

10th Nov, 2022

Due to public holiday on account of Allama Iqbal Day, the case is
adjourned to 07.12.2022 for the same as before.


Reader

4.8.22


Due to summer vacation the case is adjourned to 8.9.22 for the same.



08.09.2022

Appellant in person present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present.

D Reply/comments on behalf of respondents not submitted. Learned Assistant Advocate General seeks time to contact the respondents for submission of reply/comments. Adjourned. To come up for reply/comments on 05.10.2022 before S.B at Camp Court Swat.



(Mian Muhammad)
Member (E)
Camp Court Swat

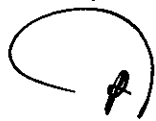
05.10.2022

Appellant present in person.

Riaz khan Paindakhel, learned Assistant Advocate General for respondents present.

Reply not submitted. Learned AAG requested for time to submit reply/comments. Last opportunity is granted. To come up for reply/comments on 09.11.2022 before S.B at Camp Court, Swat.

**SCANNED
KPST
Peshawar**

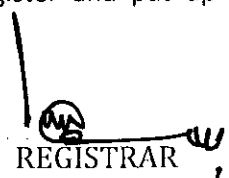

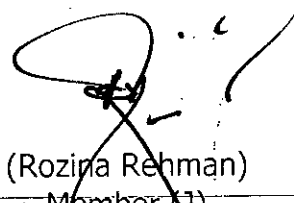


(Rozina Rehman)
Member (J)
Camp Court Swat

Form- A
FORM OF ORDER SHEET

Court of _____

Case No.- _____ 902/2022 _____

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	10/06/2022	<p>The appeal of Mr. Azmat Khan presented today by Mr. Shamsul Hadi Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	16-6-22	<p>This case is entrusted to touring Single Bench at Swat for preliminary hearing to be put there on <u>5-7-22</u>. Notices be issued to appellant and his counsel for the date fixed.</p> <p style="text-align: right;"> CHAIRMAN</p>
	05.07.2022	<p>Appellant present through counsel.</p> <p>Preliminary arguments heard and record perused.</p> <p>Points raised need consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of reply/comments. To come up for reply/comments on 04.08.2022 before S.B at Camp Court, Swat.</p> <p>Annexed with the memorandum of appeal is an application for suspension of operation of impugned order dated 20.05.2022. Notice of the application be issued to the respondents for the date fixed.</p> <p style="text-align: right;"> (Rozina Rehman) Member (J) Camp Court, Swat</p>

*Rs-400/-
 Appellant Deposited
 Security & Process Fee
 H. Amir
 18/7/22*

KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR

CHECK LIST

Zamir Khan

Versus

Educators

Appellant

..... Respondents

	YES	NO
CONTENTS		
Application has been presented by: <u>Advocate</u> <u>Court</u>	√	
Whether Counsel/Appellant/Respondent/Deponent have signed the requisite documents?	√	
Whether appeal is within time?	√	
Whether the enactment under which the appeal is filed mentioned?	√	
Whether the enactment under which the appeal is filed is correct?	√	
Whether affidavit is appended?	√	
Whether affidavit is duly attested by competent Oath Commissioner?	√	
Whether appeal/annexures are properly paged?	√	
Whether certificate regarding filing any earlier appeal on the subject, furnished?	√	
0. Whether annexures are legible?	√	
1. Whether annexures are attested?	√	
2. Whether copies of annexures are readable/clear?	√	
3. Whether copy of appeal is delivered to AG/DAG?	√	
4. Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	√	
5. Whether numbers of referred cases given are correct?	x	
6. Whether appeal contains cutting/overwriting?	√	
7. Whether list of books has been provided at the end of the appeal?	√	
8. Whether case relate to this court?	√	
9. Whether requisite number of spare copies attached?	√	
0. Whether complete spare copy is filed in separate file cover?	√	
1. Whether addresses of parties given are complete?	√	
2. Whether index filed?	√	
3. Whether index is correct?	√	
4. Whether Security and Process Fee deposited? On _____	√	
5. Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On _____	√	
6. Whether copies of comments/reply/rejoinder submitted? On _____		
7. Whether copies of comments/reply/rejoinder provided to opposite party? On _____		

is certified that formalities/documentation as required in the above table have been fulfilled.

Name:- Sham sul Hadi Advi

Signature:- [Signature]

Dated:- 10-6-22

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

Appeal No. 902 /2022

**SCANNED
KPST
Peshawar**

.....Appellant

VERSUS

Education Officer (Female) District Dir Upper

..... Respondents

INDEX

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6	Copy of promotion order dated: 29-02-2020	B	16-18
7	Copy of Writ Petition, order dated: 16-11-2021 and 12-04-2021	C	19-25
8	Copy of proceeding of enquiry committee	D	26-28
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**Appellant
Through Counsel**

**Shams ul Hadi
Advocate Supreme Court
Office: At Sawat**

0341-5726996

①

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

Service Appeal No. _____/2022

Azmat Khan (Junior Clerk BPS-11)

Presently posted at Government Girls Higher Secondary School Dir
Upper R/o Dir Town, Tehsil Dir District Dir Upper

.....Appellant

VERSUS

- 1) District Education Officer (Female) District Dir Upper
- 2) Director Elementary & Secondary Education Khyber
Pakhtunkhwa Peshawar

.....Respondents

SERVICE APPEAL UNDER SECTION 4 OF SERVICE
TRIBUNAL ACT READ WITH OTHER RELEVANT
PROVISIONS AGAINST THE ORDER DATED: 20-05-
2022 PASSED BY RESPONDENT NO.2 / APPELLATE
AUTHORITY, WHEREBY THE PROMOTION ORDER
DATED: 29-02-2020 OF APPELLANT WAS
WITHDRAWN.

PRAYER:

On acceptance of this service appeal the impugned order issued by respondent No.2 / appellate authority dated: 20-05-2022 may kindly be declared illegal, void ab intio, corum no judice hence the impugned order dated: 20-05-2022, may kindly be set aside and promotion order dated: 29-02-2020 of the appellant to the post of (Junior Clerk- BPS-11) may kindly be restored along with all back benefits.

Or

Any other relief, deemed fit and necessary in the given circumstances of the case may also be awarded in favor of appellant against respondents.

Respectfully Sheweth:

The appellant submits as under,

1. That initially appellant was appointed as (Daftari) Class-IV BPS-2 on 30-06-2015. (Copy of initial appointment order dated: 30-06-2015 is attached herewith as annexure "A").

2. That latter on, being eligible for the post of Junior Clerk BPS-11, the appellant was promoted to the post of Junior Clerk BPS-11 according to 33% ^{reserved} quota through order dated: 29-02-2020, after due process of law and recommendations of the departmental selection committee, hence the appellant took charges of his post on 02-03-2020 and till date performing his services against the post of Junior Clerk BPS-11. (Copy of promotion order dated: 29-02-2020 and charge report is attached herewith as annexure "B").
3. That despite of the promotion order, the appellant without any reason, his salaries to the post of (Junior Clerk BPS-11) were not released by the respondents, so the appellant approached Peshawar High Court Mingora Bench Swat through Writ Petition No. 420-M/2021 for releasement of his salaries, where the same was treated as departmental appeal and the respondent No.2 was directed to decide the departmental appeal within a period of one month

4

according ^{to} relevant law and rules vide order dated: 16-11-2021, so according to law and rules, the departmental appeal of appellant was accepted by the respondent No.2 through order dated: 12-04-2022. (Copies of writ petition, order dated: 16-11-2021, and 12-04-2021 is attached herewith as annexure "C").

4. That rather to implement the order of the appellate authority regarding the releasement of salaries of appellant, the respondent No.1 initiated enquiry in the matter, where a department ^{al} enquiry committee was constituted, where the said enquiry committee through order dated: 30-04-2022 kept intact the promotion of the appellant and no adverse recommendations were passed against the promotion order of the appellant. (Copy of proceeding of enquiry committee is attached herewith as annexure "D").
5. That thereafter, no order against the interest of the appellant was passed hence the appellant

continue his service against the post of (Junior Clerk BPS-11), but surprisingly with ill-intention ^{another} enquiry committee was constituted to enquired the matter where without giving proper opportunity of hearing to appellant, the enquiry committee recommended the withdrawal of promotion of the ^{order} appellant through enquiry proceeding dated: 13-07-2020, hence according to the recommendation of enquiry committee dated: 13-07-2020, the respondent No.2 without giving show cause notice or proper opportunity of hearing withdrawn the promotion order dated: 29-02-2020 of the appellant through impugned order dated: 20-05-2022. (Copy of second enquiry dated: 13-07-2020 along with impugned reversion order dated: 20-05-2022 is attached herewith as annexure "E").

- 6. That as the promotion issue of the appellant has finally been decided by the appellate authority, hence the appellant prefers this appeal on the following grounds amongst other inter alia:

GROUND:

- i) That the impugned order dated: 20-05-2022, is illegal, unlawful, void ab intio and the same was passed without lawful authority.
- ii) That according to relevant rules the appellant was promoted to the post of (Junior Clerk BPS-11) because earlier the appellant performing his duty against the post of (Daftari) so being eligible for the post of (Junior Clerk BPS-11) he was promoted, but without backing of law and that too without any proper opportunity of hearing the promotion order of the appellant was withdrawn which is illegal. (Copy of service rules is attached herewith as annexure "F").
- iii) That till date the appellant his performing his duties against the post of (Junior Clerk BPS-11) without any complaint and his promotion order was through one sided enquiry recommendations was withdrawn whi

clearly showing the ill-intention of respondent

No.2.

- iv) That through one departmental selection committee proceeding the appellant along with three others were recommended to the post of (Junior Clerk BPS-11) but according the impugned notification dated: 20-05-0222, only the promotion order of the appellant was withdrawn while the promotion order of others were kept intact, which is against the law and rules.
- v) That the impugned order has been passed in violation of Article 4, 10(A) and 25 of the Constitution of Islamic Republic of Pakistan, 1973.
- vi) That other grounds not specifically raised will be argued with the permission of this Honorable Tribunal at the time of arguments.

8

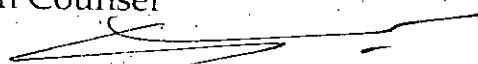
7. That this appeal is being filed against the order dated: 20-05-2022, of appellate authority, hence this Honorable Tribunal has got the jurisdiction and this appeal is well within time.

On acceptance of this service appeal the impugned order issued by respondent No.2 / appellate authority dated: 20-05-2022 may kindly be declared illegal, void ab initio, coram no judice hence the impugned order dated: 20-05-2022, may kindly be set aside and promotion order dated: 29-02-2020 of the appellant to the post of (Junior Clerk- BPS-11) may kindly be restored along with all back benefits.

Or

Any other relief, deemed fit and necessary in the given circumstances of the case may also be awarded, in favor of appellant against respondents.

Appellant
Through Counsel


Shams ul Hadi
Advocate Supreme Court

At Sawat

0341-5726996

9

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

Service Appeal No. _____/2022

Azmat Khan

.....Appellant

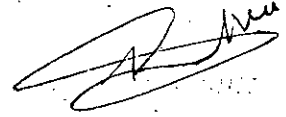
VERSUS

District Education Officer (Female) District Dir Upper & 1 Other

..... Respondents

Certificate

*It is certified that no other such like service appeal has earlier
been filed before this Honorable Court or any other competent Court.*



DEPONENT

Azmat Khan

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

Service Appeal No. _____/2022

Azmat Khan

.....Appellant

VERSUS

District Education Officer (Female) District Dir Upper & 1 Other

..... Respondents

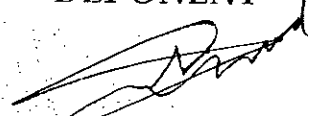
AFFIDAVIT

I, Azmat Khan S/o Dawlat Khan (Junior Clerk BPS-11), do hereby solemnly affirm and declare on oath that all the contents of this Service Appeal are true and correct to the best of my knowledge and belief, and nothing has been concealed from this Honorable Court.

Identified by,

Shams ul Hadi
Advocate Supreme Court

DEPONENT


Azmat Khan

11

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

Service Appeal No. _____/2022

Azmat Khan

.....Appellant

VERSUS

District Education Officer (Female) District Dir Upper & 1 Other

..... Respondents

ADDRESSES OF THE PARTIES

ADDRESSES OF THE APPELLANT

Azmat Khan (Junior Clerk BPS-11)

Presently posted at Government Girls Higher Secondary School Dir
Upper. R/o Dir Town, Tehsil Dir District Dir Upper.

CNIC: 15701-08022185-7

Cell: 03464504868

ADDRESS OF THE RESPONDENTS

- 1) District Education Officer (Female) District Dir Upper
- 2) Director Elementary & Secondary Education Khyber
Pakhtunkhwa Peshawar

APPELLANT

Through Counsel

Shams ul Hadi
Advocate Supreme Court

At Sawat

0341-5726996

12

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

Service Appeal No. _____/2022

Azmat Khan (Junior Clerk BPS-11)

Presently posted at Government Girls Higher Secondary School Dir
Upper R/o Dir Town, Tehsil Dir District Dir Upper

.....Appellant / applicant

VERSUS

- 1) District Education Officer (Female) District Dir Upper
- 2) Director Elementary & Secondary Education Khyber
Pakhtunkhwa Peshawar

.....Respondents

**Application for suspension of operation of the
impugned order dated: 20-05-2022 and not to constitute
departmental promotion committee or to promote or
appoint any other against the post of (Junior Clerk
BPS-11) which is occupied by the appellant till the
final disposal of the above titled service appeal.**


Respectfully Sheweth:

1. That the above Service appeal has been filed before
this Hon'ble Court, in which no date of hearing has yet
being fixed.

2. That the contents of the above mentioned Service Appeal along with the contents of the annexures may be considered as an integral part of this application.
3. That the applicant has got good prima facie case.
4. That the balance of convince is also in favor of injunction prayed for.
5. That if the injunction prayed for is not granted, then there will be an irreparable loss to the applicant / Appellant.

It is therefore most humbly prayed that on acceptance of this application operation of the impugned order 20-05-2022 and not to constitute departmental promotion committee or to promote any other against the post of (Junior Clerk BPS-11) which is occupied by the appellant till the final disposal of the above titled service appeal.

Applicant / Appellant

Through Counsel 

Shams ul Hadi

Advocate Supreme Court

At Sawat

0341-5726996

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

Service Appeal No. _____/2022

Azmat Khan

.....Appellant

VERSUS

District Education Officer (Female) District Dir Upper & 1 Other

..... Respondents

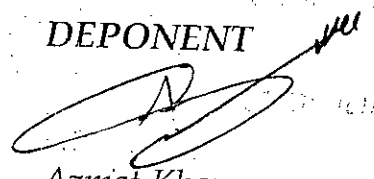
AFFIDAVIT

I, Azmat Khan S/o Dawlat Khan (Junior Clerk BPS-11), do hereby solemnly affirm and declare on oath that all the contents of this suspension application are true and correct to the best of my knowledge and belief, and nothing has been concealed from this Honorable Court.

Identified by,

Shams ul Hadi
Advocate Supreme Court

DEPONENT


Azmat Khan

Annexure
15 A 3

OFFICE OF THE DISTRICT EDUCATION OFFICER FEMALE DIR UPPER

OFFICE ORDER

Consequent upon the selection by the Departmental Selection Committee, the following Male candidate is hereby appointed against the post of Class-IV Govt: Servant in BPS -02 (4900-170-10000) plus usual allowances as admissible under the rules on regular basis vide Notification No.3391-3441/Estab: Dated Peshawar the 24.2.2014 with immediate effect subject to the following terms and conditions in the interest of public service.

S.No.	Name	Father Name	Appointed as	Name of School	Remarks
01	Azmat Khan	Dawlat Khan	Daftari	DEO Female Office Dir Upper	A.V.P

TERMS AND CONDITIONS.

1. The appointee will be on probation for a period of one year in terms of Rule-15(1) of KHYBER PAKHTUNKHWA Civil Servants (Appointment, Promotion and Transfer) Rules 1989.
2. His Services will be considered as regular.
3. The appointee will provide Health and age certificate from the concerned Medical Superintendent.
4. His age should not be less than 18 years and above 40 years.
5. The appointee will be governed by such rules and regulations/ policies as prescribed by the Government from time to time.
6. If the appointee fail to take over charge within fifteen days after issuance of this order, his appointment will be deemed as automatically cancelled.
7. Charge report should be submitted to all concerned.
8. The errors and omissions etc if found at any stage shall be rectified. In case of termination of said candidate, he will have no right to claim the order already issued in any court.
9. No TA/DA is allowed.


(JEHAN MUHAMMAD)
DISTRICT EDUCATION OFFICER
FEMALE DIR UPPER

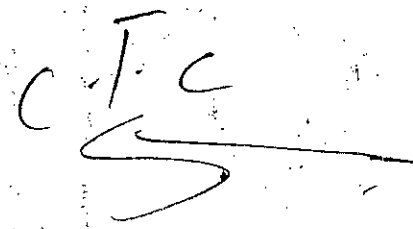
No. 1450-54 /F..C.IV/DEO(F)/ADO(S)/Estt)Female)

Dated 30 /06/2015.

Copy forwarded to the:-

1. District Accounts Officer Dir Upper.
2. Dy: District Education Officer Female Dir Upper.
3. A.P EMIS Local Office.
4. Appointee Concerned.
5. M/S file.


DISTRICT EDUCATION OFFICER
FEMALE DIR UPPER 30/6/15



16 A'B

OFFICE OF THE DISTRICT EDUCATION OFFICER FEMALE DIR UPPER.

P.H 0944-881900 FAX 0944880411 EMAIL, dmsidirupper@gmail.com

OFFICE ORDER

Consequent upon, his selection by the Departmental Selection Committee, the undersigned has been pleased to promote the following in service candidate as **Junior Clerk** on regular basis in Elementary & Secondary Education (Female) Department Dir Upper in **BPS-11 (12570-880-38970)** plus usual allowances as admissible under the rules subject to the existing terms and conditions.

S.No.	Name	F/Name	No. of Merit	Schools where posted/adjusted
1	Azmat Khan	Dawlat Khan	33% Quota	GGHSS Dir

TERMS CONDITIONS

1. The Promote will be on probation for a period of one year in terms of rules 15(1989 of Khyber Pakhtunkhwa civil servants (Appointment, promotion and transfer) rules.
2. The promote will be governed by such rules and regulation/policies as prescribed by the government time to time.
3. The promote will be received all benefits of (BPS-11) under the rules.
4. The promote should take the charge of their new post within a week time positively.
5. Charge report should be submitted to all concerned.
6. No TA/DA is allowed.

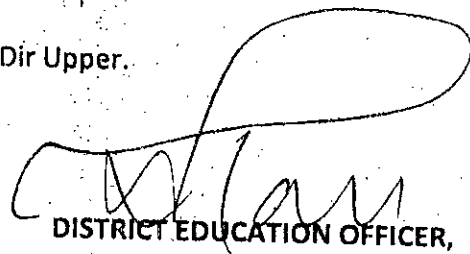
(HABIBA BIBI)
DISTRICT EDUCATION OFFICER,
(FEMALE) DIR UPPER.

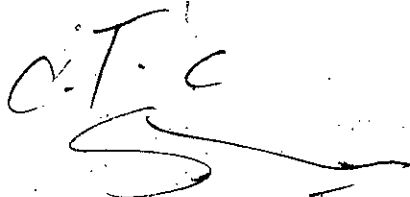
No. 693-98 F.No07/DEO(F)/ADC(S) Estab:

Dated 29/2/2020

Copy forwarded for information to:-

1. The Director Elementary & Secondary Education Government of Khyber Pakhtunkhwa Peshawar.
2. The District Account Officer Dir Upper.
3. The Deputy District Education Officer Female Dir Upper.
4. The Head Mistress GGHSS Dir.
5. The promotee /official concerned.


DISTRICT EDUCATION OFFICER,
(FEMALE) DIR UPPER.



17

CHARGE REPORT

Consequent upon the promotion order District Education Officer Female Dir Upper endst no 693-98/F.No07/DEO(F)/ADO(S) Estab: Dated 29/02/2020, I Mr. Azmat Khan took over charge of my duty as Junior Clerk at Government Girls Higher Secondary School, Dir Upper Against Vacant post today on (F.N) 02/03/2020.



Azmat Khan

Designation: Junior Clerk

Govt: Girls Higher Secondary School Dir
Dir Upper



**OFFICE OF THE PRINCIPAL
GOVT: GIRLS HIGHER SECONDARY SCHOOL DIR, DIR UPPER**

Copy of above is forwarded to the :-

1. The District Education Officer (Female) Dir Upper
2. The District Accounts Officer Dir Upper.
3. Office File.



PRINCIPAL

G.G.H.S.S DIR.

DISTRICT DIR UPPER.

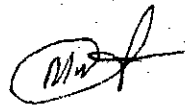
G.G.H.S.S Dir
Dir Upper

2020

C.T.c
S

Arrival Report

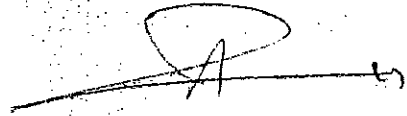
In compliance of the order of District
Education Officer female Dir Upper
vide order no 693-98 Dated 29-02-2020
I Mrs Azmat Khan hereby reported
to principle G.G.H.S.S Dir today on
Dated 02-03-2020.



Misurat Bibi
SS (Para-stud)

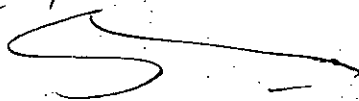
Date: 02-03

Principal
G.G.H.S.S Dir
Distt: Dir Upper



Azmat Khan
Junior Clerk
G.G.H.S.S Dir

C.T.C



L Anwar
"C"
(19)

BEFORE THE PESHAWAR HIGH COURT, MINGORA BENCH

SWAT

(Original Jurisdiction)

W.P No. 420 of 2021

Azmat Khan S/o Dawlat Khan R/o Shaw, Post office & Teh, Dir, District Dir upper.

..... Petitioner

Versus

1. Govt. of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Govt. of Khyber Pakhtunkhwa, at Peshawar.
2. Director Elementary and Secondary Education Govt. of Khyber Pakhtunkhwa, at Peshawar.
3. District Education Officer (Female), District Dir Upper.

..... Respondents

FILED TODAY

07 APR 2021

Additional Registrar

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

Respectfully Sheweth;

1. That the petitioner is the bonafide resident of Village/Mohalla Shaw, Post Office Dir, Tehsil & District Dir Upper (Copy of the CNIC is attached as Annexure-A).
2. That the competent authority appointed the petitioner as Daftari (BPS-IV) on 30/06/2015 and since then the petitioner was performing his duty as Daftrai till 28/02/2020 and had received his salary accordingly as per his pay-scale (Copy of appointment letter is attached as Annexure-B).
3. That respondent No. 3 on 28/02/2020 promoted the petitioner from Daftrai

C.T.C

2

(BPS-IV) to Junior Clark (BPS-11) on merit of 33% Quota along with 3 other employees namely Mr. Atta Ullah, Azmat & Bacha Rehman of the respondent department (Copy of promotion letter dated 29/02/2020 is attached as Annexure-C)

4. That the petitioner thereafter submitted his arrival report to the principle GGHSS Dir on 02-03-2020. To which the Principle GGHSS Dir issued Charge report 02-03-2020 accordingly. (Copy of Arrival report and charge reports are attached as Annexure-D & E)

5. That on 04/03/2020, respondent No. 3 directed the petitioner through office order dated 04-03-2020 to report to the Section office of respondent No.3 and to perform his duty in the mentioned office. (Copy of the office order dated 04-03-2020 is attached as Annexure-F)

6. That thereafter Mst. Hussan Ara took charge as District Education Officer Female Dir Upper (Respondent No.3) and thereby she directed the District Account Officer not to honored any financial matter signed by the Ex-DEO(F) Dir Upper. As a result salary of the petitioner were not paid since 04-05-2020 till date. (Copy of the letter dated 04-05-2020 is attached as Annexure-G)

LED TODAY

07 APR 2021

Additional Report

7. That thereafter respondent No. 3 also order for the inquiry of the promotions/appointments/transfer made by the Mst. Habiba Ex.DEO(F) Dir Upper allegedly to be back dated and appointed Mr. Aftab Alam, Principle, GHS, Shamsi Khan Dir Lower as inquiry officer. (Copy of letter of appointment of Inquiry officer is attached as Annexure-H)

8. That the said Inquiry officer conducted inquiry as per directions and thereby recommended to form a committee comprising of DEO(F), DEO(M) & Mr. Mohammad Amin P/A to DEO Male Dir Upper to make a detail inquiry. (Copy of the Inquiry report dated 30-04-2020 is attached as Annexure-I)

9. That thereafter Respondent No. 2 on 03-06-2020, again ordered for inquiry of the promotions/appointments/transfer made by the Mst. Habiba Ex.DEO(F) Dir Upper allegedly to be back dated and appointed Mr. Aftab Alam (B-19),

C.T.C

Principle GHS, Shamsi Khan Dir Lower as inquiry officer. (Copy of the order dated 03-06-2020 is attached as Annexure-J)

10. That the inquiry officer thereby conducted inquiry and submitted his inquiry report for the 2nd time with recommendation to withdraw the appointment made by the Mst. Habiba Ex. DEO(F) Dir Upper allegedly to be illegal and fake orders. (Copy of the inquiry dated 13-07-2020 is attached as Annexure-K)

11. That meanwhile the petitioner through proper channel submitted application time and again to the competent authority to kindly release his salary but his salary has not been released till date, while the other 3 employees promoted with the petitioner are getting their salaries as per their new pay-scale. (Copies of applications and pays slip of the other 3 employees are attached as L-1 to L-7)

12. That petitioner is still working under the command of the respondent's department and his salary has not been released from 29-02-2020 till date.

13. That the petitioner being aggrieved from the action and inaction of the respondents to refuse salary of the petitioner is arbitrary, contrary to law, hence the petitioner having no other adequate and efficacious remedy except to file an instant petition before this Hon'ble Court on the following grounds inter-alia

FILED TODAY

GROUNDS: 07 APR 2021

Additional Registrar

a) That the inaction of the Respondents to the grievance of the petitioner is violation of Article 25 & 26 etc of the Constitution of Islamic Republic of Pakistan, 1973, hence need interference of this Hon'ble Court.

b) That the respondents have not treated the petitioner in accordance with the law, rule and policy in the subject and acted in violation of existing law, which is unjust, unfair, hence not sustainable in the eye of law.

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- c) That the petitioner were promoted as per law and policy and are performing his duty under the control of the respondents, but the respondents have not paid salary w.e.f 29-02-2020 till date, such action of the respondent which is not only denial of the fundamental right of the petitioner guaranteed under article 4, 11, 25 & 29 of the Constitution of Islamic Republic of Pakistan.
- d) That the act of the respondents is without lawful authority based on misuse and exercise of power as such void-an-initio, and ineffective upon the right of the petitioner.
- e) That the stoppage of salary is amounting to the force labor which is against the fundamental rights of the petitioner.
- f) That the state is like a mother and state/Government functionaries are constitutionally bound to safeguard the rights of the citizens and to provide all rights safeguard by the Constitution.
- g) That it is settle principle of law that no one should be penalized by the acts of authorities.
- h) That the petitioner is poor financial background and serving the department, but the respondent did not observe the prescribed rule, regulations and denied the benefits in the shape of salary to the petitioner.
- i) That the petitioner have not treated in accordance with the law and at par with the other employees.
- j) That other grounds will be argued at the time of arguments with the prior permission of this August Court.

FILED TODAY

07 APR 2021

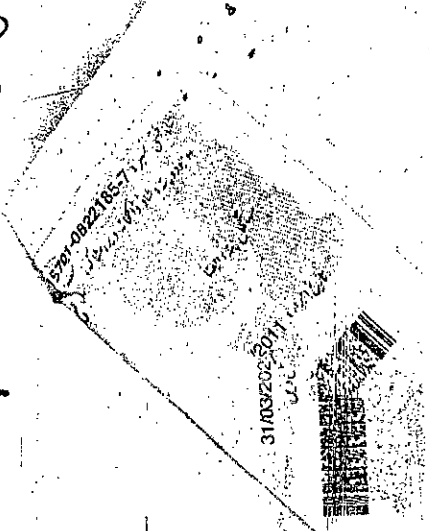
Additional Registrar

It is therefore very humbly prayed that, on acceptance of the instant writ petition, this Hon'ble Court may kindly be directed the respondents to release salary of the petitioner w.e.f 29/02/2020 till date as per his .Any other relief which this Hon'ble Court deems fit and proper in the circumstance of the case may also be granted.



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15



Petitioner
Through Counsel

Mohammad Riaz

Mohammad Riaz Mohammad Zai
Advocate High Court

Dated: 07-04-2021

Interim Relief:

By way of interim relief, respondents may kindly be directed to release salary of the petitioner and not to take any adverse action against the petitioner till the final disposal of the titled writ petition.

List of Books:

- 1) Constitution of Islamic Republic of Pakistan 1973.
- 2) Khyber Pakhtunkhwa Control of Narcotic Substances Act, 2019
- 3) Case law according to need.

FILED TODAY

07 APR 2021

Additional Registrar

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24

SHAWAR HIGH COURT, MINGORA BENCH (DAR-UL-QAZA), SWAT

FORM OF ORDER SHEET

Court of

Case No. of

	Date of Order or Proceedings 2	Order or other Proceedings with Signature of Judge and that of parties or counsel where necessary. 3
	16-11-2021	<p><u>W.P No. 420-M/2021 with Interim Relief</u></p> <p>Present: Mohammad Riaz Mohammadzai, Advocate for the petitioner.</p> <p style="text-align: center;">*****</p> <p><u>WIQAR AHMAD, J.-</u> Petitioner has filed the instant constitutional petition with the following prayer;</p> <p style="padding-left: 40px;">“It is therefore, very humbly prayed that on acceptance of the instant writ petition, this Hon’ble Court may kindly be directed the respondents for release salary of the petitioner w.e.f. 29.02.2020 till date. Any other relief which this Hon’ble Court deems fit and proper in the circumstances of the case may also be granted.”</p> <p>2. Learned counsel for petitioner stated at the bar that he would feel satisfied if the instant petition is ordered to be sent to respondent No. 2 for treating same as a departmental appeal and decide it as soon as possible.</p> <p>3. Request of learned counsel for petitioner is genuine, which is allowed. The instant writ petition is therefore ordered to be sent to respondent No. 2 i.e.</p>



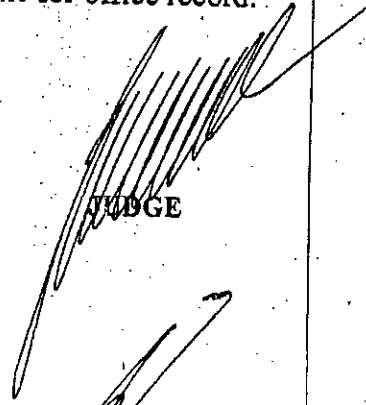
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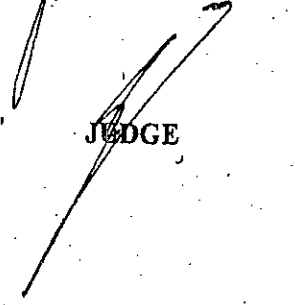
Director Elementary & Secondary Education

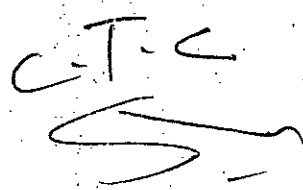
Government of Khyber Pakhtunkhwa, who shall treat the same as a departmental appeal and shall decide it within a period of one month after receipt of copy of this order, but according to the relevant law and rules.

Office is directed to transmit original writ petition along with a copy of this order to said authority and shall also retain copy of the same for office record.

Announced
Di: 16.11.2021


JUDGE


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26

TO BE SUBSTITUTED EVEN NO & DATED
DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR.

No. 7455 /F.No. /A.20/C-IV /Fake Promotion Dir upper,
Dated Peshawar the 12/4 /2022
Phone: 091-9225344 Email: ddadmn.ese@gmail.com


To

The District Education Officer
(Female) Dir Upper.

Subject: **W.P NO 420-M/2021 WITH INTERIM RELIEF.**

Memo:

Consequent upon acceptance of appeal of the appellant, I am directed to enclose herewith the subject case on the subject noted above and to direct you to implement the writ Petition in letter spirit under intimation to this office please.


Deputy Director (F&A)
Directorate E& Secondary Education
Khyber Pakhtunkhwa, Peshawar

Endst; No. _____/

Copy forwarded to the: -

1. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
2. Master File.

Deputy Director (F&A)
Directorate E& Secondary Education
Khyber Pakhtunkhwa, Peshawar



26 Ans. D
OFFICE OF THE PRINCIPAL, GHS SHAMSHI KHAN
DIR LOWER.

Dated: 30-04-2020.

NO: 1102

Subject: Enquiry report against Habiba BIBI DEO (F) Dir Upper regarding illegal appointments/
Promotion of C-iv, Posting of Com-Operator as ADEO & Illegal transfers of teachers.

Authority: Director EI&Sec KPK Vide Endstt: No: 2669-71 dated Peshawar 25-02-2020 & Endstt
No:7318 Dated 12-03-2020

Enquiry officer: AFTAB ALAM Principal B-19 GHS Shamshi khan dir (L).

Place of enquiry: DEO EI&Sec (F) Office Dir (U).

Annexure:

- 1: Statement of DEO (F) EI&Sec Dir (U).
- 2: Statements of Ex-DEO's Mr. Abdul Haq & Mr. Muhabat Shah.
- 3: Statement of Mr. Muhammad Zada ADEO (M) Primary Dir (U).
- 4: statement of Mr. Shahid Aziz ADEO (M) secondary Dir (U).
- 5: Statement of Mr. Muhammad Amin P/A DEO (M) Dir (U).

Procedure:

As the order received I informed Mst: Habiba BIBI DEO (F) Dir Upper and date was fixed for inquiry i-e 07-03-2020. The U/signed reached office of the DEO (F) Dir (U) on the target date i-e 07-03-2020 at 11:30am. The DEO (F) Dir (U) along with her staff except Mst. Hussan Ara DDEO (F) Dir (U) were present.

A detail discussion regarding appointments and promotion of C-IV was made in the presence of all stake holders of DEO (F) office. The DEO (F) Dir (U) assured the U/signed that appointments of C-iv, Drivers & Promotion have been made on pure merit after observing all codal formalities & provided appointments of C-IV of primary & Secondary level with a certificate that no other C-IV in primary & secondary section have been appointed. (Copy attached).
When she was asked regarding posting of Computer operator as ADEO (F) Circle Rehankot Dir (U) she provided stop gap arrangement order in R/o Mst. Shagufta BIBI made by Director EI&Sec KPK Dated 21-02-2018. (Copy attached).

The DEO (F) Dir (U) promoted three C-IV to Junior Clerks in two places & appointed two drivers for SDEO (F) Dir & SDEO (F) Dir (U).

After complete checking the documents provided by Mst: Habiba BIBI DEO (F) Dir Upper regarding appointments & promotion the U/signed came to know that she played a game with her team and trampled rules & policy. She not only ignored merit but took authoritarian decision as she constituted committee's as far as paper is concerned avoiding directives of the worthy Director KPK Endstt No. 2860-2935 dated Peshawar 25-10-2019.

Almost all the working papers have been signed by Mr. Muhammad Zada ADEO (M) Dir (U) and Mr. Shahid Aziz ADEO (M) Dir (U) showing himself representative of Director KPK but sorry to say that the present & Ex-DEO'S refused that they have not been attended any kind of meeting regarding appointments by DEO (F) Dir (U) nor authorized/ nominated any person because she did not felt the need in this regard. (Copies attached)

The persons included in the committee's constituted for appointments & promotion only to facilitate each other and they themselves benefited from it for example Sullman Driver & Shagufta Computer operator working as ASDEO (F) Dir (U). Mr. Sullman driver recommended Namjuddin Khan Husband of Shagufta as driver for SDEO (F) Dir (U) & in return of this Miss Shagufta ASDEO (F) Dir (U) recommended his son Mr. Attaullah for promotion to junior clerk & other son on C-iv. On the day of inquiry so many people requested the U/signed to inquire about illegal transfers/ posting made by the DEO (F) Dir upper Mst. Habiba Bibi. When I asked her about illegal & out of merit transfers she became too much excited/ hyper & stated that inquiry of transfers have not been mentioned in your appointment notification.

Dear Sir as & when your good self directed the U/signed to inquire the recent transfer/ posting order cases vide Endstt No.7318 date Peshawar the 12-03-2020. I informed Mst. Habiba Bibi DEO (F) Dir (U) regarding inquiry of transfers/posting orders. At that time she was at chitral and stated that now I am U/transfer to GGHS Dir (U). She further requested that I will hand over the charge of DEO (F) Dir Upper to Mst. Hussan Ara and further requested for fixation of date for inquiry i-e 21-04-2020.

The U/signed attended office the DEO (F) office Dir (U) on 21-04-2020 at 11:00am. The DEO (F) Dir upper Mst. Habiba Bibi was on chair but sorry to say that the then DDEO (F) now appointed as DEO (F) Dir upper Mst. Hussan Ara remained absent again during the course of inquiry. When she was asked about the illegal transfer/posting without ban relaxation she boldly refused and stated that no illegal transfer/posting without ban relaxation have been made

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during my tenure as DEO (F) Dir upper. She further stated that I have made promotion of C-iv on pure merit and ability. (Copy attached)

When the U/signed presented several illegal transfers of various cadres during ban period received from other sources she became furious for the time being. After that she tried again & again to satisfy the U/signed for her wrong doer and began weeping.

Terms of reference: (TOR)

- 1: To check and analyze appointments, promotion of C-iv made by Habiba Bibi DEO (F) Dir upper.
- 2: To check and analyze appointment order of Mst. Shagufta Bibi Computer operator as ASDEO (F).
- 3: To check and analyze transfers/posting of various cadres made by Habiba Bibi DEO (F) Dir upper.

Findings:

- 1: The then DEO (F) Dir upper Mst. Habiba Bibi now working as Principal GGHS Dir upper is unskilled, authoritarian mind, psychological patient having no managerial experience.
- 2: Being a competent authority as DEO (F) Dir upper Mst. Habiba Bibi made fun regarding appointments, promotion and transfers.
- 3: She ignored Mst: Hussan Ara DDEO (F) Dir Upper regarding appointments, promotion of C-iv & transfers of teachers because she was not part of the game.
- 4: As & when Mst: Habiba DEO (F) Dir Upper came to know about inquiry she called a meeting to prepare working paper and other necessary documents regarding appointments and promotion of C-iv. Mst. Hussan Ara DDEO (F) & Ajeeb ulah ADEO (P) refused to sign the fake & illegal working paper but sorry to say that one black sheaf ADO P&D Mr. Muhammad Iqbal boldly assured the accused Mst: Habiba Bibi that this a question of our honor and we will sign the working papers of C-iv appointments and promotion.
- 5: Promotion of C-iv to junior clerks is totally illegal and out of merit because she ignored seniority cum fitness as she promoted one Mr. Badshah Rahman s/o Habib Ur Rahman to junior clerk at GGHS Janbattal having service less than five years (first appointment order as Behishti attached)
- 6: This is surprising that there was no signature of representative of Director KPK on the fake working paper prepared for Mr. Badshah Rahman promoted to junior clerk as she provided to the U/signed during the first round of inquiry on 07-03-2020 (Copy attached) but sorry to say that she provided another working paper signed by Muhammad Zada ADEO (M) as representative of Director KPK.
- 7: The local administration Dir upper was not happy and having reservations against Mst. Habiba Bibi due to her inefficiency, disobedience and demerit policies.
- 8: Some blue eyed persons of the office of DEO (F) Dir upper used her illegally to achieve their personal interests.
- 9: During the second round of inquiry on dated 21-04-2020 Mst. Habiba Bibi made back dated appointments, promotion & transfers e.g
 - (a) Appointment of Mr. Ihtisham Yousaf s/o Shah Yousaf as Daftari o/o DEO (F) Dir (U). (Copy attached for ready reference)
 - (b) Appointment Mr. Misbah Ullah s/o Muhammad Qasim as Behishti at DEO (F) Office (Copy attached)
 - (c) Promotion of Mr. Azmat Khan S/o Dawlat Khan Daftari as junior clerk (Clarified from Mst. Hussan Ara DEO (F) Dir (U).
 - (d) Transfers of Miss Shakeela TT & Mumtaz Mahal PSHT from GGPS Jabalook To GGPS Shaw on back dated orders during the final round of inquiry i.e 21-04-2020.
- 8: Mst: Habiba Bibi Ex-DEO (F) Dir (U) made transfers of various cadres during ban period without ban relaxation and also NTS Teachers. (Copies attached)

Recommendations:

- 1: Strict disciplinary action under E&D rules 2011 against Ex-DEO (F) Habiba Bibi Dir upper may kindly be proceeded.
- 2: Mst.Habiba Bibi Ex-DEO (F) Dir upper now working as Principal GGHS Dir Upper may kindly be banned permanently on Management cadre posts.
- 3: Mr. Muhammad Zada ADEO (M) & Ms. Shahid Aziz ADEO (M) Dir upper belong to teaching cadre may kindly be suspended and transferred to schools & further they may be banned permanently on management cadre post.
- 4: Stop gap arrangement order of Mst: Shagufta Computer Operator may kindly be withdrawn.
- 5: Mr. Muhammad Iqbal ADO P&D may kindly be transferred to other District.
- 6: To ensure merit and transparency legal action may kindly be taken against illegal appointments and transfers.
- 7: The DEO (F) Mst:Hussan Ara may kindly be directed to ensure shuffling of ministerial staff as per directives of the worthy Director KPK because the former DEO (F) made fun of him.
- 8: A committee comprising of DEO (F), DEO (M) & Muhammad Amin P/A to DEO Male Dir Upper may kindly be constituted to make detail inquiry please.
- 9: Appreciation letters may kindly be issued to Mst: Hussan Ara the then DDEO (F) & Mr. Ajeeb Ullah ADEO (P) o/o DEO (F) Dir Upper for their bold and courageous stand against the culprit to maintain justice.

(Signature)
 (AFTAB AZAM KHAN)
 Principal
 GHS SHAMSHI K

C.T.C
(Signature)



DIRECTORATE OF ELEMENARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR

28

NOTIFICATION

Mr. Aftab Alam, Principal, BPS-19, GHS Shamshi Khan Dir Lower, is hereby nominated as inquiry officer to conduct inquiry against Mst. Habiba, District Education Officer (Female) Dir Upper regarding posting of Computer Operator as ADEO and appointments of class IV.

The inquiry officer should inquire the matter and submit detail report along with clear findings and recommendation within 15 days positively to this Directorate for further necessary action please.

DIRECTOR
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar

NO. 2669-21 /A-17/P.F/Habiba Bibi/DEO/Dir Upper

Dated Peshawar the 25/2/2020

Copy of the above forwarded to the:-

1. Mr. Aftab Alam, Principal, BPS-19, GHS Shamshi Khan Dir Lower.
2. District Education Officer (F) Dir Upper.
3. PA to Director (E&SE) Local Directorate.
4. M/File.

Hmd
Deputy Director Establishment (F)
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar

25/2/2020

O.P.S.S.



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(E&SE)

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Annex: E 29

**OFFICE OF THE PRINCIPAL GHS SHAMSHI KHAN
DIR LOWER.**

NO: 1120

Dated: 13-07-2020.

Subject: Enquiry report against Promotion of Class-iv made by Habiba Bibi Ex-DEO (F) Dir Upper.

Authority: Director EI&Sec KPK Vide Endstt: No: 605-08 Dated 03-06-2020

Enquiry officer: AFTAB ALAM Principal B-19 GHS Shamshi Khan Dir (L).

Place of enquiry: DEO EI&Sec (F) Office Dir (U).

Annexure:

- 1: Statement of DEO (F) EI&Sec Dir (U) Mst. Hussan Ara.
- 2: Statements of Mr. Ajeeb.Ullah ADEO Estb: O/O DEO (F) Dir (U).
- 3: Statement of Mr. Sahib Zada Ihtisham Ullah Jc DEO (F) Dir (U).
- 4: statement of Mr. Muhammad Nasir Chowkidar GGPS Tauso Abakand Dir Upper.
- 5: Statement of Mr. Khaista Muhammad N.Q GGHS Chukiatan Dir Upper.
- 6: Statement of Noor Ud Din N.Q GGHS Jabbar Usharai Dir Upper.

Procedure:

As the order received I informed Mst: Hussan Ara DEO (F) Dir Upper and date was fixed for inquiry i-e 04-07-2020. The U/signed reached office of the DEO (F) Dir (U) on the target date i-e 04-07-2020 at 10:00am. The DEO (F) Dir (U) was present.

A detail discussion regarding appointments and promotion of C-IV was made in the presence of complainants, appointees, Ihtisham ul Haq Jc Dealing Astt: & Mr. Ajeeb ADEO Estb:.

The DEO (F) Dir (U) Mst. Hussan Ara stated:-

- 1- That she promoted from SDEO (F) Dir Upper to Deputy DEO (F) on 28-05-2019 now working with additional charge of DEO (F) since 18-04-2020.
- 2- Being a permanent member of departmental selection committee the Ex- DEO (F) Dir Upper ignored and by passed her in appointments & transfers to achieve her illegal dreams and aims.
- 3- During the period of Ex- DEO (F) Dir Upper she has neither been remained member of selection committee nor signed any kind of working paper and minutes of the meeting.
- 4- Surprisingly one Mr. Azmat Ullah Daftari promoted to the post of Junior clerk by Ex- DEO (F) Dir Upper stressing/ pressing hard through various angles for release of pay but not ready to produce his appointment order to me but sorry to say that he provided his fake and bogus back dated appointment order to the Inquiry officer in my office.

5- She stated that no relevant record is available regarding promotion of Class- IV to JC as per statements of Mr. Ihtisham Ul Haq Dealing Astt:

She further stated that the Ex- DEO (F) Dir upper played childish game avoiding rules/ Policies & directives of the high ups Ignoring merit and transparency.

One Mr. Ajeeb Ullah ADEO Estb: o/o DEO (F) Dir upper stated that:-

- 1- He is working as ADEO Estb: office DEO (F) Dir upper since 02-02-2017.
- 2- I prepared seniority list of Class-IV by the directives of Mst: Habiba Bibi for promotion to JC having 33% quota as per rules.
- 3- Five applications of deceased son/daughter were also present on the record for appointment as JC having 100% quota as per rules.

The Ex- DEO (F) Dir upper called meeting of departmental selection committee for promotion of Class- IV to the post of JC but the Interview was postponed as & when I suggested that this process is totally illegal & out of merit to avoid deceased son/daughter quota.

- 5- Later on I came to know that 100% promotion of Class-IV to Jc have been made by the Ex- DEO (F) Dir upper to facilitate the office bearers avoiding / ignoring deceased son/daughter quota & court case.
- 6- Being a responsible person working as ADEO Estb: no record of promotion of Class- IV is available in my section.

The dealing Astt: for appointments/promotion Mr. Ihtisham ul Haq Jc stated that the file is in the custody of the Ex- DEO (F) Dir upper.

The U/signed made a detail inquiry regarding promotion of Class-IV posting of Com. Operator & illegal transfers of teachers vide Endstt: No:2669-71 dated 25-02-2020 & Endstt: 7318 dated 12-03-2020 and detail report have been submitted to your office on 30-04-2020 (Copy of Inquiry report is submitted for ready reference).

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Term of reference: (TOR)

1: To check and analyze appointments, promotion of C-iv made by Habiba Bibi DEO (F) Dir upper.

Findings:

- 1: The then DEO (F) Dir upper Mst. Habiba Bibi now working as Principal GGHS Dir upper is unskilled, authoritarian mind, psychological patient having no managerial experience.
- 2: Being a competent authority as DEO (F) Dir upper Mst. Habiba Bibi made fun regarding appointments & promotion.
- 3: She ignored Mst. Hussan Ara DDEO (F) Dir Upper in appointments, promotion of C-iv because she was not part of the game.
- 4: Promotion of C-iv to junior clerks is totally illegal and out of merit because she ignored seniority cum fitness, ignoring deceased son/daughter quota.
- 5: Approved persons o/o DEO (F) Dir upper used her illegally to achieve their personal interests.
- 6: One Mr. Azmat Ullah s/o Daulat Khan working as daftari also promoted to Jc by the Ex- DEO (F) Dir upper on her reliving date with back dated order. (Copy attached)
- 7: When Mr. Azmat Ullah was asked in the presence of the present DEO (F) Hussan Ara that during the second round of inquiry against Mst: Habiba Bibi you was daftari at that time. He smiled and said that you know the whole process & situation.
- 8: All the staff members including Class-IV, ministerial staff and ADEO's played their bloody role & remained part of the game except Mr. Ajeeb ullah ADEO Estb: & Hussan Ara deputy DEO (F) now working as DEO (F).

Recommendations:

- 1: Strict disciplinary action under E&D rules 2011 against Ex-DEO (F) Habiba Bibi Dir upper may kindly be preceded.
- 2: Mst. Habiba Bibi Ex-DEO (F) Dir upper now working as Principal GGHS Dir Upper may kindly be banned permanently on Management cadre posts.
- 3: Mr. Muhammad Zada ADEO (M) & Mr. Shahid Aziz ADEO (M) Dir upper belong to teaching cadre may kindly be suspended and transferred to schools & further they may be banned permanently on management cadre post.
- 4: Mr. Muhammad Iqbal ADO P&D may kindly be transferred to other District.
- 5: Fake & illegal Promotions orders of Class-IV to JC made by Ex- DEO (F) Dir upper in R/o Mr. Attaullah S/o Suliman, Azmat S/o Hidayat Ullah, Bacha Rahman s/o Habib Ur Rahman & Azmat Khan s/o Daulat Khan may kindly be withdrawn and pure appointment/promotion may kindly be made after observing all codal formalities.

(AFTAB ALAM KHAN)
Principal
GHS SHAMSHI KHAN.

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DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

KHYBER PAKHTUNKHWA, PESHAWAR

Phone: 091-9225336, 9225342, E-mail: complaintcell@ese@gmail.com

31

NOTIFICATION.

Consequent upon the approval of the competent authority, an inquiry is hereby ordered by appointing Mr. Aftab Alam (B-19), Principal, GHS, Shamshi Khan, Dir Lower, as inquiry officer, to conduct inquiry in the light of complaint submitted to the Minister E&SE Department, Khyber Pakhtunkhwa, Peshawar, through Secretary E&SE Department regarding promotion of class-IV in the Office of DEO (Female) Dir Upper (copy of complaint attached).

The inquiry Officer is directed to submit his clear cut findings/recommendations to this office within 7 days positively.

DIRECTOR
Elementary & Secondary Education
Khyber Pakhtunkhwa/Peshawar

Endst.No. 605-08 File. Dir Upper/27-1/Complaint Cell/2020

Dated Pesh: the 03 / 06 /2020

Coy of the above is forwarded for information and n/action to the:-

- 1:- Mr. Mr. Aftab Alam, Principal, GHS, Shamshi Khan, Dir Lower, along with copy of above complaint.
- 2:- District Education Officer (F) Dir Upper with the remarks to provide relevant record to the above mentioned inquiry officers as and when required.
- 3:- Section Officer (Comp) E&SE Department Khyber Pakhtunkhwa, Peshawar w/r to his letter vide No. SO(C)E&SED/1-7/2020/Khaista/SE-1571 dated 06-02-2020.
- 4:- P.A to Director E&SE KPK.

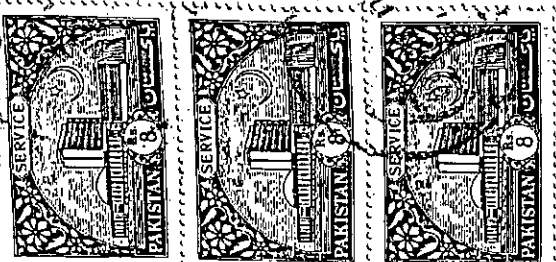
*ADD Primary/Class
For information and
Office Record
22/6/2020*

[Signature]
Assistant Director (Complaint)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

Office of DEO (F) Dir Upper

D.No: 9994
Dated: 22/6/2020

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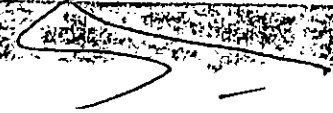
DESPATCHER
Director (E&SE)

*C.T.C
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NOTIFICATION.

1. Whereas, the petitioner, namely Mr. Azmat Khan has joined the E&SE Department as a Daftari/Chowkidar vide Oder dated 30/06/2015, issued by the then DEO (F) Dir Upper & as a result of the aforesaid appointment order, the official concerned was placed at Serial No.188 in the seniority list of Daftari/Chowkidar in District Dir Upper, as stood on 31/12/2018.
1. And whereas, he promoted himself out of turn to the post of Junior Clerk (BPS-11) on basis of alleged seniority-cum-fitness vide order 29-02-2020 under the 33% reserved quota, however, the salary of the official concerned against the noted post was not released by the authority concerned on the grounds of his illegal and out of turn promotion to the post of Junior Clerk BPS-11.
2. And whereas, feeling aggrieved from non-release of his monthly salaries, he filed a W.P No. 420-M/2021 before the Peshawar High Court, Mingora Bench Swat under case titled Azmat Khan Vs Govt of KPK & Others for release of his salary against the post of Junior Clerk BPS-11 w.e.f. 29-02-2020 till date which was decided vide order dated 16-11-2021 by the Honorable Court, by converting the Petition into the Departmental Appeal with the directions to the Respondent No.02/Director E&SE to decide the same within a period of one month in accordance with law & rules.
3. And whereas, two inquiries have been conducted into the matter through Mr. Aftab Alam Principal BS-19 GHS Shamshi Khan Dir Lower vide Notification bearing Endst No. 2669-71 dated Peshawar the 25-02-2020 and Endst No. 605-08 dated 03-06-2020. Inquiry Reports dated 30-04-2020 & dated 13-07-2020 reveal that the promotion of Mr. Azmat Khan Daftari to the post of Junior Clerk, made by the then DEO (F) Dir Upper was illegal, unlawful & back dated & recommended that the so made illegal & out of turn promotion orders of Class-IV to the Junior Clerk including the present petitioner may be withdrawn under the rules in vogue.
4. And Whereas, the case was referred to the appellate committee meeting held on 11-04-2022, wherein the pro & contra evidences of the case were thoroughly perused. After threadbare discussion, the committee has unanimously concluded that the promotion order dated 29-02-2020 of the petitioner against the Junior Clerk post under 33% reserve quota is illegal, out of turn and even in violation of the mandate of the quota & policy & hence, is liable to be recalled from the date of on which it was issued/ notified.

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Now therefore, in compliance of the judgment dated 14-09-2021 passed by the Honorable Peshawar High Court, Mingora Bench (Dar-UL-Qaza), Swat, consulting with the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989 & in exercise of the powers conferred under Section-21 of the General Clauses Act, 1897 as amended in 1956, the Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar, being an appellate authority in the instant case, is pleased to withdraw the promotion Order dated 29-02-2020 of Mr. Azmat Khan Daftri to post of Junior Clerk BPS-11 with retrospective effect i.e. from the date of promotion in interest of public service.

DIRECTOR
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar.

Endst: No: 4966-70

Dated Peshawar the: 29/05/2022

Copy forwarded for information & n/action to the:-

1. Additional Registrar, Peshawar High Court, Mingora Bench/Dar-ul-Qaza Swat.
2. Learned AG Khyber Pakhtunkhwa, Peshawar High Court, Peshawar.
3. District Education Officer (F) District Dir Upper.
4. Deputy Director (Legal) E&SE Department Khyber Pakhtunkhwa Peshawar.
5. Official concerned.
6. Master file

[Signature]
DEPUTY DIRECTOR (F&A)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar.

[Signature]
18/5/22

C.T.C
[Signature]

GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
Dated Pesh: the 10-08-2018



NOTIFICATION

NO. SOEST/DE/1-16/2014/SSRC/V.9-III/T/1 In pursuance of the provisions contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Finance Department, in consultation with Establishment Department, and in supersession of previous notifications issued in this behalf, hereby directs that in the Khyber Pakhtunkhwa Treasuries (Recruitment and Appointment) Rules, 1981, the following further amendments shall be made, namely:-

APPENDIX

S.No.	Nomenclature of post	Minimum qualification prescribed for appointment by initial recruitment or by transfer	Minimum qualification prescribed for appointment by promotion	Age limit	Method of recruitment.
1	2	3	4	5	6
1.	Director, Treasuries & Accounts.				By selection on merit from amongst the District Comptrollers of Accounts having three (03) years service as such: Provided that if no suitable person is available for promotion then by transfer from amongst officers of equivalent grade having three 03 years experience in finance and accounting.
2.	District Comptroller of Accounts				By promotion, on the basis of seniority-cum-fitness, from amongst the Deputy Directors, District Accounts Officers and Agency Accounts Officers and Treasury Officer with at least twelve (12) year service in BPS-17 and above. Note: For the purpose of promotion, a joint seniority list of the Officers mentioned above shall be maintained.
3.	Deputy Director, Treasuries & Accounts.				By promotion, on the basis of seniority-cum-fitness, from amongst the Assistant Directors Treasuries & Accounts having five (05) years service as such; Provided that if no suitable person is available for promotion then by transfer from amongst the District Accounts Officers, Agency Accounts Officers or Treasury Officers.

Recruitment

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4.	District Accounts Officer / Agency Accounts Officer / Treasury officer.				<p>(a) Fifty per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Assistant Treasury Officers and Sub-Treasury Officers with at least five (05) year service as such:</p> <p>Note: For the purpose of promotion, a joint seniority list of the Assistant Treasury Officers and Sub-Treasury Officers shall be maintained; and</p> <p>(b) fifty per cent by deputation, for a specified period, from amongst Accounts Officers of the Audit Department of Government of Pakistan.</p>
5.	Assistant Director, Treasuries & Accounts.				<p>By promotion, on the basis of seniority-cum-fitness, from amongst the Superintendents having five (05) year service as such:</p> <p>Provided that if no suitable person is available for promotion then by Transfer from amongst the Assistants / Sub-Treasury Officers.</p>
6.	Assistant Treasury Officer / Sub-Treasury Officer.	At least Second Class Master's Degree in Statistics, Economics, Business Administration or Commerce, from a recognized University.		22 to 30 years	<p>(a) Sixty per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Assistant Accountants, who have qualified PIPFA or SAS Examination;</p> <p>(b) twenty per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Assistant Accountants.</p> <p>(c) twenty per cent by initial recruitment;</p>
7.	Superintendent.				<p>By promotion, on the basis of seniority-cum-fitness, from amongst the Assistants and Senior Scale Stenographers, having five (05) years service as such.</p> <p>Note: For the purpose of promotion a joint seniority list of Assistants and Senior Scale Stenographers shall be maintained.</p>
8.	Assistant Accountant.				By promotion, on the basis of seniority-cum-fitness, from amongst the Sub-Accountants, having five (05) years service as such.
9.	Senior Scale Stenographer.				<p>By promotion on the basis of seniority-cum-fitness, from amongst the Junior Scale Stenographers with at least five (05) years service as such:</p> <p>Provided that if no suitable candidate is available for promotion then by transfer of a suitable officer.</p>

Account

C.T.C.

10.	Assistant	Atleast 2 nd class Bachelor Degree from a recognized University.		20 to 32 years	(a) Seventy-five per cent by promotion, on the basis of cum-fitness, from amongst the Senior Clerks and five (05) years service as Junior Clerk and Senior Clerk. (b) twenty-five per cent by initial recruitment.
11.	Sub-Accountant	At least 2 nd Class Bachelor's Degree in Commerce / Business Administration or ACMA or MBA from a recognized University.		21 to 35 years	By initial recruitment.
12.	Junior Scale Stenographer	i. At least 2 nd Division Intermediate or equivalent qualification from a recognized Board; ii. a speed of seventy (70) words short hand in English and forty five (45) words per minute in typing; and iii) knowledge of Computer in using M.S. Words and M.S. Excel.		18 to 30 years	By initial recruitment.
13.	Computer Operator	(i) Second 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.		21 to 32 years	By initial recruitment.

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14.	Senior Clerk				By promotion, on the basis of seniority-cum-fitness, from a junior clerks with at least three (03) years service as such.
15.	Junior Clerk	<p>i) At least 2nd division Intermediate or its equivalent qualification from a recognized Board; and</p> <p>ii) a speed of thirty (30) words per minute in typing.</p>		18 to 30 years	<p>i) Thirty three (33) per cent by promotion on the basis of seniority-cum-fitness from amongst Daftaris who possess qualification for initial recruitment having at least two (02) years service as such; and</p> <p>ii) sixty seven per cent by initial recruitment.</p>
16.	Driver.	<p>i) Secondary School Certificate from a recognized Board; and</p> <p>ii) Valid LTV/HTV Licence with three years practical experience as Driver.</p> <p><u>Note:</u> Preference shall be given to those who have sufficient experience in driving, repair and maintenance of vehicles.</p>		18 to 30 years	By initial recruitment.
17.	Daftari.	At least second division Secondary School Certificate from a recognized Board.		18 to 30 years.	<p>By promotion, on the basis of seniority-cum-fitness, from amongst Naib Qasids and other Class-IV employees of the Department having Secondary School Certificate from a recognized Board:</p> <p>Provided that if no suitable person is available for promotion then by initial recruitment.</p>
18.	Naib Qasid.	Literate.		18 to 40 Years	By initial recruitment.
19.	Bahishtu.	Literate.		18 to 40 Years	By initial recruitment.

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20.	Chowkidar.	Literate.		18 to 40 years	By initial recruitment.
21.	Sweeper.	Literate.		18 to 40 years	By initial recruitment.
22.	Mali	Literate.		18 to 40 years	By initial recruitment.

SECRETARY
Government of Khyber Pakhtunkhwa
Finance Department

Dated 10-08-2018

No. NO.SO(ESTD)FD/1-16/2014/SSRC/Vol-III/Try/.

Copy of the above is forwarded for information to:-

1. The Secretary to Govt. of Khyber Pakhtunkhwa, Establishment Deptt., Peshawar.
2. The Secretary to Govt. of Khyber Pakhtunkhwa, Law Department, Peshawar.
3. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
4. The Secretary Public Service Commission, Peshawar.
5. The Director Treasuries & Accounts, Peshawar.
6. PS to Chief Secretary Khyber Pakhtunkhwa, Peshawar.
7. PS to Finance Secretary.
8. The Manager, Govt. Printing Press, Peshawar for publication in official Gazette. Fifty copies of the Gazette Notification when published may be supplied.

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SECTION OFFICER (ESTD)

F.Name Rule 1981 (P/162)

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KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

JUDICIAL COMPLEX (OLD), KHYBER ROAD,

PESHAWAR.

TB Swat

Recd
No.

APPEAL No. 902 of 20

Azmat Khan

Appellant/Petitioner

Versus

DEO (Female) Dir Upper

RESPONDENT(S)

Notice to Appellant/Petitioner. Counsel Shams ul Hadi (Advocate)
Supreme Court of Pakistan
Office at Swat
0341 5726886

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 5-7-22 at 2:00 PM.

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

at camp court
Swat

Sd/-

Registrar,

Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

“A”

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

TB Swat

No.

902

22

APPEAL No..... of 20

Azmat Khan

Appellant/Petitioner

Versus

DEO (Female) Dir Upper

RESPONDENT(S)

Azmat Khan Junior Clerk

Notice to Appellant/Petitioner

presently posted at S.G.H.S.S. R/O Dir Town
Tehsil Distt Dir Upper

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit, counter affidavit, second arguments/order before this Tribunal on 5-9-22 at Swat at.....

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

At Swat

Swat

[Signature]

Registrar,

Khyber Pakhtunkhwa Service Tribunal,
Peshawar.