certificate dated 29-10-2009 is attached as annex "C")

4. That prior to recommendation by KPPSC, appellant was again examined by medical board and a fresh **disability certificate** was issued on **20-09-2016** by Social Welfare Department, Mansehra based on the opinion/recommendation of standing Medical Board wherein cause of her disability was confirmed, endorsed and mentioned as **"visual right Anisometropic Amblyopic eye"**

(Copy of disability certificate dated 20-09-2016 is attached as annex "D")

5. That after having qualified for the respective post, KPPSC issued recommendation letter to the appellant against disable quota for the post of lecturer in English on **05-10-2016** and the Higher Education Department referred her for medical examination to **Services Hospital, Peshawar**. Wherein the standing Medical Board confirmed


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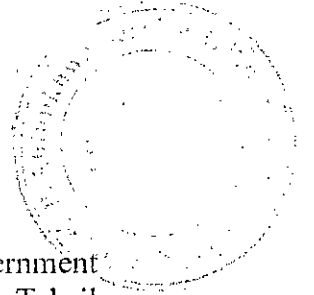
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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 4303/2020

Date of Institution ... 12.05.2020

Date of Decision ... 03.11.2021



Tehmina Akhtar D/O Abdul Malik, Lecturer in English, Government Degree College Chitti Dheri Mansehra, R/O Village Dhangri Bala. Tehsil and District Mansehra.

... (Appellant)

VERSUS

Chief Secretary, Government of Khyber Pakhtunkhwa Peshawar and two others.

... (Respondents)

Present:

MR. NOOR MUHAMMAD KHATTAK,
Advocate

--- For Appellant.

JAVID ULLAH,
Assistant Advocate General

--- For respondents.

AHMAD SULTAN TAREEN
ROZINA REHMAN

--- CHAIRMAN
--- MEMBER(Judicial)

JUDGEMENT

AHMAD SULTAN TAREEN, CHAIRMAN:- Appellant through service appeal described above in the heading has invoked the jurisdiction of this Tribunal U/S 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 07.10.2019, whereby, major penalty of removal from service was imposed upon appellant.

02. The factual account as given in the Memo of appeal and deducible from copies of the supporting documents annexed therewith is precisely that appellant applied for the post of Lecturer (BPS-17) in disabled quota. After medical examination, Appellant was appointed as Lecturer in English (BPS-17) through Public Service Commission (on disable quota). In the meanwhile, a complaint was filed to the Director General Health

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Department by one Muhammad Bilal, stating that the appointment of the appellant is illegal as she is not blind/disabled and the disability certificate issued by Social Welfare Department is fake. On the basis of the said complaint, the Director General Health constituted a medical board and referred the matter for an expert opinion to the Services Hospital Peshawar. After examining the matter, the case was referred to L.R.H Peshawar for final opinion but due to non-availability of concerned staff, the case remained un-responded on behalf of L.R.H, where-after, the matter was tackled by the Provincial Inspection Team and resultantly, appellant was removed from service. Feeling aggrieved, she filed Writ Petition in Peshawar High Court, Abbottabad Bench and vide judgment dated 11.01.2020 the Hon'ble High Court treated the Writ Petition as departmental appeal and sent to the respondents with direction to decide the same in accordance with law, which was not decided, hence, the instant service appeal. *The respondents on notice of appeal have contested it.*

3. We have heard the arguments and perused the record.

4. Learned counsel for appellant argued that the impugned notification is arbitrary and not applicable to judicial mind. That the Inquiry Committee failed to define the disability criteria in the case of appellant under Section-2 (c) of Disabled Persons (Employment and Rehabilitation) Ordinance, 1981. He submitted that the inquiry was not initiated under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 and the whole process has violated the basic principle of *audi alteram partem*. Further submitted that the proceedings of P.I.T (Provincial Inspection Team) were kept secret and the appellant was not given an opportunity of hearing. That the contention of respondents regarding denial of disability is contrary and is in direct conflict with the dictum laid down by

M. Bilal

[Signature]



the Hon'ble superior courts as to the definition of the word "Disability". Further submitted that the respondents erred in issuance of show cause notice as it is evident from the record that as per diagnosis by eye specialists and opinion of four Standing Medical Boards constituted at various times, appellant is suffering from right eye amblyopia and it is a disease caused by poorly aligned eyes, where the brain ignores the visual input from the misaligned eye. He submitted that appellant has never claimed to be a blind, rather disability certificates were issued on the ground that due to nature of the disease and for all practical purposes, she is one-eyed person. Lastly, he submitted that besides the above mentioned errors, inquiry was not conducted and nor statement of allegations were issued rather she was removed from service on the basis of a show cause notice, therefore, the appeal may be accepted as prayed for.

5. As against that learned A.A.G submitted that the impugned notification has been issued within four corners of law. He submitted that the inquiry committee made recommendation after scrutiny of available record/documents, detailed discussion, written statements and reply of the concerned staff. Further submitted that opportunity of personal hearing was provided before her removal from service. Lastly, he submitted that the impugned order was issued after fulfillment of all codal formalities, therefore, the instant appeal may be dismissed.

6. Admittedly, the removal of the appellant from service is the consequence of disciplinary proceedings having been conducted on the strength of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 dispensing with the inquiry under Rule-7 of the said Rules. The main charge reflected in the show cause notice was that she obtained an illegal disability certificate and was appointed on the basis of

said certificate while she was not disabled under the definition Section-2(c) of Disabled Persons (Employment) Ordinance, 1981. The appellant in reply to the show cause notice defended the validity of the disability certificate issued by the Directorate of Social Welfare, Peshawar in her favor. The grounds of defense urged in the reply to show cause notice being self-speaking are reproduced herein below:

- i. That KPPSC advertised post vide Advertisement No.01/2016 dated 09.03.2016 wherein at Serial No.29 two posts were reserved in Higher Education Department for recruitment against disabled quota including one for Lecturer in English.
- ii. That undersigned applied against disable reserved seat on the strength of **Disability Certificate** issued by Directorate of Social Welfare, Peshawar on 29.10.2009 wherein my disability was mentioned as **anisometropic Amblyopia in right eye**.
- iii. That prior to recommendation by KPPSC a fresh **disability certificate** was released on 20.09.2016 by Social Welfare Department, Mansehra based on the opinion/recommendation of Standing Medical Board wherein cause of my disability was confirmed, endorsed and mentioned as "**visual right Anisometropic Amblyopic eye**".
- iv. That KPPSC issued recommendation letter against the disable quota post of lecturer in English on 05.10.2016 and the Higher Education Department referred me for medical examination to **Services Hospital, Peshawar**. Medical Board confirmed the disability and the Eye Specialist used term "**blind in one eye**" and **Amblyopia**.

EXAMINER
Higher Education
Services Hospital
Peshawar

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- v. As a result of the above proceedings undersigned was issued appointment order as Lecturer in English on 16.01.2017 after completion of due recruitment process.
- vi. A person named Muhammad Bilal, self appointed Chairman Right to Live Organization, lodged baseless complaint contending that undersigned was not blind and disability certificate issued by Social Welfare Department, Mansehra is illegal. The complainant is not an aggrieved party through the said appointment order and his complaint is based on enmity and family feuds, hence, malafide.
- 7. Besides the above grounds, the appellant took a plea in the above-mentioned reply against the action of Provincial Inspection Team pressing into service the principle of *Audi Alteram Partem* with fortification of the fundamental right of fair trial under Article 10-A of Constitution of Islamic Republic of Pakistan, 1973. She also challenged the recommendation part of the P.I.T proceedings with specific grounds in her the reply to show cause notice and with her conclusive stand against such proceedings, she submitted that the charge regarding obtaining illegal disability certificate was not established and disability of the appellant was confirmed by at least four Medical Boards. Provincial Inspection Team had failed to establish that the certificate is illegal or unlawful. The standing Medical Board Members and certificate issuing authorities were summoned by P.I.T during its proceedings. All of them re-confirmed their earlier opinion and confirmed veracity and sanctity of the opinion formulated and certificate issues as a result of due process under the law. Before culminated her submissions in reply to the show cause notice, the appellant made certain submissions with emphasis vide Para-15 of the reply as copied below:

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ON BEHALF OF
 Director, Mansehra
 District Office
 Mansehra

(11)

Show cause notice has failed to appreciate that the undersigned has appeared before Medical Boards thrice after confirmation of her disability before Standing Medical Board, DHO, Abbottabad in 2009, before Standing Medical Board at King Abdullah Hospital Mansehra and Standing Medical Board at Services Hospital, Peshawar. During the whole process undersigned has not concealed factual and legal position from any authority. P.I.T did not include any technical expert and failed to reach any conclusion. Second para of the Recommendations bear testimony to this fact where it has been suggested that appointment case of the undersigned may be referred to Law & Parliamentary Affairs Department Government of Khyber Pakhtunkhwa for favor of vetting the legal status. Thus, undersigned cannot be charged with any act of "misconduct".

8. If viewed in light of the reply of the appellant to show cause notice, the impugned order of her removal from service seems to have been passed evasively. This is because that it is mentioned in Para-2 of the impugned order that a reply was placed before competent authority for decision who granted her personal hearing. Regarding the outcome of personal hearing, Para-3 of the impugned order maintains that Secretary Auqaf Department heard the accused, however, her arguments were not found convincing but no reference has been given about perusal of the reply of the appellant with exhaustive grounds fortified by documentary proof. The impugned order in its particular style seems to have been passed with hit and run exercise. If the competent authority had decided at any cost to penalize the appellant, there was sufficient material annexed with the reply of the appellant warranting proper inquiry.

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SECRETARY
KHYBER PAKHTUNKHWA
SERVICES DEPARTMENT
PESHAWAR

9. Needless to say that the appellant has been proceeded against on the allegations that she obtained an illegal disability certificate to manage her appointment on the basis of such certificate against the law. If such allegations are tested on the touchstone of the law though not adequately attracted but for the sake of argument, they could hardly be covered in definition of misconduct under Clause-6 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. Accordingly, the misconduct includes making appointment or promotion or having been appointed or promoted on extraneous grounds in violation of any law and rules. It is not a deniable fact that the appellant has got some sort of disability which pressed as a matter of the right she applied under due course for certificate on account of such disability by the competent authority. The record is loudly speaking that the appellant went through examination of her disability at different stages through various Medical Boards and the certificate given to her was not held as fake with any opinion that she was not having any disability. The question of nature of disability of the appellant had arisen after her appointment in pursuance to a complaint of third party. The appellant could not be blamed of having obtained as illegal disability certificate when she provenly had adopted due process for getting the certificate in a lawful manner from the competent authority. If the competent authority while granting the disability certificate to the appellant was misled by any opinion of the any expert opinion of the Board, it does not constitute an extraneous ground against the appellant to bring her case within mischief of misconduct under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. With the foregoing observations, it is held that the appellant was wrongly proceeded against

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under E&D Rules and the penalty imposed upon her in consequence of such proceedings is not tenable under the facts and law.

10. For what has gone above, instant service appeal is accepted. The impugned Notification dated ^{07.10.2019} ~~15.11.2019~~ having no legal sanctity, is set aside and the appellant is reinstated into service from the date of her removal from service i.e. ^{07.10.2019} ~~15.11.2019~~ with all back benefits. The respondent Department is directed to bring the things in place in pursuance to the direction given hereinbefore. There is no order as to costs. File be consigned to the record room.

ANNOUNCED
03.11.2021

(AHMAD SULTAN TAREEN)
CHAIRMAN

(ROZINA REHMAN)
MEMBER(J)

50 - 13/12/21
4 - 4800
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13/12/21
13/12/21

Notified to be true copy
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13/12/21

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BEFORE THE KHYBER PAKTUNKHWA SERVICES TRIBUNAL, PESHAWAR.

Appeal No.4303/2020

Put up to the worthy & fair with relevant appeal



6/12/21. Tehmina Akhter D/o Abdul Malik, Lecturer in English, Government Degree College Chitti Dheri Mansehra, R/o Village Dhangri Bala, Tehsil and District Mansehra.

Daudu

.....Appellant

VERSUS

Put up before the single Bench as a special case.

1. Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar.

Secretary, Government of Khyber Pakhtunkhwa, Higher Education, Libraries & Archives Deptt., Peshawar.

3. Director, Higher Education, Libraries & Archives Deptt., Peshawar.

06/12/2021

.....RESPONDENTS

APPLICATION UNDER SECTION 152 OF C.P.C FOR CORRECTION OF ERROR.

Respectfully Sheweth:

1. That the titled Appeal was decided by the Honourable Tribunal on 03-11-2021 which has set aside the impugned notification dated 07-10-2019. However, in the said judgment, the impugned notification date has been mentioned as 15-11-2019 instead of 07-10-2019. It is humbly submitted that the same clerical/typographical error occurring at line two and line four of paragraph 10 may please be corrected.

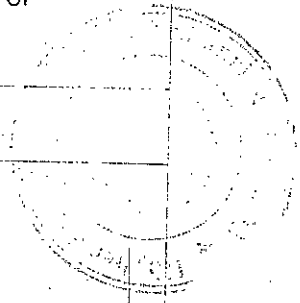
PRAYER:

In view of the above, therefore, it is most respectfully prayed that date of the impugned notification set aside by the Honourable Tribunal in its judgment dated 03-11-2021 in Appeal No.4303 may please be corrected as 07-10-2019 instead of 15-11-2019.

Daudu
Applicant/Appellant

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S.No.	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	07.12.2021	<p><u>Application in Service Appeal No. 4303/2020</u></p> <p>Counsel for the petitioner present.</p> <p>2. This bench has been specially constituted to consider the application submitted by appellant for correction of date of impugned order inadvertently written in the operative part of the judgment as 15.11.2019 instead of 07.10.2019. The application is placed on file.</p> <p>3. I have perused the record. The impugned order as set aside by judgment dated 03.11.2021 is available on file as Annexure-A, and same bears the date as 07.10.2019 which due to clerical mistake was written as 15.11.2019 and went unnoticed when the judgment was signed.</p> <p>4. This Tribunal has got the powers as vested in a civil court under CPC. Section 152 empowers a civil court for correction of clerical or arithmetical mistakes in judgments, decree or orders or errors arising therein from accidental slip or omission, at any time either of its own motion or on the application of any of the parties. So, deriving the power from Section 152 CPC, the date of impugned order as mentioned in the operative part of judgment is corrected as 07.10.2019 and the mistaken entry of the date as 15.11.2019 be substituted</p>

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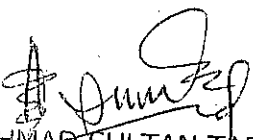
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and Chhattis furnished

2. ADG is required to carry

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with correct date as 07.10.2019 with red ink in the main judgment dated 03.11.2021 in Service Appeal No. 4303/2020 titled "Tehmina Akhtar Versus Chief Secretary, Government of Khyber Pakhtunkhwa Peshawar and two others" and the short order. Application stands disposed of accordingly. File be consigned to record room.


(AHMAD SULTAN TAREEN)
Chairman

ANNOUNCED
07.12.2021

ATTESTED


[Faint text below signature]

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To

1. Chief secretary, Khyber Pakhtunkhwa, Peshawar.
2. Secretary, Government of Khyber Pakhtunkhwa, Higher Education Libraries and archives Deptt.
3. Director, Government of Khyber pakhtunkhwa, Higher Libraries and Archives Deptt.

Subject: **IMPLEMENTATION OF APPELLATE TRIBUNAL KHYBER PAKHTUNKHWA JUDGMENT DATED 03-11-2021 IN SERVICE APPEAL NO.4303/2020.**

Respectfully shewith:

2. That the above titled appeal was decided in favor of undersigned on 03-11-2021, which has set aside the impugned notification No. SO(C-III)HE/1-2/2019/ Tahmina Akhtar dated 07-10-2019.
3. That in the light of the above undersigned may please be reinstated in Service along with all back benefits and be obliged.

Your's Obediently,

(Tahmina Akhtar)

Tahmina

Annexure:

1. Copy of Honorable Services Tribunal Judgment dated 03-11-2021 and Order Dated 07-12-2021.
2. Copy to notification No. SO(C-III)HE/ 1-2/2019/Tehmina Akhtar dated 07-10-2019.

Execution

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

Put up to the worthy chair
with relevant appeal.

C.M NO. _____/2022

In

Execution Petition No. 13 /2022

IN

Appeal NO. 4303/2020



TEHMINA AKHTAR

VS

EDUCATION DEPTT:

**APPLICATION FOR EARLY HEARING
TRANSFERRING THE ABOVE MENTIONED
APPEAL TO THE PRINCIPLE BENCH OF
THIS AUGUST TRIBUNAL, PESHAWAR
FROM CAMP COURT ~~Abbottabad~~ Abbottabad**

Fix today

24/11/2022

R.SHEWETH:

- 1- That the above mentioned execution petition is pending adjudication before this Hon'ble Court which is fixed for hearing on 14-03-2022 for hearing at camp court Abbottabad.
- 2- That the appellant filed the above mentioned execution petitioner for implementation of the order/judgment dated 03-11-2021 passed by the Honourable Tribunal at Principle bench Peshawar.
- 3- That the execution petition is fixed in the month of March at Abbottabad which is too far and needs to be disposed of at an earlier date.
- 4- That the interest of justice demands that such like matter should be heard at the principle bench of this august Tribunal, Peshawar as early as possible to meet the ends of justice and also to meet the principles of access to justice.

It is therefore most humbly prayed that on acceptance of this application the appeal in hand may kindly be transfer to the Principle bench of the august Tribunal, Peshawar from camp court Abbottabad and also for early date/ hearing to meet the ends of justice.

APPLICANT

TAHMEENA AKHTAR

Through:

**NOOR MOHAMMAD KHATTAK
ADVOCATE**

Dated: 21-1-2022

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO: _____ OF 2022

Tehmina Akhtar (APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Education Deptt. (RESPONDENT)
(DEFENDANT)

I/We Tehmina Akhtar

Do hereby appoint and constitute **NOOR MUHAMMAD KHATTAK Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. 28 / 01 / 2022

Tehmina
18/01/2022
CLIENTS

ACCEPTED

NOOR MUHAMMAD KHATTAK

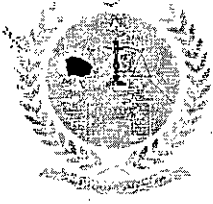
KAMRAN KHAN

UMER FAROOQ MOHMAND

SAID KHAN

HAIDER ALI

ADVOCATES



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No: 2172/ST Dated: 06/07/2022

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262

To,

- 1 The Chief Secretary Civil Secretariat,
Government of Khyber Pakhtunkhwa, Peshawar.

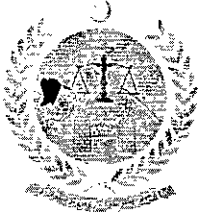
Subject TO LOOK INTO THE CONDUCT OF RESPONDENTS IN CASE TITLE
TEHMINA AKHTER VS CHIEF SECRETARY KHYBER PAKHTUNKHWA & OTHERS

I am directed to forward herewith a certified copy of Order dated 13.06.2022 passed by this Tribunal on the above subject for strict compliance.

Encl: As Above.


(WASEEMAKHTAR)

REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR



KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

No: 2173 /ST Dated: 06/07 /2022

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262

To,

- 1 The Accountant General,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: SALARY ATTACHMENT OF THE SECRETARY HIGHER EDUCATION, KHYBER PAKHTUNKHWA PESHAWAR AND DIRECTOR HIGHER EDUCATION, KHYBER PAKHTUNKHWA PESHAWAR.

I am directed to forward herewith a certified copy of Order dated 13.06.2022 passed by this Tribunal on the above subject for strict compliance.

Encl: As Above.

(WASEEMAKHTAR)

REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR



GOVERNMENT OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES &
LIBRARIES DEPARTMENT

Dated Peshawar: the August 17, 2022

NOTIFICATION

No. SO(C-III)HED/1-13/Tehmina Akhtar/ In pursuance of Khyber Pakhtunkhwa Service Tribunal judgment dated 03.11.2021, the Competent Authority (Chief Secretary, Khyber Pakhtunkhwa) is pleased to approve conditional reinstatement of Ms. Tehmina Akhtar, Lecturer in English (BS-17) into service w.e.f 07.10.2019 alongwith all back benefits subject to outcome of CPLA pending adjudication before the Supreme Court of Pakistan.

2. Consequent upon the above, Ms. Tehmina Akhtar, Lecturer in English (BS-17) is hereby adjusted at Govt. Girls Degree College No.2 Chitti Dheri, Mansehra.

-Sd-

SECRETARY TO
GOVT. OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION DEPARTMENT

Endst: No. & Date Even

Copy forwarded to the:-

1. Director Higher Education, Khyber Pakhtunkhwa, Peshawar.
2. Principal, Govt. Girls Degree College, No.2, Chitti Dheri, Mansehra.
3. Director IT, (HEMIS Cell), Higher Education Department.
4. District Accounts Officer, Mansehra.
5. Section Officer (Litigation-II), Higher Education Department.
6. Lecturer Concerned.

(SAMIA JABEEN)
Section Officer (Colleges-III)

S.No.	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	07.12.2021	<p><u>Application in Service Appeal No. 4303/2020</u></p> <p>Counsel for the petitioner present.</p> <p>2. This bench has been specially constituted to consider the application submitted by appellant for correction of date of impugned order inadvertently written in the operative part of the judgment as 15.11.2019 instead of 07.10.2019. The application is placed on file.</p> <p>3. I have perused the record. The impugned order as set aside by judgment dated 03.11.2021 is available on file as Annexure-A, and same bears the date as 07.10.2019 which due to clerical mistake was written as 15.11.2019 and went unnoticed when the judgment was signed.</p> <p>4. This Tribunal has got the powers as vested in a civil court under CPC. Section 152 empowers a civil court for correction of clerical or arithmetical mistakes in judgments, decree or orders or errors arising therein from accidental slip or omission, at any time either of its own motion or on the application of any of the parties. So, deriving the power from Section 152 CPC, the date of impugned order as mentioned in the operative part of judgment is corrected as 07.10.2019 and the mistaken entry of the date as 15.11.2019 be substituted</p>

with correct date as 07.10.2019 with red ink in the main judgment dated 03.11.2021 in Service Appeal No. 4303/2020 titled "Tehmina Akhtar Versus Chief Secretary, Government of Khyber Pakhtunkhwa Peshawar and two others" and the short order. Application stands disposed of accordingly. File be consigned to record room.


(AHMAD SULTAN TAREEN)
Chairman

ANNOUNCED
07.12.2021

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 4303/2020

Date of Institution ... 12.05.2020

Date of Decision ... 03.11.2021

Tehmina Akhtar D/O Abdul Malik, Lecturer in English, Government Degree College Chitti Dheri Mansehra, R/O Village Dhangri Bala, Tehsil and District Mansehra.

... (Appellant)

VERSUS

Chief Secretary, Government of Khyber Pakhtunkhwa Peshawar and two others.

... (Respondents)

Present:

MR. NOOR MUHAMMAD KHATTAK,
Advocate

--- For Appellant.

JAVID ULLAH,
Assistant Advocate General

--- For respondents.

AHMAD SULTAN TAREEN
ROZINA REHMAN

--- CHAIRMAN
--- MEMBER(Judicial)

JUDGEMENT

AHMAD SULTAN TAREEN, CHAIRMAN:- Appellant through service appeal described above in the heading has invoked the jurisdiction of this Tribunal U/S 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 07.10.2019, whereby, major penalty of removal from service was imposed upon appellant.

02. The factual account as given in the Memo of appeal and deducible from copies of the supporting documents annexed therewith is precisely that appellant applied for the post of Lecturer (BPS-17) in disabled quota. After medical examination, Appellant was appointed as Lecturer in English (BPS-17) through Public Service Commission (on disable quota). In the meanwhile, a complaint was filed to the Director General Health

Department by one Muhammad Bilal, stating that the appointment of the appellant is illegal as she is not blind/disabled and the disability certificate issued by Social Welfare Department is fake. On the basis of the said complaint, the Director General Health constituted a medical board and referred the matter for an expert opinion to the Services Hospital Peshawar. After examining the matter, the case was referred to L.R.H Peshawar for final opinion but due to non-availability of concerned staff, the case remained un-responded on behalf of L.R.H, where-after, the matter was tackled by the Provincial Inspection Team and resultantly, appellant was removed from service. Feeling aggrieved, she filed Writ Petition in Peshawar High Court, Abbottabad Bench and vide judgment dated 11.01.2020 the Hon'ble High Court treated the Writ Petition as departmental appeal and sent to the respondents with direction to decide the same in accordance with law, which was not decided, hence, the instant service appeal. *The respondents on notice of appeal have contested it.*

3. We have heard the arguments and perused the record.

4. Learned counsel for appellant argued that the impugned notification is arbitrary and not applicable to judicial mind. That the Inquiry Committee failed to define the disability criteria in the case of appellant under Section-2 (c) of Disabled Persons (Employment and Rehabilitation) Ordinance, 1981. He submitted that the inquiry was not initiated under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 and the whole process has violated the basic principle of *audi alteram partem*. Further submitted that the proceedings of P.I.T (Provincial Inspection Team) were kept secret and the appellant was not given an opportunity of hearing. That the contention of respondents regarding denial of disability is contrary and is in direct conflict with the dictum laid down by

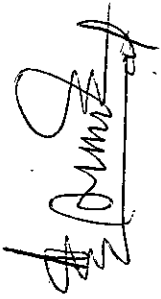
the Hon'ble superior courts as to the definition of the word "Disability". Further submitted that the respondents erred in issuance of show cause notice as it is evident from the record that as per diagnosis by eye specialists and opinion of four Standing Medical Boards constituted at various times, appellant is suffering from right eye amblyopia and it is a disease caused by poorly aligned eyes, where the brain ignores the visual input from the misaligned eye. He submitted that appellant has never claimed to be a blind, rather disability certificates were issued on the ground that due to nature of the disease and for all practical purposes, she is one-eyed person. Lastly, he submitted that besides the above mentioned errors, inquiry was not conducted and nor statement of allegations were issued rather she was removed from service on the basis of a show cause notice, therefore, the appeal may be accepted as prayed for.

5. As against that learned A.A.G submitted that the impugned notification has been issued within four corners of law. He submitted that the inquiry committee made recommendation after scrutiny of available record/documents, detailed discussion, written statements and reply of the concerned staff. Further submitted that opportunity of personal hearing was provided before her removal from service. Lastly, he submitted that the impugned order was issued after fulfillment of all codal formalities, therefore, the instant appeal may be dismissed.

6. Admittedly, the removal of the appellant from service is the consequence of disciplinary proceedings having been conducted on the strength of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 dispensing with the inquiry under Rule-7 of the said Rules. The main charge reflected in the show cause notice was that she obtained an illegal disability certificate and was appointed on the basis of

said certificate while she was not disabled under the definition Section-2(c) of Disabled Persons (Employment) Ordinance, 1981. The appellant in reply to the show cause notice defended the validity of the disability certificate issued by the Directorate of Social Welfare, Peshawar in her favor. The grounds of defense urged in the reply to show cause notice being self-speaking are reproduced herein below:

- i. That KPPSC advertised post vide **Advertisement No.01/2016** dated **09.03.2016** wherein at Serial No.29 two posts were reserved in Higher Education Department for recruitment against disabled quota including one for Lecturer in English.
- ii. That undersigned applied against disable reserved seat on the strength of **Disability Certificate** issued by Directorate of Social Welfare, Peshawar on **29.10.2009** wherein my disability was mentioned as **anisometropic Amblyopia in right eye**.
- iii. That prior to recommendation by KPPSC a fresh **disability certificate** was released on **20.09.2016** by Social Welfare Department, Mansehra based on the opinion/recommendation of Standing Medical Board wherein cause of my disability was confirmed, endorsed and mentioned as **“visual right Anisometropic Amblyopic eye”**
- iv. That KPPSC issued recommendation letter against the disable quota post of lecturer in English on **05.10.2016** and the Higher Education Department referred me for medical examination to **Services Hospital, Peshawar**. Medical Board confirmed the disability and the Eye Specialist used term **“blind in one eye” and Amblyopia**.



v. As a result of the above proceedings undersigned was issued appointment order as Lecturer in English on **16.01.2017** after completion of due recruitment process.

vi. A person named Muhammad Bilal, self appointed Chairman Right to Live Organization, lodged baseless complaint contending that undersigned was not blind and disability certificate issued by Social Welfare Department, Mansehra is illegal. The complainant is not an aggrieved party through the said appointment order and his complaint is based on enmity and family feuds, hence, malafide.

7. Besides the above grounds, the appellant took a plea in the above-mentioned reply against the action of Provincial Inspection Team pressing into service the principle of *Audi Alteram Partem* with fortification of the fundamental right of fair trial under Article 10-A of Constitution of Islamic Republic of Pakistan, 1973. She also challenged the recommendation part of the P.I.T proceedings with specific grounds in her the reply to show cause notice and with her conclusive stand against such proceedings, she submitted that the charge regarding obtaining illegal disability certificate was not established and disability of the appellant was confirmed by at least four Medical Boards. Provincial Inspection Team had failed to establish that the certificate is illegal or unlawful. The standing Medical Board Members and certificate issuing authorities were summoned by P.I.T during its proceedings. All of them re-confirmed their earlier opinion and confirmed veracity and sanctity of the opinion formulated and certificate issues as a result of due process under the law. Before culminated her submissions in reply to the show cause notice, the appellant made certain submissions with emphasis vide Para-15 of the reply as copied below:



Show cause notice has failed to appreciate that the undersigned has appeared before Medical Boards thrice after confirmation of her disability before Standing Medical Board, DHQ, Abbottabad in 2009, before Standing Medical Board at King Abdullah Hospital Mansehra and Standing Medical Board at Services Hospital, Peshawar. During the whole process undersigned has not concealed factual and legal position from any authority. P.I.T did not include any technical expert and failed to reach any conclusion. Second para of the Recommendations bear testimony to this fact where it has been suggested that appointment case of the undersigned may be referred to Law & Parliamentary Affairs Department Government of Khyber Pakhtunkhwa for favor of vetting the legal status. Thus, undersigned cannot be charged with any act of "misconduct".

8. If viewed in light of the reply of the appellant to show cause notice, the impugned order of her removal from service seems to have been passed evasively. This is because that it is mentioned in Para-2 of the impugned order that a reply was placed before competent authority for decision who granted her personal hearing. Regarding the outcome of personal hearing, Para-3 of the impugned order maintains that Secretary Auqaf Department heard the accused, however, her arguments were not found convincing but no reference has been given about perusal of the reply of the appellant with exhaustive grounds fortified by documentary proof. The impugned order in its particular style seems to have been passed with hit and run exercise. If the competent authority had decided at any cost to penalize the appellant, there was sufficient material annexed with the reply of the appellant warranting proper inquiry.

9. Needless to say that the appellant has been proceeded against on the allegations that she obtained an illegal disability certificate to manage her appointment on the basis of such certificate against the law. If such allegations are tested on the touchstone of the law though not adequately attracted but for the sake of argument, they could hardly be covered in definition of misconduct under Clause-6 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. Accordingly, the misconduct includes making appointment or promotion or having been appointed or promoted on extraneous grounds in violation of any law and rules. It is not a deniable fact that the appellant has got some sort of disability which pressed as a matter of the right she applied under due course for certificate on account of such disability by the competent authority. The record is loudly speaking that the appellant went through examination of her disability at different stages through various Medical Boards and the certificate given to her was not held as fake with any opinion that she was not having any disability. The question of nature of disability of the appellant had arisen after her appointment in pursuance to a complaint of third party. The appellant could not be blamed of having obtained as illegal disability certificate when she provenly had adopted due process for getting the certificate in a lawful manner from the competent authority. If the competent authority while granting the disability certificate to the appellant was misled by any opinion of the any expert opinion of the Board, it does not constitute an extraneous ground against the appellant to bring her case within mischief of misconduct under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. With the foregoing observations, it is held that the appellant was wrongly proceeded against

under E&D Rules and the penalty imposed upon her in consequence of such proceedings is not tenable under the facts and law.

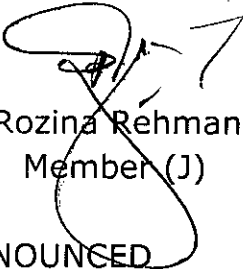

10. For what has gone above, instant service appeal is accepted. The impugned Notification dated ~~15.11.2019~~ ^{07.10.2019} having no legal sanctity, is set aside and the appellant is reinstated into service from the date of her removal from service i.e. ~~15.11.2019~~ ^{07.10.2019} with all back benefits. The respondent Department is directed to bring the things in place in pursuance to the direction given hereinbefore. There is no order as to costs. File be consigned to the record room.

ANNOUNCED

03.11.2021


(ROZINA REHMAN)
MEMBER(J)


(AHMAD SULTAN TAREEN)
CHAIRMAN

S.No.	Date of Order or proceedings.	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	03.11.2021	<p style="text-align: center;"><u>Present</u></p> <p>Noor Muhammad Khattak, Advocate ... For appellant</p> <p>Mr. Javid Ullah, Assistant Advocate General ... For respondents</p> <p>Vide our detailed judgment, instant service appeal is accepted. The impugned Notification dated 15.11.2019 having no legal sanctity, is set aside and the appellant is reinstated into service from the date of her removal from service i.e. 15.11.2019 with all back benefits. The respondent Department is directed to bring the things in place in pursuance to the direction given hereinbefore. There is no order as to costs. File be consigned to the record room.</p> <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  (Rozina Rehman) Member (J) </div> <div style="text-align: center;">  (Ahmad Sultan Tareen) Chairman </div> </div> <p><u>ANNOUNCED</u> 03.11.2021</p>

4303/20

06.10.2021

Counsel for the appellant, Mr. Javaidullah, Asstt. AG alongwith Jehanzaib, Superintendent for the respondents present.

Learned Member (Judicial) is on official tour to Swat, therefore, order could not be announced. To come up for order on 03.11.2021 before the D.B.


Chairman

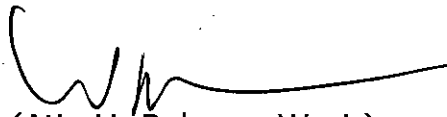
26.05.2021

Learned counsel for the appellant present.

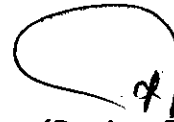
Mr. Adeel But Additional Advocate General for respondents present.

Learned counsel for the appellant submitted rejoinder, which is placed on file and requested for adjournment.

Adjourned to 15/9/21 for arguments before D.B.



(Atiq Ur Rehman Wazir)
Member (E)



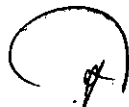
(Rozina Rehman)
Member (J)

15.09.2021

Appellant with counsel present.

David Ullah learned Assistant A.G alongwith Jehanzeb Superintendent for respondents present.

Arguments heard. To come up for order on 06.10.2021 before D.B.



(Rozina Rehman)
Member (J)



Chairman

18.01.2021

Counsel for appellant present.

Kabir Ullah Khattak learned Additional Advocate General for respondents present.

Written reply was not submitted. Representative of the respondents is not in attendance. Case is adjourned on the request of learned A.A.G on payment of cost of Rs.1000/-. To come up for written reply/comments on 18.02.2021 before S.B.

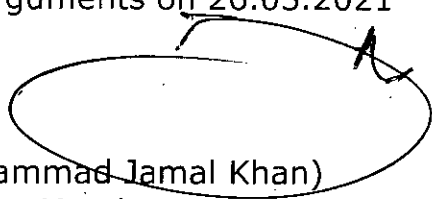

(Rozina Rehman)
Member (J)

18.02.2021

Counsel for appellant is present. Mr. Kabirullah Khattak, Additional Advocate General and Mr. Jehanzeb, Superintendent; for the respondents are also present.

Representative of the department submitted written reply/comments on behalf of respondents No. 1 to 3 which is placed on record. Representative of the department also submitted cost of Rs. 1000/- which be handed over to the appellant and receipt thereof be obtained from him and be placed on record.

File to come up for rejoinder and arguments on 26.05.2021 before D.B.


(Muhammad Jamal Khan)
Member

21.10.2020

Mr. Inayat Malik, Brother of appellant, on behalf of the appellant is present. Mr. Kabirullah Khattak, Additional Advocate General is also present.

Neither written reply on behalf of respondents submitted nor any representative of the department is present despite issuance of notices vide preceding order sheet dated 31.08.2020. Again notices be issued to the respondents for submission of written reply/comments for 26.11.2020 before S.B.

(Muhammad Jamal Khan)
Member (Judicial)

26.11.2020

Mr. Noor Muhammad Khattak, Advocate, for appellant is present and furnished Vakalatnama in favour of appellant which is placed on file.

Mr. Kabirullah Khattak, Additional Advocate General for the respondents is also present.

Written reply on behalf of respondents not submitted. Learned Additional Advocate General is directed to ensure presence of the representative of the department and submit reply on the next date positively. Last chance is given to the respondents for submission of written reply/comments. File to come up for written reply/comments on 18.01.2021 before S.B.

~~Mr. Inayat Malik, Brother of appellant, on behalf of the appellant is present. Mr. Kabirullah Khattak, Additional Advocate General is also present.~~
~~Neither written reply on behalf of respondents submitted nor any representative of the department is present despite issuance of notices vide preceding order sheet dated 31.08.2020. Again notices be issued to the respondents for submission of written reply/comments for 26.11.2020 before S.B.~~
~~Mr. Noor Muhammad Khattak, Advocate, for appellant is present and furnished Vakalatnama in favour of appellant which is placed on file.~~
~~Mr. Kabirullah Khattak, Additional Advocate General for the respondents is also present.~~
~~Written reply on behalf of respondents not submitted. Learned Additional Advocate General is directed to ensure presence of the representative of the department and submit reply on the next date positively. Last chance is given to the respondents for submission of written reply/comments. File to come up for written reply/comments on 18.01.2021 before S.B.~~

(Muhammad Jamal Khan)
MEMBER (JUDICIAL)

03.08.2020

Mr. Inayat, Brother of appellant, on behalf of appellant is present. Mr. Kabirullah Khattak, Additional AG for the respondents is also present.

Learned Additional AG seeks time to contact the respondents and submit reply/comments. Adjourned to 31.08.2020 on which date the requisite reply/comments shall positively be furnished.



(MUHAMMAD JAMAL KHAN)
MEMBER

31.08.2020

Mr. Inayat Malik, Brother of the appellant and Mr. Kabirullah Khattak learned Addl. AG for the respondents present.

Written reply/comments not submitted. Representatives of the respondent department absent. Notice be issued to the respondent department to direct the representatives to attend the court and submitted written reply/comments on the next date positively.

Adjourned to 21.10.2020 before S.B!


Member (E)

15.06.2020

Mr. Rizwanullah Advocate has submitted Wakalatnama on behalf of the appellant which is placed on file.

Learned counsel contends that before passing the impugned order dated 07.10.2019 the respondents never cared to adopt the procedure as required under Khyber Pakhtunkhwa Government Servant (E&D) Rules, 2011. Resultantly, no regular enquiry was conducted against the appellant thus she was deprived from putting forth her defence. It is also contended that the ground for proceedings against the appellant was of the nature which required comprehensive probe by way of evidence or otherwise which was not adhered to. Explaining the apparent delay in submission of instant appeal it is contended that the Writ Petition filed by the appellant before the Honourable Peshawar High Court was treated as a departmental appeal/representation and was sent to the concerned respondent through order dated 07.01.2020. However, the respondents remained unable to attend and decide the representation/appeal till date. He further referred to the application for condonation of delay submitted alongwith the appeal and stated that in the peculiar circumstances prevailing worldwide the delay, if any, has to be condoned as the apex court has undertaken similar practice.

Instant appeal is admitted to regular hearing subject to all just exceptions. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments on 03.08.2020 before S.B.

Appellant Granted
Security & Process Fee

Chairman


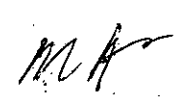



Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 4303 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	12/05/2020	<p>The appeal of Mst. Tehmina Akhtar presented today i.e 12.05.2020 may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR <u>12/5/2020</u></p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up on <u>05/06/2020</u>.</p> <p style="text-align: right;"> MEMBER</p> <p>05.06.2020</p> <p>None present on behalf of the appellant. Adjourned to 15.06.2020 for preliminary hearing before S.B. <i>Notice</i> <i>in issue to appellant and his counsel. cu</i></p> <p style="text-align: right;"> (MUHAMMAD AMIN KHAN KUNDI) MEMBER</p>

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL**

4303
Appeal No. _____/2020

Tehmina Akhter

VS

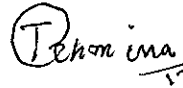
Chief Secretary, Government of Khyber Pakhtunkhwa and others

**APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974.**

INDEX

S.No.	Description of Documents	Annex	Page No.
1.	Appeal		1-9
2.	Copy of impugned notification dated 07-10-2019.	"A"	10
3.	Copy of advertisement dated: 09-03-2016.	"B"	11-24
4.	Copy of disability certificate dated: 29-10-2009.	"C"	25
5.	Copies of disability certificate dated 20-09-2016.	"D"	26
6.	Copies of recommendation letter issued by KPPSC dated 05-10-2016 and Report of the Services Hospital, Peshawar Standing Medical Board dated 22-11-2016	"E" & "F"	27 & 28
7.	Copy of Notification of appointment dated 16-01-2017.	"G"	29
8.	Copy of the inquiry report is attached	"H"	30-39
9.	Copy of the show Cause Notice	"I"	40
10.	Copy of Reply to the Show Cause Notice	"J"	41-48
11.	Copy of the W.P No. 1375/2019	"K"	49-56
12.	Copies of Peshawar High Court Order dated 07-01-2020 and submission letter to Secretary Higher Education on 13-01-2020	"L" & "M"	57 & 58-59

APPELLANT


12/05/2020
(TEHMINA AKHTER)
Lecturer in English
Government Degree College#II, Mansehra.

CERTIFICATE

That the addresses of the parties are correct for the effective service of the process of this Honourable Tribunal upon the parties.

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL.**

4303
Appeal No. _____/2020

Tehmina Akhter

VS

Secretary, Higher Education Libraries & Archives Department, Government of
Khyber Pakhtunkhwa and others

APPEAL FOR CONDOTION OF DELAY

I, Tehmina Akhter D/o Abdul Malik, R/o Village Dhangri Bala, Tehsil and District Mansehra, do hereby solemnly affirm and declare on oath that due to outbreak of pandemic COVID-19 and imposition of lock down and suspension of inter-city transport ban by the Government of Khyber Pakhtunkhwa I was not in a position to submit appeal before the Honourable Service Tribunal Khyber Pakhtunkhwa immediately after completion of 90 days of the Departmental Appeal. As the apex courts of the country have condoned the period of lockdown for the purpose of calculation of limitation it is prayed that my appeal may please be accepted accordingly, and if there is any delay the same may please be condoned.

APPELLANT

Tehmina
42/05/2020
(TEHMINA AKHTER)

Lecturer in English
Government Degree College#II, Mansehra.

AFFIDAVIT

It is stated on oath that the facts stated in the above application are true to best of my knowledge.

Attested



BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL

Appeal No. 4303 /2020

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 3594

Dated 12-05-20

Tehmina Akhter D/o Abdul Malik, Lecturer in English, Government Degree College Chitti Dheri Mansehra, R/o Village Dhangri Bala, Tehsil and District Mansehra.

.....Appellant

VERSUS

1. Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar.
2. Secretary, Government of Khyber Pakhtunkhwa, Higher Education, Libraries & Archives Deptt., Peshawar.
3. Director, Higher Education, Libraries & Archives Deptt., Peshawar.

.....RESPONDENTS

APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED NOTIFICATION NO SO (C-111)/1-2/19/ DATED 07-10-2019 WHEREBY MAJOR PENALTY "REMOVAL FROM SERVICE" WAS IMPOSED ON THE APPELLANT IN A HIGHLY CAPRICIOUS MANNER, WITHOUT LAWFUL AUTHORITY, WITHOUT DUE PROCESS OF LAW, AND WITHOUT APPLYING THE JUDICIAL MIND, BASED ON MALAFIDE, MISINTERPRETATION, MISREADING AND MISCONCEPTION OF FACTS & LAW WHICH TANTAMOUNT TO MISCARRIAGE OF JUSTICE. THE SAME IMPUGNED NOTIFICATION

Filed to-day

Registrar

12/5/2020

MAY PLEASE BE DECLARED ILLEGAL , NULL AND VOID , WITHOUT LAWFUL AUTHORITY AND MAY BE SET ASIDE, DIRECTING THE RESPONDENTS TO REINSTATE THE SERVICES OF THE APPELLANT FROM THE DATE OF IMPUGNED NOTIFICATION DATED 07-10-2019 WITH ALL CONSEQUENTIAL BACK BENEFITS.

Respectfully Sheweth,

That the brief facts comprising the instant Appeal are enumerated as under: T

1. That on 15-11-2019, appellant was intimated by the principal of government girls degree college No.2 Mansehra, about the status of inquiry, and sent her a notification No. SO (C-11↑)/1-2/19/ Tehmina Akhtar, dated 7th October, 2019, whereby she has been removed from service by imposition of major penalty under E&D Rules, 2011.

(Copy of the impugned Notification dated: 07-10-2019

*is attached as **Annex "A"**)*

2. That KPPSC advertised post vide **Advertisement No.01/2016** dated **09-03-2016** wherein at S#29 two posts were reserved in Higher Education Department for recruitment against disabled quota including one for Lecturer in English.

(Copy of advertisement is attached as annex "B")

3. That appellant applied against reserved seats for disable persons on the strength of **Disability Certificate** issued by Directorate of Social Welfare and women development (PCRDP), Peshawar on **29-10-2009** wherein her disability was mentioned as **anisometropic Amblyopia in right eye**.

*(Copy of disability certificate dated 29-10-2009 is attached as **annex "C"**)*

4. That prior to recommendation by KPPSC, appellant was again examined by medical board and a fresh **disability certificate** was issued on **20-09-2016** by Social Welfare Department, Mansehra based on the opinion/recommendation of standing Medical Board wherein cause of her disability was confirmed, endorsed and mentioned as **"visual right Anisometropic Amblyopic eye"**

*(Copy of disability certificate dated 20-09-2016 is attached as **annex "D"**)*

5. That after having qualified for the respective post, KPPSC issued recommendation letter to the appellant against disable quota for the post of lecturer in English on **05-10-2016** and the Higher Education Department referred her for medical examination to **Services Hospital, Peshawar**. Wherein the standing Medical Board confirmed

the disability and the Eye Specialist referred the same as "**blind in one eye**" and **amblyopia**, vide its certificate dated 02-11-2016.

*(Copies of recommendation letter of KPPSC and report of standing medical board dated 02-11-2016 are attached as **annex "E", & "F"**)*

6. As a result of the above proceedings appellant was issued appointment order as Lecturer in English on **16-01-2017**, after completion of all the codal formalities and due recruitment process.

*(Copy of appointment letter dated 16-01-2017 is attached as **annex "G"**)*

7. That subsequently on 22-05-2017, a frivolous complaint was filed by one Muhammad Bilal for challenging the appointment of appellant by contending that appellant was not blind and disability certificate issued by Social Welfare Department, Mansehra is illegal. The complaint was based on enmity and family feuds, and besides this he also moved a complaint to Director General, Health Department, Khyber Pakhtunkhwa.

8. That Director General, Health Department, Khyber Pakhtunkhwa constituted a medical board and referred the matter to it for an expert opinion, whereby medical board examined the appellant at services hospital, Peshawar on 22-04-2017, and after examining her, they referred the matter to Lady Reading Hospital, Peshawar, for final opinion, without making any comments as to the opinion, for the reason that the eye-specialist namely Dr. Mehfooz Hussain was not available and did not examine her, and the staff of Lady Reading Hospital has not yet responded.

9. That on the basis of said complaint, Chairman, Chief Minister's complaint and redressal cell issued an order to Provincial Inspection Team, Khyber Pakhtunkhwa to conduct inquiry into the matter vide his order dated 22-05-2017, The whole proceedings of PIT were kept secret from the appellant and no opportunity of being heard was provided, and PIT submitted its vindictive and vehmsical inquiry report to the respondent no.1.

*(Copy of the inquiry report is attached as **Annex "H"**)*

10. That on the basis of PIT report, respondent no.1 issued a show cause notice to the appellant under the charge of misconduct on her part and with tentatively proposed penalty of removal from service. Reply to the said show cause notice was submitted, through proper channel on 02-06-2019.

*(Copies of the show Cause Notice and its reply is attached as **Annex "I" and "J"**)*

11. That personal hearing after the said show cause notice was assigned to Mr. Farrukh Sair, Secretary, Zakat and Ushar Department. When the appellant appeared for personal hearing on the date intimated through P.S of the Secretary, Zakat and Ushar Department refused to conduct

the personal hearing and stated that since he was Chairman PIT at the time of inquiry he cannot hear the appellant. He remarked that he will send back the file to the Chief Secretary to appoint somebody else for personal hearing. But he issued second hearing notice after a few weeks and concluded the hearing. Resultantly, major penalty of removal from service was imposed against the appellant vide notification NO.SO(C-111)/12/19 and was communicated through Principal, Government Degree College No. 2 Mansehra on 15-11-2019.

12. That the removal from service notification No. So(C-111)/1-2/19/ Tehmina Akkhter was the result of misinterpretation of law and was challenged vide W.P No.1375/2019 in the Honourable Peshawar High Court, Abbottabad Bench while invoking writ jurisdiction under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 on 25-11-2019.

(Copy of the W.P is attached as Annex "K")

13. That keeping in view limitation, a departmental appeal was filed on 02-12-2019 before Chief Minister Khyber Pakhtunkhwa under section 17 of the Khyber Pakhtunkhwa Government Servant Efficiency and Discipline Rules, 2011. That on 11-01-2020, Peshawar High Court, Abbottabad Bench treated the Writ Petition as departmental representation and sent it to the respondents/concerned departmental for its decision in accordance with the law and intimate the decision to appellant. The same is still pending.

(Copies of the High Court Order and submission letter to Secretary Higher Education is attached as Annex "L" & "M")

14. That the removal of appellant from service on the basis of alleged misconduct relates to the question of terms and conditions of service hence the appellant jurisdiction of this Honourable Tribunal is invoked inter-alia upon the following grounds.

GROUND:

- a. That the Impugned notification has been issued by respondent No.2 in an arbitrary manner and without applying judicial mind.
- b. That respondent no.1 and 2 as well as the inquiry committee failed to appreciate the definition of Disable Persons under section 2(c) of Disabled Persons (Employment and Rehabilitation) Ordinance, 1981; hence any action taken on the basis such recommendation is liable to be set-aside on this score only.
- c. That respondent No.1 has erred in his decision and reference is made to the report of **Provincial Inspection Team (PIT)** on the

basis of which appellant was issued the said show cause notice. That the inquiry was not initiated under the concerned E & D Rules. Moreover, the whole process has violated basic principle of **audi alteram partem**. In addition, the proceedings of PIT inquiry were kept secret and the appellant was not given an opportunity of being heard. Thus the process has also deprived the appellant of fundamental right of **fair trial** under **Article 10-A** of the Constitution of the Islamic Republic of Pakistan.

- d. Respondent no.1 and 2 also failed to appreciate the recommendation made by PIT, which paints a grim picture of flouting of whole justice system. As per recommendation No. 3 of PIT states that the law about disability is defective and a reformed Act in consultation with Special Registered Persons Associations may be formulated to replace the existing law. It has further recommended that ambiguities regarding organs of body causing disabilities may be removed, define job specific disabilities and devise a list of organs of body in the Act which makes human body disable. This reflects myopic and tunnel vision of PIT. Moreover, this recommendation will have no legal bearing in the case of the appellant.
- e. That the contention of respondents, that the appellant was not disable under the definition of section 2(c) of Disabled Persons (Employment and Rehabilitation) Ordinance, 1981, is altogether contrary and is in direct conflict with the dictum laid down by the Honourable superior Courts as to the definition of the word "disability".
- f. That the respondent No.1 erred in his show cause notice/judgment and did not consider the fact that it is evident from record that as per diagnosis by eye specialists and opinion of FOUR Standing Medical Boards constituted at various times appellant is suffering from right eye amblyopia. As per medical dictionaries, it is a disease caused by poorly aligned eyes, where the brain ignores the visual input from the misaligned eye. In medical terms it means the vision of one eye is reduced because it fails to work properly with the brain. This condition where eye fails to work properly with brain is very much covered within the definition of Disabled person under section 2(c) of Disabled Persons (Employment and Rehabilitation) Ordinance, 1981. Moreover, Appellant has never claimed to be a blind person. Rather disability certificates were issued on the ground that due to nature of the disease and for all practical purposes she is one-eyed person. In addition to the above, two disability certificates issued to the appellant are still valid and operative.
- g. That the impugned notification as well as the medical board constituted after the appointment of appellant is absolutely in

violation of universally accepted principle of locus poenitentiae, as well as to its interpretations in the form of dictums laid down by the August Apex Court as well as the Honourable High Courts of the country, therefore they have no value in the eye of law, and are liable to be set-aside.

- h. That it is an inalienable right of every individual to be dealt in accordance with law, and be given a right to fair trial without any sort of discrimination whatsoever, but the conduct of respondents starting from the inception of complaint till the impugned notification, presented a trail of complete biasedness and is a worst example of curtailing fundamental rights of the appellant.
- i. That in para 10 of the PIT report it is stated "Disciplinary action may be taken against the members of Medical Assessment Board who assessed the disability of Ms. Tehmina Akhter and members who attended the review on the grounds of giving wrong assessment and issuing illegal disability certificate including Dr. Naseer Ahmad Sajid, District Eye Specialist on the grounds of ambiguous opinion and District Social Welfare Officer, Mansehra on the grounds of issuing disability certificate on the basis of ambiguous recommendations." This artificial term of "ambiguous opinion" is not to be found in law.
- j. That in para 4(vii) it has been observed by the PIT that on direction of Board at Services Hospital appellant appeared in the OPD of Dr. Mahfooz Hussain who reported that "...she cannot be registered blind." It is pertinent to mention here that Dr. Mahfooz Hussain has himself admitted in his report that he was not available for examination on the date given for checkup to determine disability or otherwise. How he could give any opinion regarding disability when he had never examined the appellant. Moreover, the appellant has never claimed to be a blind person.
- k. That no regular inquiry was conducted under the Rules. The appellant was not issued any statement of allegation or charge sheet. Major penalty of removal from service was imposed on the basis of show cause notice.
- l. That the condition of obtaining sanctions from the competent authority for initiating proceedings under the efficiency and discipline rules has not been complied with, and even otherwise the proceedings conducted by inquiry officer are beyond his mandate. Moreover, E&D Rules have not been applied in the case of appellant prior to issuance of show cause notice.

- m. That the impugned notification has failed to appreciate that the appellant has appeared before Medical Boards thrice after confirmation of her disability before (i) Standing Medical Board, DHQ, Abbottabad in 2009, (ii) Standing Medical Board at King Abdullah Hospital Mansehra and (iii) Standing Medical Board at Services Hospital, Peshawar. During the whole process appellant has not concealed factual and legal position from any authority. PIT did not include any technical expert and failed to reach any conclusion. It may be noted that second para of the Recommendations bears testimony to this fact where it has been suggested that appointment case of the appellant may be referred to Law & Parliamentary Affairs Department Govt. of KP, for favor of vetting the legal status. Thus appellant cannot be charged with any act of "misconduct".
- n. That the impugned notification and the whole proceedings initiated against the appellant are result of misinterpretation, misreading and misconception of the facts and the law which tantamount to miscarriage of justice and the authority has failed to exercise its powers in accordance with law, equity and fair-play. Hence, the Impugned notification is liable to be set-aside and declared void ab initio.
- o. Additional grounds shall be submitted at the time of arguments.

PRAYER:

In view of the foregoing, it is prayed that impugned notification dated 15-11-2019, having no legal sanctity, may kindly be declared void ab initio and respondents may please be directed to reinstate the appellant from the date of removal i-e 15-11-2019, with cost. It is further prayed that the impugned notification, illegal and unwarranted, without lawful authority, without due process of law, without application of judicious mind, based on misinterpretation, misrepresentation, misreading and misconception of facts and law which tantamount to miscarriage of justice may kindly be annulled and the services of the appellant be reinstated from the date of removal with all consequential back benefits.

Any other relief which this Honourable Tribunal deems fit and proper may also be granted.

APPELLANT

(Tehmina Akhter)
12/05/2020

(TEHMINA AKHTER)

Lecturer in English

Government Degree College#II, Mansehra.



REGISTERED

GOVERNMENT OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES &
LIBRARIES DEPARTMENT

ANNEX-A

Dated Peshawar, 07th October, 2019

NOTIFICATION

No. SO(C-IID)HE/1-2/19/Tehmina Akhtar / WHEREAS Ms. Tehmina Akhtar, Lecturer in English, Govt. Girls Degree College No.2, Chitti Dheri (Mansehra) was proceeded against under E&D Rules, 2011 for having obtained fake disability certificate and appointed as Female-lecturer on the basis of the same certificate.

2. AND WHEREAS Show Cause Notice was served on her to which she replied. Her reply was placed before the competent authority for decision who granted her personal hearing.

3. AND WHEREAS Secretary Auqaf Department heard the accused, however, her arguments were not found convincing.

4. NOW THEREFORE, the Competent Authority after due consideration and in exercise of Powers Conferred under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011, is pleased to impose and confirm the major penalty of "Removal from Service" upon Ms. Tehmina Akhtar, Lecturer in English, Govt. Girls Degree College No.2, Chitti Dheri (Mansehra) with immediate effect.

SECRETARY TO
GOVT. OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION DEPARTMENT

Endst: No. & Date Even

Copy forwarded to the:-

1. Director, Higher Education, Khyber Pakhtunkhwa Peshawar.
2. Deputy Director, HEMIS Cell Higher Education Department.
3. Principal, Govt. Girls Degree College No.2, Chitti Dheri (Mansehra)
4. District Accounts Officer, Mansehra:

5. Lady Concerned,

Postal Address: Tehmina Akhtar, Village Dhangri Bala, Near Hashim Mosque
Tehsil & District Mansehra.

Section Officer (Colleges-III)

Attested
INAYAT MALIK
Additional Commissioner (IR)
Range-VII, Zone-IV
Large Taxpayers Unit, Islamabad

-1\$-

ANNEX "B"

**KHYBER PAKHTUNKHWA PUBLIC SERVICE
COMMISSION**

2- Fort Road Peshawar Cantt:

Website: www.kppsc.gov.pk

Tele: Nos. 091-9214131, 9213563, 9213750, 9212897

Dated: 09.03.2016

ADVERTISEMENT No. 01 / 2016.

Applications, on prescribed form, are invited for the following posts from Pakistani citizens having domicile of Khyber Pakhtunkhwa / F.A.T.A by **08.04.2016**. Incomplete applications and applications without supporting documents required to prove the claim of the candidates shall be rejected.

AGRICULTURE, LIVESTOCK & COOPERATIVE DEPTT:	
1.	<p>TWELVE (12) POSTS OF SOIL CONSERVATION ASSISTANT IN SOIL CONSERVATION.</p> <p>QUALIFICATION: (a) M.Sc Agriculture (Soil Science) from a recognized University; Or (b) B.Sc (Hons) Agriculture with Soil Science as major subject obtained after four years of academic instructions after F.Sc from a recognized University; Or (c) B.Sc Agricultural Engineering from a recognized University.</p> <p>AGE LIMIT: 21 to 35 years. PAY SCALE: BPS-17 ELIGIBILITY: Both Sexes. ALLOCATION: Three each to Merit and Zone-2, Two each to Zone-1 and Zone-3 and One each to Zone-4 and Zone-5.</p>
2.	<p>ONE (01) POST OF SOIL CONSERVATION ASSISTANT (WOMEN QUOTA) IN SOIL CONSERVATION.</p> <p>QUALIFICATION: (a) M.Sc Agriculture (Soil Science) from a recognized University; Or (b) B.Sc (Hons) Agriculture with Soil Science as major subject obtained after four years of academic instructions after F.Sc from a recognized University; Or (c) B.Sc Agricultural Engineering from a recognized University.</p> <p>AGE LIMIT: 21 to 35 years. PAY SCALE: BPS-17 ELIGIBILITY: Female. ALLOCATION: Merit.</p>
3.	<p>THREE (03) POSTS OF COMPUTER OPERATOR IN SOIL CONSERVATION.</p> <p>QUALIFICATION: (a) Second Class Bachelor's Degree in Computer Science/Information Technology (BCS/BIT four years) from a recognized university; Or (b) Second Class Bachelor's Degree from a recognized university with one year Diploma in Information Technology from a recognized board or Technical Education.</p> <p>AGE LIMIT: 18 to 30 years. PAY SCALE: BPS-12 ELIGIBILITY: Both Sexes. ALLOCATION: One each to Zone-1, 2 and 3.</p>
4.	<p>FIVE (05) POSTS OF UNIT SUPERVISOR IN AGRICULTURAL ENGINEERING WING AGRICULTURE DEPARTMENT.</p> <p>QUALIFICATION: Secondary School Certificate from a recognized Board with three (03) years diploma course in Agricultural Mechanical / Automobile Engineering from a recognized institute.</p> <p>AGE LIMIT: 21 to 32 years. PAY SCALE: BPS-11 ELIGIBILITY: Both Sexes. ALLOCATION: One each to Zone-1, Zone-2, Zone-3, Zone-4 and Zone-5.</p>

Handwritten signature
INAYAT MALIK
Member, National Commission on
Parity with Women
Lahore

ENVIRONMENT DEPARTMENT	
5.	<p>ONE (01) POST OF ASSISTANT DIRECTOR IN CD, E & GAD DIRECTORATE, (FOREST)</p> <p>QUALIFICATION: (i) At least 2nd class Master's Degree in Rural Development, Sociology, Rural Sociology, Social Work, Anthropology, Home Economics, Agriculture Extension, Mass Communication, Forestry or equivalent qualification from a recognized University.</p> <p>AGE LIMIT: 22 to 30 years. PAY SCALE: BPS-17 ELIGIBILITY: Both Sexes. ALLOCATION: Merit.</p>
6.	<p>NINE (09) POSTS OF FOREST RANGER IN THE OFFICE OF CHIEF CONSERVATOR OF FORESTS</p> <p>QUALIFICATION: Bachelor's Degree in Forestry or Intermediate at least 2nd Division from recognized Board with two or more of the following subjects: -</p> <ol style="list-style-type: none"> i. Mathematics. ii. Physics. iii. Chemistry. iv. Biology. v. Zoology. vi. Botany. <p>Note: - Appointment of candidates selected for the posts by the Public Service Commission shall be made subject to the following conditions: -</p> <ol style="list-style-type: none"> i. The selected candidates shall undergo and successfully complete the training at the Pakistan Forest Institute leading to Bachelor's Degree in Forestry. Those already having Bachelor's Degree in Forestry from PFI shall be exempted from such training. ii. The selected candidates shall produce certificate from the standing Medical Board at Peshawar regarding their physical and mental fitness for performing the duties required of them. iii. The selected candidates shall execute a bond with the Forest Department to the effect that on successful completion of the training they shall serve the Govt: for at least five years and in default shall refund all the expenses incurred in connection with their training and education. <p>AGE LIMIT: 18 to 30 years. PAY SCALE: BPS-16 ELIGIBILITY: Male. ALLOCATION: Two each to Merit. Zone-1 & 2 and one each to Zone-3, 4, & 5.</p>
7.	<p>THREE (03) POSTS OF MONITORING INSPECTOR IN ENVIRONMENTAL PROTECTION AGENCY ENVIRONMENT DEPARTMENT.</p> <p>QUALIFICATION: At least 2nd class Bachelor's Degree in Bio-Chemistry, Chemistry, Statistics, Mathematics, Economics, Botany, Agriculture, Forestry and Physics as one of the subjects from a recognized University with one year experience in Data Collection or Laboratory work in Govt: or Semi Govt: organization.</p> <p>AGE LIMIT: 21 to 35 years, PAY SCALE: BPS-14 ELIGIBILITY: Both Sexes. ALLOCATION: One each to Zone-3, 4, & 5.</p>
ESTABLISHMENT DEPARTMENT	
8.	<p>SIXTEEN (16) POSTS OF OFFICE ASSISTANT IN ESTABLISHMENT DEPT</p> <p>QUALIFICATION: 2nd Class Bachelor Degree or equivalent qualification from a recognized University.</p> <p>AGE LIMIT: 20 to 32 years. PAY SCALE: BPS-16 ELIGIBILITY: Both Sexes. ALLOCATION: Four to Merit, Three each to Zone-1 & 2 and Two each to Zone-3, 4 & 5.</p>

Attested
INAMT MALIK
 Additional Commissioner (IR)
 Range-VII, Zone-IV
 Payovers Unit, Islamabad

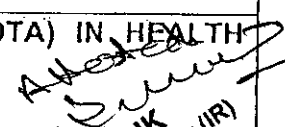
9.	<p>ONE (01) POST OF OFFICE ASSISTANT (DISABLE QUOTA) IN ESTABLISHMENT DEPTT.</p> <p><u>QUALIFICATION:</u> 2nd Class Bachelor Degree or equivalent qualification from recognized University.</p> <p><u>AGE LIMIT:</u> 20 to 32 years. <u>PAY SCALE:</u> BPS-16 <u>ELIGIBILITY:</u> Both Sexes. <u>ALLOCATION:</u> Merit.</p>
10.	<p>TWO (02) POSTS OF OFFICE ASSISTANT (FEMALE QUOTA) IN ESTABLISHMENT DEPARTMENT</p> <p><u>QUALIFICATION:</u> 2nd Class Bachelor Degree or equivalent qualification from recognized University.</p> <p><u>AGE LIMIT:</u> 20 to 32 years. <u>PAY SCALE:</u> BPS-16 <u>ELIGIBILITY:</u> Female. <u>ALLOCATION:</u> Merit.</p>
11.	<p>THREE (03) POSTS OF OFFICE ASSISTANT (MINORITY QUOTA) IN ESTABLISHMENT DEPARTMENT</p> <p><u>QUALIFICATION:</u> 2nd Class Bachelor Degree or equivalent qualification from recognized University.</p> <p><u>AGE LIMIT:</u> 20 to 32 years. <u>PAY SCALE:</u> BPS-16 <u>ELIGIBILITY:</u> Both Sexes. <u>ALLOCATION:</u> Merit.</p>
12.	<p>THIRTEEN (13) POSTS OF COMPUTER OPERATOR IN ESTABLISHMENT DEPARTMENT.</p> <p><u>QUALIFICATION:</u> (i) 2nd Class Bachelor's Degree in Computer Science/ Information Technology (BCS/BIT four years) from a recognized University; OR (ii) Second Class Bachelor's Degree from a recognized university with one year Diploma in Information Technology from a recognized Board of Technical Education.</p> <p><u>AGE LIMIT:</u> 18 to 28 years. <u>PAY SCALE:</u> BPS-12 <u>ELIGIBILITY:</u> Both Sexes. <u>ALLOCATION:</u> Three each to Zone-1, 2, and 3, and Two each to Zone-4 &-5.</p>
13.	<p>ONE (01) POST OF COMPUTER OPERATOR (DISABLE QUOTA) IN ESTABLISHMENT DEPARTMENT.</p> <p><u>QUALIFICATION:</u> (i) 2nd Class Bachelor's Degree in Computer Science/ Information Technology (BCS/BIT four years) from a recognized University; OR (ii) Second Class Bachelor's Degree from a recognized university with one year Diploma in Information Technology from a recognized Board of Technical Education.</p> <p><u>AGE LIMIT:</u> 18 to 28 years. <u>PAY SCALE:</u> BPS-12 <u>ELIGIBILITY:</u> Both Sexes. <u>ALLOCATION:</u> Merit.</p>
14.	<p>TWO (02) POST OF COMPUTER OPERATOR (FEMALE QUOTA) IN ESTABLISHMENT DEPARTMENT.</p> <p><u>QUALIFICATION:</u> (i) 2nd Class Bachelor's Degree in Computer Science/ Information Technology (BCS/BIT four years) from a recognized University; OR (ii) Second Class Bachelor's Degree from a recognized university with one year Diploma in Information Technology from a recognized Board of Technical Education.</p> <p><u>AGE LIMIT:</u> 18 to 28 years. <u>PAY SCALE:</u> BPS-12 <u>ELIGIBILITY:</u> Female. <u>ALLOCATION:</u> Merit.</p>
15.	<p>THREE (03) POSTS OF COMPUTER OPERATOR (MINORITY QUOTA) IN ESTABLISHMENT DEPARTMENT,</p>

Sakened
Pruning
INAYAT MAJIK
Additional Commissioner (IT)
Range-VII, Zone-IV
Lahore, Punjab
Large Taxpayers Unit

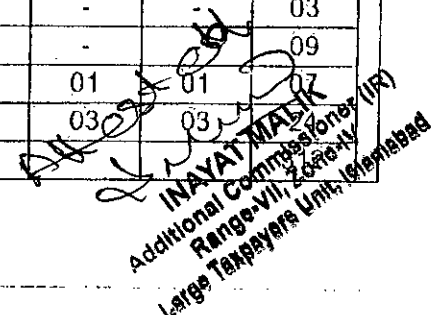
	<p>QUALIFICATION: (i) 2nd Class Bachelor's Degree in Computer Science/ Information Technology (BCS/BIT four years) from a recognized University; OR (ii) Second Class Bachelor's Degree from a recognized university with one year Diploma in Information Technology from a recognized Board of Technical Education.</p> <p>AGE LIMIT: 18 to 28 years. PAY SCALE: BPS-12 ELIGIBILITY: Both Sexes. ALLOCATION: Merit.</p>
16.	<p>ONE (01) (LEFTOVER) POST OF JUNIOR SCALE STENOGRAPHER IN DIRECTORATE OF ANTI CORRUPTION ESTABLISHMENT.</p> <p>QUALIFICATION: (i) F.A or equivalent qualification from a recognized Board; and (ii) A speed of 80 words per minute in shorthand in English and 40 words per minute in Typing.</p> <p>AGE LIMIT: 18 to 30 years. PAY SCALE: BPS-14 ELIGIBILITY: Both Sexes. ALLOCATION: Zone-1.</p>
ELEMENTARY & SECONDARY EDUCATION DEPTT:	
17.	<p>ONE (01) (LEFTOVER) POST OF FEMALE SUBJECT SPECIALIST HISTORY CUM CIVICS IN ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT.</p> <p>QUALIFICATION: (1) Master's degree in the relevant subject with Bachelor of Education or M.Ed or Master of Education (Industrial Arts or Business Education) or M.A Education or equivalent Qualification from recognized University; Or (2) If no suitable candidate possessing the above qualification is available, a candidate possessing Master's Degree in the relevant subject may be appointed as Subject Specialist subject to the condition that he/she shall acquire the requisite qualification as specified above within three years from the date of his appointment, failing which his service will be terminated without notice irrespective of any provision of the rules for the time being enforce.</p> <p>Note: - The person appointed as Subject Specialist shall be transferable only to a post relevant to his subject.</p> <p>Note: - The candidates must possess Master's Degree in History with Political Science studied at B.A or Master Degree in Political Science with History studied at B.A level.</p> <p>AGE LIMIT: 25 to 40 years. PAY SCALE: BPS-17 ELIGIBILITY: Female. ALLOCATION: Merit.</p>
18.	<p>ONE (01) (LEFTOVER) POST OF FEMALE SUBJECT SPECIALIST HOME ECONOMICS IN ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT.</p> <p>QUALIFICATION: (1) Master's degree in the relevant subject with Bachelor of Education or M.Ed or Master of Education (Industrial Arts or Business Education) or M.A Education or equivalent Qualification from recognized University; Or (2) If no suitable candidate possessing the above qualification is available, a candidate possessing Master's Degree in the relevant subject may be appointed as Subject Specialist subject to the condition that he/she shall acquire the requisite qualification as specified above within three years from the date of his appointment, failing which his service will be terminated without notice irrespective of any provision of the rules for the time being enforce.</p> <p>Note: - The person appointed as Subject Specialist shall be transferable only to a post relevant to his subject.</p> <p>AGE LIMIT: 25 to 40 years. PAY SCALE: BPS-17 ELIGIBILITY: Female. ALLOCATION: Zone-3.</p>

(Handwritten Signature)
Additional Commissioner
Rangpur, Rangpur
Taxes & Revenue

19.	<p>THREE (03) (LEFTOVER) POSTS OF FEMALE SUBJECT SPECIALIST STATISTICS IN ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT.</p> <p>QUALIFICATION: (1) Master's degree in the relevant subject with Bachelor of Education or M.Ed or Master of Education (Industrial Arts or Business Education) or M.A Education or equivalent Qualification from recognized University; Or (2) If no suitable candidate possessing the above qualification is available, a candidate possessing Master's Degree in the relevant subject may be appointed as Subject Specialist subject to the condition that he/she shall acquire the requisite qualification as specified above within three years from the date of his appointment, failing which his service will be terminated without notice irrespective of any provision of the rules for the time being enforce.</p> <p>Note: - The person appointed as Subject Specialist shall be transferable only to a post relevant to his subject.</p> <p>AGE LIMIT: 25 to 40 years. PAY SCALE: BPS-17 ELIGIBILITY: Female. ALLOCATION: Merit.</p>
20.	<p>FOUR (04) (LEFTOVER) POSTS OF FEMALE SUBJECT SPECIALIST MATHS IN ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT.</p> <p>QUALIFICATION: (1) Master's degree in the relevant subject with Bachelor of Education or M.Ed or Master of Education (Industrial Arts or Business Education) or M.A Education or equivalent Qualification from recognized University; Or (2) If no suitable candidate possessing the above qualification is available, a candidate possessing Mather's Degree in the relevant subject may be appointed as Subject Specialist subject to the condition that he/she shall acquire the requisite qualification as specified above within three years from the date of his appointment, failing which his service will be terminated without notice irrespective of any provision of the rules for the time being enforce.</p> <p>Note: - The person appointed as Subject Specialist shall be transferable only to a post relevant to his subject.</p> <p>AGE LIMIT: 25 to 40 years. PAY SCALE: BPS-17 ELIGIBILITY: Female. ALLOCATION: Merit.</p>
21.	<p>EIGHT (08) (LEFTOVER) POSTS OF FEMALE A.D.O IN ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT.</p> <p>QUALIFICATION: BA / B.Sc 2nd Division with B,Ed and five years Teaching / Administrative experience in Govt: recognized education institution / office.</p> <p>AGE LIMIT: 21 to 35 years. PAY SCALE: BPS-16 ELIGIBILITY: Female. ALLOCATION: Merit.</p>
HEALTH DEPARTMENT	
22.	<p>TWENTY SIX (26) POSTS OF MEDICAL OFFICER IN HEALTH DEPARTMENT</p> <p>QUALIFICATION: (a) MBBS or equivalent qualification from recognized university and (b) Completion of House Job Training.</p> <p>AGE LIMIT: 22 to 35 years. PAY SCALE: BPS-17 ELIGIBILITY: Both Sexes. ALLOCATION: Seven to Merit, Five to Zone-1, Four each to Zone-2 & 3 and Three each to Zone-4 & 5.</p>
23.	<p>TWO (02) POSTS OF MEDICAL OFFICER (WOMEN QUOTA) IN HEALTH DEPARTMENT</p> <p>QUALIFICATION: (a) MBBS or equivalent qualification from recognized university and (b) Completion of House Job Training.</p>


INAYAT MAJIK
Additional Commissioner (IR)
Range-VII, Zone-IV
Large Taxpayers Unit, Islamabad

	<p>AGE LIMIT: 22 to 35 years. PAY SCALE: BPS-17 ELIGIBILITY: Female. ALLOCATION: Merit.</p>																																																																																																																																																																																																																																										
24.	<p>ONE (01) LEFTOVER POST OF ARTIST IN SAIDU MEDICAL COLLEGE, SWAT, HEALTH DEPARTMENT</p> <p>QUALIFICATION: (a) Secondary School Certificate from recognized Board (b) Diploma in Fine Arts from any recognized government Institute.</p> <p>AGE LIMIT: 18 to 30 years. PAY SCALE: BPS-11 ELIGIBILITY: Both Sexes. ALLOCATION: Zone-2.</p>																																																																																																																																																																																																																																										
HIGHER EDUCATION, ARCHIVES & LIBRARIES DEPTT:																																																																																																																																																																																																																																											
25.	<p>THREE HUNDRED AND TWELVE (312) POSTS OF MALE LECTURER IN HIGHER EDUCATION DEPARTMENT</p> <p>QUALIFICATION: (a) 2nd class Master's Degree in the Relevant subject or equivalent qualification from a recognized university OR (b) 3rd Class Master's Degree in English from a recognized university for teaching English Subject with Post Graduate Diploma in English Language from Allama Iqbal Open University OR (c) 2nd Class L.L.B Degree from a recognized University for Lecturer in Law.</p> <p>AGE LIMIT: 21 to 30 years. PAY SCALE: BPS-17 ELIGIBILITY: Male ALLOCATION:</p> <table border="1" style="width:100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th>S. No.</th> <th>Subject</th> <th>Merit</th> <th>Zone-1</th> <th>Zone-2</th> <th>Zone-3</th> <th>Zone-4</th> <th>Zone-5</th> <th>Total</th> </tr> </thead> <tbody> <tr><td>i.</td><td>Botany</td><td>06</td><td>04</td><td>03</td><td>03</td><td>02</td><td>03</td><td>21</td></tr> <tr><td>ii.</td><td>Bio Informatics</td><td>01</td><td>01</td><td>-</td><td>-</td><td>-</td><td>-</td><td>02</td></tr> <tr><td>iii.</td><td>Computer Science</td><td>08</td><td>05</td><td>05</td><td>05</td><td>04</td><td>04</td><td>31</td></tr> <tr><td>iv.</td><td>Chemistry</td><td>09</td><td>06</td><td>06</td><td>07</td><td>04</td><td>04</td><td>36</td></tr> <tr><td>v.</td><td>Economics</td><td>05</td><td>03</td><td>03</td><td>04</td><td>03</td><td>02</td><td>20</td></tr> <tr><td>vi.</td><td>Electronics</td><td>02</td><td>-</td><td>01</td><td>01</td><td>01</td><td>01</td><td>06</td></tr> <tr><td>vii.</td><td>English</td><td>10</td><td>06</td><td>07</td><td>07</td><td>05</td><td>05</td><td>40</td></tr> <tr><td>viii.</td><td>Geography</td><td>01</td><td>01</td><td>-</td><td>-</td><td>01</td><td>01</td><td>04</td></tr> <tr><td>ix.</td><td>Health & Physical Education</td><td>01</td><td>-</td><td>01</td><td>01</td><td>-</td><td>-</td><td>03</td></tr> <tr><td>x.</td><td>History</td><td>01</td><td>01</td><td>01</td><td>-</td><td>-</td><td>-</td><td>03</td></tr> <tr><td>xi.</td><td>Information Technology</td><td>01</td><td>01</td><td>-</td><td>-</td><td>-</td><td>-</td><td>02</td></tr> <tr><td>xii.</td><td>International Relation</td><td>01</td><td>01</td><td>-</td><td>-</td><td>-</td><td>-</td><td>02</td></tr> <tr><td>xiii.</td><td>Islamiyat</td><td>02</td><td>01</td><td>01</td><td>01</td><td>-</td><td>01</td><td>06</td></tr> <tr><td>xiv.</td><td>Law</td><td>01</td><td>01</td><td>01</td><td>01</td><td>-</td><td>-</td><td>04</td></tr> <tr><td>xv.</td><td>Maths</td><td>06</td><td>05</td><td>05</td><td>05</td><td>03</td><td>03</td><td>27</td></tr> <tr><td>xvi.</td><td>Micro Biology</td><td>01</td><td>01</td><td>-</td><td>-</td><td>-</td><td>-</td><td>02</td></tr> <tr><td>xvii.</td><td>Pashto</td><td>01</td><td>-</td><td>-</td><td>01</td><td>-</td><td>-</td><td>02</td></tr> <tr><td>xviii.</td><td>Pak Study</td><td>01</td><td>01</td><td>02</td><td>02</td><td>-</td><td>-</td><td>06</td></tr> <tr><td>xix.</td><td>Physics</td><td>09</td><td>06</td><td>06</td><td>06</td><td>05</td><td>05</td><td>37</td></tr> <tr><td>xx.</td><td>Political Science</td><td>04</td><td>02</td><td>03</td><td>02</td><td>02</td><td>02</td><td>15</td></tr> <tr><td>xxi.</td><td>Sociology</td><td>-</td><td>01</td><td>01</td><td>01</td><td>-</td><td>-</td><td>03</td></tr> <tr><td>xxii.</td><td>Statistics</td><td>03</td><td>02</td><td>02</td><td>02</td><td>-</td><td>-</td><td>09</td></tr> <tr><td>xxiii.</td><td>Urdu</td><td>02</td><td>01</td><td>01</td><td>01</td><td>01</td><td>01</td><td>07</td></tr> <tr><td>xxiv.</td><td>Zoology</td><td>06</td><td>04</td><td>04</td><td>04</td><td>03</td><td>03</td><td>24</td></tr> <tr><td></td><td>Total</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> </tbody> </table>	S. No.	Subject	Merit	Zone-1	Zone-2	Zone-3	Zone-4	Zone-5	Total	i.	Botany	06	04	03	03	02	03	21	ii.	Bio Informatics	01	01	-	-	-	-	02	iii.	Computer Science	08	05	05	05	04	04	31	iv.	Chemistry	09	06	06	07	04	04	36	v.	Economics	05	03	03	04	03	02	20	vi.	Electronics	02	-	01	01	01	01	06	vii.	English	10	06	07	07	05	05	40	viii.	Geography	01	01	-	-	01	01	04	ix.	Health & Physical Education	01	-	01	01	-	-	03	x.	History	01	01	01	-	-	-	03	xi.	Information Technology	01	01	-	-	-	-	02	xii.	International Relation	01	01	-	-	-	-	02	xiii.	Islamiyat	02	01	01	01	-	01	06	xiv.	Law	01	01	01	01	-	-	04	xv.	Maths	06	05	05	05	03	03	27	xvi.	Micro Biology	01	01	-	-	-	-	02	xvii.	Pashto	01	-	-	01	-	-	02	xviii.	Pak Study	01	01	02	02	-	-	06	xix.	Physics	09	06	06	06	05	05	37	xx.	Political Science	04	02	03	02	02	02	15	xxi.	Sociology	-	01	01	01	-	-	03	xxii.	Statistics	03	02	02	02	-	-	09	xxiii.	Urdu	02	01	01	01	01	01	07	xxiv.	Zoology	06	04	04	04	03	03	24		Total							
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xvii.	Pashto	01	-	-	01	-	-	02																																																																																																																																																																																																																																			
xviii.	Pak Study	01	01	02	02	-	-	06																																																																																																																																																																																																																																			
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INAYAT MAJID
 Additional Commissioner (IR)
 Range-VII, 26th May
 Large Taxpayers Unit, Islamabad

Note: - Candidates are advised to write Serial No. and Sub Serial No. of the posts in the space available in application form.

26. SEVEN (07) POSTS OF MALE LECTURER (DISABLE QUOTA) IN HIGHER EDUCATION DEPARTMENT.

QUALIFICATION: (a) 2nd class Master's Degree in the Relevant subject or equivalent qualification from a recognized university OR
(b) 3rd Class Master's Degree in English from a recognized university for teaching English Subject with Post Graduate Diploma in English Language from Allama Iqbal Open University OR
(c) 2nd Class L.L.B Degree from a recognized University for Lecturer in Law.

AGE LIMIT: 21 to 30 year. **PAY SCALE:** BPS-17 **ELIGIBILITY:** Male.
ALLOCATION: As mentioned below against each subject: -

S. No.	Subject	No. of Posts	Allocation
i)	Economics	01	Merit amongst Disabled Persons
ii)	Maths	01	-do-
iii)	Zoology	01	-do-
iv)	Physics	01	-do-
v)	Chemistry	01	-do-
vi)	English	02	-do-

Note: - Candidates are advised to write Serial No. and Sub Serial No. of the posts in the space available in application form.

27. ELEVEN (11) POSTS OF MALE LECTURER (MINORITY QUOTA) IN HIGHER EDUCATION DEPARTMENT.

QUALIFICATION: (a) 2nd class Master's Degree in the Relevant subject or equivalent qualification from a recognized university OR
(b) 3rd Class Master's Degree in English from a recognized university for teaching English subject with Post Graduate Diploma in English Language from Allama Iqbal Open University OR
(c) 2nd Class L.L.B Degree from a recognized University for Lecturer in Law.

AGE LIMIT: 21 to 30 year. **PAY SCALE:** BPS-17 **ELIGIBILITY:** Male.
ALLOCATION: As mentioned below against each subject: -

S. No.	Subject	No. of Posts	Allocation
i)	English	02	Merit amongst candidates belonging to Minorities
ii)	Maths	02	-do-
iii)	Physics	01	-do-
iv)	Chemistry	01	-do-
v)	Zoology	01	-do-
vi)	Economics	01	-do-
vii)	Computer Science	01	-do-
viii)	Political Science	02 (one leftover)	-do-

Note: - Candidates are advised to write Serial No. and Sub Serial No. of the posts in the space available in application form.

28. NINETY THREE (93) POSTS (92 FRESH & 01 LEFTOVER) OF FEMALE LECTURER IN HIGHER EDUCATION DEPARTMENT

QUALIFICATION: (a) 2nd class Master's Degree in the Relevant subject or equivalent qualification from a recognized university OR

Attested
Sunil
INAYAT MAZAK
Additional Commissioner (IR)
Range-VII, Zonal
Large Taxpayers Unit, Islamabad

(b) 3rd Class Master's Degree in English from a recognized university for teaching English subject with Post Graduate Diploma in English Language from Allama Iqbal Open University OR

(c) 2nd Class L.L.B Degree from a recognized University for Lecturer in Law.

AGE LIMIT: 21 to 30 years. **PAY SCALE:** BPS-17 **ELIGIBILITY:** Female
ALLOCATION:

S. No.	Subject	Merit	Zone-1	Zone-2	Zone-3	Zone-4	Zone-5	Total
i.	Arts & Design	01	01	01	01	-	-	04
ii.	Botany	01	01	01	01	-	-	04
iii.	Chemistry	01	02	01	01	-	-	05
iv.	Computer Science	-	-	-	01	-	-	01
v.	Economics	01	-	-	01	-	-	02
vi.	English	02	01	02	02	01	01	09
vii.	Food & Nutrition	01	01	01	01	-	-	04
viii.	Geography	01	01	01	01	01	-	05
ix.	History	01	01	-	01	01	01	05
x.	Home Economics	01	01	01	-	-	01	04
xi.	Human Development	01	01	01	01	-	-	04
xii.	Islamiyat	01	-	-	01	01	-	03
xiii.	Law	01	02 (including 01 leftover)	01	-	-	-	04
xiv.	Maths	01	01	01	01	-	-	04
xv.	Pashto	01	-	-	-	-	-	01
xvi.	Pak Study	01	-	-	-	01	01	03
xvii.	Physics	02	01	01	01	01	01	07
xviii.	Political Science	-	01	-	-	-	01	02
xix.	Psychology	01	01	-	-	01	01	04
xx.	Resource & Facility Management	01	01	01	01	-	-	04
xxi.	Statistics	01	01	-	-	-	-	02
xxii.	Textile & Clothing	01	01	01	01	-	-	04
xxiii.	Urdu	02	01	-	01	01	01	06
xxiv.	Zoology	-	-	01	01	-	-	02
	Total							93

Note: - Candidates are advised to write Serial No. and Sub Serial No. of the posts in the space available in application form.

29. TWO (02) POSTS OF FEMALE LECTURER (DISABLE QUOTA) IN HIGHER EDUCATION DEPARTMENT.

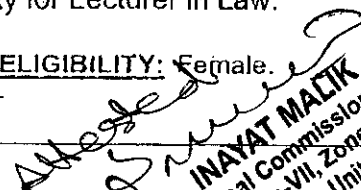
QUALIFICATION: (a) 2nd class Master's Degree in the Relevant subject or equivalent qualification from a recognized university OR

(b) 3rd Class Master's Degree in English from a recognized university for teaching English subject with Post Graduate Diploma in English Language from Allama Iqbal Open University OR

(c) 2nd Class L.L.B Degree from a recognized University for Lecturer in Law.

AGE LIMIT: 21 to 30 year. **PAY SCALE:** BPS-17 **ELIGIBILITY:** Female.

ALLOCATION: As mentioned below against each subject: -


INAYAT MALIK
 Additional Commissioner (IR)
 Range-VII, Zone-IV
 Large Taxpayers Unit, Islamabad

	S. No.	Subject	No. of Posts	Allocation																
	i)	English	01	Merit amongst disabled candidates																
	ii)	Physics	01	-do-																
<p>Note:- Candidates are advised to write Serial No. and Sub Serial No. of the posts in the space available in application form.</p>																				
30.	<p>THREE (03) POSTS OF FEMALE LECTURER (MINORITY QUOTA) IN HIGHER EDUCATION DEPARTMENT.</p> <p>QUALIFICATION: (a) 2nd class Master's Degree in the Relevant subject or equivalent qualification from a recognized university OR (b) 3rd Class Master's Degree in English from a recognized university for teaching English subject with Post Graduate Diploma in English Language from Allama Iqbal Open University OR (c) 2nd Class L.L.B Degree from a recognized University for Lecturer in Law.</p> <p>AGE LIMIT: 21 to 30 year. PAY SCALE: BPS-17 ELIGIBILITY: Female. ALLOCATION: As mentioned below against each subject: -</p> <table border="1" style="width: 100%; border-collapse: collapse; margin: 10px 0;"> <thead> <tr> <th style="width: 5%;">S. No.</th> <th style="width: 25%;">Subject</th> <th style="width: 15%;">No. of Posts</th> <th style="width: 55%;">Allocation</th> </tr> </thead> <tbody> <tr> <td>i)</td> <td>Chemistry</td> <td>01</td> <td>Merit amongst candidates belonging to Minorities</td> </tr> <tr> <td>ii)</td> <td>Computer Science</td> <td>01</td> <td>-do-</td> </tr> <tr> <td>iii)</td> <td>English</td> <td>01</td> <td>-do-</td> </tr> </tbody> </table> <p>Note:- Candidates are advised to write Serial No. and Sub Serial No. of the posts in the space available in application form.</p>				S. No.	Subject	No. of Posts	Allocation	i)	Chemistry	01	Merit amongst candidates belonging to Minorities	ii)	Computer Science	01	-do-	iii)	English	01	-do-
S. No.	Subject	No. of Posts	Allocation																	
i)	Chemistry	01	Merit amongst candidates belonging to Minorities																	
ii)	Computer Science	01	-do-																	
iii)	English	01	-do-																	
31.	<p>ONE (01) (LEFTOVER) POST OF FEMALE LIBRARIAN IN HIGHER EDUCATION DEPARTMENT.</p> <p>QUALIFICATION: 2nd Class Master Degree in the relevant subject or equivalent qualification from a recognized University.</p> <p>AGE LIMIT: 21 to 30 years. PAY SCALE: BPS-17 ELIGIBILITY: Female. ALLOCATION: Zone-5.</p>																			
HOME & TRIBAL AFFAIRS DEPARTMENT																				
32.	<p>ONE (01) (LEFTOVER) POST OF COMPUTER OPERATOR (MINORITY QUOTA) IN DIRECTORATE OF PROSECUTION</p> <p>QUALIFICATION: (1) 2nd class Bachelor's Degree in Computer Science / Information Technology (BCS/BIT 04 years) from a recognized University; OR (2) 2nd Class Bachelor's Degree from a recognized University with one year Diploma in Information Technology from a recognized Board of Technical Education.</p> <p>AGE LIMIT: 18 to 30 years. PAY SCALE: BPS-12 ELIGIBILITY: Both Sexes. ALLOCATION: Merit.</p>																			
33.	<p>TWO (02) (LEFT OVER) POSTS OF JUNIOR SCALE STENOGRAPHER IN INSPECTORATE GENERAL OF PRISONS</p> <p>QUALIFICATION: (i) Intermediate or equivalent qualification from a recognized Board; and (ii) A speed of 60 words per minute in English Shorthand and 35 words per minute in English Typewriting (iii) knowledge of computer in using MS-Word and MS Excel.</p> <p>AGE LIMIT: 18 to 30 years. PAY SCALE: BPS-14 ELIGIBILITY: Both Sexes. ALLOCATION: One each to Zone-4 & 5.</p>																			
34.	<p>ONE (01) (LEFTOVER) POST OF COMPUTER OPERATOR IN INSPETORATE GENERAL OF PRISONS.</p>																			

Attested

INAYAT MALIK
 Additional Commissioner (IR)
 Range-VII, Zone-VI
 Large Tribes Welfare Unit, Islamabad

	<p>QUALIFICATION: 2nd class Bachelor's Degree in Computer Science (BCS) from recognized University / Institution.</p> <p>AGE LIMIT: 18 to 28 years. PAY SCALE: BPS-12 ELIGIBILITY: Both Sexes. ALLOCATION: Zone-3.</p>
35.	<p>SIX (06) LEFTOVER POSTS OF JUNIOR SCALE STENOGRAPHER (FEMALE QUOTA) IN THE OFFICE OF D.J.G. OPERATIONS FOR PROVINCIAL POLICE OFFICER</p> <p>QUALIFICATION: (i) Intermediate or equivalent qualification from a recognized Board and (ii) A speed of 50 words per minute in English Shorthand and 35 words per minute in English Typewriting and knowledge of Computer in using MS Word and MS Excel. AGE LIMIT: 18 to 30 years. PAY SCALE: BPS-14 ELIGIBILITY: Female. ALLOCATION: Merit.</p>
36.	<p>ONE (01) POST OF JUNIOR SCALE STENOGRAPHER IN PROVINCIAL PUBLIC SAFETY & POLICE COMPLAINT COMMISSION</p> <p>QUALIFICATION: (i) Intermediate or equivalent qualification from a recognized Board; (ii) A speed of 50 words per minute in Shorthand in English and 35 words per minute in typing and (iii) knowledge of computer in using MS-Word and MS Excel. AGE LIMIT: 18 to 30 years. PAY SCALE: BPS-14 ELIGIBILITY: Both Sexes. ALLOCATION: Zone-2.</p>
37.	<p>ONE (01) (LEFTOVER) POST OF FEMALE JUNIOR SCALE STENOGRAPHER IN PROVINCIAL PUBLIC SAFETY & POLICE COMPLAINT COMMISSION</p> <p>QUALIFICATION: (i) Intermediate or equivalent qualification from a recognized Board, (ii) A speed of 50 words per minute in shorthand in English and 35 words per minute in typing, and (ii) Knowledge of Computer in using MS Word and MS Excel. AGE LIMIT: 18 to 30 years. PAY SCALE: BPS-14 ELIGIBILITY: Female. ALLOCATION: Open Merit.</p>
INFORMATION DEPARTMENT	
38.	<p>ONE (01) (LEFTOVER) POST OF NEWS EDITOR.</p> <p>QUALIFICATION: (i) At least 2nd class Bachelor's Degree from a recognized University; and (ii) Two years experience in audio editing in Radio.</p> <p>Note: - Preference will be given to those having command on Pashto and Urdu Languages and Computer Literate.</p> <p>AGE LIMIT: 21 to 32 years. PAY SCALE: BPS-16 ELIGIBILITY: Male. ALLOCATION: Merit.</p>
39.	<p>ONE (01) (LEFTOVER) POST OF AUDIO EDITOR.</p> <p>QUALIFICATION: (i) At least 2nd Class Bachelor's Degree from a recognized University. (ii) Two years experience in audio editing; and (iii) One year experience in adobe audition.</p> <p>Note: - Preference will be given to Information Technology certificate holder.</p>

Attested
[Signature]
INAYAT MALIK
 Additional Commissioner (IR)
 Range-VII, Zone-IV
 Large Taxpayers Unit, Islamabad

	<p>AGE LIMIT: 21 to 32 years. PAY SCALE: BPS-16 ELIGIBILITY: Male. ALLOCATION: Zone-1.</p>
40.	<p>ONE (01) (LEFTOVER) POST OF NON LINEAR EDITOR.</p> <p>QUALIFICATION: (i) At least second class Bachelor's Degree from a recognized University; (ii) One year Diploma in Information Technology from a recognized Technical Board; and (iii) Three years experience in Non Linear Editor and Video Composition.</p> <p>AGE LIMIT: 21 to 32 years. PAY SCALE: BPS-14 ELIGIBILITY: Both Sexes. ALLOCATION: Zone-1.</p>
IRRIGATION DEPARTMENT	
41.	<p>SEVEN (07) POSTS OF ZILLADAR IN IRRIGATION DEPARTMENT.</p> <p>QUALIFICATION: Bachelor's Degree or equivalent qualification from a recognized University.</p> <p>AGE LIMIT: 21 to 30 years. PAY SCALE: BPS-15 ELIGIBILITY: Male. ALLOCATION: Two each to Zone-1 & 3, and one each to Zone-2, 4 & 5.</p>
42.	<p>NINE (09) POSTS OF SUB ENGINEER CIVIL IN IRRIGATION DEPARTMENT.</p> <p>QUALIFICATION: Diploma of Associate Engineering Civil (D.A.E) from a recognized University.</p> <p>AGE LIMIT: 18 to 30 years. PAY SCALE: BPS-11 ELIGIBILITY: Both Sexes. ALLOCATION: Two each to Zone-1, 2, 4 & 5 and One to Zone-3.</p>
LAW, PARLIAMENTARY AFFAIRS & HUMAN RIGHTS DEPARTMENT	
43.	<p>TWO (02) (LEFTOVER) POSTS OF SENIOR SCALE STENOGRAPHER IN ADVOCATE GENERAL OFFICE</p> <p>QUALIFICATION: (i) 2nd Class Bachelor's Degree from a recognized University. (ii) A speed of 70 words per minute in shorthand in English and 45 words per minute in typing, and (ii) Knowledge of Computer in using MS Word and MS Excel.</p> <p>AGE LIMIT: 20 to 30 years. PAY SCALE: BPS-16 ELIGIBILITY: Both Sexes. ALLOCATION: One each to Zone-2 and Zone-3.</p>
LABOUR DEPARTMENT	
44.	<p>ONE (01) POST OF ASSISTANT DIRECTOR LABOUR.</p> <p>QUALIFICATION: (i) Second Class Master's Degree in any Social Sciences or Business Administrator or Public Administration or Statistics or L.L.B from a recognized University.</p> <p>AGE LIMIT: 21 to 30 years. PAY SCALE: BPS-17 ELIGIBILITY: Both Sexes. ALLOCATION: Zone-5.</p>
45.	<p>THREE (03) POSTS OF INSPECTOR (W & M).</p> <p>QUALIFICATION: Second Class Bachelor Degree with Physics, Chemistry, Electronics or Mathematics as one of the subject from a recognized University</p>

Attested
Suway
INAYAT MALIK
Additional Commissioner (IR)
Range-VII, Zone-IV
Large Taxpayers Unit, Islamabad

	<p>AGE LIMIT: 21 to 30 years. PAY SCALE: BPS-16 ELIGIBILITY: Male. ALLOCATION: One each to Merit, Zone-3 and Zone-4.</p>
<i>MINES AND MINERALS DEVELOPMENT DEPARTMENT</i>	
46.	<p>ONE (01) POST OF PLANNING OFFICER.</p> <p>QUALIFICATION: 2nd Class Master's Degree or equivalent qualification in Economics, Statistics, Business Administration or Public Administration from a recognized University.</p> <p>AGE LIMIT: 22 to 32 years. PAY SCALE: BPS-17 ELIGIBILITY: Both Sexes. ALLOCATION: Merit.</p>
<i>POPULATION WELFARE DEPARTMENT</i>	
47.	<p>NINE (09) POSTS OF WOMEN MEDICAL OFFICER / DEPUTY DISTRICT POPULATION WELFARE OFFICER (TECHNICAL) IN POPULATION WELFARE DEPARTMENT.</p> <p>QUALIFICATION: MBBS Degree or equivalent qualification recognized by the Pakistan Medical and Dental Council (PMDC).</p> <p>AGE LIMIT: 21 to 32 years. PAY SCALE: BPS-17 ELIGIBILITY: Female. ALLOCATION: Two each to Merit, Zone-2 & 3 and One each to Zone-1, 4 & 5.</p>
<i>SPORTS, TOURISM, ARCHAEOLOGY, YOUTH AFFAIRS & MUSEUMS & DEPARTMENT</i>	
48.	<p>ONE (01) POST OF ASSISTANT DIRECTOR IN DIRECTORATE OF CULTRE KHYBER PAKHTUNKHWA.</p> <p>QUALIFICATION: 2nd Class Master Degree in Social Sciences from a recognized University and Diploma or Certificate in Fine Arts or Dramatics or Painting from a recognized Institute.</p> <p>AGE LIMIT: 21 to 32 years. PAY SCALE: BPS-17 ELIGIBILITY: Both Sexes. ALLOCATION: Zone-1.</p>
49.	<p>ONE (01) (LEFTOVER) POST OF JUNIOR SCALE STENOGRAPHER IN SPORTS, ARCHAEOLOGY, MUSEUMS AND YOUTH AFFAIRS DEPARTMENT</p> <p>QUALIFICATION: Intermediate or equivalent qualification from a recognized Board with three months duration certificate in computer basics and (ii) A speed of 50 words per minute in shorthand and 35 words per minute in Typing.</p> <p>AGE LIMIT: 18 to 30 years. PAY SCALE: BPS-14 ELIGIBILITY: Male. ALLOCATION: Zone-5.</p>
<i>ZAKAT, USHER, SOCIAL WELFARE & WOMEN DEVELOPMENT DEPARTMENT</i>	
50.	<p>ONE (01) LEFTOVER POST OF SOCIAL CASE WORKER</p> <p>QUALIFICATION: Master Degree in Social Work, Sociology or Anthropology from a recognized University.</p> <p>AGE LIMIT: 21 to 32 years. PAY SCALE: BPS-16 ELIGIBILITY: Both Sexes. ALLOCATION: Zone-5.</p>

Attested
INAYAT MALIK
Additional Commissioner (IR)
Range-VII, Zone-IV
Large Taxpayers Unit, Islamabad

GENERAL CONDITIONS

- (i) Age shall be reckoned on 08.04.2016. Maximum age limit as prescribed in the recruitment rules shall be relaxed upto 10 years for Disabled persons and Govt Servants who have completed 2 years continuous service and upto 3 years for

candidates belonging to backward areas specified in the appendix attached to the Khyber Pakhtunkhwa Initial Appointment to Civil Posts (Relaxation of Upper Age Limit) Rules, 2008. However, a candidate shall be allowed relaxation in age in one of the above categories provided that the candidates from backward areas, in addition to automatic relaxation of three years shall be entitled to one of the relaxations available to Govt. Servants, general or disabled candidates, whichever is relevant and applicable to them. Employees or ex-employees of development projects of the Government of Khyber Pakhtunkhwa and employees or ex-employees of development projects of the Federal Government under the administrative control of the Government of Khyber Pakhtunkhwa shall also be entitled to age relation equal to the period served in the projects, subject to a maximum limit of ten years provided that this age relaxation shall not be available in conjunction with any other provisions of the age relaxation rules.

- (ii) Only the qualification possessed on the closing date of the advertisement fixed for the incountry candidates shall be taken into consideration.
- (iii) Degrees / Diploma / Experience Certificates / Testimonials of unrecognized Institution are not accepted. Only original Degrees / Certificates are accepted, however, the candidates can apply on provisional certificate signed by the Controller of Examination of the respective institution. The candidates shall produce original degrees / certificates before their selection. Detail Marks Certificates for all the examinations shall necessarily be required and these should be attached with the application forms.
- (iv) Candidates applying against disabled posts must attach with their application forms a disability certificate from the Provincial Council for Rehabilitation of Disabled Persons as well as disability certificate from the respective Medical Superintendent/ Medial Board showing therein the specific disability.
- (v) Govt. / Semi Govt. / Autonomous / Semi Autonomous Bodies employees may apply direct but their Departmental Permission Certificates should reach within 30 days of the closing date.
- (vi) Applications should be on the prescribed application form obtainable from the listed below branches of the NATIONAL BANK OF PAKISTAN. Application Fee is Rs.285/- (Rupees Two Hundred Eighty Five only) for all the candidates. In addition to the application fee, the candidates will have to pay Rs.15/- (rupees fifteen only) on account of Bank Charges. Separate application form will be required for each advertised category of posts. Application forms obtained other than the specified branches of the National Bank will be considered invalid and such applications will not be entertained. The applications on plain paper or Photostat shall not be accepted. Incomplete and late applications shall not be accepted which shall be rejected. Candidates can also apply online through the Commission's website (www.kpppsc.gov.pk). However the application fee needs to be deposited in State Banks of Pakistan or a National Bank of Pakistan Branch under head of account No. C02101- Organs of State-Examination Fee of KP PSC through Challan on or before the closing date. The same alongwith attested copies of all the documents need to be submitted to the Commission within 10 days.
- (vii) Applications must be submitted within time as no extra time is allowed for postal transit. The applications if submitted on the last date for receipt of applications must reach the Commission's office by the closing hours.
- (viii) Applicants married to Foreigners are considered only on production of the Govt. Relaxation Orders.
- (ix) No applicant shall be considered in absentia on paper qualifications unless, he/she possesses exceptionally higher qualifications than the minimum prescribed qualification for a particular post(s).
- (x) Govt. reserves the right not to fill any or fill more or less than the advertised post(s).
- (xi) Candidates who have already availed three chances by physical appearance before the Commission and have failed for the post(s) having one and the same qualifications and scale of pay shall be ineligible.
- (xii) Experience wherever prescribed shall be counted after the minimum qualifications for the post(s), if not specifically provided otherwise against the advertised post(s).
- (xiii) The candidates applying for posts requiring experience are advised to fill in the requisite proforma and provide the experience certificate available on the Commission's website and submit it alongwith the application form. The application form without this proforma and certificate shall not be accepted/ processed.
- (xiv) In case the number of applications of candidates is disproportionately higher than the number of posts, short listing will be made in anyone of the following manner:
 - (a) Written Test in the Subject.
 - (b) General Knowledge or Psychological General Ability Test.
 - (c) Academic and/or Professional record as the Commission may decide.

Attested
INAYAT MALIK
Additional Commissioner (HR)
Range-VII, Zone-IV
Lahore Taxayers Unit, Islamabad

SPECIFIED BRANCHES OF THE NATIONAL BANK OF PAKISTAN.

- (1) Main Branches of:
Parachinar, Mardan, Swabi, Malakand, Shangla, Chitral, Timargara, Daggar, D.I.Khan, Bannu, Karak, Kohat, Hangu, Lakki Marwat, Abbottabad, Haripur, and Mansehra
- (2) Saddar Road Branch, Tehkal Payan Branch, G.T Road (Nishtar Abad) Branch and University Campus Branch Peshawar.
- (3) Tehsil Bazar Branch Charsadda, Nowshera Cantt. Branch, Bank Square Branch Mingora and City Branch Tank

Note: -The candidate who apply for the post(s) are advised to make sure that they are eligible for the post in all respects because eligibility of the candidate will be determined strictly according to the rules after conduct of all essential tests:

(Sharif Hussain)
Secretary
Khyber Pakhtunkhwa
Public Service Commission
Peshawar

Attested
Sworn
INAYAT MALIK
Additional Commissioner (IR)
Range-VII, Zone-IV
Large Taxpayers Unit, Islamabad

ANNEX "C"

GOVERNMENT OF NWFP
DIRECTORATE OF SOCIAL WELFARE AND WOMEN DEVELOPMENT
PROVINCIAL COUNCIL FOR THE REHABILITATION OF DISABLED PERSONS (PCRD)

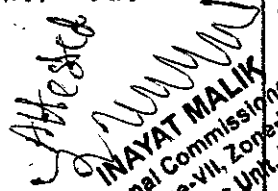
Dated 29- 10- 2009

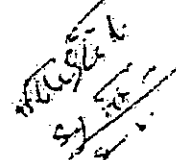
Reg No. 0000621 09- PCRD/ NWFP MA

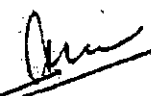
DISABILITY CERTIFICATE

ASSESSMENT BOARD FOR THE DISABLED PERSON

1 Name	Tehmina Akhter	2 Father's Name	Abdul Malik
3 Married/Unmarried	unmarried	4 Spouse	Nil
5 Date of birth	10-03-1991	6 N.I.C #	Nil
7 Qualification	FSc	8 Nature of disability	Visually
9 Present Address	C/O Pro: Abdul Malik GPGC Manshra		
10 Permanent Address	As above		
11 Recommendation of the board	Disable certificates/card		

Attested

INAYAT MALIK
 Additional Commissioner (IR)
 Range-VII, Zone-IV
 Large Taxpayers Unit, Islamabad

Attested

PRINCIPAL
 GHS Aizal Abad
 Manshra


Director / Secretary
PCRD, NWFP

SECRETARY (PCRD)
MINISTERS
 Social Welfare, NWFP.

-25-

OFFICE OF THE DISTRICT OFFICER SOCIAL WELFARE
SPECIAL EDUCATION AND WOMEN EMPOWERMENT DEPARTMENT MANSEHRA

DISABILITY CERTIFICATE

ASSESSMENT BOARD FOR THE DISABLED PERSON

Registration No	006460
Name	Tehmina Akhter
Married/Unmarried	Unmarried
Qualification	MA
Present Address	Village Dhangri Bala P.O. & Tehsil & District Mansehra
Permanent Address	As Above
Recommendation of the board Disability Certificate	

Date	9/20/2016
Father/Husband Name	Abdul Malik
Spouse	Nil
Date of birth:	10-03-1991
CNIC #	13503-6474452-2
Nature of disability	Visual Rt- Anisometric Amblyopic one eye

Checked
IMAYAT MALIK
Additional Commissioner (IR)
Range-VII, Zone-IV
Large Taxpayer Unit, Islamabad

9/20/16
PRINCIPAL
GHS Afzal Abad
Mansehra

U. Akhter
DISTRICT OFFICER
SWD/SECRETARY
DISTRICT OFFICER
Social Welfare Department
Mansehra

ANNEX 'D'

25

REGISTERED

- 28 -

ANNEX E

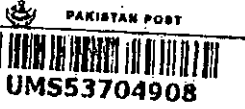


Phone : 091-9213750, 9213563
Ext : 1098
Website : www.kppsc.gov.pk

KHYBER PAKHTUNKHWA
PUBLIC SERVICE COMMISSION
2-Fort Road, Peshawar Cantt.

078491

Dated : 5/10/2016



TEHMINA AKHTER D/O ABDUL MALIK
VILLAGE DHANGRI BALA, NEAR HASHIM MOSQUE TEHSIL AND DISTT
MANSEHRA KPK

Subject: RECRUITMENT TO ONE (01) POST(S) OF FEMALE LECTURER ENGLISH
(DISABLED QUOTA) (B-17) IN HIGHER EDU DEPTT: (ADVT: NO. 01/2016,
S. NO. 29)

The Commission has recommended you to the Government for appointment provisionally against the subject-cited post. Please do not treat this as a letter of appointment for which Government is the final authority. The Commission cannot entertain any correspondence from you in this regard.

30/10/2016
Post 2016/01/29

[Signature]
28/9/16
(Asstt. Director-III)

[Signature]
INAYAT MALIK
Additional Commissioner (IR)
Range-VII, Zone-IV
Large Tappayara Unit Islamabad

Annexure 4

- 28 -

ANNEXURE

MEDICAL CERTIFICATE

Name of official Tehmina Akhter
 Caste or race Swabi
 Father's name Abdul Malik
 Residence Village Dhangri Baska Tehsil & Dist Mardan
 Date of birth 10-03-1991 10th March 1991
 Exact height by measurement 5-2
 Personal mark of identification Nil
 Signature of the official Tehmina
 Signature of head of office _____

Seal of office _____

I do hereby certify that I have examined Mrs Tehmina Akhter a candidate for employment in the Office of the Higher Education Department and cannot discover that he had any disease communicable or other constitutional affection or bodily infirmity except Nil - Right Eye (Amblyopic)

VA (HM) 6/6 = (NPI) 6/6

I do not consider this as disqualification for employment in the office of the Education Department
 His age according to his own statement 25 Y 8 M year and by appearance about twenty five years eight months

Findings: N RE Blind

[Handwritten signature]

MEDICAL SUPERINTENDENT,

CIVIL HOSPITAL Medical Superintendent
Police/Service Hospital
Peshawar.

[Handwritten signature]
 INAYAT MALIK
 Principal (1995-10)
 GHS Abul Kalam Road Peshawar

Secretary
 Graduate Medical Officer
 Police/Service Hospital,
 Peshawar

LEFT HAND THUMB AND FINGER IMPRESSIONS

Principal
 Police/Service Hospital,
 Peshawar

[Handwritten signature]
 INAYAT MALIK
 Additional Commissioner (IR)
 Range-VII, Zone-IV
 Large Taxpayers Unit, Islamabad

REGISTERED



GOVERNMENT OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES &
LIBRARIES DEPARTMENT

*Approved
4/9/17*

Dated Peshawar, the 16th January, 2017.

NOTIFICATION / 1258 - 67

No.SO(C-II)HE/I-2/17/Recruitment of Female Lecturers/ Consequent upon the recommendations of Khyber Pakhtunkhwa, Public Service Commission, the Competent Authority is pleased to appoint the following recommendees as female Lecturers (BPS-17) in Higher Education Department with immediate effect with terms and conditions and to post them in the Colleges noted against each:-

S.#	Name / Father's Name /Address	Subject/Quota	Posted at	Remarks
1.	Ms. Amy D/O Madan Maseeh Permanent Address: Mohallah Sham Gunj Bank Road, Mardan.	Chemistry/ Minority	GGDC, Lund Khwar (Mardan)	Against Vacant Post
2.	Ms. Tehmina Akhtar D/O Abdul Malik Permanent Address: Village Dhangri Bala, Near Hashim Mosque Tehsil & District Manshara	English/ Disable	GGDC No.2, Chitti Dheri (Manshara)	Against Vacant Post
3.	Ms. Tehmina Yasmin D/O Shafqat Hayat Permanent Address: Village & P/O G.T Road Chughal Pura Peshawar	Urdu/Disable	GGDC, Yar Hussain (Swabi)	Against Vacant Post

Section Officer (Colleges)
Govt of Khyber Pakhtunkhwa
Higher Education Archives

TERMS AND CONDITIONS :

- i. They will have all rights/privileges contained in Khyber Pakhtunkhwa Civil Servants Act, 1973 with all amendments made therein including Khyber Pakhtunkhwa Civil Servants (Amendment) Act. 2013 and Rules made there under.
- ii. In case of resignation, the officer will have to give one month prior notice. In absence of such notice their one month's pay/allowances shall be forfeited to Government.
- iii. The appointees should join their posts within 30-days of the issue of this Notification failing which it shall be presumed that they are not interested to join the same. Charge report should be submitted to all concerned. The Director, Higher Education, Khyber Pakhtunkhwa, Peshawar should furnish a certificate to the effect that the appointees have joined their posts or otherwise, after one month of the issue of this Notification.
- iv. In case of disciplinary matters Khyber Pakhtunkhwa, Civil Servants Act.1973 and Khyber Pakhtunkhwa, Civil Servants (Efficiency & Disciplinary) Rules, 2011 shall be applicable.
- v. They will be on probation for a period of 01 year extendable for another one year.

S. Alkhatib
INAYAT MALIK
Additional Commissioner (HR)
Range-VII, Zone-IV
Large Taxpayers Unit, Islamabad

6193

- 30 -

292/3

ANNEX 20



CONFIDENTIAL



PROVINCIAL INSPECTION TEAM, KHYBER PAKHTUNKHWA

INQUIRY REPORT

SUBJECT: INQUIRY INTO CANCELLATION OF ILLEGAL DISABILITY CERTIFICATE NO. 6460 OF MS. TEHMINA AKHTAR D/O ABDUL MALIK RAO DHANGRI BALA MANSEHRA CITY.

ORDER OF INQUIRY

Chairman, Chief Minister's Complaint and Redressal Cell forwarded a complaint of Muhammad Bilal, Chairperson Right to Live Organization, District Manshera for conducting an inquiry into the matter vide letter No. SOIC&KC/CMS/ 1-65/M. Bilal-app:40,14/we dated 22-05-2017 (Annex. A)

COMPLAINT

Muhammad Bilal, Chairperson Right to Live Organization, District Manshera submitted a written complaint to Chief Minister, Complaint and Redressal Cell vide (Annex: B) wherein he alleged that Social Welfare Department Manshera and District Assessment Board, Manshera issued an illegal disability certificate to a female namely Ms. Tehmina Akhtar D/o Abdul Malik.

The gist of the complaint is as under:

- a. According to the complainant, Ms. Tehmina was not legally blind as she had been declared 6/6 on the form by the eye specialist. The doctor declared her totally fit in one eye but she was recommended as blind (disabled).

Page 1 of 11

Handwritten notes and signatures in the bottom left corner, including the number '20/5' and some illegible scribbles.

Attested
[Signature]
INAYAT MALIK
Additional Commissioner
Range-VII, Zone-IV
Large Taxpayers Unit, Islamabad

27-Nov-18



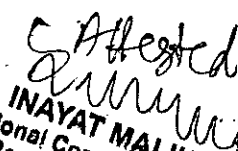
- b. Upon his request, a review was conducted. Ms. Tehmina Akhtar was directed to appear before District Assessment Board for reassessment/classification but she did not turn up. Despite the adverse remarks of the eye specialist i.e. Dr. Naseer Ahmad Sajid, Ms. Tehmina Akhtar was again declared disabled.
- c. When the complaint reached to various fora i.e. Higher Education Department, Director General Health, Public Service Commission, Ms. Tehmina was referred to Medical Superintendent, Police & Services Hospital Peshawar wherein she appeared before Standing Medical Board for medical checkup. Medical Superintendent, Police & Services Hospital, further referred her to Professor In-charge Eye Department Lady Reading Hospital for expert opinion regarding disability but the same is still pending.
- d. The complainant further requested to cancel the disability certificate of Ms. Tehmina Akhtar, terminate her from the post that she acquired on the basis of fake, false and illegal certificate. He also requested to take strict legal action against the district assessment board, Manshra on the grounds of issuing illegal disability certificate with wrong interpretation of law.

3. INQUIRY PROCEEDINGS

- a. On receipt of the reference, PTF requested District Social Welfare Officer, Manshra & Medical Superintendent, King Abdullah Teaching Hospital vide a letter dated 03.07.2017 to attend PTF alongwith all the relevant record for preliminary discussion (Annex: C). In response, they attended PTF on 11.07.2017 and submitted the requisite record/ brief dated 17.07.2017 vide (Annex: D).
- b. The following persons were requested to attend PTF to record their statement.

S.No	Name	Designation	Signature
1.	Dr. Naseer Ahmad Sajid	District Eye Specialist	SE
2.	Muhammad Bilal	Chairperson, Right to Live Organization, Manshra	BF

- a. Director, Higher Education, KPK was requested vide letter dated 03.08.2017 to submit the record pertaining to the instant case

Attested

INAYAT MALIK
 Additional Commissioner (IR)
 Range-VII, Zone-IV
 Large Taxpayers Unit, Islamabad

27-Nov-18

(Annex:G). He submitted the requisite record vide letter dated 08.08.2017 (Annex:H).

Secretary Higher Education Department was requested vide letter dated 24.08.2017 to intimate the updated status of the case (Annex: I). In response, Deputy Director (Female), Directorate of Higher Education, KPK submitted the requisite record vide letter dated 09.09.2017 (Annex:J).

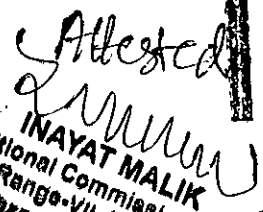
Medical Director, Lady Reading Hospital (MRI), Peshawar was requested vide letters dated 26.09.2017, 02.10.2017, 06.11.2017 to furnish a copy of the report of the Professor in-charge, Eye Specialist (Annex:K). He submitted the requisite report vide a letter dated 20.11.2017 (Annex: L).

PIT team visited Directorate of Social Welfare, Khyber Pakhtunkhwa on 04.01.2018 where the case was discussed in detail. Minutes of the meeting is annexed at (Annex:M)

OBSERVATIONS

After scrutiny of the available record/documents, detailed discussions, written statements and replies of the concerned staff, observations of PIT are as under:-

- i. Perusal of the record showed that Ms. Tehmina Akhtar D/o Abdul Malik submitted an application to District Social Welfare Officer, Mansehra for the grant of disability certificate. Her case was placed before District Assessment Board for the purpose of her disability assessment. She appeared before the board on 30.09.2016. She was referred to Eye Specialist OPD for proper examination. Dr. Nasir Ahmad Sajid, District Eye Specialist/Member Assessment Board KATH Mansehra examined Ms. Tehmina Akhtar. The eye specialist mentioned "Visual right Anisometropic Amblyopic eye" in the disability impairment column while in the column where it was required to identify whether she was fit to work/not fit to work, he

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INAYAT MALIK
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wrote "left eye 6/6 vision". Similarly, the lines pertaining to recommendations of the Board were left blank. Despite this unclear assessment/recommendations, Disability Assessment Form in respect of Mrs. Tehmina Akhtar was duly signed by all members of assessment board (Annex: N). The District Officer, Social Welfare Department Manshura did not ask for clear report and he issued disability certificate under registration No. 005460 to Mrs. Tehmina Akhtar (Annex: O). Afterwards, Public Service Commission recommended Mrs. Tehmina Akhtar for the post of Lecturer (English) in Higher Education Department against the disable quota and she was appointed as Lecturer (English) in Higher Education department.

iii. On 06.01.2017, Mr. Muhammad Bilal, Chairperson, Right to Live Organization requested District Social Welfare Officer, Manshura for review of disability certificate of Mrs. Tehmina Akhtar. The complaint was referred to Eye Specialist for comments. The reply of Dr. Naseer Ahmad Sajid, District Eye specialist created confusion by explaining that he had clearly given his opinion about her right eye prognosis and practically she is one eyed. A person with 6/6 vision in one eye can perform his routine work normally. She cannot avail the opportunity of quota for disable persons. According to him, he had neither declared the lady in question disable nor marked the disability heading in the recommendation form. He further explained that she may be considered disable (not fit) for uniform services but fit for other services like education, health and judiciary etc (Annex: P).

iv. Later on, Assistant Director (PCIRDIP), Social Welfare Department, Peshawar asked the District Assessment Board, Manshura to submit a clear report on the issue as per Ordinance. In this connection, a review of the Medical Board was conducted on 29.03.2017 and Mrs. Tehmina Akhtar was called for examination but she did not attend the meeting. The board discussed the disability of Mrs. Tehmina Akhtar in light of the Disabled Persons (Employment & Rehabilitation

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ordinance 1981. The findings of the Board are annexed at (Annex: Q) and given as under:

The disability impairment of Tehmina Akhtar was found to be: Anisometropic Amblyopic right Eye as per assessment by the eye specialist. As per ordinance section-2 subsection iii & iv the disease "includes the physical & mental condition arising from the imperfect development of any organ clearly indicate that Tehmina Akhtar clearly fulfill the conditions as mentioned in sub section iii & iv.

iv. In the said meeting, (08) Eight out of (09) nine members declared her disable except eye specialist (Technical Member) who gave dissenting vote as below;

Though per ordinance her Anisometropic amblyopic eye comes under the definition imperfect development of an organ. But due to her left eye with 6/6 full vision eye, I cannot declare her disable completely"

v. Section-2, sub-section c & d (instead of iii & iv) to which the Assessment Board referred to in the review is annexed at (Annex: R) and reproduced as under;

c. "disabled person" means a person who, on account of injury, disease or congenital deformity, is handicapped for undertaking any gainful profession or employment in order to earn his livelihood, and includes a person who is blind, deaf, physically handicapped or mentally retarded;

d. "disease" includes the physical or mental condition arising from the imperfect development of any organ;

vi. It is astonishing to note that non-technical members of the Medical Board ignored the opinion of the related technical member (eye specialist) and issued contradictory opinion just on the plea of majority. It is also pertinent to mention that in the review, sub-section(c) of Section-2 was overlooked by the board which requires a disabled person to be handicapped for undertaking any gainful profession or employment in order to earn his livelihood while sub-

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section(d) which is the extension of sub-section(c) and which define only the disease was focused.

vii. Being aggrieved, the complainant approached various forums i.e. Public Service Commission, Chief Minister's Secretariat, Deputy Commissioner, Director General Health Services, KP and Higher Education Department regarding illegal disability certificate and her appointment on the disabled quota. Higher Education Department referred the case to Standing Medical Board, Police & Services, Hospital Peshawar for expert opinion. The lady appeared before the board on 12.04.2017. According to the report, she had visual acuity in right eye 6/36(IP) and 6/6 in left eye with glasses. She was having Anisometropic Amblyopia. The board did not conclude the case and referred it to Professor in-charge Eye Department, LRH, Peshawar for expert opinion regarding disability of the said lady (Annex: S).

viii. In this connection, Dr. Mahfoez Hussain, Chairman/Head of Ophthalmology Department, LRH Peshawar, recorded his opinion that people who are blind in one eye but have full vision in other eye can do almost everything in life like the people with both normal eyes. They can do most of the jobs in the world like office jobs, teaching, medical doctors, lawyers and so on. With regard to disability of Ms. Tehmina Akhtar, he recorded that her one eye is completely normal with normal fields on confrontation. So according to international standards, she cannot be registered blind. He further stated that this was not entirely her fault as someone gave her certificate because of poor knowledge of the subject but according to his opinion she cannot be registered blind (already annexed as Annex: L).

ix. It is pertinent to mention that Ms. Tehmina Akhtar formerly got another Disability Certificate from Directorate of Social Welfare in the year 2009 prior to the issuance of disability certificate in question. In 2009, she wanted to get admission in college against reserve seat for disabled persons therefore, she applied for disability certificate. Her medical assessment was conducted in DHO

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Abbottabad. In the disability assessment form, the recommendations of the board were "visually disabled" and "Permanent Disability" (record is annexed at Annex: I).

x. Regarding issuance of two disability certificates to Mrs. Tehmina Akhtar from the same department, Assistant Director (PCRIDP), Directorate of Social Welfare KP replied that prior to 2009, Disability Certificate were issued to persons with Disabilities at Provincial level from Directorate of Social Welfare while later on it was issued on District level due to that the applicant registered themselves at District level and accordingly disability certificate was issued to her at district level.

xi. Another question was asked that what is the legal status of the disability certificate if the Technical Expert of the concerned specialty does not agree regarding disability. He replied that the disability certificate is issued to applicant on the recommendation of overall District Assessment Board. If the Board does not recommend an applicant the disability certificate cannot be issued. However, he failed to reply that whether opinion of the related Technical Member can be ignored.

xii. During the examination of the record, it came to the notice of the team that prior to the instant case, there are many other cases wherein the Standing Medical Board/Medical Assessment Board had declared the person disabled and some have even got the jobs on the disability certificate but afterwards when the complaint surfaced it was noted that the certificates were issued in violation of Section-2, sub-section(c) & (d) of Disabled Persons (Employment & Rehabilitation Ordinance 1981). Some cases are given as under:

S.No	Name	Address	Remarks	Annexure
1.	Miss. Nighat D/o. Shoukat Ali	Village Dagei Tehsil: Razzar District: Swabi	She was issued Disability Certificate by Standing Medical Board, Police & Services Hospital on the grounds of hearing, right kidney missing, post Nephrectomy.	B

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S.No	Name	Address	Remarks	Signature
2	Mr. Wasim Ali Khan	Mohallah Nawab Nicksil District Bannu	He was issued Disability Certificate by District Officer, Social Welfare Bannu on the recommendation of Medical Assessment Board, Bannu. Later on, he appeared before the Standing Medical Board in the same Hospital who declared him fit.	

- xiii. The above circumstances lead to the opinion that due to non-comprehensive definition of the organs of the body causing disability created willful interpretation of the prevailing Ordinance/regulations.
- xiv. During discussion held with representative of Social Welfare Department, he stated that an amended Act has been proposed and forwarded to the office of Secretary Social Welfare and Women Empowerment Department for examination and onward submission to Law & Parliamentary Affairs, Department for waiting. However, the same is still pending. He also narrated that a comprehensive definition has been included for the organs of the body being causing disability.

5. FINDINGS

Based on the observations/analysis at Para-4 (i to xiv) of this report, findings are as under:-

- i. District Social Welfare Officer, Manshehra issued disability certificate to Mrs. Tehmina Akhtar on the basis of an ambiguous assessment form which revealed the element of favoritism and made the whole process dubious.
- ii. In the review, Mrs. Tehmina Akhtar did not appear before the board meaning thereby that she was not re-examined. Moreover, Section-2, sub-section(c) of Disabled Persons (Employment & Rehabilitation Ordinance 1981) has been overlooked and misinterpreted by the District Assessment Board which also created doubts.
- iii. In the said case, the report/statement of Dr. Nasser Ahmad Sajid, District Eye Specialist, Member, District Assessment Board, Manshehra, Standing Medical Board, Police and Services Hospital,

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Peshawar and Dr. Mahfouz Hussain, Chairman/Head of Ophthalmology Department, LRH Peshawar did not confirm that Ms. Tehmina Akhtar is disabled. Hence, the disability certificate issued to her is in violation of Section-2, sub-section (c) of Disabled Persons (Employment & Rehabilitation Ordinance 1981).

IV. Since disability certificate issued to Ms. Tehmina Akhtar is in violation of the Employment & Rehabilitation Ordinance 1981, therefore, sincerity of her former disability certificate and her appointment against disabled quota is also questionable.

V. The instant case and record of the other cases revealed that the Standing Medical Board/Medical Assessment Boards at various Districts did not pay heed to Section-2, sub-section (c) of Disabled Persons (Employment & Rehabilitation Ordinance 1981). They declared the candidate disabled without referring to the definition of disabled person in the Ordinance. Moreover, the definition of the disabled person in the ordinance is incomprehensive, insufficient and lacked the required flexibility to cover all types of disabilities.

6. RECOMMENDATIONS

Based on observations and findings of this report, recommendations of PTF are as follows:-

I. Disciplinary action may be taken against the members of Medical Assessment Board who assessed the disability of Ms. Tehmina Akhtar and members who attended the review on the grounds of giving wrong assessment and issuing illegal disability certificate to Ms. Tehmina Akhtar including Dr. Nasser Ahmad Sajid, District Eye Specialist on the grounds of ambiguous opinion and District Social Welfare Officer, Manshera on the grounds of issuing disability certificate on the basis of ambiguous recommendations.

II. The case of Ms. Tehmina Akhtar, having illegal disability certificate and her appointment against the quota of disabled persons may be

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INAYAT MALIK
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referred to Law & Parliamentary Affairs Department Govt. of KP for favour of vetting and legal status of her appointment.

III. Secretary Social Welfare, Women Empowerment Department may be directed to finalize now reformed Act in consultation with Registered Special Persons Associations and refer the same for vetting to Law Department. The ambiguities regarding organs of body causing disability should be removed, define job specific disabilities and devise a list of organs of body in the Act which makes human body disabled.

IV. Directorate of Social Welfare Department may be directed to keep record of all disability Certificates being issued at district level for the purpose of verification in case of any grievances.

[Signature]
NOMAN KHAN
RESEARCH OFFICER
Provincial Inspection Team,
Khyber Pakhtunkhwa

[Signature]
IJAZAT ALI
MEMBER (PNC/QURIES)
Provincial Inspection Team,
Khyber Pakhtunkhwa

[Signature]
ABUSSALM SHAIKH
MEMBER GENERAL
Provincial Inspection Team,
Khyber Pakhtunkhwa

[Signature]
FARRUKH SAIB
CHAIRMAN
Provincial Inspection Team,
Khyber Pakhtunkhwa

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Additional Commissioner (IR)
Range-VII, Zone-IV
Large Taxpayers Unit, Islamabad

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SHOW CAUSE NOTICE

I, Muhammad Saleem, Chief Secretary Khyber Pakhtunkhwa, as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve you, Ms. Tehmina Akhtar, Lecturer in English, Govt. Girls Degree College No.2 Chitri Dheri (Mansehra), as follows:

1. That you obtained an illegal disability certificate and were appointed on the basis of the said certificate while you were not disabled under the definition of Section 2(c) of Disabled Persons (Employment and Rehabilitation) Ordinance, 1981.

I am satisfied that you have committed the following acts/omissions specified in rule 3 of the said rules:

- (a) Misconduct

Sufficient proof exists on the record to dispense with the holding of an inquiry under Rule-7 of the said rules. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of Removal from Service under rules-4 of the said rules.

3. You are, thereof, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

4. If no reply to this notice is received within seven days or not more than fifteen days of its delivery, it shall be presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.

5. A copy of the findings of the Provincial Inspection Team (PIT) is enclosed.

Muhammad Saleem
 (Muhammad Saleem)
 Chief Secretary
 Khyber Pakhtunkhwa

Ms. Tehmina Akhtar,
 Lecturer in English,
 Govt. Girls Degree College No. 2 Chitri Dheri (Mansehra)
 Chitri Dheri, Mansehra District, Mansehra

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INAYAT MALIK
 Additional Commissioner (IR)
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 Large Taxpayers Unit, Islamabad

02.06.2019

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Annex 'J'

Chief Secretary,
Khyber Pakhtunkhwa,
Civil Secretariat Building,
Peshawar.

Through: Proper Channel

SUBJECT:- **SHOW CAUSE NOTICE**

Kindly refer to the above-referred show cause notice with reference No.11109/CA-V/Estt. Branch/A-12/Ms, received on May 23, 2019.

2. It is most respectfully submitted that the whole proceedings initiated against the undersigned culminating in the above mentioned show cause notice are result of misinterpretation, misreading and misconception of the facts and the law which tantamount to miscarriage of justice on the following grounds:

- i. That KPPSC advertised post vide **Adverisement No.01/2016** dated **09-03-2016** (see Annex-1) wherein at S#29 Two posts were reserved in Higher Education Department for recruitment against disabled quota including one for Lecturer in English.
- ii. That undersigned applied against disable reserved seat on the strength of **Disability Certificate** issued by Directorate of Social Welfare, Peshawar on **29-10-2009** wherein my disability was mentioned as **anisometropic Amblyopia in right eye** (see Annex-2).
- iii. That prior to recommendation by KPPSC a fresh **disability certificate** (See Annex) was released on **20-09-2016** by Social Welfare Department, Mansehra based on the opinion/recommendation of standing Medical Board wherein cause of my disability was confirmed, endorsed and mentioned as "**visual right Anisometropic Amblyopic eye**" (see Annex-3).
- iv. That KPPSC issued recommendation letter (See Annex-4) against disable quota post of lecturer in English on **05-10-2016** and the Higher Education Department referred me for medical examination to **Services Hospital, Peshawar**. Medical Board confirmed the disability and the Eye Specialist used term "**blind in one eye**" and **amblyopia** (see Annex-5)
- v. As a result of the above proceedings undersigned was issued appointment order as Lecturer in English on **16-01-2017** after completion of due recruitment process. Copy of appointment letter is annexed (see Annex-6).
- vi. A person named Muhammad Bilal, self appointed Chairman, Right to Live Organization, lodged baseless complaint contending that undersigned was not blind and disability certificate issued by Social Welfare Department, Mansehra is illegal. The complainant is not an aggrieved party

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through the said appointment order and his complaint is based on enmity and family feuds hence malafide.

3. Reference is made to the report of **Provincial Inspection Team (PIT)** (see Annex-7) on the basis of which undersigned has been issued the said show cause notice. The whole process has violated basic principle of fundamental justice of **audi alteram partem**. The proceedings were kept secret and undersigned was not given an opportunity of being heard. Thus the process has deprived undersigned of fundamental right of **fair trial** under **Article 10A** of the Constitution of the Islamic Republic of Pakistan. Recommendation part of the PIT proceedings paints a grim picture of flouting of whole justice system which is discussed as under:

- i. Recommendation No. 1 is not related to the undersigned.
- ii. Recommendation No. 2 concludes that undersigned has obtained illegal disability certificate but has failed to state that wherefrom such sweeping inference has been drawn. PIT report has itself highlighted that all FOUR medical Boards have unanimous opinion about nature of irreparable infirmity suffered by the undersigned and is termed as **anisometropic Amblyopia** in medical jargon. It is quite clear from later part of the recommendation that PIT itself is confused about its conclusion that the disability certificate is illegal as it has stated that the case may be referred to Law & Parliamentary Affairs Department Govt. of KP for favour of vetting and legal status of the appointment.
- iii. Recommendation No. 3 of PIT states that the law about disability is defective and a reformed Act in consultation with Special Registered Persons Associations may be formulated to replace the existing law. It has further recommended that ambiguities regarding organs of body causing disabilities may be removed, define job specific disabilities and devise a list of organs of body in the Act which makes human body disable. This recommendation reflects myopic and tunnel vision of PIT. Disability is an evolving concept and has been well defined in judge made law and conventions of UN regarding disability. Moreover, this recommendation will have no legal bearing in the case of the undersigned.
- iv. Recommendation No. 4 is not related to the undersigned.

4. The said show cause notice has been issued perhaps based on some misunderstanding and miscomprehension of facts and the law. It is important to mention that the authority alleging a wrongdoing or seeking to establish a charge has the onus to prove the same. Attention is invited to the charge that has been confronted to the undersigned and my comments appear under the same:

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[Signature]
INAYAT MALIK
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Sr. No.	Charge
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1.	That you, <u>obtained an illegal disability certificate</u> and were appointed on the basis of the said certificate while you were not disabled under the definition of section 2(c) of Disabled Persons (Employment and Rehabilitation) Ordinance, 1981
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5. In order to establish the charge, an inquiry was required under the law to prove that I had **obtained an illegal disability certificate** and were appointed on the basis of the said certificate. Your kind attention is also invited to the a series of confirmation of my disability by various competent forum at different points of times which is as follows:

- i. That Disability Certificate issued on 29-10-2009 by Social Welfare and Women Welfare Department, N.W.F.P after fulfilment of all legal and procedural formalities.
- ii. That Disability certificate was issued by District Officer Social Welfare, Mansehra on 09-06-2016 as per laid down procedure.
- iii. That on 16-01-2017 Standing Medical Board at Services Hospital, Peshawar confirmed the disability and undersigned was appointed as Lecturer in English against disabled quota as per Recruitment Policy for the Provincial Services of Govt. of KP.
- iv. That on 12-04-2017 yet another Standing Medical Board by MS Services Hospital, Peshawar vide letter No. 1661-64 confirmed my disability.
- v. That M.S Services Hospital referred undersigned to Dr. Mahfooz Hussain, Head of Ophthalmology Department, Lady Reading Hospital for his expert opinion on my disability or otherwise. Instead of giving expert opinion the said specialist concluded that undersigned cannot be registered as blind.

6. It is feared that whole controversy regarding legality or otherwise of the Disability Certificates has arisen out of the misplaced opinion of Eye Specialist, District Mansehra which has been discussed by PIT at para 4(i) of its report. The same is reproduced as under:

*"Perusal of the record showed that Ms. Tehmina Akhter D/o Abdul Malik submitted an application to District Social Welfare officer Mansehra for the grant of disability certificate. Her case was placed before District Assessment Board for the purpose of her disability assessment. She appeared before the board on 20-09-2016. She was referred to Eye Specialist OPD for proper examination. Dr. Naseer Ahmed Sajid, District Eye Specialist/Member Assessment Board KATH Mansehra examined Ms. Tehmina Ahter. **The Eye Specialist mentioned "visual right Anisometropic Amblyopic eye"** in the disability column while the column where it was required to identify whether she was fit to work/not fit to work, he wrote "left eye 6/6 vision" Similarly, **the lines pertaining to***

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recommendations of the Board were left blank. Despite this **unclear assessment/recommendations**, Disability Assessment Form in respect of Ms. Tehmina Akhter was duly signed by all members of the assessment board. The District Officer, Social Welfare Department did not ask for clear report and he issued disability certificate..."

It is quite clear from above quoted para of PIT report that the Eye Specialist has reached correct conclusion that the undersigned suffers from visual right anisometropic amblyopic disease. Lines pertaining to recommendation of the board has no legal weight as whole assessment board has signed the assessment report.

7. After the issuance assessment report and release of Disability Certificate by Social Welfare Department Mansehra one Mr. Muhammad Bilal approached the office of Social Welfare Department with request to cancel the disability certificate issued to the undersigned. At para 4(ii) of PIT report it is stated that the complaint was referred to the Eye Specialist for comments. Relevant part of the para is reproduced as under:

"The reply of Dr. Naseer Ahmad Sajid, District Eye Specialist created confusion by explaining that he had clearly given his opinion about **her right eye prognosis and practically she is one eyed**. A person with 6/6 vision in one eye can perform the routine work normally.....He further explained that **she may be considered disable (not fit) for uniform services but fit for other services like education health and judiciary etc.**"

From the above quoted para of PIT Report it is quite clear that District Eye Specialist has declared undersigned practically one-eyed person. This is clear and unambiguous opinion that undersigned is disable person as defined under the law. His opinion that undersigned may be considered fit for non-uniform services is misplaced as his mandate was to decide/comment upon nature of sensory impairment undersigned is suffering from.

8. In view of the above, it is most respectfully submitted that the first charge regarding obtaining illegal disability certificate has failed to establish and disability has been confirmed by at least FOUR Medical Boards as narrated supra. Provincial Inspection Team has failed to establish that the certificates were illegal or unlawful. The Standing Medical Board Members and Certificate issuing authorities were summoned by PIT during its proceedings. All of the them reconfirmed their earlier opinion and confirmed veracity and sanctity of the opinion formulated and certificates issued as a result of due process under the law.

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INAYAT MALIK
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Charge No.2

Sr. No.	Charge
2.	That you, obtained an illegal disability certificate and were appointed on the basis of the said certificate while <u>you were not disabled under the definition of section 2(c) of Disabled Persons (Employment and Rehabilitation) Ordinance, 1981.</u>

9. In response to this specific charge, that the undersigned was not disabled under the definition of section 2(c) of Disabled Persons (Employment and Rehabilitation) Ordinance, 1981 reliance is placed on definition of disabled persons as elaborated in reported judgment of Honourable Lahore High Court in **W.P No.2565/2014**, Hafiz Muhammad Junaid versus Government of Punjab etc (**see Annex-5**). The relevant para of the said judgment is reproduced as under:

"8. At the very outset it is important to examine the meaning of disability. **Disability means** lacking one or more physical powers, such as the ability to walk or to coordinate one's movements, as from the effects of a disease or accident, or through mental impairment. A *disabled person* under the Ordinance is defined as a person who on account of injury, disease or congenital deformity, is handicapped for undertaking any gainful profession or employment in order to earn his livelihood and includes a person who is blind, deaf, physically handicapped or mentally retarded. According to the UN Convention on the Rights Of Persons With Disabilities ("**CRPD**" or "**Convention**") ratified by Pakistan in 2011, persons with disabilities include those who have long-term physical, mental, intellectual or **sensory impairments** which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others. Disability is an evolving concept and that disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others. Disabilities is an umbrella term, covering impairments, activity limitations, and participation restrictions. An impairment is a problem in body function or structure; an activity limitation is a difficulty encountered by an individual in executing a task or action; while a participation restriction is a problem experienced by an individual in involvement in life situations. Disability is thus not just a health problem. It is a complex phenomenon, reflecting the interaction between

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features of a person's body and features of the society in which he or she lives."

10. As per diagnosis by eye specialists and opinion of FOUR Standing Medical Boards constituted at various times undersigned is suffering from right eye amblyopia. It is a disease caused by poorly aligned eyes, where the brain ignores the visual input from the misaligned eye. In medical terms it means the vision of one eye is reduced because it fails to work properly with the brain. This condition where eye fails to work properly with brain is very much covered within the definition of Disabled person under **section 2(c) of Disabled Persons (Employment and Rehabilitation) Ordinance, 1981** and the judgment of the Honourable Lahore High Court supra. Undersigned has never claimed to be a blind person rather disability certificates were issued on the ground that due to nature of the disease and for all practical purposes I am one-eyed person.

11. Rather, a vested right has been accrued in favour of the undersigned as a result of appointment against the post of lecturer in English and the undersigned has been compelled to appear before three Standing Medical Boards i-e (i) at King Abdullah Hospital Mansehra on 20-09-2016, (ii) Police Lines/Services Hospital Peshawar after selection as Lecturer on 22-11-2016, (iii) Police Lines/Services Hospital Peshawar after selection as Lecturer on 12-04-2017, and (iv) Lady Reading Hospital. All the Medical Examinations mentioned above were in violation of my fundamental rights and to prove it reliance is placed on the cases titled **Bashir Ahmed Solangi v. Chief Secretary, Government of Sindh, Karachi and 2 others** (2004 SCMR 1864), **Hafiz Junaid Mahmood Versus Government of Punjab and others** (PLD 2017 Lahore 1), **Muhammad Yousaf and another v. Chairman Federal Public Service Commission and 4 others** (PLD 2017 Lahore 406), **Mst. Basharat Jehan v. Director General** (2015 SCMR 1418), **Mst. Saima Hameed v. Executive District Officer (Health) Pakpattan Sharif and 2 others** (2011 PLC (C.S) 351), **Zakir Muneer v. Executive District Officer (Health) Abbottabad and 3 others** (2011 PLC (C.S.) 1651), **Munawar Hassan v. Chief Secretary, Government of Balochistan and 3 others** (2017 PLC (C.S.) 81) & **Jawad Ali and others v. Superintendent Jail and others** (2017 PLC (C.S.) 587).

12. In another case titled **Bashir Ahmed Solangi v. Chief Secretary, Government of Sindh, Karachi and 2 others** (2004 SCMR 1864) it has been held by the Hon'ble Supreme Court of Pakistan that it is settled principle of law that

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if in consequence to an order passed by an authority competent to pass such an order, certain rights are created in favour of a person, the said order cannot be subsequently undone or withdrawn. The authority being responsible of passing of an order creating certain rights would not be legally justified to take a turn and retrace the steps to undo the said order on the ground that it was passed in violation of rules or was a wrong order.

13. Clause (4) of rule 2 of the Government Servants (Efficiency and Discipline) Rules, 2011 defines "**misconduct**" as meaning conduct prejudicial to good order or service discipline or contrary to Government Servants (Conduct) Rules, 1987 or unbecoming of an officer and, a gentlemen and includes any act on the part of a Government servant to bring for attempt to bring political or other outside influence directly or indirectly to bear on the Government or any Government officer in respect of any matter relating to the appointment, promotion, transfer, punishment, retirement or other conditions of service of a Government servant.

14. None of my actions are even close to how "misconduct" has been defined under the rules. Your kind attention is also invited to the finding of the Provincial Inspection Team in its report.

- i. At para 10 of the report it is stated "Disciplinary action may be taken against the members of Medical Assessment Board who assessed the disability of Ms. Tehmina Akhter and members who attended the review on the grounds of giving wrong assessment and issuing illegal disability certificate including Dr. Naseer Ahmad Sajid, District Eye Specialist on the grounds of ambiguous opinion and District Social Welfare Officer, Mansehra on the grounds of issuing disability certificate on the basis of ambiguous recommendations." This artificial term of "ambiguous opinion" is not to be found in law.
- ii. At para 4(i) the Provincial Inspection Team has observed regarding opinion of assessment of Standing Medical Board on 20-09-2016 that the eye specialist mentioned "**Visual right anisometropic eye**".
- iii. At para 4(vii) of the Provincial Inspection Team has observed that on Direction of D.G Health undersigned appeared before the Standing Medical Board on 12-04-2017 and the Board in its report has stated, "...she had visual acuity in right eye 6/36(p) and 6/6 in left eye with glasses. She was having **anisometropic Amblyopia**"
- iv. At para 4(vii) it has been observed by the PIT that on direction of Board at Services Hospital undersigned appeared in the OPD of Dr Mahfooz Hussain who reported that "...she cannot be registered blind." It is pertinent to mention here that Dr. Mahfooz Hussain has himself admitted in his report that he was not available for

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Large Taxpayers Unit, Islamabad

examination on the date given for check up to determine disability or otherwise. How he could give any opinion regarding my disability when he had never examined me.

15. Show cause notice has failed to appreciate that the undersigned has appeared before Medical Boards thrice after confirmation of her disability before Standing Medical Board, DHQ, Abbottabad in 2009, before Standing Medical Board at King Abdullah Hospital Mansehra and Standing Medical Board at Services Hospital, Peshawar. During the whole process undersigned has not concealed factual and legal position from any authority. PIT did not include any technical expert and failed to reach any conclusion. Second para of the Recommendations bears testimony to this fact where it has been suggested that appointment case of the undersigned may be referred to Law & Parliamentary Affairs Department Govt. of KP for favor of vetting the legal status. Thus undersigned cannot be charged with any act of "misconduct".

16. In view of the above, it is most respectfully submitted and prayed that the unblemished career of the undersigned may please not be tarnished based on unjustified and baseless report of Provincial Inspection Team, which never gave the undersigned any opportunity of being heard, and charges/allegations which are not borne out from the documentary evidence before any Inquiry. The complainant on whose whims and wishes the proceedings were conducted is not an aggrieved party. It is humbly submitted that I may kindly be exonerated from the charge of misconduct.

If a favourable decision cannot be made on the basis of this reply, it is requested that the undersigned may be given an opportunity for personal hearing please.

Tehmina
02/06/2019
(Tehmina Akhter)
Lecturer In English.

Annexure

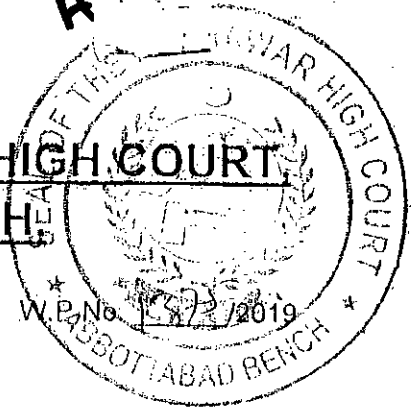
1. Advertisement No. 01/2016 dated 09-03-2016.
2. Disability Certificate dated 29-10-2009.
3. Disability Certificate dated 20-09-2016.
4. Medical Board Report of King Abdullah Teaching Hospital.
5. Recommendation Letter of KPPSC dated 05-10-2016.
6. Medical Board Report of Services Hospital, Peshawar.
7. Appointment letter issued vide Notification 1258-67.
8. Provincial Inspection Team (PIT) report.
9. Judgment of LHC in W.P. No. 2565/2014.

Attested
Inayat Malik
INAYAT MALIK
Additional Commissioner (IR)
Range-VII, Zone-IV
Large Taxpayers Unit, Islamabad

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A 26/1/20

IN THE HONOURABLE PESHAWAR HIGH COURT
ABBOTTABAD BENCH



Tehmina Akhter D/o Abdul Malik, R/o Village Dhangri Bala, Tehsil and District Mansehra, serving as a Lecturer in English, Government Degree College, Mansehra.

.....PETITIONER

VERSUS

1. Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar.
 2. Secretary Health, Government of Khyber Pakhtunkhwa, Peshawar.
 3. Director General Health, Government of Khyber Pakhtunkhwa, Peshawar.
 4. Medical Superintendent, Services Hospital, Peshawar.
 5. Secretary, Higher Education, Libraries & Archives Deptt., Peshawar.
 6. Members Standing Medical Board, King Abdullah Teaching Hospital, Mansehra.
 7. Chairman, Provincial Inspection Team, Peshawar.
- Director, Higher Education, Libraries & Archives Deptt., Peshawar.

.....RESPONDENTS

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EXAMINER 8.
17 JAN 2020
Peshawar High Court Attd. Bench
Authorized Under Sec: 75 Evid Ordns.

WRIT PETITION UNDER ARTICLE 199 OF THE
CONSTITUTION OF THE ISLAMIC REPUBLIC OF
PAKISTAN, 1973.

Inayat Malik
INAYAT MALIK
Additional Commissioner (IF)
Range-VII, Zone-IV
Large Taxpayers Unit, Islamabad

Respectfully Submitted,

1. That the addresses of the parties are correct for the effective service of the process of this Honourable Court upon the parties.
2. That the brief facts comprising the instant Writ Petition are enumerated as under;

a. That KPPSC advertised post vide Advertisement No.01/2016 dated 09-03-2016 wherein at S#29 two posts were reserved in Higher Education Department for recruitment against disabled quota including one for Lecturer in English.

(Copy of advertisement is attached as annex "B")

b. That petitioner applied against reserved seats for disable persons on the strength of Disability Certificate issued by Directorate of Social Welfare and women development (PCRDP), Peshawar on 29-10-2009 wherein her disability was mentioned as anisometropic Amblyopia in right eye.

(Copy of disability certificate dated 29-10-2009 is attached as annex "C")

c. That prior to recommendation by KPPSC, petitioner was again examined by medical board and a fresh disability certificate was issued on 20-09-2016 by Social Welfare Department, Mansehra based on the opinion/recommendation of standing Medical Board wherein cause of her disability was confirmed, endorsed and mentioned as "visual right Anisometropic Amblyopia eye"

(Copies of application for disability certificate along with disability certificate dated 20-09-2016 are attached as annex "D")

d. That after having qualified for the respective post, KPPSC issued recommendation letter to the petitioner against disable quota for the post of lecturer in English on 05-10-2016 and the Higher Education Department referred her for medical examination to Services Hospital, Peshawar. Wherein the standing Medical Board confirmed the disability and the Eye Specialist referred the same as "blind in one eye" and amblyopia, vide its certificate dated 02-11-2016.

(Copies of recruitment letter and report of standing medical board dated 02-11-2016 are attached as annex "E" and "F")

As a result of the above proceedings petitioner was issued appointment order as Lecturer in English on 16-01-2017 after completion of all the codal formalities and due recruitment process.

(Copy of appointment letter dated 16-01-2017 is attached as annex "A")

4) That subsequently on 22-05-2017, a frivolous complaint was filed by one Muhammad Bilal for challenging the appointment of petitioner by contending that petitioner was not blind and disability certificate issued by Social Welfare Department, Mansehra is illegal. The complainant is not an aggrieved party through the said appointment order and his complaint is based on enmity and family feuds, and besides this he also moved a complaint to Director General, Health Department, Khyber Pakhtunkhwa.

5) That Director General, Health Department, Khyber Pakhtunkhwa constituted a medical board and referred the matter to it for an expert opinion, whereby medical board examined the petitioner at services hospital, Peshawar on 22-04-2017, and after examining her, they referred the matter to Lady Reading Hospital, Peshawar, for final opinion, without

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Additional Commissioner (IR)
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making any comments as to the opinion, for the reason that the eye-specialist namely Dr. Mehfooz Hussain was not available and did not examine her, and the staff of Lady Reading Hospital has not yet responded.

- 6) That on the basis of said complaint, Chairman, Chief Minister's complaint and redressal cell issued an order for constitution of Provincial Inspection Team, Khyber Pakhtunkhwa to conduct inquiry into the matter vide his order dated 22-05-2017. The whole proceedings of PIT were kept secret from the petitioner and no opportunity of being heard was provided to her, and PIT submitted its inquiry report to the respondent no.1 after making their recommendations as to the matter.

(Copy of the inquiry report is attached as Annex "G")

- 7) That on the basis of said report, respondent no.1 issued a show cause notice to the petitioner as to misconduct on her part and also intimated her regarding his tentative decision of imposing penalty of removal from service under rule 4 of Government Civil Services Rules, 2011.

(Copy of the show Cause Notice is attached as Annex "H")

- 8) That on 15-11-2019, petitioner was intimated by the principal of government girls degree college No.2 Mansehra, about the status of inquiry, and sent her a notification No. SO (C-111)/1-2/19/Tehmina Akhtar, dated 7th October, 2019, whereby she has been removed from service by imposition of major penalty under E&D Rules, 2011.

(Copy of the impugned Notification dated: 07-10-2019 is attached as Annex "A")

- 9) That the removal of petitioner from service on the basis of alleged fake disability certificate prepared prior to her appointment, relates to the question of eligibility instead of terms and conditions of service hence the constitutional jurisdiction of this Honourable Court is invoked inter-alia upon the following grounds.

GROUND:

That the Impugned notification has been issued by respondent no.1 in an arbitrary manner and without applying judicial mind.

- 2) That respondent no.1 and 5 as well as the inquiry committee failed to appreciate the definition of Disable Persons under section 2(c) of Disabled Persons (Employment and Rehabilitation) Ordinance, 1981; hence any action taken on the basis such recommendations is liable to be set-aside on this score only.

- 3) That respondent No.1 has erred in his decision and reference is made to the report of Provincial Inspection Team (PIT) on the basis of which petitioner was issued the said show cause notice. The whole process has violated basic principle of audi alteram partem. The proceedings were

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 EXAMINED
 11 JAN 2020
 Peshawar High Court App. Bench
 Authorized Under Sec. 75 Evd Ordns

Attested
 INAYAT MALIK
 Additional Commissioner (IR)
 Range VII, Zone-IV
 Large Taxpayers Unit, Islamabad

kept secret and the petitioner was not given an opportunity of being heard. Thus the process has also deprived the petitioner of fundamental right of fair trial under Article 10-A of the Constitution of the Islamic Republic of Pakistan.

4) Respondent no.1 and 5 also failed to appreciate the recommendation made by PIT, which paints a grim picture of flouting of whole justice system which is discussed as under:

- a. Recommendation No. 1 is not related to the petitioner.
- b. Recommendation No. 2 concludes that petitioner has obtained illegal disability certificate but has failed to state that wherefrom such sweeping inference has been drawn. PIT report has itself highlighted that all four medical Boards have unanimous opinion about nature of irreparable infirmity suffered by the petitioner and is termed as **anisometropic Amblyopia** in medical jargon. It is quite clear from later part of the recommendation that PIT itself is confused about its conclusion that the disability certificate is illegal as it has stated that *the case may be referred to Law & Parliamentary Affairs Department Govt. of KP for favour of vetting and legal status of the appointment.*
- c. Recommendation No. 3 of PIT states that the law about disability is defective and a reformed Act in consultation with Special Registered Persons Associations may be formulated to replace the existing law. It has further recommended that ambiguities regarding organs of body causing disabilities may be removed, define job specific disabilities and devise a list of organs of body in the Act which makes human body disable. This recommendation reflects myopic and tunnel vision of PIT. Disability is an evolving concept and has been well defined in judge made law and conventions of UN regarding disability. Moreover, this recommendation will have no legal bearing in the case of the petitioner.

d. Recommendation No. 4 is not related to the petitioner.

5) That the contention of respondents, that the petitioner was not disabled under the definition of section 2(c) of Disabled Persons (Employment and Rehabilitation) Ordinance, 1981, is altogether contrary and is in direct conflict with the dictum laid down by the Honourable superior Courts as to the definition of the word "disability". Which is defined as to **means** lacking one or more physical powers, such as the ability to walk or to coordinate one's movements, as from the effects of a disease or accident, or through mental impairment. A *disabled person* under the Ordinance is defined as a person who on account of injury, disease or congenital deformity, is handicapped for undertaking any gainful profession or employment in order to earn his livelihood and includes a person who is blind, deaf, physically handicapped or mentally retarded.

Be This Copy
 Registered with Government of Punjab
 Registration Number: 36/14/1984/10/1/1

S. Akhter
 INAYAT MALIK
 Additional Commissioner (IR)
 Range-VII, Zone-IV
 Large Scale Employers Unit, Islamabad

According to the UN Convention on the Rights of Persons With Disabilities ("CRPD" or "Convention") ratified by Pakistan in 2011, persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others. Disability is an evolving concept and that disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others. Disabilities is an umbrella term, covering impairments, activity limitations, and participation restrictions. An impairment is a problem in body function or structure; an activity limitation is a difficulty encountered by an individual in executing a task or action; while a participation restriction is a problem experienced by an individual in involvement in life situations. Disability is thus not just a health problem. It is a complex phenomenon, reflecting the interaction between features of a person's body and features of the society in which he or she lives."

6) That the respondent No.1 erred in his show cause notice/judgment and did not consider the fact that it is evident from record that as per diagnosis by eye specialists and opinion of FOUR Standing Medical Boards constituted at various times petitioner is suffering from right eye amblyopia. It is a disease caused by poorly aligned eyes, where the brain ignores the visual input from the misaligned eye. In medical terms it means the vision of one eye is reduced because it fails to work properly with the brain. This condition where eye fails to work properly with brain is very much covered within the definition of Disabled person under section 2(c) of Disabled Persons (Employment and Rehabilitation) Ordinance, 1981. Petitioner has never claimed to be a blind person rather disability certificates were issued on the ground that due to nature of the disease and for all practical purposes she is one-eyed person.

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EXAMINER
1
Peshawar High Court (1st Bench)
Authorized Under Sec. 75 Evld Ord.

That the impugned notification as well as the medical board conducted after the appointment of petitioner is absolutely in violation of universally accepted principle of locus poenitentiae, as well as to its interpretations in the form of dictumslaid down by the August Apex Court as well as the Honourable High Courts of the country, therefore they have no value in the eye of law, and are liable to be set-aside.

8) That it is an inalienable right of every individual to be dealt in accordance with law, and be given a right to fair trial without any sort of discrimination whatsoever, but the conduct of respondents starting from the inception of complaint till the impugned notification, presented a trail of complete biasedness and is a worst example of curtailing fundamental rights of the petitioner.

9) That in para 10 of the report it is stated "Disciplinary action may be taken against the members of Medical Assessment Board who assessed the disability of Ms. Tehmina Akhter and members who attended the review

Attested
NAYAT MALIK
Additional Commissioner
Range-VII, Zone-IV
Large Taxpayers Unit, Islamabad

on the grounds of giving wrong assessment and issuing illegal disability certificate including Dr. Naseer Ahmad Sajid, District Eye Specialist on the grounds of ambiguous opinion and District Social Welfare Officer, Mansehra on the grounds of issuing disability certificate on the basis of ambiguous recommendations." This artificial term of "ambiguous opinion" is not to be found in law.

- 10) That In para 4(i) the Provincial Inspection Team has observed regarding opinion of assessment of Standing Medical Board on 20-09-2016 that the eye specialist mentioned "Visual right anisometric eye".
- 11) That in para 4(vii) of the Provincial Inspection Team has observed that on Direction of D.G Health petitioner appeared before the Standing Medical Board on 12-04-2017 and the Board in its report has stated, "...she had visual acuity in right eye 6/36(p) and 6/6 in left eye with glasses. She was having anisometric Amblyopia"
- 12) That in para 4(vii) it has been observed by the PIT that on direction of Board at Services Hospital petitioner appeared in the OPD of Dr Mahfooz Hussain who reported that "...she cannot be registered blind." It is pertinent to mention here that Dr. Mahfooz Hussain has himself admitted in his report that he was not available for examination on the date given for checkup to determine disability or otherwise. How he could give any opinion regarding disability when he had never examined the petitioner.
- 13) That the condition precedent for obtaining sanctions from the competent authority for initiating proceedings under the efficiency and discipline rules has not been complied with, and even otherwise the proceedings conducted by inquiry officer are beyond his mandate.
- 14) That the impugned notification has failed to appreciate that the petitioner has appeared before Medical Boards thrice after confirmation of her disability before Standing Medical Board, DHQ, Abbottabad in 2009, before Standing Medical Board at King Abdullah Hospital Mansehra and Standing Medical Board at Services Hospital, Peshawar. During the whole process petitioner has not concealed factual and legal position from any authority. PIT did not include any technical expert and failed to reach any conclusion, Second para of the Recommendations bears testimony to this fact where it has been suggested that appointment case of the petitioner may be referred to Law & Parliamentary Affairs Department Govt. of KP for favor of vetting the legal status. Thus petitioner cannot be charged with any act of "misconduct".

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 11 JAN 2020
 Peshawar: High Court Atd. Bench
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 [Signature]

INAYAT MALIK
 Additional Commissioner
 Range-VII, Zone-IV
 Large Taxpayers Unit, Islamabad

- 15) That the impugned notification and the whole proceedings initiated against the petitioner are result of misinterpretation, misreading and misconception of the facts and the law which tantamount to miscarriage of justice and the authority has failed to exercise its powers in accordance with law, equity and fair-play. Hence, the Impugned notification is liable to be set-aside.

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- 16) That if the Impugned notification is not set-aside and the matter is not decided in accordance with law and justice; the petitioner shall suffer an irreparable loss and injury.

PRAYER:

In view of the foregoing, it is most respectfully prayed that instant Writ Petition may kindly be accepted, whereby, Impugned notification issued by respondent no.5 may kindly be declared void ab initio and holding of inquiries etc. regarding the legal appointment of the petitioner may kindly be set-aside and be declared as illegal and unwarranted, in the best interest of justice.

Any other relief which this Honourable court deems fit and proper may also be granted.

Interim Relief:

It is therefore respectfully prayed that the impugned notification may kindly be suspended and the petitioner may graciously be reinstated to her position as Lecturer in English till the final disposal of captioned writ petition, in the best interest of justice.

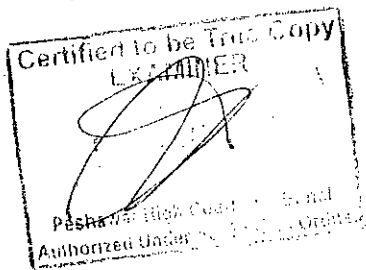
[Signature]
PETITIONER

Through;

[Signature]
(Jan Muhammad Khan)
Advocate High Court

[Signature]
(Muhammad Sohail Khan)
Advocate High Court

[Signature]
(Zia Hussain Raja)
Advocate High Court



CERTIFICATE:

Certified that as per information received/provided by the petitioner, this is the first writ petition ever moved by the petitioner on the subject matter, before this Honourable Court and no other case regarding the same subject is pending before any court of law including the Honourable Supreme Court of Pakistan.

[Signature]
COUNSEL
INAYAT MALIK
Additional Commissioner (IR)
Range-VII, Zone-IV
Large Taxpayers Unit, Islamabad

IN THE HONOURABLE PESHAWAR HIGH COURT,
ABBOTTABAD BENCH.

W.P No. _____/2019

Tehmina Akhter

VS

Chief Secretary, Government of Khyber Pakhtunkhwa and others

WRIT PETITION UNDER ARTICLE 199 OF THE
CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN,
1973.

AFFIDAVIT

I, Tehmina Akhter D/o Abdul Malik, R/o Village Dhangri Bala, Tehsil and District Mansehra, do hereby solemnly affirm and declare on oath, that the contents of the accompanied Writ Petition are true and correct to the best of my knowledge and belief and that nothing has been concealed

Certified to be a true copy therefrom.
EXAMINER
[Signature]
JAN 2020
Peshawar High Court Atd. Bench
Authorized Under Sec: 75 Evid Ordns.

[Signature]
DEPONENT

Further affirmed that the contents of this affidavit are true and correct to the best of my knowledge and belief and nothing has been suppressed or withheld.

13503-16475952-2
AFFIDAVIT
S No. 14021/581 dated 25/01/2020
I, Tehmina Akhter D/o Abdul Malik of Village Dhangri Bala do hereby solemnly affirm and declare on oath, that the contents of the accompanied Writ Petition are true and correct to the best of my knowledge and belief and that nothing has been concealed or withheld.
I am personally known to me

[Signature]
DEPONENT

[Signature]
INAYAT MALIK
Additional Commissioner (IR)
Range-VII, Zone-IV
Large Taxpayers Unit, Islamabad

[Signature]
25/1/20

72
13/11/2020
Annex L2

Before

✓ The Honourable Chief Minister,
Khyber Pakhtunkhwa, CM Secretariat,
Peshawar.

Through

Honourable Secretary,
Higher Education, Archives & Libraries Department,
Peshawar.

Sub:- DECISION OF HONOURABLE PESHAWAR HIGH COURT DATED:
07/01/2020 IN WRIT PETITION NO. 1375-A/2019/DEPARTMENTAL
REPRESENTATION IN THE LARGER INTEREST OF JUSTICE.

Respected Sir,

I have the honour to submit, the attested copy of decision of Honourable High Court Abbottabad Bench dated: 07/01/2020 in WP No. 1375-A/2019, Copy of WP.No. 1375-A/2019 along with its annexure i.e. A,B,C,D,E,F,G and H.

Further copy of CM, in said WP along with additional document filed with CM as annexure i.e. A,B,C,D,E,F,G and H. with the request to place the same before the Competent authority for Decision as per direction of the court.

Total attached pages (54)

PETITIONER,

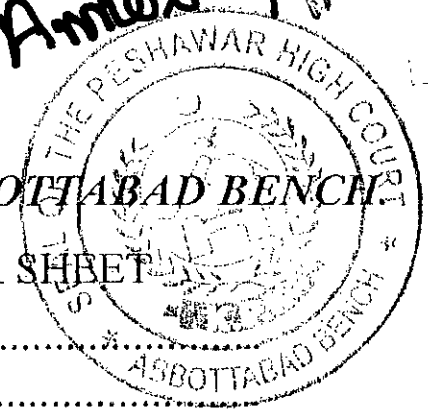
^{Tehmina}
Tehmina Akhter D/O Abdul Malik,
Village Dhangri Bala Teh and District
Mansehra.
Lecturer in English, Govt Degree
College, Mansehra.
Dated 13/ 01/ 2020.

Attested
[Signature]
INAYAT MALIK
Additional Commissioner (IR)
Range-VII, Zone-IV
Large Taxpayers Unit, Islamabad

- 58-

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Annex "M"



PESHAWAR HIGH COURT, ABBOTTABAD BENCH

FORM OF ORDER SHEET

Court of.....

Case No.....of.....

Date of Order of Proceedings	Order or other Proceedings with Signature of Judge (s)
1	2
07.01.2020.	<p><u>WP No. 1375-A/2019.</u></p> <p>Present: Nemo for petitioner.</p> <p style="text-align: center;">***</p> <p><u>IJAZ ANWAR, J.</u> Through this petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, the petitioner namely <i>Tehmina Akhter</i> has made the following prayer:-</p> <p style="text-align: center;"><i>That the instant writ petition may kindly be accepted, whereby, impugned notification issued by respondent No. 5 may kindly be declared void ab initio and holding of inquiries etc regarding the legal appointment of the petitioner may kindly be set-aside and be declared as illegal and unwarranted in the best interest of justice.</i></p> <p style="text-align: center;"><i>Any other relief which this Hon'ble Court deems fit and proper may also be granted.</i></p> <p>2. Briefly, the petitioner was appointed as <i>Lecturer</i> on 16.01.2017, however, his services were later-on terminated vide notification dated: 7th October, 2019 on the ground of fake disability certificate.</p> <p>3. It is evident from record of the case that the</p>

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 11/01/2020
 Peshawar High Court Atd. Bench
 Authorized Under Sec. 75 Evid Ordns

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 Large Taxpayers Unit, Islamabad

petitioner was appointed as Lecturer in English having status of civil servant, who as per record available with this file has not made any departmental appeal/representation against her removal from service. Rather, she has straightaway approached this Court through the instant petition. Therefore, in the peculiar facts and circumstances of the present writ petition, this Court in the larger interest of justice treats the present petition as departmental representation of the petitioner and send it to the respondents/concerned departmental authority for its decision, strictly in accordance with the law and the judgment of this Court reported as 2019 PLC CS 1065, leaving it open to the petitioner to avail appropriate remedy, thereafter, if she is so advised. Office is directed to convey the decision to the petitioner forthwith.

[Signature] JUDGE

[Signature] JUDGE

Certified to be True Copy
E. MAHER
15/11/2023
Peshawar High Court Atd. Bench
Authorized Under Sec: 75 Evid Ordns

[Signature]
INAYAT MALIK
Additional Commissioner (IR)
Range-VII, Zone-IV
Large Taxpayers Unit, Islamabad

Annexure B

GOVERNMENT OF KHYBER PAKHTUNKHWA
(PROVINCIAL COUNCIL FOR THE REHABILITATION OF DISABLED PERSON)

APPLICATION FOR DISABILITY CERTIFICATE.

Name Tehmina Akhter Father Name Muhammad Malik
Married/Unmarried Unmarried Spouse - na -
CNIC No 13503-6474452-2 Date of Birth 10-3-91
Qualification M.A. English Type of Disability (Physical/Visually/Hearing/Mentally) ✓
Nature of Disability Amblyopia Cause of Disability gm born
Type of job can do Lecturer in English Source of Income Dependent on her father
Applied for Lecturer in English Phone Number 03135803151
Present Address: Village Dhangri Bala P.O. Mansehra
Tehsil Mansehra UIC city District Mansehra
Permanent Address: Village Dhangri Bala P.O. Mansehra
Tehsil Mansehra UIC city District Mansehra

[Signature]
Signature of Applicant.

RECOMMENDATION OF THE ASSESSMENT BOARD.

Application is Declared:-

Disabled/Not Disabled one eye Disability Impairment Visual Rt - Anisometropic amblyopic eye
Fit to Work/Not Fit to work Not fit Type of job advised (Optional) amblyopic eye
Referred to vision Recommendations of the Board

Attested
[Signature]
Member

i- _____
ii- _____
Member

[Signature]
Chairman
Medical Assessment Board Mansehra
MANAGER
Employment Exchange
Mansehra

[Signature]
PRINCIPAL
Tech & Vocational Centre
(B) MANSEHRA.
Member

Refer to eye surgeon

Rt. Eye Anisometropic amblyopic
Eye - Visual prognosis in Rt.
Eye poor explained to the Pt.
Dr. Nasser Sajid
MBBS, DMS, FCS (1)
EYE SPECIALIST
M.G. Hospital, Mansehra

قیمت
50 روپے

46380



ایڈوکیٹ: Rizwanullah

بار کونسل ایسوسی ایشن نمبر: be-9-0050

رابطہ نمبر: 0300-5965843

پشاور بار ایسوسی ایشن، خیبر پختونخوا

Before the Honble Chairman, KPK Service Pesh: بعد اٹ جناب

Appellant: منجانب	Service Appeal: دعویٰ
TeAmina Akhtar	علت نمبر: <u>No. 4303/2020</u>
بنام	مورخہ:
Chief Secretary and	جرم:
Others	تھانہ:

باعت تحریر آنگہ

Place on file
D/W/1516

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ
آن مقام Peshawar کے لیے Rizwanullah Advocate کو وکیل مقرر
کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کمال اختیار ہوگا، نیز وکیل صاحب کو
راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق
زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری کی طرفہ یا اپیل کی برآمدگی اور منسوخی، نیز
دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب
مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا
دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے
باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ ڈال تاکہ سند رہے
المرقوم: 15-6-2020

TeAmina
15-6-2020

Attested & accepted
PESHAWAR BAR ASSOCIATION
KHYBER PAKHTUNKHWA

مقام Peshawar only کے لیے منظور ہے۔

IN THE HONOURABLE SERVICES TRIBUNAL,
PESHAWAR.

Tehmina Akhter

VS

Chief Secretary, Government of Khyber Pakhtunkhwa and others

APPEAL IN HONOURABLE SERVICES TRIBUNAL,
PESHAWAR.

SPECIALPOWER OF ATTORNEY

Respectfully Sheweth:

1. That the applicants have filed the above mentioned Appeal on in this Honourable Tribunal.
2. That the appellant is unable to attend day today hearings of the Tribunal in person and, hence seeks permission to appoint Mr. Inayat Malik, real brother of the applicant, to carry out important business on behalf of the applicant and collect certified copies of the comments submitted by the defendants.

Prayer:

In these circumstances, it is, therefore, most humbly prayed that special power of attorney given to Mr. Inayat Malik, real brother of the applicant may please be accepted.

APPLICANT

Tehmina
30/08/2020
(Tehmina Akhtar)

VAKALATNAMA

Before the KP Service Tribunal Peshawar

No. _____/2020

Tehmina Akhtar

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Higher Education Deptt.

(RESPONDENT)
(DEFENDANT)

I/We Tehmina Akhtar

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAIK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. _____/_____/2020

Tehmina

CLIENT

ACCEPTED

NOOR MOHAMMAD KHATTAIK

SHAHZULLAH KHAN YOUSAFZAI

&

MIR ZAMAN SAET
ADVOCATES

OFFICE:

Room No.1, Upper Floor,
Islamia Club Building, Khyber Bazar,
Peshawar City.

Phone: 091-2211391

Mrs. Masiyab Wagiz

Haider Ali
Advocates

Haider Ali

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR**

S.A NO. 4303/2020

Tehmina Akhatar Appellant

Versus


Govt. of Khyber Pakhtunkhwa

Through Secretary, Elementary & Secondary Education Department,

Peshawar & Others Respondents

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Respondents
Superintendent
Directorate of Higher Education
Khyber Pakhtunkhwa Peshawar

BEFORE THE HONOURABLE KHYBER PAKHTUN KHWA SERVICE TRIBUNAL
PESHAWAR

SA # 4303/2020

Tehmina AkhtarAppellant

Versus

Govt. of Khyber Pakhtunkhwa
Through Chief Secretary
& others.....

Respondents

SUBJECT: PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1,2 & 3

Respectfully Sheweth: -

Preliminary Objections:-

1. That the appellant has got neither cause of action nor locus standi to file the instant Service appeal.
2. That the appellant has not come to this Honourable Tribunal with clean hands.
3. That the appellant is trying to conceal material facts.
4. That the appellant is estopped by his own conduct to file the instant service appeal.
5. That the instant case is Time barred.

Facts:-

1. Correct that the appellant was proceeded against under E&D Rules 2011 having obtained fake disability certificate and appointed as Lecturer (Female) on the basis of the same certificate. The appellant was found guilty and major penalty of removal from service was imposed upon her.
2. Pertains to the record of Khyber Pakhtunkhwa Public Service Commission.
3. Pertains to record
4. Pertains to record.
5. Correct.
6. Correct.
7. Correct to the extent that a complaint was lodged by one Muhammad Bilal whereby, challenged the appointment of appellant by contending that appellant was not blind and disability certificate issued by Social Welfare Department, Mansehra is illegal.
8. Pertains to record.

9. Correct to the extent that Chief Minister Complaint Cell forwarded the complaint to the PIT for inquiry into the matter and PIT pursued all the available record and also recorded the statements of necessary parties.
10. Correct to the extent that Show Cause notice was issued to the appellant after being found guilty of providing fake disability Certificate. Accordingly, the appellant submitted reply to the Show Cause Notice.
11. Correct. Opportunity of personal hearing was provided to her.
12. The Said Writ Petition was converted in to departmental representation and send it to the respondent department for its decision.
13. Already explained in the preceding Paras.
14. Needs no Comments

Grounds: -

- A. Incorrect. That the impugned notification has been issued within four corners of Law.
- B. Incorrect that the inquiry committee made recommendation after scrutiny of available record/documents, detailed discussion, written statements and replies of the concerned staff.
- C. Incorrect. Opportunity of personal hearing was provided before her removal from service.
- D. Correct that the PIT pointed out flaws in the laws and recommended reformed Act for better understanding of the law on the subject matter.
- E. Needs no comments. However, each and every case has its own facts.
- F. Already explained in the preceding Paras of facts and grounds.
- G. Already explained in the preceding Paras of facts and grounds.
- H. Already explained in the preceding Paras of facts and grounds.
- I. Needs no Comments.
- J. Irrelevant, hence needs no comments.
- K. Incorrect. Under E&D Rules, where sufficient evidence are available against a civil servant, then a competent authority can remove the civil servant from service and there is no need to conduct a formal / regular inquiry.
- L. Incorrect. That the competent authority has granted approval prior to the issuance of the impugned order.

- M. Incorrect. The competent authority after due consideration, imposed and confirm the major penalty of "Removal from Service" upon the appellant.
- N. Needs no comments.
- O. That respondents may be allowed to raise additional grounds at the time of arguments.

Prayer:-

It is, therefore, humbly prayed that the instant Service Appeal is based on misconception/misstatements hence may graciously be dismissed.


Chief Secretary,

Govt: of Khyber Pakhtunkhwa
Respondent No. 01


Secretary,

Higher Education, Archives
& Library Department
Respondent No. 02


Director

Higher Education Department
Respondent No. 03

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR**

S.A No. 4303 _____/2020

In

Tehmina AkhtarAppellant



Versus

Govt. of Khyber Pakhtunkhwa
Through Secretary, Higher Education Peshawar & Others.....
Respondents

AFFIDAVIT

I, Jehanzeb Awan, Superintendent (Litigation), Higher Education Department do hereby declare and affirm on oath that the contents of Para Wise Comments are correct to the best of my knowledge and belief and that nothing has been concealed from this Honourable Court.

Identified by:



Deponent 
Superintendent
Directorate of Higher Education
Khyber Pakhtunkhwa Peshawar

Note :-

With due regard I have received Rs. 1000 from Jehan Zeb, Superintendent, Directorate of Higher Education U.P.P., Lucknow, in the case of Tehmina Mehtar vs Education Dept., Appeal no. 4303/2020 today dated. 18-02-2021, as cost imposed on the department.

Dated - 18-02-2021

Affirmis Khan Talaziz
Advocate



**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR**

S.A NO. 4303/2020

Tehmina Akhtar Appellant

Versus


Govt. of Khyber Pakhtunkhwa

Through Secretary, Elementary & Secondary Education Department,

Peshawar & Others Respondents

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Respondents
Superintendent
Directorate of Higher Education
Khyber Pakhtunkhwa Peshawar

BEFORE THE HONOURABLE KHYBER PAKHTUN KHWA SERVICE TRIBUNAL
PESHAWAR

SA # 4303/2020

Tehmina AkhtarAppellant

Versus

Govt. of Khyber Pakhtunkhwa
Through Chief Secretary
& others.....

Respondents

SUBJECT: PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1,2 & 3

Respectfully Sheweth: -

Preliminary Objections:-

1. That the appellant has got neither cause of action nor locus standi to file the instant Service appeal.
2. That the appellant has not come to this Honourable Tribunal with clean hands.
3. That the appellant is trying to conceal material facts.
4. That the appellant is estopped by his own conduct to file the instant service appeal.
5. That the instant case is Time barred.

Facts:-

1. Correct that the appellant was proceeded against under E&D Rules 2011 having obtained fake disability certificate and appointed as Lecturer (Female) on the basis of the same certificate. The appellant was found guilty and major penalty of removal from service was imposed upon her.
2. Pertains to the record of Khyber Pakhtunkhwa Public Service Commission.
3. Pertains to record
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7. Correct to the extent that a complaint was lodged by one Muhammad Bilal whereby, challenged the appointment of appellant by contending that appellant was not blind and disability certificate issued by Social Welfare Department, Mansehra is illegal.
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9. Correct to the extent that Chief Minister Complaint Cell forwarded the complaint to the PIT for inquiry into the matter and PIT pursued all the available record and also recorded the statements of necessary parties.
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12. The Said Writ Petition was converted in to departmental representation and send it to the respondent department for its decision.
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Grounds: -

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- M. Incorrect. The competent authority after due consideration, imposed and confirm the major penalty of "Removal from Service" upon the appellant.
- N. Needs no comments.
- O. That respondents may be allowed to raise additional grounds at the time of arguments.

Prayer:-

It is, therefore, humbly prayed that the instant Service Appeal is based on misconception/misstatements hence may graciously be dismissed.


Chief Secretary,

Govt: of Khyber Pakhtunkhwa
Respondent No. 01


Secretary,

Higher Education, Archives
& Library Department
Respondent No. 02


Director

Higher Education Department
Respondent No. 03

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR**

S.A No. 4303 _____/2020

In

Tehmina AkhtarAppellant

Versus

Govt. of Khyber Pakhtunkhwa
Through Secretary, Higher Education Peshawar & Others.....
Respondents

AFFIDAVIT

I, Jehanzeb Awan, Superintendent (Litigation), Higher Education Department do hereby declare and affirm on oath that the contents of Para Wise Comments are correct to the best of my knowledge and belief and that nothing has been concealed from this Honourable Court.

Identified by:


Deponent

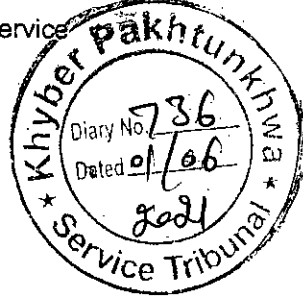
Superintendent
Directorate of Higher Education
Khyber Pakhtunkhwa Peshawar

THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR
URGENT FORM

15/09

Put up to the court worthy chair-man
along with relevant file.

To
THE CHAIRMAN,
Khyber Pakhtunkhwa Service
Tribunal,
Peshawar.



Reader

11/08/2021

Title of Case

Application in Appeal No. 4303/2020.

Order
02/6/2021

Appeal already
fixed for argument
by order of W.B.
Request is regretted.

Tehmina Akhter D/o Abdul Malik, Lecturer in English, Government Degree
College Chitti Dheri Mansehra, R/o Village Dhangri Bala, Tehsil and District
Mansehra.

.....APPELLANT

VERSUS

Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar.

Secretary, Government of Khyber Pakhtunkhwa, Higher Education,
Libraries & Archives Deptt., Peshawar.

3. Director, Higher Education, Libraries & Archives Deptt., Peshawar.

.....RESPONDENTS

Sir,

Will you kindly treat the accompanying application as an urgent one
in accordance with the provisions of the Khyber Pakhtunkhwa Service
Tribunal Act, 1974, read with relevant provisions of the rules, etc.,
applicable thereon for the purpose.

The Grounds of Urgency are :-

That the instant application is for early hearing of the titled Appeal in the interest
of justice. Therefore, gracious indulgence of the Honourable Tribunal is required
in the interest of justice on urgent basis.

Tehmina

Tehmina Akhter
Appellant
Cell # 0313-5803151

**IN THE KHYBER PAKTUNKHWA SERVICES
TRIBUNAL, PESHAWAR.**

Appeal No. 4303/2020

Tehrmina Akhter D/o Abdul Malik, Lecturer in English, Government Degree College Chitti Dheri Mansehra, R/o Village Dhangri Bala, Tehsil and District Mansehra.

.....APPELLANT

VERSUS

1. Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar.
2. Secretary, Government of Khyber Pakhtunkhwa, Higher Education, Libraries & Archives Deptt., Peshawar.
3. Director, Higher Education, Libraries & Archives Deptt., Peshawar.

.....RESPONDENTS

**APPLICATION FOR EARLY HEARING OF THE TITLED
APPEAL IN THE INTEREST JUSTICE.**

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Tehrmina
Applicant/Appellant

**IN THE KHYBER PAKTUNKHWA SERVICES
TRIBUNAL, PESHAWAR.**

Appeal No. 4303/2020

Tehmina Akhter D/o Abdul Malik, Lecturer in English, Government Degree College Chitti Dheri Mansehra, R/o Village Dhangri Bala, Tehsil and District Mansehra.

.....Appellant

VERSUS

1. Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar.
2. Secretary, Government of Khyber Pakhtunkhwa, Higher Education, Libraries & Archives Deptt., Peshawar.
3. Director, Higher Education, Libraries & Archives Deptt., Peshawar.

.....RESPONDENTS

**APPLICATION FOR EARLY HEARING OF THE TITLED
APPEAL IN THE INTEREST JUSTICE.**

Respectfully Sheweth:

1. That the titled Appeal is pending adjudication before this Honourable Tribunal since long and has been fixed for hearing on 15th September, 2021.
2. That the Applicants/Respondents have already submitted their Report/Written Comments in the titled Appeal explaining their position about the Facts and Grounds of the titled Appeal.
3. That it is relevant to submit that the appellant has been removed from service in an arbitrary manner and without

following the relevant laws/rules vide notification No. So(C-111)/1-2/19/ dated 25-11-2019.

4. That it will be in the interest of justice that the titled Appeal may be heard at an early date in the interest of justice.

PRAYER:

In view of the above, therefore, it is most respectfully prayed that an early date may graciously be fixed for hearing of the titled Appeal in the interest of justice.

Tehmina

Applicant/Appellant

**IN THE KHYBER PAKTUNKHWA SERVICES
TRIBUNAL, PESHAWAR.**

Appeal No. 4303/2020

Tehmina Akhter D/o Abdul Malik, Lecturer in English, Government Degree College Chitti Dheri Mansehra, R/o Village Dhangri Bala, Tehsil and District Mansehra.

.....Appellant

VERSUS

1. Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar.
2. Secretary, Government of Khyber Pakhtunkhwa, Higher Education, Libraries & Archives Deptt., Peshawar.
3. Director, Higher Education, Libraries & Archives Deptt., Peshawar.

.....RESPONDENTS

**APPLICATION FOR EARLY HEARING OF THE TITLED
APPEAL IN THE INTEREST JUSTICE.**

AFFIDAVIT

I, Tehmina Akhter, the applicant, do hereby solemnly affirm and declare that contents of the accompanied Application are true and correct to the best of my knowledge, information and belief and nothing material has been concealed or withheld.

It is also verified on Oath at P on this 29th day of May, 2021, that contents of the above Affidavit are true and correct to the best of my knowledge, information and belief.


APPELLANT/APPLICANT

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. 4303/2020

TEHMINA AKHTAR

VS

GOVT: OF KP & OTHERS

REJOINDER ON BEHALF OF THE APPELLANT IN RESPONSE
TO THE REPLY SUBMITTED BY THE RESPONDENTS

PRELIMINARY OBJECTIONS:

1. Incorrect, baseless and not in accordance with law and rules. That the appellant was removed from service on the basis of a frivolous complaint by a non aggrieved person. Departmental appeal against the removal from service was rejected by the competent authority. Since this august Tribunal is the relevant forum there is sufficient cause of action and locus standi for filing the instant service appeal.
2. That the appellant has come with absolutely clean hand to the Honourable Tribunal. That the appellant was issued two Disability Certificates which are still in field and the same were confirmed by FOUR medical boards. Detail is tabulated as below:

S#	Description	Issuing Authority	Findings	Date
1	Disability Certificate	Directorate of Social Welfare & Women Development, Peshawar	Anisometropic Amblyopia	29-10-2009
2	Disability Certificate	Department of Social Welfare & Women Development, Mansehra	visual right Anisometropic Amblyopic eye	20-09-2016
3	Medical Board	King Abdullah Hospital, Mansehra	Anisometropic Amblyopic eye	
4	Six Members Standing Medical Board	Services Hospital, Peshawar	"blind in one eye" and amblyopia	02-11-2016
5	Six Members Standing Medical Board	Services Hospital, Peshawar	Anisometropic Amblyopia	22-04-2017

3. That the respondents have concealed the facts and have acted out of jurisdiction in violation of all the fundamental rights of the appellant.
4. That the instant appeal is not barred by time. It was filed well within time limit after the decision of the departmental appeal.

FACTS:-

- 1- Incorrect and not replied accordingly. That the respondents stance that the appellant was proceeded against under E&D Rules 2011 is factually incorrect. On 22-05-2017 a frivolous complaint was filed by one Muhammad Bilal for challenging the appointment of Appellant by contending that appellant was not blind and disability certificate issued by Social Welfare Department, Mansehra is illegal. Till the issuance of Show Cause Notice on 20-05-2019 more than dozen provincial departments issued letters/notices to the undersigned to appear before various authorities in order to check veracity of the Disability Certificates. In all the proceedings including that of Provincial Inspection Team the appellant's Disability Certificates were to be cancelled if proved wrongly obtained. Both Disability Certificates issued by the competent Authorities after due process are still in the field. Appellant was not found guilty as evident from PIT report. No charge of misconduct can be leveled against the appellant as Directorate of Social Welfare and Women Empowerment, Peshawar and Deputy Director Social Welfare Department have testified before PIT that not only they had issued the Certificates but also the same was done after the due process. Moreover, findings of all the Medical Boards are the same and there is no deviation. *Copies of the record are attached as _____ R.*
- 2- Incorrect and not replied accordingly hence denied.
- 3- Incorrect and not replied accordingly hence denied.
- 4- Incorrect and not replied accordingly hence denied.
- 5- Incorrect and not replied accordingly hence denied.
- 6- Incorrect and not replied accordingly. That the Parawise comments of Respondents No. 1, 2 & 3 admit that complaint was lodged by a private person who was non-aggrieved party. Moreover, the complainant had claimed that the appellant was not a blind person. Needless to say that the appellant had never claimed to be a blind person before any forum at any point of time. On the opinion/report of Medical Boards Social Welfare Department has issued Disability Certificates after due diligence and due process. The complaint itself and the super structure built on it till imposition of Major Penalty of Removal from Service are in fructuous and ultra vires ab anitio.
- 7- Incorrect and not replied accordingly hence denied.
- 8- Incorrect and not replied accordingly. That no regular inquiry was conducted before imposition of major penalty in the case of the appellant. Discretionary powers were exercised by the Authority to dispense with regular inquiry in violation of General Clauses Act, 1897, S.24-A. Moreover, regular inquiry can only be dispensed with where there is no factual controversy and the facts are admitted by a

civil servant. In the case of the appellant recording of evidence was necessary to establish the charge of misconduct. Thus departure from regular inquiry under the Rules amounts to condemning the appellant unheard as laid down by the Honourable Supreme Court of Pakistan (2003 SCMR 1110=2003, PLC(C.S) followed in 2007 PLC). In another judgment Supreme Court has observed that it would be lawful, appropriate and fair that a regular enquiry was conducted to the extent of responsibility of appellant for the alleged misconduct (2017 PLC (C.S) 676(S.C). Inquiry conducted by Provincial Inspection Team was one sided where the appellant was condemned unheard in violation of fundamental right and universal principle of justice of audi alteram partem. Inquiry conducted by Provincial Inspection Team never provided an opportunity to disprove factual allegations leveled by a non-aggrieved complainant. Hence, shorter procedure of dispensing with regular inquiry has subjected the appellant to punitive action in arbitrary manner (1990 SCMR 926 & 2003 PLC (C.S) 1306).

- 9- Incorrect and not replied accordingly. That though Show cause notice was issued by the Authority on the basis of informal inquiry conducted by Provincial Inspection Team. Appellant was not associated with PIT inquiry at any stage. Rather the whole proceedings were kept secret from the appellant. Summary procedures could only be followed in cases where there is no factual controversy involved. In the case of the appellant show cause notice without regular inquiry amounts to depriving the appellant from right of defence and fair opportunity of hearing (2006 SCMR 846=2007, PLC(C.S) 354[S.C]=PLJ 2007 SC 54, 2005 PLC(C.S) 263[S.S.T]; 2005 PLC(C.S) 533[S.S.T] 2005, PLC(C.S)547[S.S.T]).
- 10- Incorrect and not replied accordingly. That Personal Hearing is considered from the point of view of justice, equity and propriety in departmental proceedings. In the case of the appellant personal hearing was assigned to the delegate officer who had already revealed his mind in PIT report in capacity of chairman of Provincial Inspection Team. When the appellant appeared for personal hearing the officer excused himself from personal hearing stating that he had already given his opinion on the matter in PIT report. However, the same officer was again assigned the duty of conducting personal hearing by the Authority, which shows malafide on the part of the Authority. Thus the subsequent order of imposition of major penalty of removal from service stood vitiated.

GROUNDS:

- A- Incorrect and not replied accordingly. That the Impugned notification has been issued in violation of E&D Rules. Discretion was exercised in arbitrary manner to dispense with regular inquiry. Show cause notice was based on PIT report which had never associated the appellant with the proceedings at any stage. Personal hearing was conducted

through an officer who had already framed his mind in the capacity of chairman PIT and submitted report to the Authority. Disability Certificates issued to the appellant are still in the field and not a single Medical Board out of Five Medical Boards has deviated from its opinion as revealed in PIT inquiry report.

B- Incorrect and not replied accordingly. That the Enquiry Committee of Provincial Inspection Team has not been able to prove that appellant had obtained fake disability certificates. PIT inquiry report reveals that disability certificates were issued by the competent authorities after the due process and the same has been confirmed by the concerned authorities during PIT proceedings. PIT report confirms that prior to issuance of disability certificates by Directorate of Social Welfare Department, Peshawar and District Social Welfare Department Mansehra the appellant appeared before the Standing Medical Board for assessment and both the Boards confirmed the disability and forwarded their recommendations to the Social Welfare Department (see PIT Report para XI page 35-36). PIT report is based on the statements of witnesses who were examined behind the back of the appellant and no opportunity was given to the appellant to disprove the allegation of a non-aggrieved person. Moreover, no opportunity was given to cross examine the witnesses. Under these circumstances imposition of major penalty of removal from service on the basis of a show cause notice cannot be held to be a valid exercise of power by the authority (1998 PLC (C.S) 161[S.C]=1998 SCMR 137).

C- To M: Not replied accordingly hence denied.

It is therefore humbly prayed that on acceptance of this rejoinder the appeal of the appellant may kindly be accepted as prayed for.

APPELLANT

Tehmina

TEHMINA AKHTAR

THROUGH:
NOOR MOHAMMAD KHATTAK ADVOCATE
 OFFICE: FLAT NO.4, 2ND FLOOR, JUMA KHAN
 PLAZA, WARSAK ROAD, PESHAWAR.
 (0345-9383141)

**BEFORE HONOURABLE CH
KHYBER PAKTU**

Tehmina Akhter D/o Abdul Malik, R/o Vil
District Mansehra.

UMS 1 UMS53863951 Annex-A
PAKISTAN POST OFFICE
U.M.S. RECEIPT
No. 315 Rs. 50
Name of addressee: Mahmood Khan
M & P Peshawar KP
Date stamp: 02 DEC 2016
Post town of destination: PESHAWAR
Service instructions: Cover leaf

**DEPARTMENTAL APPEAL UNDER SECTION
17(2)(B) OF THE KHYBER PAKHTUNKHWA
GOVERNMENT SERVANTS RULES, 2011.**

Respectfully Submitted,

1. That the brief facts comprising the instant Departmental Appeal are enumerated as under:
 - a. That KPPSC advertised post vide Advertisement No.01/2016 dated 09-03-2016 wherein at S#29 two posts were reserved in Higher Education Department for recruitment against disabled quota including one for Lecturer in English.
 - b. That appellant applied against reserved seats for disable persons on the strength of **Disability Certificate** issued by Directorate of Social Welfare and women development (PCRDP), Peshawar on 29-10-2009 wherein her disability was mentioned as **anisometropic Amblyopia in right eye**.
 - c. That prior to recommendation by KPPSC, appellant was again examined by medical board and a fresh **disability certificate** was issued on 20-09-2016 by Social Welfare Department, Mansehra based on the opinion/recommendation of standing Medical Board wherein cause of her disability was confirmed, endorsed and mentioned as "**visual right Anisometropic Amblyopic eye**".
 - d. That after having qualified for the respective post, KPPSC issued recommendation letter to the appellant against disable quota for the post of lecturer in English on 05-10-2016 and the Higher Education Department referred her for medical examination to **Services Hospital, Peshawar**. Wherein the standing Medical Board confirmed the disability and the Eye Specialist referred the same as "**blind in one eye**" and amblyopia, vide its certificate dated 02-11-2016.

ATTACHED

Tehmina
22/12/2019

(6)

BEFORE HONOURABLE CHIEF MINISTER,
KHYBER PAKTUNKHWA.

Tehmina Akhter D/o. Abdul Malik, R/o Village Dhangri Bala, Tehsil and District Mansehra.

.....APPELLANT

DEPARTMENTAL APPEAL UNDER SECTION
17(2)(B) OF THE KHYBER PAKHTUNKHWA
GOVERNMENT SERVANTS RULES, 2011.

Respectfully Submitted,

1. That the brief facts comprising the instant Departmental Appeal are enumerated as under:
 - a. That KPPSC advertised post vide **Advertisement No.01/2016** dated **09-03-2016** wherein at **S#29** two posts were reserved in Higher Education Department for recruitment against disabled quota including one for Lecturer in English.
 - b. That appellant applied against reserved seats for disable persons on the strength of **Disability Certificate** issued by Directorate of Social Welfare and women development (PCRDP), Peshawar on **29-10-2009** wherein her disability was mentioned as **anisometropic Amblyopia** in right eye.
 - c. That prior to recommendation by KPPSC, appellant was again examined by medical board and a fresh **disability certificate** was issued on **20-09-2016** by Social Welfare Department, Mansehra based on the opinion/recommendation of standing Medical Board wherein cause of her disability was confirmed, endorsed and mentioned as "**visual right Anisometropic Amblyopic eye**"
 - d. That after having qualified for the respective post, KPPSC issued recommendation letter to the appellant against disable quota for the post of lecturer in English on **05-10-2016** and the Higher Education Department referred her for medical examination to **Services Hospital, Peshawar**. Wherein the standing Medical Board confirmed the disability and the Eye Specialist referred the same as "**blind in one eye**" and **amblyopia**, vide its certificate dated **02-11-2016**.

ATTACHED

Tehmina
1.7.2019

- e. As a result of the above proceedings appellant was issued appointment order as Lecturer in English on 16-01-2017 after completion of all the codal formalities and due recruitment process.
- 4) That subsequently on 22-05-2017, a frivolous complaint was filed by one Muhammad Bilal for challenging the appointment of Appellant by contending that appellant was not blind and disability certificate issued by Social Welfare Department, Mansehra is illegal. The complainant is not an aggrieved party through the said appointment order and his complaint is based on enmity and family feuds, and besides this he also moved a complaint to Director General, Health Department, Khyber Pakhtunkhwa.
- 5) That Director General, Health Department, Khyber Pakhtunkhwa constituted a medical board and referred the matter to it for an expert opinion, whereby medical board examined the appellant at services hospital, Peshawar on 22-04-2017, and after examining her, they referred the matter to Lady Reading Hospital, Peshawar, for final opinion, without making any comments as to the opinion, for the reason that the eye-specialist namely Dr. Mehfooz Hussain was not available and did not examine her, and the staff of Lady Reading Hospital has not yet responded.
- 6) That on the basis of said complaint, Chairman, Chief Minister's complaint and redressal cell issued an order for constitution of Provincial Inspection Team, Khyber Pakhtunkhwa to conduct inquiry into the matter vide his order dated 22-05-2017, The whole proceedings of PIT were kept secret from the appellant and no opportunity of being heard was provided to her, and PIT submitted its inquiry report after making their recommendations as to the matter.
- 7) That on the basis of said report, Chief Secretary KP issued a show cause notice to the appellant as to misconduct on her part and also intimated her regarding his tentative decision of imposing penalty of removal from service under rule 4 of Government Civil Services Rules, 2011.
- 8) That on 15-11-2019, appellant was intimated by the principal of government girls degree college No.2 Mansehra, about the status of inquiry, and sent her a notification No. SO (C-111)/1-2/19/Tehmina Akhtar, dated 7th October, 2019, whereby she has been removed from service by imposition of major penalty under E&D Rules, 2011.

GROUNDS:

- 1) That the impugned notification has been issued by the Chief Secretary in an arbitrary manner and without applying judicial mind.
- 2) That the concerned authorities failed to appreciate the definition of Disable Persons under section 2(c) of Disabled Persons (Employment and

ATTACHED

8

Rehabilitation) Ordinance, 1981; hence any action taken on the basis such recommendations is liable to be set-aside on this score only.

- 3) That the competent authority has erred in his decision and reference is made to the report of **Provincial Inspection Team (PIT)** on the basis of which appellant was issued the said show cause notice. The whole process has violated basic principle of *audi alteram partem*. The proceedings were kept secret and the appellant was not given an opportunity of being heard. Thus the process has also deprived the appellant of fundamental right of fair trial under Article 10-A of the Constitution of the Islamic Republic of Pakistan.
- 4) The competent authority also failed to appreciate the recommendation made by PIT, which paints a grim picture of flouting of whole justice system which is discussed as under:
 - a. Recommendation No. 1 is not related to the appellant.
 - b. Recommendation No. 2 concludes that appellant has obtained illegal disability certificate but has failed to state that wherefrom such sweeping inference has been drawn. PIT report has itself highlighted that all four medical Boards have unanimous opinion about nature of irreparable infirmity suffered by the appellant and is termed as **anisometropic Amblyopia** in medical jargon. It is quite clear from later part of the recommendation that PIT itself is confused about its conclusion that the disability certificate is illegal as it has stated that *the case may be referred to Law & Parliamentary Affairs Department Govt. of KP for favour of vetting and legal status of the appointment.*
 - c. Recommendation No. 3 of PIT states that the law about disability is defective and a reformed Act in consultation with Special Registered Persons Associations may be formulated to replace the existing law. It has further recommended that ambiguities regarding organs of body causing disabilities may be removed, define job specific disabilities and devise a list of organs of body in the Act which makes human body disable. This recommendation reflects myopic and tunnel vision of PIT. Disability is an evolving concept and has been well defined in judge made law and conventions of UN regarding disability. Moreover, this recommendation will have no legal bearing in the case of the appellant.
 - d. Recommendation No. 4 is not related to the appellant.
- 5) That the contention of competent authority that the appellant was not disable under the definition of section 2(c) of Disabled Persons (Employment and Rehabilitation) Ordinance, 1981, is altogether contrary and is in direct conflict with the dictum laid down by the Honourable superior Courts as to the definition of the word "disability". Which is defined as to means lacking one or more physical powers, such as the ability to

ATTESTED

walk or to coordinate one's movements, as from the effects of a disease or accident, or through mental impairment. A *disabled person* under the Ordinance is defined as a person who on account of injury, disease or congenital deformity, is handicapped for undertaking any gainful profession or employment in order to earn his livelihood and includes a person who is blind, deaf, physically handicapped or mentally retarded.

According to the UN Convention on the Rights of Persons With Disabilities ("CRPD" or "Convention") ratified by Pakistan in 2011, persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others. Disability is an evolving concept and that disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others. *Disabilities is an umbrella term, covering impairments, activity limitations, and participation restrictions.* An impairment is a problem in body function or structure; an activity limitation is a difficulty encountered by an individual in executing a task or action; while a participation restriction is a problem experienced by an individual in involvement in life situations. *Disability is thus not just a health problem. It is a complex phenomenon, reflecting the interaction between features of a person's body and features of the society in which he or she lives.*"

- 6) That the competent authority erred in its show cause notice/judgment and did not consider the fact that it is evident from record that as per diagnosis by eye specialists and opinion of FOUR Standing Medical Boards constituted at various times appellant is suffering from right eye amblyopia. It is a disease caused by poorly aligned eyes, where the brain ignores the visual input from the misaligned eye. In medical terms it means the vision of one eye is reduced because it fails to work properly with the brain. This condition where eye fails to work properly with brain is very much covered within the definition of Disabled person under section 2(c) of Disabled Persons (Employment and Rehabilitation) Ordinance, 1981. Appellant has never claimed to be a blind person rather disability certificates were issued on the ground that due to nature of the disease and for all practical purposes she is one-eyed person.
- 7) That the impugned notification as well as the medical board conducted after the appointment of appellant is absolutely in violation of universally accepted principle of locus poenitentiae, as well as to its interpretations in the form of dictums laid down by the August Apex Court as well as the Honourable High Courts of the country, therefore they have no value in the eye of law, and are liable to be set-aside.
- 8) That it is an inalienable right of every individual to be dealt in accordance with law, and be given a right to fair trial without any sort of discrimination whatsoever, but the conduct of respondents starting from the inception of complaint till the impugned notification, presented a trail of complete

ATTACHED

biasedness and is a worst example of curtailing fundamental rights of the appellant.

- 9) That in para 10 of the report it is stated "Disciplinary action may be taken against the members of Medical Assessment Board who assessed the disability of Ms. Tehmina Akhter and members who attended the review on the grounds of giving wrong assessment and issuing illegal disability certificate including Dr. Naseer Ahmad Sajid, District Eye Specialist on the grounds of ambiguous opinion and District Social Welfare Officer, Mansehra on the grounds of issuing disability certificate on the basis of ambiguous recommendations." This artificial term of "ambiguous opinion" is not to be found in law.
- 10) That in para 4(i) the Provincial Inspection Team has observed regarding opinion of assessment of Standing Medical Board on 20-09-2016 that the eye specialist mentioned "Visual right anisometric eye".
- 11) That in para 4(vii) of the Provincial Inspection Team has observed that on Direction of D.G Health appellant appeared before the Standing Medical Board on 12-04-2017 and the Board in its report has stated, "...she had visual acuity in right eye 6/36(p) and 6/6 in left eye with glasses. She was having anisometric Amblyopia".
- 12) That in para 4(vii) it has been observed by the PIT that on direction of Board at Services Hospital appellant appeared in the OPD of Dr. Mahfooz Hussain who reported that "...she cannot be registered blind." It is pertinent to mention here that Dr. Mahfooz Hussain has himself admitted in his report that he was not available for examination on the date given for checkup to determine disability or otherwise. How he could give any opinion regarding disability when he had never examined the appellant.
- 13) That the condition precedent for obtaining sanctions from the competent authority for initiating proceedings under the efficiency and discipline rules has not been complied with, and even otherwise the proceedings conducted by inquiry officer are beyond his mandate.
- 14) That the impugned notification has failed to appreciate that the appellant has appeared before Medical Boards thrice after confirmation of her disability before Standing Medical Board, DHQ, Abbottabad in 2009, before Standing Medical Board at King Abdullah Hospital Mansehra and Standing Medical Board at Services Hospital, Peshawar. During the whole process appellant has not concealed factual and legal position from any authority. PIT did not include any technical expert and failed to reach any conclusion. Second para of the Recommendations bears testimony to this fact where it has been suggested that appointment case of the appellant may be referred to Law & Parliamentary Affairs Department Govt. of KP for favor of vetting the legal status. Thus appellant cannot be charged with any act of "misconduct".

ATTACHED

(11)

That the impugned notification and the whole proceedings initiated against the appellant are result of misinterpretation, misreading and misconception of the facts and the law which tantamount to miscarriage of justice and the authority has failed to exercise its powers in accordance with law, equity and fair-play. Hence, the Impugned notification is liable to be set-aside.

PRAYER:

In view of the foregoing, it is most respectfully prayed that instant Appeal may kindly be accepted, whereby, Impugned notification issued by the Chief Secretary, Khyber Pakhtunkhwa may kindly be set aside and the appellant may please be exonerated from the charge of "misconduct" under Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

APPELLANT

Tehmina
83/12/2019
(Tehmina Akhter)
Village Dhangri Bala,
District & Tehsil, Mansehra.

[Signature]
ATTESTED

Annex-B

12



GOVERNMENT OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES &
LIBRARIES DEPARTMENT

No. SOIC-III/II/VI-2/17-20
Dated Peshawar, the 18th May, 2020 / 5/18/20

Ms. Tehmina Akhtar d/o Abdul Malik,
Address: Village Dhanguri Dula Teh. & District Manschna,
Ex-Lecturer in English,
Govt. Girls Degree College No.2, Chuti Dheri (Manschna).

Subject: DECISION OF THE HON'BLE PESHAWAR HIGHER COURT DATED 07/01/2020 IN WRIT PETITION NO 137-A/2019/DEPARTMENTAL REPRESENTATION IN THE LARGER INTEREST OF JUSTICE.

I am directed to refer to your appeal dated 13/01/2020 on the subject noted above and to state that the competent authority has rejected your appeal regarding departmental representation against tenor- A from service.

Section Officer (Colleges-III) For

Copy forwarded to:-

- 1. The Director, Directorate of Higher Education Khyber Pakhtunkhwa, Peshawar.
- 2. Section Officer (Litigation), Higher Education Department.
- 3. PS to Secretary Higher Education Department.

Section Officer (Colleges-III)

ATTACHED

ANNEURE C

GOVERNMENT OF KHYBER PAKHTUNKHWA
(PROVINCIAL COUNCIL FOR THE REHABILITATION OF DISABLED PERSON)

13

APPLICATION FOR DISABILITY CERTIFICATE.

Name Tehmina Akhter Father Name Muhammad Malik
 Married/Unmarried Unmarried Spouse - na -
 CNIC No. 13503-6474652-2 Date of Birth 10-3-91
 Qualification M.A. English Type of Disability (Physical/Visually/Hearing/Mentally)
 Nature of Disability Amblyopia Cause of Disability eye lens
 Type of Job can do Lecturer in English Source of Income Dependent on her father
 Applied for Lecturer in English Phone Number 03135803151
 Present Address: Village Dhangri Bala P.O. Mansehra
 Tehsil Mansehra UIC city of Man District Mansehra
 Permanent Address: Village Dhangri Bala P.O. Mansehra
 Tehsil Mansehra UIC city of Man District Mansehra

[Signature]
Signature of Applicant.

RECOMMENDATION OF THE ASSESSMENT BOARD.

Application is Declared:-

Disabled/Not Disabled one eye Disability Impairment Visual Rt. - Anisometropic amblyopic eye
 Fit to Work/Not Fit to work Not fit Type of job advised (Optional) amblyopic eye
 Referred to vision Recommendations of the Board

Attested
[Signature]
 Member
[Signature]
 Member

[Signature]
 Chairman
 Medical Assessment Board Mansehra
[Signature]
 Member
 Hospital Mansehra

[Signature]
 PRINCIPAL
 Tech & Vocational Centre
 (B) MANSEHRA.
 Member

Refer to Eye Surgeon

Rt. Eye Anisometropic amblyopic
 Eye - Visual prognosis in Rt.
 Eye poor explained to the Pt.
[Signature]
 Dr. Naveed Sajid
 MBBS, DMS, FICS (I)
 EYE SPECIALIST
 P.G. Hospital, Mansehra

ATTACHED

ANNEXURE

D

14



OFFICE OF THE
MEDICAL SUPERINTENDANT
SERVICES HOSPITAL, PESHAWAR

Phone: (Off) 091 9210509 (Exch) 091 9223472 Fax: 091 9210543

No. 1661-64 /MS/SMB/2016-17

Dated 12/04/2017.

Medical Director
Lady Reading Hospital (MTI)
Peshawar.

Subject: - STANDING MEDICAL BOARD

Memo: - With reference to Director General Health Services Khyber Pakhtunkhwa Peshawar letter No. 718/Medical dated 02-03-2017 on the subject noted above.

Ms. Tehmina Akhtar D/O Abdul Malik R/O: Dhangri Bala Mansohra City was examined by the Standing Medical Board held in this office on 12-04-2017. She is having visual acuity in right eye 6/36 (P) and 6/6 in left eye with glasses. She is having right anisometropic amblyopia. The board referred the above named patient to Professor Incharge Eye Department Lady Reading Hospital Peshawar for expert opinion regarding disability opinion.

Therefore on the arrival of the patient, she may be examined and expert opinion regarding her disability or otherwise may be sent to this office to proceed further.

5345
12-4-17
Chairman

Standing Medical Board
Medical Superintendent
Police/Service Hospital
Peshawar

Copy to:

- Director General Health Services Khyber Pakhtunkhwa for information.
- Mr. Muhammad Bilal Chair Person Right to Live Organization behind Madni Plaza Channai Abbottabad for information.
- Ms. Tehmina Akhtar D/O Abdul Malik R/O: Dhangri Bala Mansohra City for information and with direction to appear before Medical Director Lady Reading Hospital (MTI) Peshawar to be examined by the Professor Incharge Eye Department for disability opinion/assessment and report submit to this office to proceed further.

ATTACHED

VAKALATNAMA

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

S. A 4303 - OF 2020

15/10/2020

Tehmina Akhtar

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

GOVT: OF KP & OTHERS

(RESPONDENT)
(DEFENDANT)

I/We Tehmina Akhtar

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. ___/___/2020

Tehmina Akhtar
CLIENT *8/10/2020*

ACCEPTED

**NOOR MOHAMMAD KHATTAK
(BC-08-0853)
15401-0705985-5**

&

**SHAHZULLAH YOUSAFZAI
ADVOCATES**

OFFICE:

Flat No.4, 2ND Floor,
Juma khan plaza near
FATA secretariat, warsak road
Peshawar City.
Mobile No.0345-9383141



KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

No. 2370 /ST

Dated: 01/12 /2021

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262


To

The Secretary Higher Education Archives and Libraries Department,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: JUDGMENT IN APPEAL NO. 4303/2020, MST. TEHMINA AKHTAR.

I am directed to forward herewith a certified copy of Judgement dated 03.11.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR

**BEFORE THE KHYBER PAKTUNKHWA
SERVICES TRIBUNAL, PESHAWAR.**

Appeal No.4303/2020

MISC. Application No. 369/2021

Tehmina Akhter D/o Abdul Malik, Lecturer in English, Government Degree College Chitti Dheri Mansehra, R/o Village Dhangri Bala, Tehsil and District Mansehra.

.....APPELLANT

VERSUS

1. Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar.
2. Secretary, Government of Khyber Pakhtunkhwa, Higher Education, Libraries & Archives Deptt., Peshawar.
3. Director, Higher Education, Libraries & Archives Deptt., Peshawar.

.....RESPONDENTS

**APPLICATION UNDER SECTION 152 OF C.P.C FOR
CORRECTION OF ERROR.**

INDEX

S. No.	Description of Documents	Date	Annex	Page No.
1	Application with Affidavit for Correction of Error under Section 152 of C.P.C for Correction of Error.	06-12-2021		1-3
2	Copy of the Judgement / Decision	<i>03-11-2021</i> 03-11-2019		4-12
3	Impugned notification removal from service	07-10-2019		13

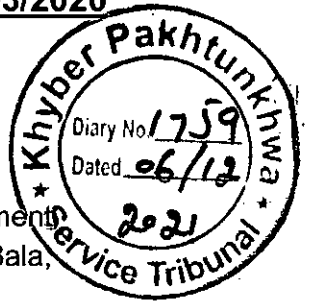
Tehmina
Applicant/Appellant

BEFORE THE KHYBER PAKTUNKHWA
SERVICES TRIBUNAL, PESHAWAR.

Misc Application No. 369/2021

Appeal No. 4303/2020

Put up to the worthy chair - as
with relevant appeal.



6/12/21 Tehmina Akhter D/o Abdul Malik, Lecturer in English, Government
Degree College Chitti Dheri Mansehra, R/o Village Dhangri Bala,
Tehsil and District Mansehra.

Resub

.....Appellant

VERSUS

Put up before
the single Bench
as a special
case.

1. Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar.
- Secretary, Government of Khyber Pakhtunkhwa, Higher Education, Libraries & Archives Deptt., Peshawar.
3. Director, Higher Education, Libraries & Archives Deptt., Peshawar.

06/12/2021

.....RESPONDENTS

**APPLICATION UNDER SECTION 152 OF C.P.C FOR
CORRECTION OF ERROR.**

Respectfully Sheweth:

1. That the titled Appeal was decided by the Honourable Tribunal on 03-11-2021 which has set aside the impugned notification dated 07-10-2019. However, in the said judgment, the impugned notification date has been mentioned as 15-11-2019 instead of 07-10-2019. It is humbly submitted that the same clerical/typographical error occurring at line two and line four of paragraph 10 may please be corrected.

PRAYER:

In view of the above, therefore, it is most respectfully prayed that date of the impugned notification set aside by the Honourable Tribunal in its judgment dated 03-11-2021 in Appeal No.4303 may please be corrected as 07-10-2019 instead of 15-11-2019.

Q. H. Minar
Applicant/Appellant

**BEFORE THE KHYBER PAKTUNKHWA
SERVICES TRIBUNAL, PESHAWAR.**

Appeal No. 4303/2020

Tehmina Akhter D/o Abdul Malik, Lecturer in English, Government Degree College Chitti Dheri Mansehra, R/o Village Dhangri Bala, Tehsil and District Mansehra.

.....Appellant

VERSUS

1. Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar.
2. Secretary, Government of Khyber Pakhtunkhwa, Higher Education, Libraries & Archives Deptt., Peshawar.
3. Director, Higher Education, Libraries & Archives Deptt., Peshawar.

.....RESPONDENTS

**APPLICATION UNDER SECTION 152 OF C.P.C FOR
CORRECTION OF ERROR.**

AFFIDAVIT

I, Tehmina Akhter, the applicant, do hereby solemnly affirm and declare that contents of the accompanied Application are true and correct to the best of my knowledge, information and belief and nothing material has been concealed or withheld.

It is also verified on Oath on this 6th day of December, 2021, that contents of the above Affidavit are true and correct to the best of my knowledge, information and belief.


APPELLANT/APPLICANT



**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL**

Appeal No. 4303 /2020

Diary No. 3594

Dated 12-05-20

Tehmina Akhter D/o Abdul Mallk, Lecturer in English, Government Degree College Chitti Dheri Mansehra, R/o Village Dhangri Bala, Tehsil and District Mansehra.

.....Appellant

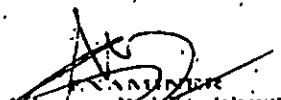
VERSUS

1. Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar.
2. Secretary, Government of Khyber Pakhtunkhwa, Higher Education, Libraries & Archives Deptt., Peshawar.
3. Director, Higher Education, Libraries & Archives Deptt., Peshawar.

.....RESPONDENTS

APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED NOTIFICATION NO SO (C-111)/1-2/19/ DATED 07-10-2019 WHEREBY MAJOR PENALTY "REMOVAL FROM SERVICE" WAS IMPOSED ON THE APPELLANT IN A HIGHLY CAPRICIOUS MANNER, WITHOUT LAWFUL AUTHORITY, WITHOUT DUE PROCESS OF LAW, AND WITHOUT APPLYING THE JUDICIAL MIND, BASED ON MALAFIDE, MISINTERPRETATION, MISREADING AND MISCONCEPTION OF FACTS & LAW WHICH TANTAMOUNT TO MISCARRIAGE OF JUSTICE. THE SAME IMPUGNED NOTIFICATION

ATTESTED


Registrar
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Filed to-day

Registrar

12/5/2020

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 4303/2020

Date of Institution ... 12.05.2020

Date of Decision ... 03.11.2021



Tehmina Akhtar D/O Abdul Malik, Lecturer in English, Government Degree College Chitti Dheri Mansehra, R/O Village Dhangri Bala, Tehsil and District Mansehra.

... (Appellant)

VERSUS

Chief Secretary, Government of Khyber Pakhtunkhwa Peshawar and two others.

... (Respondents)

Present:

MR. NOOR MUHAMMAD KHATTAK,
Advocate

--- For Appellant.

JAVID ULLAH,
Assistant Advocate General

--- For respondents.

AHMAD SULTAN TAREEN
ROZINA REHMAN

— CHAIRMAN
— MEMBER(Judicial)

JUDGEMENT

AHMAD SULTAN TAREEN, CHAIRMAN:- Appellant through service appeal described above in the heading has invoked the jurisdiction of this Tribunal U/S 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 07.10.2019, whereby, major penalty of removal from service was imposed upon appellant.

02. The factual account as given in the Memo of appeal and deducible from copies of the supporting documents annexed therewith is precisely that appellant applied for the post of Lecturer (BPS-17) in disabled quota. After medical examination, Appellant was appointed as Lecturer in English (BPS-17) through Public Service Commission (on disable quota). In the meanwhile, a complaint was filed to the Director General Health

ATTESTED


AHMAD SULTAN TAREEN
CHAIRMAN
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Department by one Muhammad Bilal, stating that the appointment of the appellant is illegal as she is not blind/disabled and the disability certificate issued by Social Welfare Department is fake. On the basis of the said complaint, the Director General Health constituted a medical board and referred the matter for an expert opinion to the Services Hospital Peshawar. After examining the matter, the case was referred to L.R.H Peshawar for final opinion but due to non-availability of concerned staff, the case remained un-responded on behalf of L.R.H, where-after, the matter was tackled by the Provincial Inspection Team and resultantly, appellant was removed from service. Feeling aggrieved, she filed Writ Petition in Peshawar High Court, Abbottabad Bench and vide judgment dated 11.01.2020 the Hon'ble High Court treated the Writ Petition as departmental appeal and sent to the respondents with direction to decide the same in accordance with law, which was not decided, hence, the instant service appeal. *The respondents on notice of appeal have contested it.*

3. We have heard the arguments and perused the record.

4. Learned counsel for appellant argued that the impugned notification is arbitrary and not applicable to judicial mind. That the Inquiry Committee failed to define the disability criteria in the case of appellant under Section-2 (c) of Disabled Persons (Employment and Rehabilitation) Ordinance, 1981. He submitted that the inquiry was not initiated under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 and the whole process has violated the basic principle of *audi alteram partem*. Further submitted that the proceedings of P.I.T (Provincial Inspection Team) were kept secret and the appellant was not given an opportunity of hearing. That the contention of respondents regarding denial of disability is contrary and is in direct conflict with the dictum laid down by

ATTESTED

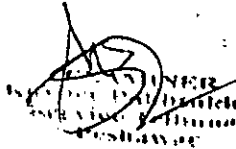

 Officer
 Peshawar

the Hon'ble superior courts as to the definition of the word "Disability". Further submitted that the respondents erred in issuance of show cause notice as it is evident from the record that as per diagnosis by eye specialists and opinion of four Standing Medical Boards constituted at various times, appellant is suffering from right eye amblyopia and it is a disease caused by poorly aligned eyes, where the brain ignores the visual input from the misaligned eye. He submitted that appellant has never claimed to be a blind, rather disability certificates were issued on the ground that due to nature of the disease and for all practical purposes, she is one-eyed person. Lastly, he submitted that besides the above mentioned errors, inquiry was not conducted and nor statement of allegations were issued rather she was removed from service on the basis of a show cause notice, therefore, the appeal may be accepted as prayed for.

5. As against that learned A.A.G submitted that the impugned notification has been issued within four corners of law. He submitted that the inquiry committee made recommendation after scrutiny of available record/documents, detailed discussion, written statements and reply of the concerned staff. Further submitted that opportunity of personal hearing was provided before her removal from service. Lastly, he submitted that the impugned order was issued after fulfillment of all codal formalities, therefore, the instant appeal may be dismissed.

6. Admittedly, the removal of the appellant from service is the consequence of disciplinary proceedings having been conducted on the strength of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 dispensing with the inquiry under Rule-7 of the said Rules. The main charge reflected in the show cause notice was that she obtained an illegal disability certificate and was appointed on the basis of

ATTESTED


District and Sessions Judge
Peshawar

said certificate while she was not disabled under the definition Section-2(c) of Disabled Persons (Employment) Ordinance, 1981. The appellant in reply to the show cause notice defended the validity of the disability certificate issued by the Directorate of Social Welfare, Peshawar in her favor. The grounds of defense urged in the reply to show cause notice being self-speaking are reproduced herein below:

- i. That KPPSC advertised post vide Advertisement No.01/2016 dated 09.03.2016 wherein at Serial No.29 two posts were reserved in Higher Education Department for recruitment against disabled quota including one for Lecturer in English.
- ii. That undersigned applied against disable reserved seat on the strength of Disability Certificate issued by Directorate of Social Welfare, Peshawar on 29.10.2009 wherein my disability was mentioned as anisotropic Amblyopia in right eye.
- iii. That prior to recommendation by KPPSC a fresh disability certificate was released on 20.09.2016 by Social Welfare Department, Mansehra based on the opinion/recommendation of Standing Medical Board wherein cause of my disability was confirmed, endorsed and mentioned as "visual right Anisotropic Amblyopic eye"
- iv. That KPPSC issued recommendation letter against the disable quota post of lecturer in English on 05.10.2016 and the Higher Education Department referred me for medical examination to Services Hospital, Peshawar. Medical Board confirmed the disability and the Eye Specialist used term "blind in one eye" and Amblyopia.

[Handwritten signature]

ATTESTED

[Handwritten signature]
 Khyber Pakhtunkhwa
 Services Tribunal
 Peshawar

- v. As a result of the above proceedings undersigned was issued appointment order as Lecturer in English on 16.01.2017 after completion of due recruitment process.
- vi. A person named Muhammad Bilal, self appointed Chairman Right to Live Organization, lodged baseless complaint contending that undersigned was not blind and disability certificate issued by Social Welfare Department, Mansehra is illegal. The complainant is not an aggrieved party through the said appointment order and his complaint is based on enmity and family feuds, hence, malafide.
7. Besides the above grounds, the appellant took a plea in the above-mentioned reply against the action of Provincial Inspection Team pressing into service the principle of *Audi Alteram Partem* with fortification of the fundamental right of fair trial under Article 10-A of Constitution of Islamic Republic of Pakistan, 1973. She also challenged the recommendation part of the P.I.T proceedings with specific grounds in her the reply to show cause notice and with her conclusive stand against such proceedings, she submitted that the charge regarding obtaining illegal disability certificate was not established and disability of the appellant was confirmed by at least four Medical Boards. Provincial Inspection Team had failed to establish that the certificate is illegal or unlawful. The standing Medical Board Members and certificate issuing authorities were summoned by P.I.T during its proceedings. All of them re-confirmed their earlier opinion and confirmed veracity and sanctity of the opinion formulated and certificate issues as a result of due process under the law. Before culminated her submissions in reply to the show cause notice, the appellant made certain submissions with emphasis vide Para-15 of the reply as copied below:

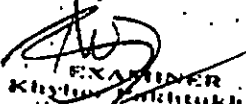
ATTESTED

EXAMINER
 Khyber Pakhtunkhwa
 Higher Education Commission
 Islamabad

Show cause notice has failed to appreciate that the undersigned has appeared before Medical Boards thrice after confirmation of her disability before Standing Medical Board, DHO, Abbottabad in 2009, before Standing Medical Board at King Abdullah Hospital Mansehra and Standing Medical Board at Services Hospital, Peshawar. During the whole process undersigned has not concealed factual and legal position from any authority. P.I.T did not include any technical expert and failed to reach any conclusion. Second para of the Recommendations bear testimony to this fact where it has been suggested that appointment case of the undersigned may be referred to Law & Parliamentary Affairs Department Government of Khyber Pakhtunkhwa for favor of vetting the legal status. Thus, undersigned cannot be charged with any act of "misconduct".

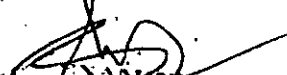
8. If viewed in light of the reply of the appellant to show cause notice, the impugned order of her removal from service seems to have been passed evasively. This is because that it is mentioned in Para-2 of the impugned order that a reply was placed before competent authority for decision who granted her personal hearing. Regarding the outcome of personal hearing, Para-3 of the impugned order maintains that Secretary Auqaf Department heard the accused, however, her arguments were not found convincing but no reference has been given about perusal of the reply of the appellant with exhaustive grounds fortified by documentary proof. The impugned order in its particular style seems to have been passed with hit and run exercise. If the competent authority had decided at any cost to penalize the appellant, there was sufficient material annexed with the reply of the appellant warranting proper inquiry.

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

9. Needless to say that the appellant has been proceeded against on the allegations that she obtained an illegal disability certificate to manage her appointment on the basis of such certificate against the law. If such allegations are tested on the touchstone of the law though not adequately attracted but for the sake of argument, they could hardly be covered in definition of misconduct under Clause-6 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. Accordingly, the misconduct includes making appointment or promotion or having been appointed or promoted on extraneous grounds in violation of any law and rules. It is not a deniable fact that the appellant has got some sort of disability which pressed as a matter of the right she applied under due course for certificate on account of such disability by the competent authority. The record is loudly speaking that the appellant went through examination of her disability at different stages through various Medical Boards and the certificate given to her was not held as fake with any opinion that she was not having any disability. The question of nature of disability of the appellant had arisen after her appointment in pursuance to a complaint of third party. The appellant could not be blamed of having obtained as illegal disability certificate when she provenly had adopted due process for getting the certificate in a lawful manner from the competent authority. If the competent authority while granting the disability certificate to the appellant was misled by any opinion of the any expert opinion of the Board, it does not constitute an extraneous ground against the appellant to bring her case within mischief of misconduct under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. With the foregoing observations, it is held that the appellant was wrongly proceeded against

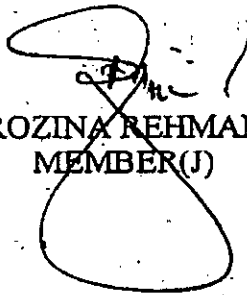
ATTESTED

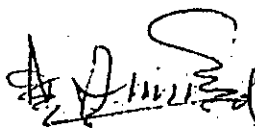

 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

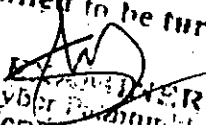
under E&D Rules and the penalty imposed upon her in consequence of such proceedings is not tenable under the facts and law.

10. For what has gone above, instant service appeal is accepted. The impugned Notification dated 15.11.2019 having no legal sanctity, is set aside and the appellant is reinstated into service from the date of her removal from service i.e. 15.11.2019 with all back benefits. The respondent Department is directed to bring the things in place in pursuance to the direction given hereinbefore. There is no order as to costs. File be consigned to the record room.

ANNOUNCED
03.11.2021


(ROZINA REHMAN)
MEMBER(J)


(AHMAD SULTAN TAREEN)
CHAIRMAN

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application: 23-11-2021
Number of Weeks: 3600
38/1
42/1
Date of Copy: 23/11/2021
Date of Delivery of Copy: 23/11/2021



GOVERNMENT OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES &
LIBRARIES DEPARTMENT

Dated Peshawar, 07th October, 2019

NOTIFICATION

No. SO(C-IID)HE/1-2/19/Tehmina Akhtar / WHEREAS Ms. Tehmina Akhtar, Lecturer in English, Govt. Girls Degree College No.2, Chitti Dheri (Mansehra) was proceeded against under E&D Rules, 2011 for having obtained fake disability certificate and appointed as Female lecturer on the basis of the same certificate.

2. AND WHEREAS Show Cause Notice was served on her to which she replied. Her reply was placed before the competent authority for decision who granted her personal hearing.

3. AND WHEREAS Secretary Auqaf Department heard the accused, however, her arguments were not found convincing.

4. NOW THEREFORE, the Competent Authority after due consideration and in exercise of Powers Conferred under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011, is pleased to impose and confirm the major penalty of "Removal from Service" upon Ms. Tehmina Akhtar, Lecturer in English, Govt. Girls Degree College No.2, Chitti Dheri (Mansehra) with immediate effect.

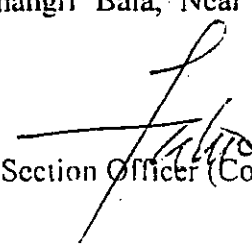
SECRETARY TO
GOVT. OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION DEPARTMENT

Endst: No. & Date Even

Copy forwarded to the:-

1. Director, Higher Education, Khyber Pakhtunkhwa Peshawar.
2. Deputy Director, HEMIS Cell Higher Education Department.
3. Principal, Govt. Girls Degree College No.2, Chitti Dheri (Mansehra)
4. District Accounts Officer, Mansehra.
5. Lady Concerned,

Postal Address: Tehmina Akhtar, Village Dhangri Bala, Near Hashim Mosque
Tehsil & District Mansehra.


Section Officer (Colleges-III)



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 73 /ST

Dated: 12/01/2021

All communications should be
addressed to the Registrar KPK Service
Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262

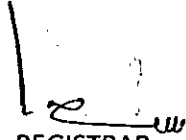
To

The Secretary Higher Education Archives and Libraries
Department,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: JUDGMENT IN APPEAL NO. 4303/2020 MST. TEHMINA AKHTAR.

I am directed to forward herewith a certified copy of Judgement dated
07.12.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR,
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR



**DIRECTORATE OF HIGHER EDUCATION
KHYBER PAKHTUNKHWA**

RANO GHARI, NEW CHAMKANI CHOWK, PESHAWAR

Tel # 091-9210242 / Fax # 091-9210215

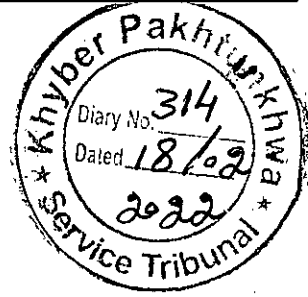
E-mail:- dhekpkesh@gmail.com Facebook.com/dhekpkeshawar Twitter.com/dhekpkeshawar1

DHE/AD (Lit) No. 4162

Dated Peshawar the 18/2 /2022

To

The Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar



**SUBJECT: - SERVICE APPEAL NO. 4303/2020 TEHMINA AKHTAR VS
GOVERNMENT OF KHYBER PAKHTUNKHWA**

Respected sir,

I am directed to refer to the subject noted above and to state that the appellant in the above mentioned case filed CM for correction of the date in operating part of Judgment dated: 03-11-2021 which was allowed vide order dated: 07-12-2021. Order that 09-12-2022 is declared fit for CPLA by the Scrutiny Committee of Law department. But Advocate on Record office did not accept the record on the ground that CMA No. is not mentioned on the application and without that number CPLA cannot be filed as for filing CPLA CMA No. is mandatory.

It is, therefore, requested that CMA No. of the application may be provided so that the Govt; may file CPLA within the 60 days time limit of filing CPLA, please.

(Signature)
18/2/22
(Lubna Farman)
Assistant Director (Litigation)

Enst: No. _____ /

Copy to;

1. Advocate General, Khyber Pakhtunkhwa Peshawar High Court, Peshawar.
2. Section Officer (Lit), Higher Education Department with the request that the issue may be taken up with Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

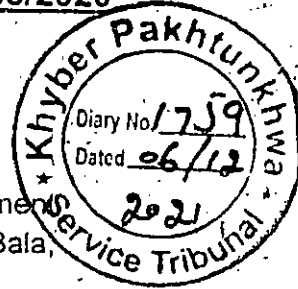
Assistant Director (Litigation)

BEFORE THE KHYBER PAKTUNKHWA
SERVICES TRIBUNAL, PESHAWAR.

MISC. APPLICATION NO. 369/2021

Appeal No. 4303/2020

Put up to the worthy chair - an
will relevant appeal.



6/12/21. Tehmina Akhter D/o Abdul Malik, Lecturer in English, Government Degree College Chitti Dheri Mansehra, R/o Village Dhangri Bala, Tehsil and District Mansehra.

Respectfully

.....Appellant

VERSUS

Put up before
the single Bench
as a special
case.

1. Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar.
2. Secretary, Government of Khyber Pakhtunkhwa, Higher Education, Libraries & Archives Deptt., Peshawar.
3. Director, Higher Education, Libraries & Archives Deptt., Peshawar.



.....RESPONDENTS

APPLICATION UNDER SECTION 152 OF C.P.C FOR
CORRECTION OF ERROR.

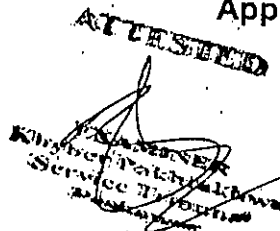
Respectfully Sheweth:

1. That the titled Appeal was decided by the Honourable Tribunal on 03-11-2021 which has set aside the impugned notification dated 07-10-2019. However, in the said judgment, the impugned notification date has been mentioned as 15-11-2019. instead of 07-10-2019. It is humbly submitted that the same clerical/typographical error occurring at line two and line four of paragraph 10 may please be corrected.

PRAYER:

In view of the above, therefore, it is most respectfully prayed that date of the impugned notification set aside by the Honourable Tribunal in its judgment dated 03-11-2021 in Appeal No.4303 may please be corrected as 07-10-2019 instead of 15-11-2019.

Tehmina Akhter
Applicant/Appellant



Before the Court of Honourable Service Tribunal
KPK, Abbottabad Camp


Subject: Application for the Release of Salaries, attached
in EP. No. 13/22 of the Respondants on the
Submission of implementation Summary/Note.

Respectfully Shewith,

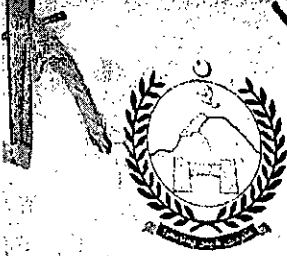
- 1:- That the EP. No. 13/22 in SA-4303/20, Tehmina Akhtar
vs Govt of KPK is under adjudication before
this Honourable Tribunal.
- 2:- That the Honourable Court vide Order 13-6-2022
had attached the salaries of the Respondants for non-
submission of implementation report/progress in the
instant case.
- 3:- That the respondents have submitted summary/Note
today in the Honourable Court in compliance to
the order of this Court. As soon as the
said summary/Note is approved by the Chief
Secretary, KPK, implementation of judgement
report will be submitted immediately.

In view of above, it is humbly submitted
and prayed that the copy of the summary/Note
may please be placed on court file and the
salaries of the respondents may kindly be
released/detached.

Thankfully yours


Sajid Ajaz
So Litigation
HED, KPK

Dated - 20/7/22



**GOVERNMENT OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES &
LIBRARIES DEPARTMENT**

NOTE FOR CHIEF SECRETARY KHYBER PAKHTUNKHWA

Subject: **EP NO.13/22 IN SA NO.4303/2020 TEHMINA AKHTAR VS GOVT.
OF KHYBER PAKHTUNKHWA.**

Ms. Tehmina Akhtar D/O Abdul Malik was appointed as Lecturer in English (BPS-17) (Disable Quota) in Higher Education Department on 16.01.2017 (F/A). Later on, a complaint was lodged by one Muhammad Bilal whereby objected/challenged the appointment of the lady concerned on disable quota as the lady concerned was not blind and the disability certificate issued by the Social Welfare Department is illegal/fake. The Chief Minister's Complaint Cell forwarded the said complaint to the Provincial Inspection Team for inquiry into the matter. The PIT inquired the matter (F/B). Show cause notice was issued to her (F/C). Disciplinary proceeding was initiated against her and she was removed from service (F/D).

2. The Petitioner there after, approached Peshawar High Court, Abbottabad Bench vide writ petition No.1375/2019 against the impugned order(F/E).

3. The Hon'ble Peshawar Higher Court Abbottabad vide judgment dated on 11.01.2020 treated the instant writ petition as departmental appeal and send to the respondent department with the direction to decide the same in accordance with law which was regretted.

4. Being aggrieved the petitioner filed service appeal No.4303/2020 before the Khyber Pakhtunkhwa Service Tribunal whereby challenged the impugned order dated 07.10.2019 wherein major penalty of "Removal from Service" was imposed on the appellante. The Service Tribunal vide order dated 03.11.2021 accepted/allowed the said service appeal with the direction that;

"The Impugn notification dated 07.10.2019 having no legal sanctity, is set aside and the appellante is reinstated into service from the date of her removal from service i.e 07.10.2019 with all back benefits. The respondent department is directed to bring the things in place in pursuance to the direction given hereinbefore." (copy of judgment enclosed vide F/F).



**GOVERNMENT OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES &
LIBRARIES DEPARTMENT**

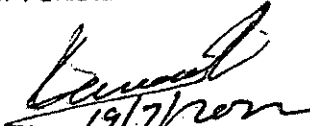
NOTE FOR CHIEF SECRETARY KHYBER PAKHTUNKHWA

Subject: **EP NO.13/22 IN SA NO.4303/2020 TEHMINA AKHTAR VS GOVT.
OF KHYBER PAKHTUNKHWA.**

5. The Department filed CPLA No.838-P/2021 on the advice of Law Department in the Supreme Court of Pakistan which is pending adjudication before the apex court (F/G).

6. Now the appellant has filed execution in Khyber Pakhtunkhwa Service Tribunal for implementation order dated 03.11.2021 in light & spirit. The Hon'ble Court vide order dated 13.06.2022 directed the respondents to submit implementation report on 20.07.2022 and also attach salaries of the respondents till further order of the court. Furthermore, the department has also sent request to the Law Department to instruct the Advocate General Khyber Pakhtunkhwa for filing early hearing application in the Supreme Court of Pakistan.

7. The Chief Secretary, Khyber Pakhtunkhwa (Appointing Authority) in respect of officers in BPS-17, under Rule-4 (1)(b) of the Khyber Pakhtunkhwa Civil Servants (Appointments, Promotion and Transfer) Rules, 1989 (F/H), is requested to approve conditional reinstatement of the petitioner into service from the date of her removal from service i.e 07.10.2019 with all back benefits in light of Court judgment subject to outcome of CPLA pending before the Supreme Court of Pakistan.


19/7/2022
SECRETARY
Higher Education Department

Secretary Establishment Department

Chief Secretary, Khyber Pakhtunkhwa