BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

/2021 Service Appeal No.

Muhammad Bashir......Appellant

VERSUS

The Chief Secretary & others......Respondents

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Through

Dated 18.11.2021

Akhunzada Ahmad Saeed Advocate High Gourt(s) Cell No.0333-2902529

Appellant

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No.____/2021

Muhammad Bashir, Deputy Director, Directorate of Higher Education, Rano Ghari, Chamkani Mor, Peshawar**Appellant**

VERSUS

- The Chief Secretary, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar
- The Secretary, Higher Education, Archives & Libraries Department Khyber Pakhtunkhwa, Peshawar
- 3. The Chief Minster, Khyber Pakhtunkhwa Through Principal Secretary to Chief Minster Khyber Pakhtunkhwa, Peshawar
- 4. The Secretary Finance, Govt. of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar
- 5. The Director, Directorate of Higher Education, Khyber Pakhtunkhwa, Chamkani Mor Peshawar**Respondents**

SERVICE APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, AGAINST THE IMPUGNED NOTIFICATION/ORDER DATED 29.06.2021 WHEREBY MINOR PENALTY OF WITHHOLDING OF TWO INCREMENTS FOR ONE YEAR WAS IMPOSED UPON THE APPELLANT AND AGAINST THE IMPUGNED NOTIFICATION/ORDER DATED 25.10.2021 WHEREBY THE REVIEW PETITION OF THE APPELLANT WAS REGRETTED.

<u>Respectfully Sheweth:</u>

The brief facts giving rise to the instant service Appeal are submitted as under:

 That the appellant was appointed as Lecturer, History Cum Civics on the recommendation of Khyber Pakhtunkhwa, Public Service Commission, in the year 2006 and by dint of his meritorious service record, was promoted to the post of Assistant Professor in the year 2015. The appellant was posted as Deputy Director (Establishment) on 09.01.2015. in the Directorate of Higher Education Khyber Pakhtunkhwa, Since then the appellant has been working therein with integrity and full efficiency to the satisfaction of his senior officer. (Copy of appointment order dated 08.01.2015 is attached as annexure "A").

- 2. That in the year 2015 the Department of Higher Education, Khyber Pakhtunkhwa, advertised the posts of Teaching Assistants, supernumerary posts to overcome the shortage of teaching staffs in various Government College of the Province. They were fixed paid employee at the rate of Rupees thirty thousand (Rs.30,000/-) per month and were required to serve till arrival of the regular recommendees of the Khyber Pakhtunkhwa Public Service Commission. More than 741 persons were recruited as teaching assistants. (Copy of the advertisement is attached as annexure "B").
- That the respondents filled these posts on the 3. recommendation of ETEA on merit basis and no discretion were allowed. The selection process was a long exercise and in order ot redress genuine the candidates a Grievance of arievances redressed committee under the chairmanship of special Secretary Higher Education Department was constituted on 05.11.2014. The committee received complaints of different nature which were considered by this committee and the genuine grievances of the candidates were discussed in meetings and redressed accordingly. One such

complaint was submitted by Mr. Majid Khan of District Mardan wherein he claimed that his application for meritorious candidates in Notification of dated 02.12.2015 was not considered. He stated that candidates at S.NO.07 & 08 of the merit list were recommended for appointment as teaching assistant and the complainant at S.No.06 was left out from the appointment. (Copy of the Notification dated 05.11.2014 is attached as annexure "C").

4. That a fact finding inquiry was conducted which found that Mr Majid Khan son of Sharif Khan secured sixth position in the merit list of teaching Assistants in the subject of Chemistry of District Mardan. Candidates at S.NO.07 and 08 of the merit list were appointed, however, he was ignored, thus merit was violated and the applicant, namely, Majid Khan was forced on litigation in the High Court as in Para-VII of the fact finding enquiry, the enquiry officer fixed responsibly for violating the merit on two persons namely, Mr. Abdur Rashid, Deputy Director Sports and the Appellant, Deputy Director Establishment of the Directorate of Higher

Education, Khyber Pakhtunkhwa.(Copy of fact finding enquiry is attached as annexure "D").

- 5. That the non appointment of the complainant Mr. Majid Khan a teaching assistant cannot be attributed to the Appellant. He was posted as Deputy Director (Establishment) on 09.01.2015 and by that time the merit list had already been prepared by the departmental authorities. The merit list had already been prepared in the year 2014 long before the posting of the Appellant as Deputy Director (Establishment) (Copy of the merit list is attached as annexure "E").
- That meeting of the Grievance redressal 6. committee held on 14.07.2015 and recommended appointment of candidates at S.No.07 and S.No.08 and ignored the complainant, who was at S.No.06 of the merit list, for the reasons are best known to the concerned authorities. The appellant was not the custodian of the merit list nor proposed the appointment of candidate at S.No.07 and S.No.08. The minutes of the meeting in which these two candidates were recommended and deserving candidate at S.No.06 was deprived, prepared with

handwriting and that also.admitted by Mr. Abdur Rashid to the extent of proposing stations who was the custodian of the merit list of teaching assistants. (Copies of proposal/vacancies of teaching Assistant in various college of Khyber Pakhtunkhwa and Notification dated 02.12.2015 are attached as annexure "F & G" respectively).

7. That appellant only expeditiously proposed the recommended candidates to the Director for approval. According to the statement of Mr. Amjid Ali, the Senior Clerk of Directorate of Higher Education, these recommendations were given to him by Mr. Abdur Rashid for approval which the appellant processed and clearly mentioned in the letter "to forward proposal of candidates already discussed in the grievance redressal committee under the chairmanship of Special Secretary Higher Education". (Copy of posting proposal of teaching Assistant dated 15.07.2015 is attached as Annexure "H").

8. That when the complainant namely Majid Khan filed appeal for redressal of his grievance then the appellant thoroughly analyzed his grievance and

found it genuine and then immediately processed the recommendation of his appointment through a letter dated 23.02.2016 to respondent No.2/The Secretary Higher Education but respondent No.2 regretted to appoint the complainant and then issued a letter dated 06.04.2016 to respondent No.5 that no further requests for fresh recruitment would be entrained. (Copy of a letter dated 06.04.2016 and 17.10.2016 and proposal of teaching Assistants in various colleges of KP dated 30.11.2015 is attached as annexure "I, J & K" respectively).

- 9. That the appellant and Mr. Abdur Rashid Deputy Director Sports were proceeded under the Khyber Pakhtunkhwa, Government Servants (efficiency and Disciplinary Rules-2011) and the minor penalty of withholding of two increments for one year were imposed upon the appellant and Mr. Abdur Rashid, Deputy Director Sports. (Copy of an enquiry report dated 09.01.2020 and a notification dated 29.06.2021 are attached as annexure "L, & M" respectively).
- That the appellant filed a review petition dated
 16.07.2021 against the impugned notification

dated 29.06.2021 but the same was regretted on 25.10.2021. (Copy of review petition dated 16.07.2021 and a notification dated 25.10.2021 is attached as annexure "N& O" respectively).

8

11. That the appellant being aggrieved from the impugned notification dated 29.04.2021 now prefers this service appeal for the following amongst other grounds:

<u>GROUNDS:</u>

Α. That the appellant has not been treatment in accordance with law and rules on the subject matter. The impugned disciplinary proceedings were conducted on the basis of preliminary inquiry wherein Mr. Muhammad Ayaz Deputy Secretary (Admin) Higher Education Department, the Inquiry Officer, found in Para-III and Para-VII that the failure on the part of the departmental Authorities resulted from the collective failure of both the Directorate and Section Officer C-II section of Higher Education Department, however, the appellant was made a scapegoat for covering tracks of those guilty placed above him.

That appellant was not heard at all. The right of Β. personal hearing provided in E&D Rule-2011 was not adhered to at all. The Chief Minister, Khyber Pakhtunkhwa is the competent authority under Rule-4 of Khyber Pakhtunkhwa Appointment, Promotion and Transfer Rule-1989, he delegated of persònal hearing the power to Mr. Muhammad Israr, Secretary to Government Khyber Pakhtunkhwa, Agriculture Department and in the presence of Mr. Khwaja Muhammad Saqib, Assistant Director (General), & Mr. Syed Arsalan Ali Shah, Office Assistant (Estab. Section), Directorate of Higher Education Department and Mr. Hayat ur Rehman, Section Officer (C-II), Education Department, Khyber Higher Pakhtunkhwa, did not hear the appellant at all and thus the appellant was condemned unheard and the principles of natural justice of aude alterm partem were thrown to the winds. The fundamental right of fair trial under article-10A of the Constitution of Pakistan were denied to the appellant. Moreover, the Chief Minister is the persona designat and by virtue off this has to perform quasi judicial function which cannot be

delegated to another person like the Secretary Agriculture in the instant case.

That inquiry officer has ignored the submission of C. the appellant that the non appointment of the complainant Mr. Majid Khan a teaching assistant cannot be attributed to the Appellant. He was posted as Deputy Director (Establishment) on 09.01.2015 and by that time the merit list had already been prepared by the departmental authorities. The merit list had already been prepared in the year 2014 long before the posting of the Appellant as Deputy Director (Establishment). The meeting of the Grievance redressal committee held on 14.07.2015 and recommended appointment of candidates at S.No.07 and S.No.08 and ignored the complainant, who was at S.No.06 of the merit list, for the reasons are best known to the concerned authorities. The appellant was not the custodian of the merit list nor proposed the appointment of candidate at S.No.07 and S.No.08. The minutes of the meeting in which these two candidates were recommended and deserving candidate S.No.06 was deprived, prepared at with

handwriting and that also admittedly by Mr. Abdur Rashid to the extent of proposing stations who was the custodian of the merit list of assistants. teaching The appellant only expeditiously proposed the recommended candidates to the Director for approval. According to the statement of Mr. Amjid Ali, the Senior Clerk of Directorate of Higher Education, these recommendations were given to him by Mr. Abdur Rashid for approval which the appellant processed and clearly mentioned in the letter "to forward proposal of candidates already discussed in the grievance redressal committee under the chairmanship of Special Secretary Higher Education". This does not mean that it was the appellant who is to be blamed for recommending candidates and ignoring the deserving candidate. The inquiry officer has fixed high expectation from the appellant that while proposing two candidates, the appellant could have also visited the merit list and in the process, recommended the deserving candidate as well. As already explained, the appellant only processed the

recommendations of the Grievance redressal committee, the expectation of recommending the deserving candidates for appointment could not be had from the appellant but reasonable from a person who recommended the two (02) candidates lower in merit from the complainant and who was in the knowledge of the merit list.

That appellant was unjustifiably found guilty of D. misconduct and inefficiency by the inquiry officer on the basis of presumption and not on basis of cogent evidence. The inquiry officers both who conducted preliminary inquiry and regular inquiry failed to appoint out any connection of guilt with the appellant. The inquiry officer found out in Para-07 and Para-08 in its findings that no corruption or malafide was found on the part of the appellant. It was presumed therein that it.may be an act of bona fide error, omission, laxity or inefficiency. It is only the guilty mind or motives that make any person guilty, however on the basis of presumption, the appellant was made the scapegoat which is not sustainable in the eye of law.

The inquiry officer has further found and pointed out that error or Omission of depriving the complainant from appointment was neither corrected by the Officers of the Secretariat nor by the Directorate of Higher Education. The highly placed responsible members of Grievance Redressal Committee were also expected to exercise prudence and wisdom while holding its meetings to redress genuine grievances of the candidates. Under the law, the Respondent No. 02 was duty bound to do justice with the complainant who was made victim of the lapses of the Departmental authorities. The immediately appellant processed the recommendation of the appointment of the complainant to the Secretary Higher Education 30-112015. Department However, the on respondent No. 02 regretted to appoint him.

E.

F. It is pertinent to point out that the inquiry officer has come to the conclusion that the appellant has allegedly committed misconduct without the availability of material record like minutes of meeting of the redressal committee, note part, attendance sheet, approvals, final

recommendations, and decision or missing regarding the appointment notification no. SOC-II/2-6-2015/HED/Teaching Assistant dated 02.12.2015. The inquiry officer recommended to the Respondent No. 02 to further probe the missing of these important documents. The availability and discovery of these documents may be helpful in Finding out the real culprit, if any. These documents are still missing and the department failed to dig out these important papers for doing substantial justice.

- G. The review petition filed before the worthy Chief Minister Khyber Pakhtunkhwa under rule-17 of E & D Rules-2011, was not decided in accordance with the requirements of section-24-A of General Clauses Act-1897, showing the reason of rejection as it provides the nexus between material considered and conclusion drawn.
- H. It may also be stated that the respondents have utterly violated the rule that in a year one increment can be withheld, however, in the instant case; the respondents have imposed

withholding of two increments for one year which is absurd and not legal.

It is therefore most humbly prayed that by accepting the appeal,

- a) The impugned Notification/Order dated 29.06.2021 whereby minor penalty of withholding of two increments for one year was imposed upon the appellant and the impugned notification/order dated 25.10.2021 whereby the review petition of the appellant was regretted may please be set aside
- b) Consequently respondents may please be directed to restore the two increments for one year of the appellant which were withheld through impugned Notification/ Order dated 29.06.2021 with all back/ consequential benefits.
- Any other relief deems fit and appropriate in the circumstances of the instant appeal may also be passed.

Through

MBashi Appellant

Akhunzada Ahmad Saeed Advocate High/Court

Dated 18.11.2021

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No.____/2021

Muhammad Bashir......Appellant

VERSUS

The Chief Secretary & others.......**Respondents**

<u>AFFIDAVIT</u>

I, Muhammad Bashir, Deputy Director, Directorate of Higher Education, Rano Ghari, Chamkani Mor, Peshawar, do hereby solemnly affirm and declare that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

Bashy

DEPONENT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No.____/2021

Muhammad Bashir......Appellant

VERSUS

The Chief Secretary & others......Respondents

ADDRESSES OF PARTIES

<u>APPELLANT:</u>

Muhammad Bashir, Deputy Director, Directorate of Higher Education, Rano Ghari, Chamkani Mor, Peshawar

<u>RESPONDENTS</u>

- The Chief Secretary, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar
- 2. The Secretary, Higher Education, Archives & Libraries Department Khyber Pakhtunkhwa, Peshawar
- 3. The Chief Minster, Khyber Pakhtunkhwa Through Principal Secretary to Chief Minster Khyber Pakhtunkhwa, Peshawar
- 4. The Secretary Finance, Govt. of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar
- 5. The Director, Directorate of Higher Education
- 6. Khyber Pakhtunkhwa, Chamkani Mor Peshawar Magodantuz

Through

Akhunzada Ahmad Saeed Advocate High Court(s)

Dated 18.11.2021

LIBRARIES DEPARTMENT

Dated Peshawar the January 8th, 2015.

NOTIFICATION

<u>No. SO(COLLEGES-II)HED/14-1/2014</u>. In partial modification to this department Notification of even number dated 12.12.2014, the Competent Authority is pleased to the following rectifications, corrections, adjustments, postings and transfers in the per public interest:

	line u	These courses and	
	<u> 5.</u> #	Name of applicant	Action required.
• • •	1.	Mr. Naveed Iqbal, Assistant	Posting station as lecturer may be read as GDC
	·	I HOLOSOF OF PAR SLUUY, ODG UILLAL,	Chitral and on promotion, he is retained at GDC
		S. No. 16	Chitral against vacant post
•	2.	Syed Azhar Hussain Shah, Assistant	On promotion the officer is adjusted at CDC
	÷ •	I I I I I I I I I I I I I I I I I I I	Khan pur, Haripur against vacant post.
		Science	
		S. No. 17	
	3.	Hamid Hussain, Assistant Professor	
••	1	of Physics, GPGC Haripur. S. No. 34	Ghazi, Haripur against vacant post.
	14.	Ashfaq Ahmad, Assistant Prof. of	
		Urdu, GPGC Haripur.	
		S. No. 57	Haripur against vacant post.
	5.	Tariq Ahmad, Assistant Professor of	On organization has well as the data of the
	•	Computer Science, GDC Mingora.	
		S. No. 24	Swat. But, there was no vacant post in the
2	5 m ²		station. Hence, he is adjusted at GDC Kabal. Swat against vacant post.
حكن	6 . 's	Fazal Ghaffar, Assistant Professor of	The officer is adjusted at cocio a it a
		Maths	The officer is adjusted at GPGJC Saidu Sharif, . Swat against vacant post.
		S. No. 296	Prove againer vacant post.
- i	7.	Muhammad Nazir, Assistant	The officer is adjusted at GPGJC Saidu Sharif,
	· .	Professor of Maths S. No. 313	Swat against vacant post.
ł	8.		
		Muhammad Younas, Assistant Professor of Political Science	
		S. No. 36	Swat against vacant post.
	9.	Wahced Ullah Jan Assistant	
		Professor of Economics.	On promotion, he is retained at GPGC Kohat against vacant post.
. -	10	S. No. 38	
	10.	Ghani-ur-Rehman, Assistant	On promotion he is retained at GDC Chitral
1	•	Sufersor of Economics.	against vacant post.
-	11.	Majid Khaa	
1		Statistice Assistant Professor of	Posting as lecturer in GPGC Mandian, Abbottabad
		S. No. 54	is substituted with GPGC, Mansehra.
Γ	12.		
		Islamiyat	On promotion, he is retained at GPGC, Karak
L		3. NO. //	, states dound post.
D.10	Dicial Data	Notifications@rounotion Cases/2014Worrigendum cases of Assistant Professor	
14			the second secon

•			and the second
•	· FT	3	Rañulluh, Assistant Prof. of On promotion, he is retained at GPC
50			
1) :			C NO S7
	· · · ·	4	Aftab Alam Assistant Prof. of On romotion, he was posted at GDC De
			Bune: However, his posting is substituted
		•	S No 91
· · ·	1	5	Michabada Dio Assistant Professor of Present, pesting, and proposed posting. Of Care
			Islamiyat,
		-	(S. No. 92) corrected by substituting name of the college as
	•		GAK_PGC Matta, Swat Instead of GDC Puran,
· .			Shangla.
		16	Zarmat Khan, Assistant Professor of Posting station as lecturer may be read as GDC
	- ; [Geography Chacharmati, Peshawar instead of GDC Pabbi.
			S. No. 106
,	Ξį.	i7	Ibrar Khan, lecturer in Urdu, GPGC On promotion, he was posted at GDC Garhi
	· · ·		Nowshera. Kapcora, Mardan which is substituted with GPGC,
11	1	с <u>ст</u>	S. No. 162
		18	Abdur, Rashad, Assistant, Professor Nan e of the officer may be corrected as Abdur
			of Urdu, GDC Gulabad. Resnad instead of Abdur Rashid and his present
			S. No. 166
		÷ [],	Guiabad, Dir (Lowei) instead of GDC Gulabad,
*			Dit Upper)
۰.		19.	Syed Gharoor, Assistant Professor of Oh promotion, he is adjusted at GDC Kabal, Swall
		1	Urdu.
۰	· · {	: 	S. No. 168
	ł	2 9. ;	Muhammad Saeed, Assistant On promotion, he is relained in GDC Khairabad,
· ·		ŀ	Professor of Physics. Mardan against vacant post.
	2		S. No. 170
		2.	Umar Farcoq, Assistant Professor of On promotion, he is retained in GDC Chitral
	1		Botany, GDC, Chitral.
		_	S. No. 174 Farman Ullah Khan, Assistant On promotion, he is adjusted at GPGC, Bannu
•	·	22.	and the second
•	R		Professor of Biology, against vacant post.
1	"XY		S. No. 189 Sikandar Ali, Assistant Professor of On promotion, he is retained at GPGC, Swabi
	.	28.	
	••••	1	
	-		S. NO. 193 Muhammad Barkat Ali Khan, On promotion, he is adjusted at GDC, Madyan,
÷.,		21.	Assistant Professor of Geography Swat against vacant post.
	. 1		S. NO. 200
•	Ļ	25.	Yousaf Khan, Assistant Professor of Ore promotion, he is retained in GPGC, Lakki
	ļ	Ť	Urdu. Marwat against vacant post
• •	.		C No 208
		26.	Muhammad Ilvas, Assistant On promotion, he is retained in GPGC Mardan
			Professor of Economics.
	•		S. No. 218
•		27.	
		!	English
			S. No. 221 Marwat instead of GDC, Ghazni Khel, Lakki
		·	Marwat.
<u>م</u> ،		18.	Neeem Hadi, Assistant Professor of Cn promotion, he is retained in GDC Kotha,
			s vabi against vacant post.
		 	S. No. 226 Muhammad Pukhtoon Zada Khan, On promotion, he is retained in Govt. AKL PG
	. 1	9.	NOT A NOT
			Assistant Prof. of Biology College Matta, Swat against vacant post.
•	· · · ·		Data/Notifications/Promotion/Cases/2019/Cattgendum cases of Assistant Pholesson: 241 slow

NEW COLUMN

ofessor of On promotion, he is retained in GPGC, Kohat Economics. S. No. 237	- 8	
31. Kiwshid Abinad, Assistani, On promotion, he is retained in GPGC, Mansehra 32. Tariq Javed, Assistant Professor of Urdu GDC, Battagram, whereve' appears in respect of Wrdu 32. Tariq Javed, Assistant Professor of Urdu GDC, Battagram, whereve' appears in respect of Wrdu 33. Muhammad, Atlf, Haider, Assistant On promotion, he is retained in GPGC, Battagram. 33. Muhammad, Atlf, Haider, Assistant On promotion, he is retained in GDC, Battagram. 34. All Bahadar, Assistant Prof. of Economics On promotion, he is adjusted at GDC, Gulabad, Urdu 35. No. 207 On promotion, he is retained in GPGC, Karak against vacant post. 36. Muhammad Ibrahim, Assistant On promotion, he is retained at GDC, Jower, Buner against vacant post. 36. No. 202 On promotion, he was adjusted in the same college i.e. GDC, Sabirabad, Karak. Now he is adjusted at GPCC, Havellan, Abottabad against vacant post. 37. Attique-u-Zaman, Assistant Professor of Maths. On promotion, he was adjusted at GPCC, Timergara against vacant post. 38. Sajida' Ahmad, Assistant Professor of Maths. On promotion, he is retained in GPGC, Timergara against vacant post. 39. Muhammad Abdul Hafeez, Assistant Professor of Maths. On promotion, he was adjusted at GPCC, Timergara against vacant post.	KINDISIN AND	
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	•	Irfan Ullah, lecturer in Political Science, GDC, Gumbat, Kohat.		against vacant post.
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SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA HIGHER EDUCATION DEPARTMENT

ΞÌ 15T: No. & Date Even.

Copy forwarded to the: -

- 1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 2. Secretary, Social Sector Department, FATA Secretariat, Warsak Road, Peshawar.
- 3. Director, Higher Education, Khyber Pakhtunkhwa, Peshawar.
- 4. Director of Education (FATA), FATA Secretariat, Warsak Road, Peshawar.
- 5. Director Information, Khyber Pakhtunkhwa, Peshawar.
- 6. Districts / Agency Accounts Officers, concerned:
- Principals of the concerned Government Colleges.
- 3. Manager, Govt. Printing Press, Khyber Pakhtunkhwa, Peshawar.
- 9. PS to Minister for Higher Education, Khybe: Pakhtunkhwa, Peshawar. 10. PS to Secretary, Higher Education Department.
- 11. Officers concerned.

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DAORG

(HAMID ALI) SECTION OFFICER (COLLEGES-II)

INTERNATIONAL

Thursday

March 13, 2014

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Applications on prescribed form are invited for the filling of Supernumerary Positions of Teaching Assistants for a fixed period of Two years (Excluding long vacations) in the following subjects in Government Colleges (Male & Female) of Hihger Education Department Government of Khyber Pakhtunkhwa on fixed pay @ Rs. 30,000/- per month for settled areas and Rs. 40.000/. per month for hard areas of the Khyber Pakhtunkhwa as per the following and conditions. Application forms can be obtained and resubmitted in all the District Head Quarter College / Coordinating Colleges of Higher Education Department, Govt. Khyber. Pakhtunkhwa and can also be downloaded from www.etca.edu.pk

Subjects:-

Arabic, Botany, Biology, Bio-Technology, Computer Science , Chemistry, English, Economics, Electronics, Environmental Science, Goegraphy, History-cum-Civics, Home Econmoles, Health & Physical Eudeation, Islamiyat, Law, Library Science, Mathematics, Micro Biology, Political Scelence, Pashto, Physics, Pakistan Studies, Psychology, Sociology, Statistics, Urdu, & Zoology.

Qualification:-

* 2nd Class Master Degree or equivalent in the relevant subject. However 2nd division holders in the subject of English can also apply. Age limit:- 22 to 32 years.

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Terms & Conditions:-

- These posts are temporary, college based and are only for a period of two years (excluding long vacations) which will be counted from the date of taking over charge.
- In case of availability of the permenent spectees of Public Service Commission/ Prontotee by PSB he appointment against these posts will stand terminated even before the prescribed period of two years. The selection will be made on the basis of ETEA Test and 3.
- academic qualification in line with the prescribed formula.
- Atlach attested copies of the educational estimonials and two fresh pusport size coloured phylographs with S.
- Incomplete forms or without documents' original bank voucher or received after due date will not be entertained. Rs,300/- must be deposited at any branch of HBL in the 6. name of Executive Director, ETEA, Peshawar and original voucher should be attached with the application form. 2% Disable/Special Person, Quota will be ubstried,
- 1% Minority Quota will be observed. 8.
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- No TA/DA is admissible for testimersies. The compotent authority can stop, postpose of cancel any 10. or all the post without essigning any reaso
- Lass dute for subintssion of application forms is 15/4/2014.

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Dated Peshawar 5th November, 2014.

NOTIFICATION

No.SO(C-II)/2-6/2014/HED/Teaching Assistants The Competent Authority is pleased to constitute a Grievance Redressal Committee comprising the following to redress all the issues related to engagement of Teaching Assistants.

- 1. Special Secretary Higher Education Department Chairman 2. Deputy Secretary (Admn) Higher Education Department Member 3. Deputy Director (Estt:) Directorate of Higher Education Member
- 4. Deputy Director (Female) Directorate of Higher Education

SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA HIGHER EDUCATION DEPARTMENT

Member

Endst: No. & Date Even

Copy forwarded to the:-

- 1. Chairman of the Committee concerne
- 2. Members of the Committee concerned
- 3. Director Higher Education, Khyber Pakhtunkhwa.
- PS to Secretary Higher Education Department.
 PA to Deputy Secretary (Colleges), Higher Education Department.

ETION OFFICER(C-II) OISTY DICIE

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BACKGROUND:-

The undersigned was nominated as Inquiny Officer by the Competent Authority to hold a Fact Finding Inquiry regarding No reply to the application submitted in case of Teaching Assistant dated 06,09,2016 in respect of Mr. Majid Khan S/O Sharif Khan and submit report in this regard (Annex-A).

History of the case reveals that the test for the post of Teaching Assistants as conducted on 27-06-2014 and the applicant, Mr. Majid Khan S/O Sharif Khan, secured 6th position in the menit list of Teaching Assistants in the subject of Chemistry in District Mardan. Candidates upto Selia No. 8 from the ment list of the subject of Chemistry were appointed, leaving behind the present applicant at serial mumber 6 which is a clear violation of metit. Since then, Mr. Majid Khan has been visiting the directorate and the administrative department but in valin. The Directorate of Higher Education vide letter No. 27495/CA II/Estt. Branch/A-12/Teaching Assistant/Mardan dated 17-10-2016 admitted that his name has been mistakenly left (Annex-B). The applicant was then informed that the Provincial Government has stopped further appointments from the list and, therefore, your request cannot be considered (Annex-

PROCEEDINGS --

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The undersigned called Mr. Majid Khan S/O Sharif Khan on 09-07-2018 to appear in person and to fumish witten statement in this regard. In compliance, Mr. Majid Khan furnished his written statement on 09-07-2018 wherein he narrated his sad story and informed that being disappointed from the Department, he has now knocked the doors of the court (Annex-D).

The undersigned also called Mr. Abdur Rashid, Deputy Director ((Sports) į 2-Directorate of Higher Education twice who was closely associated with the appointment of teaching assistants for discussion. He provided some documents relevant to the ibstant case. His main argument was that the applicant was left mistakenly and that later on his name was forwarded to the administrative department for notification but the aler refused to appoint further from the old list. The fact has been admitted by the Deputy Director (Establishment) in his letter at (Annex-B).

Finding and Recommendations:

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The plea of the complainant that he deserved to be appointed as Teaching Assistant is correct.

The Directorate of Higher Education did not forward his mame for

appointment as Teaching Assistant to the administrative

department and instead forwarded the proposals of candidates appearing at serial number 7 & 8. Thus menit was violated.

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IV.

VI.

VII.

The C-II section failed to examine the case and to ask reasons of leaving the candidate at serial number 6 while appointing the candidates at serial number 7 & 8. It seems that if the section was working under the administrative control of the Directorate at that time.

Even when the matter was reported on 17,10,2016, the section failed to initiate case for probing the matter and to bring it into the notice of the higher authorities for correction.

The plea of the directorate that the mame of the complainant was later on forwarded to the department for appointment is also not convincing because the list they handed over during the enquiry proceedings is unsigned and the mame of the complainant appears at serial number 15 and that too without any special remarks that he had been left and that two persons low in merit had already been appointed (Annex-E). The list was provided without any covering letter as no such letter is available in the files. The directorate even did not bother to write a separate letter to highlight the issue so that it could be resolved.

It may be pointed out that the Teaching Assistants have now been regularized under an Act of the provincial assembly. The complainant has a right to be appointed as Teaching Assistant. In the changed scenario, however, opinion of Law and Establishment Department is required as to whether he can be appointed at this belated stage and if yes then as a Teaching Assistant or a lecturer because his other colleagues now officiate as lecturers. Moreover, the case has already been taken up with the Establishment Department but without any results. It may be pointed out that the complainant has now taken up the issue to the count and adverse decision against the government is evident on face of the available record.

It is evident from what has been stated above that the instant issue is resulted from the collective failure of both the directorate and C-II section. There seems connivance between the officers at the directorate and the administrative department for violating the menit for ulterior motives. The case was mainly dealt by Mr. Abdur Rashid, Deputy Director (Sports) as he was custodian of the merit list and the Deputy Director (Establishment), Mr Bashir Khan, who was communicating with the Administrative Department for issuing appointment orders and SO C-II at the administrative department level. Main fault lies at the directorate firstly because of the fact that his name has not been forwarded for appointment and secondly by not properly reporting the matter when the notification was issued leaving the complainant behind. No letter is available on record to show that the directorate has properly agitated the issue clearly stating clearly that Majid khan has an established right to be appointed after two persons flow in merit have been appointed. Disciplinary proceedings may, therefore, be initiated against the above for connivance, violation of merit; misconduct and inefficiency.

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(MUHAMMADANYZ RHAN) INQUIRY OFFICER/DS((ADMN)) ANS

HIGHER EDUCATION ADDITION	
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LONE 2 DIST	RICT WISE/SUBJECT WISE

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HIGHER EDUCATION, ARCHIVES AND LIBRARIES DEPARTMENT FINAL MERIT LIST MALE CANDIDATES (ZONE 2 DISTRICT WISE/SUBJECT WISE)

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Proposal/Vacancies of Teaching Assistant In Various Colleges Of Khyber Pakhtunkhwa

S.No	Name Of Candidate	Subject		· · · · ·	A		
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/	Amir Muhammad Khan,	English	Sv	vat	04/50.99	GPGJC Saldu	AVP
	Vill & Po Baidara Moh Kozpalao Matta Swat,					Sharif Swat	
3	Sultan Ahmad S/O Mian Bakht Minosh, Sultan Clinical Lab Opp,	Bio-Technology	Sı	val	01/56.11	GPGJC Saidu Sharif Swat	AVP
	Central Hospital Saidu Swat.						4
4	Tariq Aziz S/O Ahamd, Vill. & P/O Aligrama	Urdu	S١	vat	03/53.38	GPGJC Saidu Sharif Swat	AVP
	Kabal Swat.						
5	Rashid Iqbal S/O Muhammad Nacem, Moh. Niamatkhel Vill. & P/O Aligrama kabal swat	Chemistry	S	vat	08/ 54.25	GPGJC Saldu Sharif Swat	AVP
6	Zafar Ali S/O Walayat Khan, Vill. Bagra Moh. Giro	Political Science	B	iner	02/56.94	GDC Daggar Buner	AVP
7	Daggar Buner. Rahat Subhan S/O Zamin Zada,	Statistics	S	wat	03/55.35	GDC Chamlas Buner	AVP
	Swat College Of S&T Near Oldnadra Office						
8	Saidu Swat. Muhammad Sangeen	Environmental	Chr	rsadda	02/57.39	GDC Gul	AVP
	Khan S/O Masood Khan, House No. 174, Street # 6,	Sc.				Abad Dir (L)	
	Sector L-2, Phase 3, Hayatabad Peshawar.				01/50 55		
N	9 Mohammad Bar Khan S/O Tajbar Khan,	Biology	1 7	Dir pper)	01/59.28	GDC Warai, Dir (Upper)	AVP

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FRNMENT OF KHYBER PAKHTUNKHWA IIGHER EDUCATION, ARCHIVES & LIBRARIES DEPARTMENT

Dated Peshawar, 02nd December, 2015.

NOTIFICATION

No.SO(C-II)/2-6/2015/HED/Teaching Assistants/ pursuance In _ recommendation of Grievance Redressal Committee of Higher Education Department, the Competent Authority in exercise of the powers conferred under Second Schedule Rule 5 XXXVII of the Delegation of Financial Powers Rules and Re-Appropriation Rules 2001 is pleased to engage the services of 29 (Male) persons for a period of Eleven (11) Months up to 31-10-2016 excluding long winter / summer vacations with the following terms and conditions. Terms and Conditions

- 1. Their services will be for a period from the date of notification to 31-10-2016 excluding long winter / summer vacations on a fixed pay of Rs. 30,000/- per month for the said period. They will not get pay during long winter / summer vacations (60 days dr more),
- 2. Their services will be purely temporary and they will not be deemed to be Civil
- 3. Their engagement will be purely institutional based and non-transferable. 4. Their services will be automatically terminated on the arrival of Public Service
- Commission selected or Provincial Selection Board promotee,
- 5. They will not be entitled to more than 20 days leave per annum.
- 6. They are required to report to the colleges mentioned against each, within 15 days, from the date of issuance of this notification, failing which it shall be presumed that they are not interested and the post will be filled from the merit
- 7. The Principal concerned shall be required to submit a certificate verifying
- 8. The Principal of concerned college will submit monthly evaluation report about their performance, to the Directorate of Higher Education,

9. Medical fitness and character certificates will be submitted to the Principals concerned, for onward submission to the Directorate of Higher Education, within 15 days.

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- 10. The Principal concerned will obtain an affidavit that the Teaching Assistant is not in government service and will not form any association / group.
- 11. They will not form any association / group or approach any authority directly or indirectly for regularization of their services or to extract any undue extra benefits.
- 12. The Director Higher Education is authorized to dispense with their services in case of seven (7) days willful absence from duties, misconduct and inefficiency upon the recommendation of the Principal concerned.

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S.No	Name Of Candidate	Subject	Domicile	Proposed At	Remarks
1	Adnan Khan S/O	Economics	Swat	GPGJC	AVP
	Shah Dawran,			Saidu Sharif	
	Vill. & P/O Amonat			Swat	
	Moh. Sajjadabad				
	Amankot Swat.				
2	Watan Nawab S/O	English	Swat '	GPGJC	AVP
· .	Amir Muhammad	i.		Saidu Sharif	
Č.	Khan,	ал. С		Swat	
5	Vill & Po Baidara				
ment control	Moh Kozpalao Matia				
	Swat.				
2.3	Tariq Aziz S/O	Urdu	Swat	GPGJC	AVP
25	Ahamd,			Saidu Sharif	
ř.	Vill. & P/O Aligrama			Swat	
	Kabal Swat.				
4	Rashid Iqbal S/O	Chemistry	Swat	GPGJC	AVP
	Muhammad Nacem,			Saidu Sharif	
	Moh. Niamatkhel VIII.			Swat	
	& P/O Aligrama kabal			1	• • • •
	swat	<u> </u>			
5	Zafar Ali S/O	Political	Buner	GDC Daggar	AVP
	Walayat Khan,	Science		Buner	•
	Vill, Bagra Moh. Giro				
	Daggar Buner.	1			
6	Rahat Subhan S/O	Statistics	Swat	GDC Chamla	AVP
	Zamin Zada,			Buner	
	Swat College OI S&T				and the second sec
	Near Oldnadra Office			Ø	•
<u> </u>	Saidu Swat.				·
~ 7	Muhammad Sangeen	Environmental	Charsadda	GDC Gul	AVP
н ₁	Khan S/O	Sc.		Abad Dir (L)	

Masood Khan, House No. 174, Street # 6, Sector L-2, Phase 3, Hayatabad Peshawar. GDC Warai, AVP Biology Dir Mohammad Bar Khan 8 (Upper) Dir (Upper) S/O Tajbar Khan, Vill. Satal P/O Darora Dir Upper. GDC Chitral AVP ... **⊅ir** Biology 9 Khair Rafig S/O (Upper) Khair Faqir, Vill. Chiragalai P/O Bibyawar.Dir Upper. GDC Gandaf AVP Swabi 10 Zahoor Ali S/O Urdu Swabi Gul Nabi. Moh Mirdad Khel V.P.O Yar Hussain Tehs Razzar Distt Swabi. 🗄 Ahmad Ali S/O GDC Gandaf Islamiat Swabi 11 AVF Hamdi Allah, Swabi Ahmad Ali C/O Sherin Taj Shop, Moh: Karim Dad Khel, Vill & P.O Yar Hussain The: Ahmad Ali Khan S/O Muhammad Ghawas, Muhammad Ghawas, Moh. Bari Cham Vpo Surkh Dheri Rustam Tehsil/ Dieter All His And and a start of the start of GDC Gandaf Botany Mardan AVP Swabi Cow Of Ash Mardan. Umar Ali S/O 13 Chemistry GDC Gandaf Mardan AVP Swabi Farid Khan, Village Fazal Kally P.O Manga Tehsil And District Mardan. 14 Faraz Ali S/O Political Swabi. GDC Yar AVP Liagat Ali, Science Hussain Moh Hamza Khel Swabi V.P.O Daggi Teh Razzar Distt Swabi. Murad Khan S/O 15 Chemistry Mardan GDC Toru AVP Latif Ur Rahman, Mardan Village Salo Shuta Abad P.O Lundkhwar Sultan Kaly Tehsil Takht Bhai District Mardan. 📭

Iltaf Khan S/O 16 Pak Study Nowshera GDC Khan AVP Fazal Karim, Kohi (NSR) P.O Khesgi Payan Tehs & Distt Nowshera. Govt College 17 Haroon Ur Rashid S/O Physics Karak AVP Mohammad Khan, Peshawar Vill & PO Bogara(Rangeen Khel) The. Takht Nasrati 2. Karak. GDC Abdul Ali Khan Hasham Khan S/O 18 Economics Charsadda AVP Mir Alam Khan, Dcheray Ghazi Mera Utmanzai Turangzay District & Tchsil Charsadda. 19 Lajbar Khan S/O Urdu Mohmand GDC AVP Khan Wali, Wazir Bagh Road gency Shabqadar : • (Charsadda) Govt. Superior Science College Oulababad ÿ Shah Mir Shop Peshawar City Taseer Ullah S/O 70 First & She Main Sector A north and a state of the stat History/Civics GDC Ahmad AVP Karak Shahbaz Noor, (Abad CMI Computer Acadmey Algadi Road Haji Nawaz Market Ist Flour Main City Karak. Muhammad Imran S/O 21 English Karak GDC Ahmad AVP Noor Shah Jan, Moh Isak Chutra Vill Abad & P/O High School Dab Karak. 22 Saud Ur Rehman S/O History/Civics F.R Bannu **GPGC Bannu** AVP Zaffar Ali Khan, Javed Educational And Informational Center Tanchi Bazar Bannu. 23 Yasir Jameel S/O Islamiyat Bannu GDC S.K. AVP Amjad Ali Khan, Bala Bannu Po Nar Jaffar The & Distt Bannu, 24 Mirza Ali Khan S/O English F.R.Bannu GDC Landi Zarbat Khan, AVP Jhalandar Vill Tori Khel The & Bannu -0 District Bannu, Wahld Khan S/O 25 English Bannu **GDC** Ghorl Mir Daraz Khan AVP Wala Bannu

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	٠.	H. No E-7 C & W			•	
	·	Colony Bannu,				
ŀ	26	Muhammad Banaris	Pak Study	Mansohra	GPGC	AVP
ĺ		S/0			Haripur	. :
		Mir Zaman, Vill: Darra Shohal,				
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ł	· .	C/O Khani Zaman				
		Karyana Store, Rustam				
-}	-	Bazar, Manschra.				
	28	Muhammad Imran S/O Shahzaman,	Statistics	Mansehra	GDC Lassan Nawab	AVP
		Vill and P.O: College	<u>.</u>			•
		Doraha, Moh: Chishti				
Ċ	· ·	abad, Mansehra.				
	29	Tasawar Hussain S/O	English	Mansehra	GDC	AVP
		Sarwar Hussain, Modern School			Darband Mansehra	
		System, Near Inor				
	••.	Hospital, Mansehra				
		Road, Mandian				
		Abbottabad.		i		

SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA HIGHER EDUCATION DEPARTMENT

Endst: No. & Date Even

Copy forwarded to the:-

- Accountant General, Khyber Pakhtunkhwa,
 Director Higher Education, Khyber Pakhtunkhwa, Peshawar,
 Principals of the Colleges concerned,
 District Accounts Officers concerned;
 PS to Minister for Higher Education.
- 6. PS to Secretary Higher Education Department.

Section Officer (Colleges-II) Section Officer (C-II) & Libiones Department Higher E.



Allons I DIRECTORATE OF HIGHER EDUCATION KHYBER PAKHTUNKHWA, KHYBER ROAD PESHAWAR

CA-III Estt: Branch/A-12/ General File /T.A

Dated Peshawar the 🚺 /2015

The Special Secretary Govt; of Khyber Pakhtunkhwa Higher Education Department Peshawar.

SUBJECT <u>POSTING PROPOSAL OF TEACHING ASSISTANT.</u> Dear Sir,

ı ¹

To

I am directed to refer to the subject cited above and to send the proposal of Teaching Assistant as discussed in the meeting held on 14.07.2015 under the Chairmanship of Special Secretary Khyber Pakhtunkhwa for further necessary action, please.

Yours Faithfully,

(Mohammad Bashir) DY: DIRECTOR (ESTABLISHMENT)

GOVT. OF KHYBER PAKHTUNKHWA HIGHER EDUCATION, ARCHIVES & PLIBRARIES DEPARTMENT

No. SO (C-II) HED /2-6/TA/2015. /448 Dated Peshawar the 06.04,2016. /448

The Director, Higher Education, Peshawar.

Reallisan Dibeen. SECTION OFFICER (COLLEGES-11)

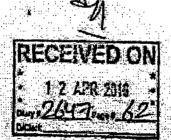
SUBJECT:

To,

REQUEST TO REDRESS GRIEVANCES AND APPOINT AGAINST

L am directed to refer to your letter No.5866 dated 23.02.2016 on the subject noted above and to state that the Competent Authority has acceded to the propsal with regard to closing of the merit list for appointment of Teaching Assistants.

No further requests for fresh recruitment shall be entertained.



DIRECTORATE OF HIGHER EDUCATION KHYBER PAKHTUNKHWA, HYBER ROAD PESHAWAR # 091-9210242, 9211025/Fax # 9211803 CA-II/ Ester Branch / A-12/ Teaching Assie/ Mirely.

The Secretary Govt; of Khyber Pakhtunkhwa, Higher Education Department Peshawar.

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SUBJECT	
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Τo

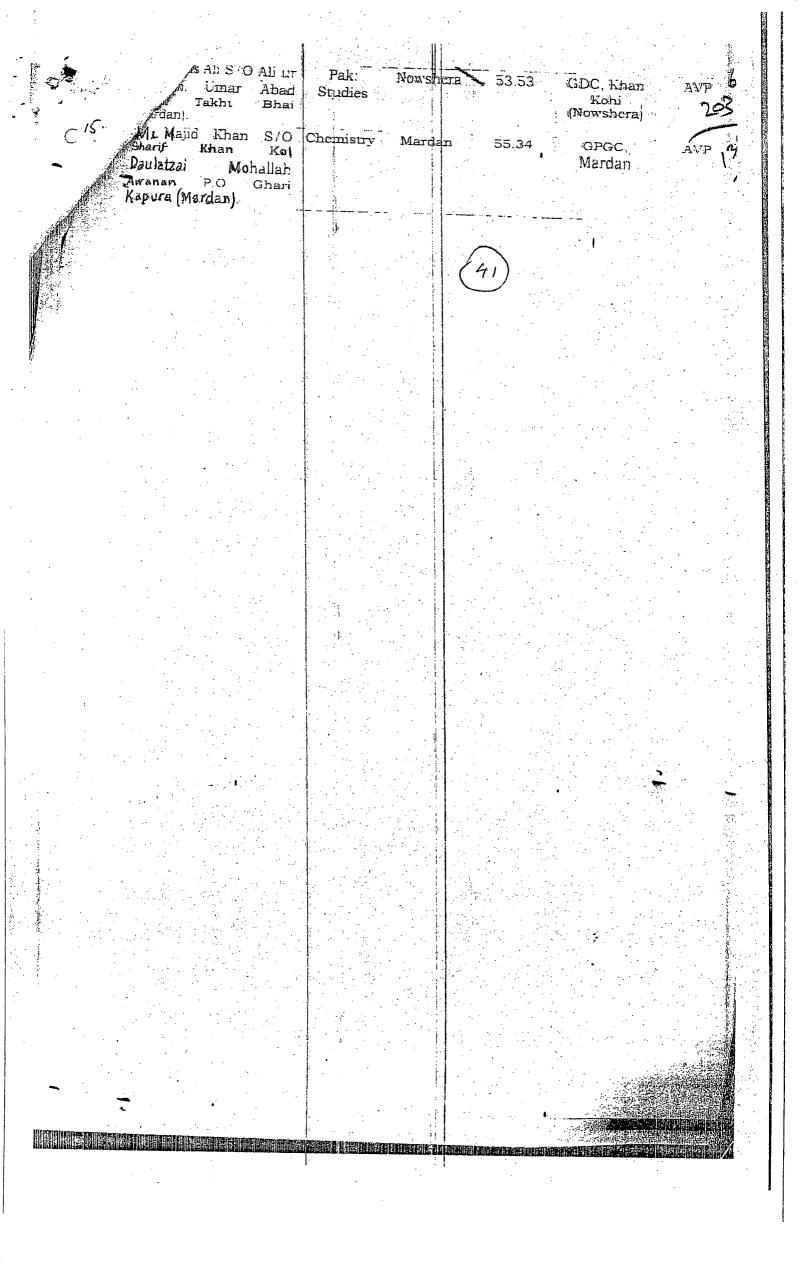
CONSIDERATION OF MY NON MERITORIOUS CASE AMONGST CANDIDATES (2ND DECEMBER, NOTIFICATION IN Dear Sir, 2015). A'C

I am directed to refer to your office letter No. SO (Colleges-II) /IIED/2-6/TA/731 dated 06.09.2016 on the subject cited above and to state that Mr. Majid Khan S/O Sharif Khan domiciled of District Mardan falls at S. No. 06 in the merit list of Teaching Assistant in the subject of Chemistry while appointment in the subject of Chemistry has been madeupto S.No. 08. The name of the above-mentioned candidate was mistakenly left from the appointment of Teaching Assistant. But the candidate didn't appeal at the right time. Before issuing the appointment order of Teaching Assistant vide Notification No. SO (Colleges-II)/2 6/2015/11120/Teaching Assistant dated 02.12.2015, a proposal for appointment of Teaching Assistant was prepared and the name of the above candidate was included for appointment at S. No. 15, but the Provincial Government stopped further appointments of Teaching Assistant vide letter No. SO (Colleges-II)/HED/2-6/ Teaching Assistant/2015/ 4-18 dated 06.04.2016. Copy enclosed for ready reference, please.

Yours Faithfully DY: DIRECTOR (ESTABLISHMENT) Munawar John 'Tetter Folder/ (Jocuments-S) 1.11

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		and 1	UNKHWA d	lated 30.1	<u>1.2015.</u>	2
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	Mr. Suleman S/O Sala	h Pol:	Bannu	08/54.21	V AT	
	ud Din, H. No. C/3 Sta Colony. GDC, Kobe	ff Science		00704.21	GPGC. Bannu	AV
	Road Peshawar				· 1.	
2	Mr. Maaz Qazi S/O Qaz Razi ud Din. Street No	zi Chemisury	Peshawar	07/57.07	GC.	11
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	Mr. Fidaullah Khan S/O Mohammad Ayub Khan,	Urdu	Bannu	⁺ 06/54.59	GPGC	A 7 7-
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	· Lakki District Bannu.					
6	Mr Hay Nawaz S/C Abdul Hameed. Village		Malukand	03, 53.72	GDC, Palai	· · · · · · · · · · · · · · · · · · ·
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- 7.	Dhanda Malakand. Mr. Jamil Khan S/O					
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9	Mr. Mohammad Jahan	Волапу	Matrian	04/53.83		· · · ·
۰ ب	SIO Gul Mir. Village Umar Abad P.O Umar	• • •		- ₩7/23.83	GDC, Katlang	AVP
. •	Abad Tensil Takhi Bhail			•	(Mardan)	
. 10.	Masaan					
	Mr. Liagat Ali S/O Wahab Gul. Mohailah	English	Martan	09/53.95	GPGC.	AVP
	Kooz Kanday Village				Mardan	
• • • • •	Baghdada near GHSS Baghdada Mardan			•		• • •
i.l •	Mr. Shams ud Din S/O	Urdu	Abbert	00		
	Abdur Rasheed, Mira		Abbourabad	03/44.72	GPCC,	AVP
· . · ·	Saidan PMA Kakool Abbultabad				Mândian (Abboilabad)	
12	Mr. Riaz Ahmad Stor	Zoology	Charsadda		· · · ·	
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13	Mr. Srfan Khan S/O	Urdu	Peshawar	04 / 49 00	GC.	AT 17-
R .	Mumtaz Khan. Posial Address Kanal Road Doura				UL. Peshawar	AVP
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GOVERNMENT OF KHYBER PAKHTUNKHWA HEALTH DEPARTMENT

NC.AS(D)/HD/1-1/Inquiry /2019 Peshawar, the 09th January, 2020

The Secretary Government of Khyber Pakhtunkhwa, Higher Education, Achieves & Libraries Department.

DISCIPLINARY PROCEEDINGS ACAINST MUHAMMAD ASSISTANT PROFESSOR (B-18) BASHIR, CURRENTLY WORKING AS DEPUTY DIRECTOR (ESTT) AND MR ABDUR RASHID. LECTURER (HPE), WORKING DEPUTY DIRECTOR (SPORTS) HIGHER EDUCATION. KHYBER PAKHTUNKHWA

Jespented Sir,

subject:

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Please refer to Section Officer (C-II), Government of Khyber Pakhvonldawa Higher Education Department | letter No. SO(C-II)/HED/ 2-6/2019/Majie Khan /TA/5038-39 dated 11-11-2019 on the subject noted above. the loculty Report of Officers of Higher Education Department is enclosed neres ith for further necessary action.

> 2020 (KALINI ULLAH BALOCH) ADDITIONAL SECRETARY (DEV)

Endost: of even No. and Date:

Cory of the above is forwarded to the

Director, Higher Education, Khyber Pakhtunkhwa

Section Officer (C-II), Higher Education Department, Khyber Pakhurikhwa. PA to Deputy Secretary (Colleges), Higher Education Department, Khyber 3. Pakhtunkhwa.

ADDITIO AL SECRETARY (DEV)

INQUIRY RI PORT

PROCEEDINGS AGAINST MUHAMMAD DICIPLINARY (BPS-18) SUBJECT: PROFFESSOR ASSISTAN CURRENTLY WORKING AS DEPUTY DIRECTOR (ESST) AND MR. ABDUR RASHID, LECTURER (HPE) WORKING AS DEPUTY DIRECTOR (SPORTS) HIGHER EDUCATION, KHYBER PAKHTUNKHWA

BACKGROUND

As per letter dated 11/11/2019, (ANNICX-A) Hen ble Chief Secretary Khyber Pakhunkhwa has nominated the undersigned as an enquiry officer for conducting formal inquiry against Mr. Muhammad Bashir, Assistant Professor (BPS-18) currently working as Deputy Director (Listablishment) Directorate of Higher Education Department and Mr. Abdur Rasl id, lecturer (HPE) (BPS-17) working as Deputy Director (Sports) Higher Education, Khyber Pakhuurkhwa. Copies of statement of allegations and charge sheet in respect of both accused were found attached (ANNEX-A). In this case fact finding enquiry (ANNEX-B) was earlier conducted by Mr. Muhammad Ayaz klan DS (ADMN), Higher Education Department.

A brief background is that Higher Education department advertised posts of Teaching Assistants and a test was conducted on 27-06-2014 by ETEA. One applicant named Mr. Majid Khan s/o Shanit Khan, secured 6th position in the menit list of Teaching Assistants in the subject of Chemistry in District Mardan, Candidates upto serial No. 8 from the ment list in the subject of Chemistry, District Mardan were appointed while Mr. Majid Khan at strial No. 6th was left not appointed. Mr. Majid Khan visited Higher Education Depa tment / Directorate of Higher Education Department many times. At last Higher E lucation Department informed him that provincial Government has stopped further appointments and his request cannot be entertained at this stage. Being aggrieved by this reply, he filed a wait petition in Peshawar High Court and won the case. Higher Education department went into CPLA against him which is still pending in the Angust Supreme Court of Pakistan. Mr. Majid Khan has not been appointed up ill now while those who were appointed have been regularized. Higher Education Department conducted fact finding inquiry which became the basis of this enquiry. Her se this enquiry.

PROCEEDINGS

Charge sheet and statement of all gations were forwarded to the accused Mr. Muhammad Bashir, Assistant Professor (BPS-18) connently working as Deputy Director (Establishment) Directorate of Tigher Education Department and Mr. Abdur Rashid lecturer (HPE) (BPS-17), we sking as Deputy Director (Sponts) Higher Education, Khyber Pakhtunkhwa with the direction to appear before the inquiry officer on 26/11/2019 at 2.00PM along with their verbal/written circumstantial evidence in their defense through letter deted 14/11/2019 (ANNEX-C).



Page 1 of 6

(ANNEX-IC II). Gist of their statements is as follows:vituen reply Abdur Rashid is at (AWNEX-E). Later on accused Abdur Rashid submitted abother IN JO YIGHT WITH WITH DIE (U-XINNA) IS SI THREE DEFINITED TO HISTISTICS before inquiry officer. Both of them submitted their written neply & statements. The On 26/1 W2019 Mr. Muhammad Bashir and Mu. Abdur Fashid appeared

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unsintenned in transparent manuer an department department	nggil al (and) bijely of fiseque zid to aoneoubel rought	IV. That he has created embarassment and brought bad name to the brought bad name to the brought bad name to the deserving candidate from his right and consequent unnecessary litigation.	and the second
A copy of duly signed final medi list was submitted in the office of Secretary Highe Education and Education.	opportunity of his defense by the fact finding inquiry officer.	III. That he being custodian of the ment list concessed the factual position and misied the Administrative Department, which is a gross misconduct.	
Majid Khan did not todge any countint against his uncut couct, while sending proposals while sending proposals while sending proposals while sending proposals	tesosioni guidisnoqan Viikdisnoqan Viikdisnoqan	insm sub betalorv sH tarlf II csimen sub gaibuswrol yd garse bridseb stabibass 10 iol trism af wol garlessi za mennioqqs of matsizzA	a sa
Gist of teply of Mr. Abd-ur-Rashid (Accused) His job was to compile ment list not to forward proposal for sppointment.	Director as he logical of Dy. Director as he logical clarge on 09.05.2015 steed bers for soul area held on		

(J-XIMNV) directed to appear before enquiry officer story with complete relevant second Education department. Section Officer (C-II) Higher Education Department was appointed. The said notification was issued by Section Officer (C-II) of Higher sish in the field we left and when two candidates below him in the ment liter were meanings and the appointments notification wherein the aggricued complainant available. For example Notification of Carbwances Reducesal Comminee, Minutes of

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On 3rd December 2019 Section Of icer(C-II) and both accused appeared before undersigned along with record. Notification of grievance redressel committee (ANNEX-G) was produced but supporting file of the notification was not produced. Accordingly they were directed to appear again on 13th December 2019 along with complete record.

On 13th December 2019 appointment notification of candidates at serial No. 7 and S (ANNEX-II), was produced but mir ness of gnievances redressal committee meeting in which candidates at Serial No 7 and 8 were recommended, were not made available. Section Officer (C-II) Higher Education Department was again directed to appear before undersigned on 19th December 2019 along with supporting documents.

On 19/12/2019 both of the accused i ppeared before undersigned. Note sheet of approval of list/proposal wherein candidites at serial No. 7 and 8 were proposed for appointment was also produced (ANNI X-I). Written statement of witness, Mr. Amjad Ali Senier Clerk Directorate of Hig ier Education Department was recorded (ANNEX-J). He was also cross examined, I & Anajad Ali senior clerk Directorate of Higher Education Department stated that II a/proposal excluding candidate at serial No. 6 (Majid Khan) and including names of candidates at serial No. 7 and 8 and was given to him by Abdu- Rashid (accused) for approval, which he processed. Mimmes of meeting of grievances reduces committee, in which candidate at serial No. 7 and 8 were recommended for selection, was again not produced to the undersigned and accordingly they were directed to produce s id minutes in next hearing.

On 01/01/2020 Mr. Tabir Khan Section Officer (C-II) Higher Education Department submitted written certificat/statement (ANNEX-K), stating that relevant record was not traced in relevant sections although these documents were thoroughly searched by Mr. Abid Hussain, ex-record keeper with help of Mr. Sawood Akhtar, junior clerk/ present record keeper. Statement of Mr. Abid Hussain, ex-record keeper is at (ANNEX-L). At per record of Directorate of Higher Education one meeting of Grievance Redressel Committee was held on 10/12/2014. The minutes of this meeting are available at (ANNEX-M). It was decided in this meeting that in future all proposals for the appointment of Teaching Assistants will be forwarded by Directorate of Higher Education. The second meeting of Grievance Redressal Committee was held on 27-02-2015. The minutes, attendance sheet etc of this meeting were also not produced to the Laquiry Officer.

Comments on the reply of accused. Bashir Ahmad

Charge No. 1

Here the charge is that he intentionally did not forward the name of a deserving candidate Mr. Majid Khan. The accused replied that he was not holding the post of Deputy Director. He says he took charge of Deputy Director on 09-05-2015. The reply of accused is not satisfactory because this incident of violation of merit happened in the notification dated 02-12-2015 during his tenure. Moreover, he signed and forwarded the proposal/list wherein applicant Mr. Majid Khan was left and two other candidates below him were recommended. Copy of Note sheet is available in the record

Page 3 of 6

(Annex-T). By virtue of his post as Dep ny Director Establishment, it was his duty to ensure that each and every cand date included in the proposal/list, do meet requirement of merit as per merit list, which he badly failed.

Charge No. 2

Here the charge is that he forwarded names of candidate who were low in merit. The accused reply that he was not assigned any responsibility and Deputy Director Sports was the focal person. The reply is not satisfactory. Here it is immaterial whosoever gave him this proposal/list to further pracess it. He forwarded the said proposal to Director Higher Education which was approved by Director and sent to Secretary Higher Education Department. This error or omission was neither corrected by him nor by Director Higher Education and nor by Secretary Higher Education Department office. Apparently all dealing hands are responsible for this act of omission or error.

Charge No. 3

Charge is that he concealed the factual position and misled the Administrative Department. The accused reply is that he was not given an opportunity of his defence in the fact finding inquiry. Here the reply is inclevant. But during this inquiry the accused was given am de opportunity for his defence. He was heard patiently five times. He could not deny the Note sheet with his signature wherein he forwarded the proposal/list to Director Higher Education Department for approval.

Charge No. 4

The charge is that he created embana smeat for the Department by dephiving a deserving candidate from his right and consequent unnecessary litigations. The reply of the accused is that he forwarded the complainant request which was regretted by the Administrative Department. Here again his reply is irrelevant.

Comments on the reply of accused, Abdu-Hashid

Charge No. 1

Here the charge is that he intentionally did not forward the name of a deserving candidate Mr. Majid Khan. The reply of the accused is that he compiled the merit list and it was not his job to forward proposals for appointment to the Administrative Di partment. This reply is not satisfactory. As it transpired during the procee lings that the accused (Abdu Rashid) designation was Deputy Director Shorts but he was also dealing with the issues of Teaching Assistants appointment at Directorate level. The same viewpoint was also endorsed by on witness Mr. Amjid Khan, senior clerk Directorate of Higher Education Department who stated in his written statement that proposal/list where a deserving candidate Mr. Majid Khan was left and two other candidates below aim in merit list were proposed was sent by accused Mr. Abdur Rashid, whic the (Amjid Senior Clerk) processed and put up. In the Note part, there is no signature of accused (Abdu-Rashid). The other accused Mr. Basheer Ahmad 5 gaps the hote part, and sent it to Director

Rage 4 of 6

Higher Education Department (Annex-VIII). Whosoever finalized this proposal / list, one thing is clear that accused Abdu Rashid was surely included in the process of preparation of this proposal / list.

Charge No. 2

Here the charge is that he forwarded names of candidate who were low in merit. The reply of accused is that complainant did not question his order in the merit list. While sending proposals for appointment was not his duty. (Comments may please be seen as in Charge No. 1)

Charge No. 3

The charge is that he concealed the factual position and misled the Administrative Department. The reply of accused is that a duly signed copy of final merit list was submitted in the office of Secretary Higher Education. It was also displayed on ETEA website. The reply seems correct as merit list was not something secret or confidential. It was well published on ETEA Website. It was a public document. Anyone can check it. But unfortunately its proper implementation /execution could not be made in this case.

Charge No. 4

The charge is that he created embarrassment for the Department by depriving a deserving candidate from his right and consequent unnecessary lingations. The reply and comments may be seen as mentioned in charge No. 1 above; please.

FINDINGS

- On the basis of merit list of test conducted on 27-06-2014, by EIEA, total five appointment orders were issued, on different dates, from 30-10-2014 to 02-12-2015 by the Higher Education Department. In all these appointment orders total 1187 candidates were appointed as Teaching Assistents. This case relate to an appointment order dated 02-12-2015, wherein 32 candidates were appointed.
- 2) During inquiry proceedings the main focus remained on the appointment order dated 2-12-2015 wherein, Mr. Majid Khari (Merit position 6th) was left and candidates at merit position 7th & 5th below him were recommended / appointed, and later on regularized.
- Grievances Redressal Committee was notificil on 5th November, 2014 to redress all issues about Teaching Assistants. It was headed by Special Secretary, Higher Education Department.
- 4) Minutes of grievance redressal committee where in candidates at Serial No 7 and 8 were recommended and Mr. Majid Khan a deserving candidate at S.No. 6, was left, are missing and in this regard Section Officer (C-II). Higher Education Department, his staff and directorate of Higher Education were directed to furnish these documents but they failed.
- 5) As per witness Mr. Amjad All, senior clerk Directorate of Higher Education Department, a proposal/list excluding caudi late at senial No. 6 (Majid Khan) and including names of candidates at serial No. 7 and 8 and was given to him for approval of Director Higher Education Department by the accused Mr. Abdu Rashid.

Page 5 of 6

His written statement is at (ANNEX-N). It means Mr. Abdu Rashid was dealing with the appointment related issues of Teaching Assistants.

(i) he list / proposal of candidates was forward al to Director Higher Education for approval by accused Deputy Director Higher Iducation Muhammad Bashir on 14-17-2015 (ANNEX-I) without ensuring as to whether this list / proposal is in accordance with merit list or otherwise.

7) No corruption or malafide was found on the part of both accused.

- 8) It may be an act of error, omission, laxity or in: finciency.
- 9) Its outcome/ result is that a deserving candidat : (Mr. Majid Khun) has suffered a lot and he is still suffering and wandering from pil ar to post.

CONCLUSION

Charges against accused Muhammad Bashir

Charge No. 1 Partially proved	
Charge No. 2 Partially proved	N.
Charge No. 3 Partially proved	
Charge No. 4 Pestially proved	

Charges against accused Abdu Rashid

· · · · ·	
Charge No. 1	Panially proved
Charge No. 2	Partially proved
Charge No. 3	Partially proved
Charge No. 4	Partially proved

Recommendation:

- Secretary Higher Education Depa tment may like to further probe that as to how and why the important of ficial record, minutes of meeting, note part, attendance sheet, approvals, final recommendations and decision are missing regarding the appointment Notification No. SOC-IP2-6-2015/HED/Teaching Assistant dated 02-12-2015 in his office.
- 2) The Competent Authority may like to provisionally appoint a deserving candidate Mr. Majid Khan s/o Sharif Khan District Mardan as Teaching Assistant in his subject Chemist y in compliance with Peshawar High Count Judgment Order in writ petition No. 4280-P 2017 (ANNEX-O) subject to final decision by August Supreme Court of Pakistan in CPLA.

Kalimullaj/Khan Baloch Additional Scoretary PMS(BS-19)/ (Inquiry Officer) ****

SHOW CAUSE NOTICE

1. Mahmood Khan, Chief Minister Khyber Pakhtunkhwa, as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve you, Mr. Abdur Rashid, Lecturer (HPE), currently working as Deputy Director (Sports), Higher Education, khyber Pakhtunkhwa, as follow:-

That consequent upon the completion of inquiry conducted against you by Inquiry officer, for which you were given opportunity of hearing.

49

ii. On going through the findings of the Inquiry Officer, the material on record and other connected papers including your defence before the Inquiry officer.

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

(b) guilty of misconduct .

i.

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of <u>the said</u> under rule 4 of the said

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.

If no reply to this notice is received within seven days or not more than filteen 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.

A copy of the findings of the inquiry officer is enclosed.

(Mahmood Khan) CHIEF MINISTER, KHYBER PAKHTUNKHWA

Tool .

Mr. Abdur Rashid, Lecturer in HPE (BS-17), Currently working as Deputy Director (sports) Directorate of Higher Education

SHOW CAUSE NOTICE

(Ś~)

l, Mahmood Khan, Chief Minister Khyber Pakhtunkhwa, as competent authority, under the Khyber Pakhtunkhwa Government Scrvants (Efficiency and Discipline) Rules, 2011, do hereby serve you, Mr. Muhammad Bashir, Assistant Professor of Political Science (BPS-18), currently working as Deputy Director (Estt:), Higher Education, Khyber Pakhtunkhwa, as follow:-

That consequent upon the completion of inquiry conducted against you by Inquiry officer, for which you were given opportunity of hearing.

On going through the findings of the Inquiry Officer, the material on record and other connected papers including your defence before the Inquiry officer.

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

(b) guilty of misconduct

i

ii.

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of <u>the said</u> under rule 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 inquiry officer is enclosed.

(Mahmood Khan)

CHIEF MINISTER, KHYBER PAKHTUNKHWA

Mr. Muhammad Bashir, Assistant Professor Political Science (BS-18), Currently working as Deputy Director (Estt.) Directorate of Higher Education



GOVT. OF KHYBER PAKHTUNKHW HIGHER EDUCATION, ARCHIVES & LIBRARIES DEPARTMENT

Dated Peshawar the 29th June, 2021

NOTIFICATION

No.SO(C-II)/HED/2-6/2019. WHEREAS Mr. Muhammad Bashir, Assistant Professor (BS-18), currently working as Deputy Director (Estt:) Directorate of Higher Education was proceeded against under the Khyber Pakhtunkhwa Govt. Servants (Efficiency & Discipline) Rules, 2011 for the charges mentioned in the Charge Sheet and Statement of Allegations.

21

. AND WHEREAS the Competent Authority appointed Mr. Kalim Ullah Baloch, 2. (PMS BS-19) Additional Secretary, as Inquiry Officer to conduct inquiry against the accused officer for the charges leveled against him in accordance with the Law/Rules.

AND WHEREAS the inquiry Officer has examined the charges, evidence on 3. / record and explanation of the accused officer, submitted his report.

4. AND WHEREAS the Competent Authority served the accused officer with Show Cause Notice for tentatively proposing imposition of minor penalty of "Withholding two annual increments for one year"

AND WHEREAS the Competent Authority, upon receipt of the reply to show 5. cause notice submitted by the accured officer, under Rule-15 of the Rules ibid, appointed Mr. Muhammad Israr, Secretary Agliculture Department, to afford him the opportunity of personal hearing on his behalf.

5. AND WHEREAS the Inquiry Officer after having examined the charges, evidence on record and explanation of the accused officer has recommended that the officer has committed the act of omission and irresponsibility by depriving a meritorious candidate from appointment.

NOW THEREFORE, the Competent Authority after having considered the 7. charges, evidence on record, report of the inquiry officer, and in exercise of powers under Rule-14(3) of the Khyber Pakhtunkhya Govt. Servants (Efficiency & Discipline) Rules, 2011 has been pleased to confirm the minor penalty of "Withholding two annual increments for one year" of Mr. Muhammad Beshir, Assistant Professor (BS-18), currently working as Deputy Director (Estt.) Directorate of Higher Education.

ENDST: NO. & DATE EVEN.

SECRETARY, HIGHER EDUCATION DEPARTMENT

HP REHMAN

Copy forwarded to the:-

- 1. Accountant General, Khyber Pakhtunkhwa, Peshawar
- 2. Director Higher Education, Hhyber Pakhtunkhwa, Peshawar.
- 3. Deputy Director-IT, HEMIS Cell, Higher Education Department. Mr. Muhammad Bashir, Assistant Professor (BS-18)/Deputy Director (Estt:), Directorate of Higher Education.
- 5. PS to Secretary Higher Education Departm ent. 6. Master File.

2014

Directorate of higher education

Khyber Pakhtumkhwa

Rano (Jarhi, Peshawar

E-mail:- <u>dhekokpesh@gmail.com</u> Facebook.co n/dhekopeshawar Twitter.com/dhekopeshawar

CA-I/ Est: Branch/A-12/Muhd Bashir/ His cum-Polisci Dated Peshawar the

The Secretary Govt; of Khyber Pakhtunkhwa Higher Education Department, Peshawar.

SUBJECT

No

To

REVIEW PETITION UNDER RULE-17 OF KHYBER PAKHTUNKHWA GOVT; SERVANTS (EFFICIENCY AND DISCIPLINE) RULES, 2011 AGAINST THE IMPUGNED NOTIFICATION NO. SO (OOLLEGES-II)/ HED/ 2-6/2019 DATED 29.06.2021 HEREBY MINOR PENALTY OF "WITHHOLDING TWO ANNUAL INCREMENTS FOR ONE YEAR" HAS BEEN IMPOSED UPON MR. MOHAMMAD BASHIR, ASSISTANT PROFESSOR (B-18), CURRENTLY WORKING AS DEPUTY DIRECTOR (ESTT:), DIRECTORATE OF HIGHER EDUCATION, KHYBER PAKHTUNKHWA السلام عليكم

Respected Sir,

I am directed to refer to the subject cited above and to enclose herewith the review petition to the Competent Authority submitted by Mr. Muhammad Bashir, Deputy Director (Estt.), Local Directorate through proper channel for onward submission and appropriate action, please.

SSISTANT DIRECTOR (ESTT:

2:121

The Honorable Chief Minister, Khyber Pakhtunkhwa. As Competent Authority.

Through: Subject:

To

PAKHTUNKHIMA PROPER CHANNEL 17 OF KHYBER DISCIPLINE SERVANTS (EFFICIENCY AND RUN PETITION THE IMPLIGNED NOTIFICATION NO.SO (C-I) WHEREBY PENALTY OF "WITHHOLDING TWO ANNUAL INCREMENTS EAR"HAS HEEN IMPOSED • AS BASHIR, ASSISTANT PEDE (B-18), CURRENTLY DEPUTY DIRECTOR (EST[) DIRECTORATE OF HIGHER EDUCATION.

Respected Sir, السلام عليكم

grounds:

1. That the accused petitioner was neither given the chance to present written documents with cogent proofs pertaining to his non-involvement in the case nor was orally heard to prove his innotence which is violation of basic legal right as law requires that full opportunity of defence may be provided to

2. That the personal hearing was conducted in undue haste and both the departmental representatives of the department and Directorate. HED are eve witness to this fact that pro and contra of the case were not threadbare discussed nor the accused petiticner was questioned and cross- questioned, hence his basic right under the rules got infringed.

3. The cogent proof of non-involvement of Deputy Director (Establishment) in the proposal process and involvement of other officers - Deputy Director (Sports) and those officers who attended the meeting of Grievance Redressal Committee in proposal making, is evident from their hand written remarks at Serial No. 19 and 20 duly encircled (F/A) in respect of Ahmad Ali Khan S/O Muhammad Ghawas and Umar All S/O Farid Khan respectively at Serial No 12 and 13 of the notification (F/B) raspectively who were proposed both at GEIC, Gandaf (Swabi) and the same was admitted before the inquiry officer during formal proceedings by Mr. Amild Khan, the then Senior Clerk (C-1) Establishment Section, Directorate of Igher Education and also gave in written to the inquiry officer that the proposal was handed over to him by Deputy Director (Sports) (copy of formal inquiry report attached). Proposing other candidates with hand written remarks by the Ex-Director and the stations/colleges by Deputy Director (Sports) on the said proposal and not the undersigned clearly manifest their involvement.

- 4. In the whole process of appointment of Teaching Assistant, the accused petitioner did not attend a single meeting pertaining to any issue of Teaching Assistants. During formal proceedings this fact was clearly stated by Mr. Abid, the then Class-IV working at C-II section, Higher Education Department at the time.
- 5. Even the pattern and font of the printed proposal clearly reflect that it was not prepared by the section of Directorate (Male Establishment Section) and it was brought from either Secretariat or some other section.
- 6. That as soon as the complainant filed his appeal the undersigned vehemently supported his case on factual Crounds as is evident from the proposal and note sheet (F/C). Even the note sheets clearly unveil that the same case was discussed by the office assistant with another officers.
- PRAYER: It is humbly prayed that on acceptance of the instant review petition, the impugned notification No. SO(C-II)/HED/2-6/2019/2160-63 Dated 29.06.2021 whereby the minor penalty of "Withholding of two annual increments for one year" has been imposed upon the accused officer, may graciously be set aside and I may be exonerated, please.

1617/2021.

Muhammad Bashir Deputy Director (Estt;) Directorate of Higher Education, Knyber Pakhtunkhwa, Peshawar



GOVT. OF KHYBER PAKHTUNKHWA HIGHER EDUCATION, ARCHIVES & LIBRARIES DEPARTMENT

Dated Peshawar the 25th October, 2021

NOTIFICATION

No.SO(C-II)/HED/2-6/2019, WHEREAS Mr. Muhammad Bashir, Assistant Professor (BS-18), currently working as Deputy Director (Estt:) Directorate of Higher Education was proceeded under the Khyder Pakhtunkhwa Govt. Servants (Efficiency & Discipline) Rules, 2.

AND WHEREAS the Inquiry Officer after having examined the charges, evidence on record and explanation of the accused officer has recommended that the officer has committed the act of omission and irresponsibility by depriving a meritorious candidate from appointment. 3.

AND WHEREAS the Competent Authority after having considered the charges, evidence on record, report of the inquiry officer, and in exercise of powers under Rule-14(3) of the Khyber Pakhtunkhwa Govt. Servants (Efficiency & Discipline) Rules, 2011 has been imposed the minor penalty of "Withholding of two annual increments for one year" upon Mr. Muhammad Bashir, Assistant Professor (BS-18), currently working as Deputy Director (Estt:) Directorate of Higher Education.

4 NOW THEREFORE, the Appellate Authority after having considered the appeal of the penalized officer, and in exercise of the powers under Rule 17(2) of the Khyber Pakhtunkhwa Govt. Servants (Efficiency & Discipline) Rules, 2011 is pleased to uphold minor penalty of "withholding of two annual increments for one year" and regret the appeal of Mr. Muhammad Bashir, Assistant Professor (BS-18), currently working as Deputy Director (Estt:) Directorate of Higher ducation.

SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA HIGHER EDUCATION DEPARTMENT

ENDST: NO. & DATE EVEN.

- Copy forwarded to the:-
- Accountant General, Khyber Pakhtunkhwa, Peshawar.
 Director Higher Education, Khyber Pakhtunkhwa, Peshawar.
- 3. Deputy Director-IT, EMIS Cell, Higher Education Department.
- 4. Mr. Muhammad Bashir, Assistant Professor (BS-18)/Deputy Director (Estt:), Directorate of Higher Education,
- 5. PS to Secretary Higher Education Department.
- 6. Master File.

SECTION OF

BEFORE THE KHYBER PAKHTUNKHWA SERVICE **TRIBUNAL PESHAWAR**

WAKALATNAMA (Power Of Attorney)

(Petitioner) Bashi Muhammad (Applicant) (Appellant) (Complainant) (Decree Holder) Chief Scretzy Gothus (Respondent) (Defendant) (Accused) (Judgment Debtor)

The undersigned

Applied, do hereby appoint Mr. Akhunzada Ahmad Saeed, Sumue Advocate to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our counsel in the above noted case and with the authority to engage /appoint an other Advocate/Counsel on my/our behalf in my/our case and that my/our counsel will not appear whenever a strike call is made by the PBA, PHCBA, KP Bar Council, Pakistan Bar Council or by any other representative body of the lawyers' community, Furthermore, my/our counsel shall not be liable for any acts on my/our behalf, if I/we have furnished an incorrect information or mis-statement and that my/our counsel shall not be liable for any disciplinary action in case of his default in the aforesaid delegated authority, matter, without any liability for their default and with the authority to engage/ appoint any other Advocate/Counsel at my/our matter.

Attested & Accepted By

I/ We,

Akhunzada Ahmad Saeed (bc-11-1885) Advocate High Court, Peshawar Office: 15-B, Haroon Mansion, Khyber Bazar, Peshawar Cell No.0333-2902529

M. Bashir

in the above noted

(Plaintiff)

Signature of Executants

Muhammad Bashis Deputy Director Directmate of Higher Education

GS&PD-444/1-RST-12,000 Forms-22.09.21/PHC Jobs/Form A&B Ser. Tribunal/P2

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR. JUDICIAL COMPLEX (OLD), KHYBER ROAD, PESHAWAR. SB Appeal No. 7779 Muhammaed BashirAppellant/Petitioner The Chief Secy, Govt of KPK, Civil Secretariat Pest. Respondent No. Notice to: - The Director, Directorete of Higher Education KPK, Chamkomi Mor Peshawar

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this

office Notice No.....dated.....

The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
 Always quote Case No. While making any correspondence.

Note:

GS&PD-444/1-RST-12.000 Forms-22.09.21/PHC Jobs/Form A&B Ser, Tribunal/P2

SB

"R"

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

PESHAWAR.

No.

Appeal No. 77779 of 2021 Muhammad Bashir Appellant/Petitioner

The Chief Secy, Goul of KPK, Civil Secretariat, Respondent Respondent No. (1)

Notice to: - The Chief Secy, Gout of KPK, Civil Secretariat Peshowar.

WHEREAS an appeal/petition under the provision of the Khy ber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been order red to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal appellant/petitioner you are at liberty to do so on the date fixed; or an y other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner, aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this

office Notice No.....dated.....

Day of For Reply) Registrar, Khyber Pakhtunkhwa Service Tribunal, GOVI Peshawar.

Note:

The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays. Always quote Case No. While making any correspondence.

GS&PD-444/1-RST-12,000 Forms-22.09.21/PHC Jobs/Form A&B Ser. Tribunal/P2

"B"

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

No.

Appeal No. 7779 Muhammad Bashir of 20**2 1**Appellant/Petitioner The Chief Secy, Gost of KPK, Civil Secretariot Pesh. Respondent Notice to: _ The Sery Higher Education Archives & Libraries Deptt: KANK Perhawar

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this

office Notice No.....dated.....

1.8% Given under my hand and the seal of this Court, at Peshawar this...... March ...20 22 Day of..... Re pli/ For Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays. Note: 1. Always quote Case No. While making any correspondence. 2

GS&PD-444/1-RST-12,000 Forms-22.09.21/PHC Jobs/Form A&B Ser. Tribunal/P2

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1 1

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

No.

110.	Appeal No. 7779 of 2022	
	Muhammad Boshir Appellant/Petitioner	
The.	Chief Secy, Gurt of KPK, Civil Secretariat Pesh. Respondent	
	Respondent No. (6)	
Notice to:	Respondent No. (6) The Secy Finance, Govt. J. KPK, Civil Sexetariat, Peshawar	r .

Notice of any alteration in the date fixed for hearing of this appeal/pet.ition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy-of appeal has already been sent to you vide this

office Notice No.....dated.....

March

Given under my hand and the scal of this Court, at Peshawar this.....18/h

(For Ropy,

1.

2.

Day of.....

Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

Note:

The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays. Always quote Case No. While making any correspondence.

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No: 7779/2021

Mr. Muhammad Bashir..... Appellant

Versus

Govt. of Khyber Pakhtunkhwa

Through Secretary, Higher Education

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tulout Respondent

BEFORE THE HONOURABLE KHYBER PAKHTUN KHWA SERVICE TRIBUNAL PESHAWAR

S.A # 7779/2021 Muhammad Bashir

Muhammad Bashir.....Appellant

Versus

Govt. of Khyber Pakhtunkhwa Through Chief Secretary Higher Education Peshawar & others......Respondents

SUBJECT: PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 51 b 5

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 her own conduct to file the instant service appeal.
- 5. That the appeal is bad for mis-joinder and non-joinder of necessary and proper parties.

Reply on Facts:-

- 1. Correct to the extent that the appellant was appointed as Lecturer in Higher Education department and later on promoted to the post of Assistant Prof. and posted as Deputy Director Establishment at Directorate of Higher Education vide notification dated: 08-01-2015.
- 2. That the Directorate of Higher Education Advertised the posts of Teaching Assistant at fixed pay (Rs. 36000/- PM) in the year 2014 initially for two years and later on regularized as Lecturer through an Act called Khyber Pakhtunkhwa Regularization of Teachings Assistants as Lecturers Act, 2017.
- 3. Correct to the extent that Grievances Redressal committee was constituted vide Notification dated: 05-11-2014. (Annex-A) It is pertinent to mention here that Deputy Director (Estab.) was one of the members of the said committee as evident from the Notification mentioned above.
- 4. Correct to the extent that one Mr. Majid had filed Writ Petition before Peshawar High Court, Peshawar which was decided in his favor vide judgment dated: 26-02-2019 (Annex-B) wherein it was also directed to conduct inquiry. Govt; filed CPL against the said judgment which was dismissed vide order dated: 10-03-2022 by the august Supreme Court of Pakistan. (Annex-C)
- 5. Incorrect. A formal inquiry was conducted wherein all the allegations against the appellant stood proved.

- 6. Correct to the extent that the meeting of Grievance Redressal committee was held on 14-07-2015 and the appellant was posted as Deputy Director on 08-01-2015.
- 7. In this Para the appellant himself accepted that he proposed the candidates which is also evident from the note part of the file (**Annex-D**). As a Deputy Director he was required to be vigilant.
- 8. Correct to the extent that the appellant forwarded the appeal/application of Majid Khan to the office of respondent No. 2 vide letter dated: 23-02-2016 but at that time the appointment process was stopped.
- 9. Correct.
- 10.Correct.
- 11.Incorrect. As explained in preceding paras.

Grounds:-

- A. Incorrect. That the appellant has been treated within four corners Law.
- B. Incorrect. That the appellant was granted opportunity of personal hearing on 28-05-2021 by the Secretary Agriculture department and ample opportunity was provided to him to defend himself. (Annex-E)
- C. Notification regarding appointment of Teaching Assistants was issued on 02-12-2015. Complaint was received from Mr. Majid one of the candidates that he being on merit is not appointed and those who are lower in merit are appointed (Annex-F) and the Competent Authority vide letter dated: 15-05-2018 nominated an inquiry officer to conduct fact finding inquiry (Annex-G) and the inquiry officer recommended to initiate disciplinary proceedings against responsible officers including the appellant (Annex-H). A formal inquiry was initiated against the appellant in light of fact finding inquiry, charge sheet and statement of allegations were served upon the appellant wherein the inquiry officer manifestly stated that all the allegations against the appellant stood partially proved (Annex-I). A Show Cause notice was served upon the appellant and chance of personal hearing was also granted to the appellant and there after fulfilment of all codal formalities a minor penalty "withholding of two annual increments for one year" was imposed upon the appellant.
- D. As already explained in Para C.
- E. Already explained in preceding paras.
- F. As already explained in Para 03 of facts. Moreover, Notification dated: 05-11-2014 shows that the appellant was one of the members of the committee and the said meeting was conducted during his tenure.
- G. Incorrect. That the review petition is decided as per Law/rules.
- H. Incorrect. That the penalty is imposed as per Law/rules.

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 Pakthtunkhwa Respondent No. 1

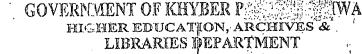
Secretary, Higher Education Archives & Library Department Respondent No. 02

Secretary Finance Govt; of Khyber Pakhtunkhwa Respondent No. 4

Principal, Secretary to Chief Minister Klyber Pakhtunkhwa Respondent No. 3

20IL Director 15

Higher Education Department Respondent No.5



Dated Peshawar 5th November, 2014.

NOTIFICATION

No.SO(C-II)/2-6/2014/HED/Teaching Alssistants/ Competent. Authority is pleased to constitute a Grievance Redressal Committee comprising the following to redress all the issues related to engagement of Teaching 🥻 🤉 🤇

- 1. Special Secretary Higher Education Department Chairman 2. Deputy Secretary (Admn) Higher Education Department Member 3. Deputy Director (Estt:) Directorate of Higher Education Member
 - 4. Deputy Director (Female) Directorate of Higher Education Member

SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA HIGHER EDUCATION DEPARTMENT

Endst: No. & Date Even

Copy forwarded to the:-

- 1. Chairman of the Committee concerned
- 2. Members of the Committee concerned
- 3. Director Higher Education, Khyber Pakhtunkhwa.
- PS to Secretary Higher Education Department.
 PA to Deputy Secretary (Colleges), Higher Education Department.

POLE O	SECTION OF	FICER(C-II)	
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' JUDGMENT SHEET PESHAWAR HIGH COURT, PESHAWAR JUDICIAL DEPARTMENT

Writ Petition No.4280-P of 2017

"Majid Khan Vs. Director Higher Education, KP, Peshawar etc"

JUDGMENT

Date of hearing

<u>26.02.2019</u>

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Petitioner(s) by:

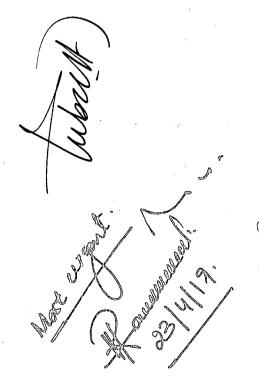
Respondent(s) by:

<u>IKRAMULLAH KHAN, J.-</u> Through the instant Constitutional petition, under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, petitioner has prayed for the following relief:-

"It is, therefore, most humbly prayed that on acceptance of this writ petition the notification dated 02.12.2015 upto the extent of respondents No.5 & 6 may graciously be declared as illegal and unlawful and to set aside. Further the respondents may very kindly be directed to issue / release the appointment letter to the petitioner for the post of Teaching Assistant / Lecturer Chemistry from the due date without any further dalay, reason and justification.

Any other remedy which deems fit by this Honourable Court may also be granted in favour of petitioners".

©2. In essence, the respondents advertised some vacant posts of Teaching Assistant in various discipline including subject of Chemistry. The



threshold eligible on the was petitioner determined by the respondents, he applied for the vacant post of Teaching Assistant in subject of Chemistry. Petitioner participated in the test and interview held by the respondents and occupied the top position, securing 55.34 marks, overall the merit list prepared and displayed by respondents. However, petitioner was not appointed for the reasons best known to the respondents and candidates at serial No.2 & 3 of the merit list, respondents No.4 & 5 herein, were appointed vide Notification dated 02.12.2015.

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©3. Petitioner had left no stone unturned to get his right of appointment, however, failed to achieve the goal through departmental efforts he made, hence, this Writ Petition.

04. Respondents were summoned, who filed their comments, wherein, they have taken the sole ground to contest and redress the grievance of petitioner; that the petitioner has knocked the door of justice with a delay of one (01) year and ten (10) months but failed or intentionally kept mum to explain the reasons that how petitioner was not offered the advertised post, despite the fact that he was on the top of the merit list. ©5. Respondents have not denied from the facts alleged by the petitioner in his memorandum of petition, meaning thereby that petitioner had discriminated and respondents have no defense in this regard.

3

06. No doubt petitioner has approached this Court with a considerable delay thereafter issuance of appointment order in favour of private respondents but where a person has legal rights, and he has not dealt with in accordance with law and is deprived of his vested legal right then, in such circumstances, laches could not be a ground to deny his legal right which otherwise is established on record.

Therefore, as respondents had illegally 07. denied right of appointment of petitioner and had committed palpable act of favoritism and discrimination, this petition is allowed in manner that respondents are directed to consider the petitioner and be appointed on any vacant post of Teaching Assistant in subject of Chemistry. As other private respondents had not played any part in their appointment, they could not be disturbed, Provincial the recommend however, we Government and the Chief Secretary, Khyber Pakhtunkhwa that departmental action shall be initiated against the person, who was the appointing authority, who while violating the law and rules of merit, illegally deprived the petitioner from his due right of appointment.

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08. The result of inquiry shall be communicated to the worthy Registrar of this Court but not later than three (03) months.

<u>announced</u>. 26.02.2019

JUDGE

MAAAN JUDGE

DB

<u>Himayat</u>

Hon'ble Mr. Justice Ikramullah Khan Hon'ble Justice Ms. Musarrat Hilali

1.61

IN THE SUPREME COURT OF PAKISTAN

(Appellate Jurisdiction)

PRESENT

Mr. Justice Maqbool Baqar Mr. Justice Mazhar Alam Khan Mlankhel Mr. Justice Jamal Khan Mandokhail

Civil Pellion No. 391-P/2019

(Against the judgment dated 26.02.2019 of the Peshawar High Court. Peshawar passed in WP No. 4280-P/2017)

Director	Higher	Education	Khyber	Pakhlunkhwa.
Peshawar	& others	:	Versus	

Majid Khan & others

For the Petitioner(s)

For the Respondent(s)

Date of Hearing

10.03.2022

ORDER Magbool Bagar, J. Heard the learned Additional Advocate General and perused the record with his able assistance.

Mr. Amjad Ali, ASC

Mr. Muhammad Sohail, Addl. AG Mr. Anis Muhammad Shahzad, AOR

No case is made out for our interfering with the impugned judgment.

The petition is dismissed.

IDe

klamabad. 10th March. 20 Rizwan

GUFRENG

Carl and

Sd/-J Sd/-J Şd/-J

Petitioner(s)

Respondent(s)

Certified to be True Copy

Senior Court Associate Supreine Court of Pakistan Islamubad

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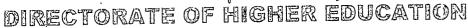
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Date of Delivery of Cony

PAKHITINKHW DIRECTORATE OF HIGHER EDUCATION, F.C. and O.C. 15 Submitted F.C. and O.C. 15 Submitted please for signature and issue Para 29 r-6-2015 A: P Mer 27 15/6/15 SUN Proposed of The for possing in Various, calleges is submitted for approval for sending to the PI-Gover, as dissensed in the grinances recordson Committee meeting held on 7-7-2015 \$ 12-7-2015 under the charman ship of spread Scaretary HED, Intented for perusal & order, relf helper AN-14-7-2015 Optifie Lizaff Proposal I

32 Candidates for posting 25 teaching assistant may be permed approved. 3 33 D/R- 1517 1517 24 D/R, Do the needful . B 34 D/R, Do the needful . B 15/1. 14/-1/15 15/7/15 CA-II Siri Letter on page. 19. " ment of Tr alongwith list. of poposal of Trk for servening tou un PIG mi Ø Suloani Ker for hop & stores plan A 115.7.20, 15/7/15. 15/7/15 3b. A ma 1997 Respired a date for hearing on 30-9-2015 at 10.00 The Provincial Ombudisman hearing on 30-9-2015 at 10-00 Am in the approximent case of



KHYBER PAKHTUNKHWA

Rano Garhi, Peshawar

Tel # 091-2650025 / 2650024

E-mail:- dhekpkpesh@gmail.com Facebook.com/dhekppeshawar Twitter.com/dhekppeshawar

1110 CA-I/ Estt: Branch/A-12/Muhd Bashir/ Hist-cum Polise Dated Peshawar the 1/ / /2021

- 1. Mr. Muhammad Bashir Deputy Director (Establishment), Local Directorate.
- 2. Mr. Abdur Rashid, Deputy Director (Sports), Local Directorate.

SUBJECT

To

PERSONAL HEARING- DISCIPLINARY PROCEEDINGS AGAINST MR. MUHAMMAD BASHIR, ASSISTANT PROFESSOR (B-18), CURRENTLY WORKING AS DEPUTY DIRECTOR (ESTABLISHMENT) AND MR. ABDUR RASHID, LECTURER IN (HPE), WORKING AS DEPUTY DIRECTOR (SPORTS) HIGHER EDUCATION, KHYBER PAKHTUNKHWA.

Memo:

Enclosed please find herewith a copy of letter No. SOG(AD)/ 1-6/Misc/2020-21 dated 17.05.2021 from Section Officer (Admin:) Govt; of Khyber Pakhtunkhwa, Agriculture Department on the subject cited above and to state that your personal hearing has been fixed by the Competent Authority on 28.05.2021 at 12:00 (Noon).

In view of the same you are directed to appear before the Secretary, to Govt; of Khyber Pakhtunkhwa, Agriculture Department, Peshawar in his office on 28.05.2021 at 12:00 (Noon) for your defence.

Endst: No. 1177-78

DEPUTY DIRECTOR (ACADEMICS)

Copy of the above is forwarded to the:-

i., 1.

2.

Section Officer (Admin:) Govt; of Khyber Pakhtunkhwa, Agriculture Department with reference to his letter No. referred above.

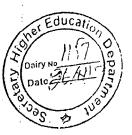
Khawaja Mohammad Saqib, Assistant Director (General), Local Directorate alongwith Syed Arsalan Ali Shah, Assistant, Local Directorate with the remarks to assist the Inquiry Committee during the inquiry proceedings on the prescribed date and time.

DEPUTY DIRECTOR (ACADEMICS)

The Priecter Higher Education. Commission (pepartment) KPK. Subject - Arissing of on merit condidate in Unstitution (and decomper 2015) Sir, It is stated with preale respect That 2 am Mrs- Majid S/6 Sharif Khan. resident 1-51 doubat sai Garric Rapula Dr Mardan ppr opeasod in ETEA antry test for teaching assistant. steeling te the U micrit list on ETEAU mebside i an on monit spearlies stre According the the notification issued on Vand decomber 2015 (2-12-16) NO.SU(CH)/2-Chas/ HEDIJachies desistants condictate on meret Member 771, 1.e Melkad Khan se & Condidate on possibles number STh le umar Ali S/O Fasid khan are present viville my name is absent. After the 2nd orstipication i visited délie cterrate office many dime te Keop myself jup te date, ai last They me midd will important your sesic But honousable sis the situation is quite different my mane is out So it is orguested that issue my onotification, ? I will be very Thankfull AFGE 140CL

the second second second second second second second second second second second second second second second s KOK Magan charmer of Mardan source rounder 2000 VISION INStitute office -:282112A Dosta Com D (ma) 1223- 2550 539 0896-6120 CECC No raters dans Eps sugar from Jour ebeelient ŗ

The Secretary Higher Education Department Khyber Pakhtunkhwa Peshawar



Subject: <u>NO REPLY OF THE APPLICATION THAT</u> <u>SUBMITTED IN CASE OF TEACHING</u> <u>ASSISTANT DATED 06.09.2016.</u>

Sir,

Тo,

It is stated with great respect that me Mr. Majid Khan submitted an Application against the Director Higher Education Department for Non-Consideration of my case amongst meritorious candidates in notification (2nd Dec 2015). But dear sir still I did not receive any reply letter from your side.

Therefore it is requested in your honour to issue a letter while explaining my condition with reasons.

I will be very thankful and obliged to you.

Majid Khan S/o Sharif Khan R/o Kot doulat zai Moh; Awanan

Your's Obediently

P/o Garhi Kapura Mardan CNIC # 16101-3945384-3 Dated: 26.09.2017 Cell # 0333-5710711

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Τо

GOVT. OF KHYBER PAKHTUNKHWA HIGHER EDUCATION, ARCHIVES & PLIBRARIES DEPARTMENT

> No. SO (C-II)HED/2-6/ 2015/Majid Khan Dated Peshawar the 15.05.2018

The Deputy Secretary (Admn), Higher Education Department, Khyber Pakhtunkhwa, Peshawar.

SUBJECT: - <u>NO REPLY OF THE APPLICATION THAT SUBMITTED IN</u> CASE TEACHING ASSISTANT DATED 06.09.2016.

I am directed to refer to the subject noted above and to convey that the competent authority is pleased to nominate you as Inquiry Officer to conduct a fact finding inquiry within a week time positively and to the instant case and a report thereof to the competent authority.

I am further to state that the requisite/available record is hereby submitted to your goodself. Further/additional input may be demanded from Directorate of Higher Education please.

(MUHAMMAD FAYAZ KHAN) SECTION OFFICER (C-II)

SECTION OFFICER (C-II)

Endst:- No. & Date Even.

Copy forwarded to the:-

Director Higher Education, Khyber Pakhtunkhwa w/r to his letter No.11820/ CA-II/Estt; Branch/A-12/Mardan/TA dated 12.04.2018 with request to provide relevant record to the IO. P.S to Special Secretary, Higher Education Department. Khyber Pakhtunkhwa.

P.A to Deputy Secretary, Colleges, Higher Education Department, Khyber Pakhtunkhwa.

B ACKGROUND:-

The undersigned was mominated as inquiry Officer by the Competent 4 uthority to hold a Fact Finding Inquiry regarding Mr. repty to the application submitted 1 case of Teaching Assistant dated 06.00.2016 in ne pect of Mr. Majid Khan S/O Shaiff 1 han and submit report in this regard (Annex-A).

ENGLIDEN REPORT

History of the case reveals that the test for the post of Teaching Assistants ras conducted on 27-06-2014 and the applicant, *Ar.* IV/ajid Khan S/O Shatif Khan, recurse 6th position in the menification of Teaching Assistants in the subject of Chemistry in Science 6th position in the menification of the subject of District Mardam. Candidates upto Sepial No. 8 from the manificant at senial number 6 themistry were appointed, feaving behind the pre-out epolicant at senial number 6 themistry were appointed, feaving behind the pre-out epolicant at senial number 6 which is a clear violation of makit. Since them, Mr. Majid Khan has been wishing the insciences and the administrative department but it with. The Directorate of Higher duration vide letter No. 27495/CA-U/Estt. Branc /A-12/Teaching Assistant/Martan ated 17-70-2016 admitted that his name has been mistakently lieft (Arimez-S). The pointments from the list and, therefore, your requipts a considered (Armazpointments from the list and, therefore, your requipts and the considered (Armaz-).

SROCEEDINGS-

The undersigned called Mir. Majiri Khan 570 Shaifi Nhan on 09-07-2018 to uppear in person and to fumish written statement a fill's regard. In compliance, Air. haje Khan famished his written statement on 09-07 2019 wherein he manaised his soft nory and informed frat being disappointed from the Department, he has now knocked be doors of the count (Annex-D).

The undersigned also called hir. About Respirit, Deputy Director (Sponts) precionate of Algher Education thire bits was close a associated with the oppositement i teaching assistants for discussion. He growined some documents relevant to the stand case. His main argument was that the applicant was left mistakenly and that ster on his name was forwarded to the administrative department for notification but the ster relevant to appoint further from the old list. The fact has been admitted by the perception (Establishment) in his lefter at (Anne 193).

Finding and Recommendations:

- . The plea of the oppositent that he deserved to be appointed as Teaching Assistant is convert.
- H. The Directorate of Higher Education did not forward his mame for appointment as Teaching Assistant to the administrative

department and instead forwarded the proposals of candidates appearing at benial mundear 7 & U. Thus ment was violated

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The C-II section failed to examine the case and to ask reasons of leaving the candidate at settal music or & while appointing the candidates at serial member 7 & 8. It sheas that if the section was working under the administrative combol of the Directorate at that sime.

Even when the matter was reported on 17.10,2016, the section failed to initiale case for protting the matter and to bring it into the notice of the higher authonities for come stion.

The plea of the directorate that the mane of the complainant was W. later on forwarded to the department for appointment is also not convincing because the list they han lied over during the enquiry proceedings is unsigned and the name of the complainant appears at serial number 15 and that too with ut any special remarks that he had been left and that two persons low in monit had already been appointed (Anner-E). The list was provided without any covering letter as no such letter is available in the files. The directorate even did not bother to will a separate latter to highlight the issue so that it could be resolved.

It may be pointed out that the Teaching Assistants have now been regularized under an Act of the provincial assembly. The complainant has a night to be appointed as Yeaching Assistant. In the changed scentario, bowever, column of Lew and Hstabilishment Department is required as to whether the can be appointed at this belated stage and it yas then as a Teaching Assistant or a locuser because his lothel colleagues now of rolate as lertimers. Alloreover, this case has already been taken up with the Establishment Department but without any results. If may be pointed out that the complement has now taken by the it sue to the court and adverse decision against the government is a ident on face of the available record.

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VAL . It is evident from what has been stated above that the instant issue is resulted from the collective failure of both the directorate and C-II section. There seems normivance between the niticers at the disectorate and the administrative department for violating the menit for ellevior motives. The case was mainly dealt by Mr. Aladur -Reshid, Deplety Director (Sports) as the was custodian of the merit list and the Deputy Diractor (Establishment), Wir Bashir Khan, who was communicating with the Admini Instive Department for Issuing appointment orders and SO C-II at the administrative department

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level. Main fault lies at the direc costs firstly because of the fact that his mame has not been forward of for appointment and secondly by not properly reporting the mail or when the motification was issued leaving the complainent testing. No felter is available on record to show that the directorate has purperly agitated the issue clearly stating clearly that Majid the in has an established right to be appointed after two gersons ow in mails have been appointed. Disciplinary proceedings thay therefore, be initiated against the above for completing that will also of vertice and above for completing will also of vertice and inelliciency.

LASU? ANTINE ADDRESS INFOLUTRY OFFICER/ADS(ADONIN)

(20)

INQUIRY REPORT

PROCEED INGS AGAINST AFUHAMMAD DICIPLINARY (BPS-18) PROFILESSOR ASSISTAN CURRENTLY WORKING AS DEPUTY DIRECTOR (ESST) DASHEER, AND MR. ABDUR RASHID. LECTURER (HPE) WORKING AS DEPUTY DIRECTOR (S'ORTS) MICHER EDUCATION, KHYBER PARITUNKHWA

BACKGROUND

JURIECT:

As per letter dated 11711/2019, (ANN CX-A) Hon ble Chief Secretary Khyber Pakhtunkhwa has nominated the undersigned as an enquiry officer for conducting formal inquiry against Mr. Muhammad Bashir, Assistant Professor (BPS-18) currently working as Deputy Director (Establishment) Directorate of Higher Education Department and Mr. Abdur Rashid, lecturer (MPE) (BPS-17) working as Deputy Director (Sports) Higher Education, Khyber Puldmurkhura. Copies of statement of allegations and charge sheet is respect of both accused ware found attached (ANNEX-A). In this case fact finding enquiry (ANNEX-B) was carfier conducted by Mr. Muhammad Ayaz klan DS (ADMN), Higher Education Department

A brief background is that Higher E Incluion department advertised posts of Teaching Assistants and a test was conducted in 27-06-2014 by ETEA. One applicant named Mr. Majid Khan s/o Sharir Khan, secured 6th position in the menit list of Teaching Assistants in the subject of (bendary in District Mardan, Candidates upto serial No. 8 from the ment list in the subject of Chemistry, District Mandan were appointed while Mr. Majid Khan at st stal No. 6th was left not appointed. Mr. Majid Khan visited Higher Education Depa tment / Directorate of Higher Education Department many times. At last Migher E lucation Department informed him that provincial Government has stopped fighter appointments and his request cumpor be entertained at this stage. Being aggivered by this reply, he filed a wait petition in Peshawar High Court and won the case. Higher Education department werd into CPLA against him which is still pending in the August Supreme Count of Pakistan. Mr. Majid Khen has not been appointed up 11 new while these who were appointed have been regularized. Higher Education D painment conducted fact finding toquiry which became the basis of this enquiry. Her be this explain.

PROCEEDINGS

Charge sheet and statement of all gations were forwarded to the accused Mr. Muhammad Bashir, Assistant Profess: r (BPS-18) cuspently working as Deputy Director (Establishment) Directorste of Tigher Education Department and Mr. Abdur Rashid Jechner (HPE) (EPS-17), on thing as Deputy Director (Sponts) Higher Education, Klayber Pakitonkhava with the direction to appear believe the inquiry officer on 26/11/2019 at 2.00PMI along with their werballivnitten circumstantial evidence in their defense through letter date d 14/11/2019 (ANMEX-C).



Page 1 of 6

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On 16/11/2019 Mr. Muhammad B shir and Mr. Abdur Reshid appeared refere inquiry officer. Both of them submit ed their anitien apply I statements. The statement of Mr. Muhammad Bashir is at (ANNEX-D) and written reply of Mr. Abdur Rashid is at (ANNEX-E). Later on a scussil Abdur Rashid submitted another written reply (ARNEX-E II). Gist of their statements is a follows:-

(14)

S#	Charge	Gist. Frealy of Mul ammad Bacheer (Accused)	Gist of reply of Mr. Abd-ur-Rashid (Accused)
	appointment as Teaching Assistant for his ulterior	the post of 197. Director as he took charge on 09.05.2015 and test for said posts was held out 23.05.2014.	mena astara as tarawa proposit appointment.
	by forwarding the names of candidate despite being low in ment for appointment as Teaching.	not a signed any responsi fility regarding proposal and for his stance Dy. Director Speet was the Focal Person.	apage any compare against his ment order, while sending proposals was not his duty
	the merit list concealed the factual position and misled the Administrative Department, which is a gross misconduct.	opportunity of his defense by the fact finding inquiry officer.	flant ment list was submitted in the office
	That he has created embarrassment and brought bad mame to the Department by depriving a deserving candidate from his right and consequent unnecessary litigation.	Higher Education	The menit list was maintained in a transparent trianner and cam good name for the department.

During the proceeding of implify important documents were found not available. For example Natification of Grit stances Redicessal Committee, Minutes of meetings and the appointments notification wherein the agguieved complainant (Majid Khan) was left and other two cardidates below him in the menit list were appointed. The said notification was issued by Section Officer (C-II) of Higher Education department. Section Officer (C-II) Higher Education Department was directed to appear before enquiry officer strong with complete relevant record (ANNEX-F).

Page 2 and 6

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On 3rd December 2019 Section Officer(C-II) and both accused appeared before undersigned along with record. Notification of priovance dedressel committee (ANNEN-G) was produced but supporting f le of the notification was not produced. Accordingly they were directed to appear main on 13th December 2019 along with complete record.

On 13th December 2019 appointment autification of candidates at senial No. 7 and S (ANNEX-H), was produced but minutes of grievances redressed committee meeting in which candidates at Serial No 7 and 8 were recommended, were not made available. Section Officer (C-H) Higher Education Department was again directed to appear before undersigned on 19th December 2019 along with supporting documents.

On 19/12/2019 both of the accused appeared before undersigned. More sheet of approval of list/proposal wherein candidates at serial No. 7 and 8 overe proposed for appointment was also produced (ANNE X-I). Written statement of witness, Mr. Amjad Ali Senior Clerk Directorate of Higher Education Department was recorded (ANNEX-J). He was also cross examined, I fr. Amjad Ali senior clerk Directorate of Higher Education Department stated that is a/proposal excluding candidate at senial No. 6 (Majid Khan) and including names of candidates at senial No. 7 and 8 and was given to him by Alstin- Rashid (accused) for approval, which he processed. Minutes of meeting of grievances redressal committee, in which candidate at senial No. 7 and 8 were recommended for selection, was again not produced to the undersigned and accordingly they were directed to produce sold minutes in next hearing.

On 01/01/2020 Mr. Tahir Khan S setion Officer (C-II) Higher Education Department submitted written certificat statement (ANNEX-IC), stating that relevant record was not traced in relevant sections ofthough these documents two thoroughly searched by Mr. Abid Husseni extracted keeper with help of Mr. Sawood Akhtar, junior clerk/ present record keeper. Statement of Mr. Abid Hussain, ex-record keeper is at (ANNEX-IC). At per rebord of Directorate of Higher Education one meeting of Grievance Redrived Committee was held on 10/12/2014. The minutes of this meeting are available at (ANNEX-M). It was decided in this meeting that in finure all proposals for the appointment of Deaching Assistants will be forwarded by Directorate of Higher Edu ation. The second meeting of Grievance Redressal Committee was held on 27-02-27 US. The minutes, attendance sheet etc of this meeting were also not produced to the Lapity Officer.

Comments on the reply of accosed. Bashi r Ahmad

Charge No. 1

Here the charge is that he intent onally did not Kennand the mame of a deserving candidate Mr. Majid Ki m. The annased nepfied that he was not holding the post of Deputy Direc or. He says he mails charge of Deputy Director on 09-05-2015. The reply of accused is not sufficient ory because this incident of violation of ment happ and in the cickiffondien dated 02-12-2015 during his tenure. Moreover, he signed and forwarded the proposal/list wherein applicant Mr. Majid Khan was left and two other candidates below him were recommended. Copy of Note shirt is provideble in the proposal

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PageSols

(Annex-I). By wirne of his post as they by Director Readilishment, it was his duty to ensure that each and every cand data included in the proposition. So meet requirement of merit as per merit is a, which is bacity failed.

Charge Ma. 2

Here the charge is that he forwarded cames of candidate who were low in merit. The accused reply that he was not assigned any respectibility and Deputy Director Sports was the focal person. The reply is not satisfactory, Here it is immunical whosperer gave h in this proposabilist to finither process it. He forwarded the said proposal to Director Higher Education Department. This error or omission was neither corrected by him ner by Director Higher Education and nor by Secretary Higher Education Department office. Apparently all dealing hands are responsible for this per of omission or error.

Charge No. 3

Charge is that he concealed the factual position and misled the Ariministrative Department. The accused reply is that ic was not given an approximity of his defence in the fact finding inquiry. Fore the reply is instituent. Her during this inquiry the accused was given any te opportunity for his defence. He was heard patiently five times. He could not deap the Note sheet with his signature wherein he forwarded the papershifts to Director Higher Education Department for approval.

Charge No. 4

The charge is that he created ambarransment for the Department by depaining a deserving candidate from his right and consequent annocessary filigations. The reply of the accused is that he forwarded the complainant request which was regretted by the Administrative Department. Here again his reply is irrelevant.

Here the charge is that he intentically did not forward the mame of a

Comments on the reply of accused. Abdu-lashid

Charge No. 1

deserving candidate Mr. Majid Khau. The reply of she accessed is that he compiled the merit list and it was not his job to forward proposals for appointment to the Administrative Department. This reply is not satisfactory. As it transpired during the proceetings that the accussed (Abda Rashid) designation was Deputy Director Storts but he was also dealing with the issues of Teaching Assistants appointment of Directorate level. The same viewpoint was also endorsed by one witness hit. Antijid Khan, sector clerk Directorate of Higher Education Department who stated in his uniften statement that proposhifist where a deserving candidate Mr. Majid Khan was left and two other candidates below him in merit list were proposed was sent by accused Mr. Abdar Rushid, which he (Amjid Senior Clerk) processed and put up, in the Note part, there is no signature of monsel (Abidu Rashid). The other accused Mr. Basheer Abonad signature of monsel (Abidu Rashid). The other accused Mr. Basheer Abonad signature of monsel (Abidu Rashid). The



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Higher Education Department (Annex-VIII). Whosnever finalized this proposal / list, one thing is clear that iccused Abdu Rashid was surely included in the process of preparation of this proposal./ list.

Clarge No. 2

Here the charge is that he forwarded names of candidate who were law in merit. The reply of accused is that complicinant did not question his order in the merit list. While sending proposals for appointment was not his duty. (Comments may please be seen as in Charge No. 1).

Charge No. 3

The charge is that he concealed the factual position and misled the Administrative Department. The reply of accused is that a duly signed copy of final merit list was submitted in the office of Secretary Eligher Education. It was also displayed on ETEA website. The reply seems correct as ment list was not something secret or confidential. It was well published on ETEA Website. It was a public document. Any ne can check it. But unfortunately its proper implementation (execution could not be made in this case.

Charge No. 4

The charge is that he created embarrassment for the Department by depriving a deserving candidate from his right and consequent unnecessary fitigations. The reply and comments may be seen as mentioned in charge No. I above, please.

FINDINGS

- On the basis of merit fist of test conducted on 27-06-2014, by ETEA, total five appointment orders were issued, on different cites, front 30-10-2014 to 02-12-2015 by the Higher Education Department. In all these appointment orders used 1187 candidates were appointed as Teaching Assistents. This case relate us an appointment order dated 02-12-2015, wherein 32 conditions: were appointed.
- 2) During inquiry proceedings the main focus actualited on the appointment order dated 2-12-2015 wherein, Mr. Majid Khas, (Merit position 5th) was left and candidates at ment position 7th & 8th below hi in were recommended (appeinted, and later on regularized.
- 3 Grievances Redressal Committee was notified on 5th November, 2014 to redress all issues about Teaching Assistants. It was I caded by Special Secretary, Higher Education Department.
- 4 Minutes of grievance redressal committee where in candidates at Senlal No 7 and 8 were recommended and Mr. Majid Khan a discribing candidate at SiNo. 6, was left, are missing and in this regard Section Office (C-II). Higher Education Department, his staff and directorate of Higher Educ tion were directed to furnish these documents but they failed.
- 1 As per winness Mr. Amjad Ali, senior crerk Directorate of Higher Education Department, a proposability excluding caudi interational No. 6 (Majid Khan) and including names of caudidates at serial No. 7 and 2 and was given to him for approval of Director Higher Education Dept. mem by the accused Mr. Abdu Rashid.

bis written statement is at (ANNEX-D). It mea is Mr. Abdu Rashid was dealing with ic appointment related issues of Peaching Asti dants.

5) The list / proposal of candidates was forward of to Director Migher Education for

- opproval by accused Deputy Director Higher Adocation Editorannad Bashir on 14-17-2015 (AMNEX-I) without ensuing as a whether this list I proposed it in accordance with meni list or otherwise.
- 7) No corruption or malafide was found on the pretent hoth accused.
- St it may be an act of error, ourission, lavity or in fildency.
- 9) Its outcome/ result is that a deserving candida: "(Mr. Majid Khan) has suffered a latand he is still suffering and wandering from pil or to post.

CONCLUSION

Charges against secured Multaumood Br shir

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	Charge No. 4	Partially proved	NAMONIA ADAR AMA ANA ANA ANA ANA ANA ANA ANA ANA ANA

Charges against accused Abdu Rashid

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Recommendation:

- 1) Secretary Eligher Education Department may like to further probe that as to how and why the important official recard, minutes of meeting, note pair, attendance sheet, approvals, final recommendations and decision are missing regarding the appoinment Notification No. SOC-112-6-2015/HED/Teaching Assistant dried 02-12-2015 in his office.
- 2) The Competent Authority may like to provisionally appoint a deserving candidate Mr. Majid Khan s/o St arif Khan District Mardan as Teaching Assistant in his subject Chemist y in compliance with Peshawar High Count Judgment Order in write stition No. 4280-P 2017 (AINNEX-O) subject to final decision by Augin Supreme Count of Paklstan in CPLA.

Kalimulles King Raloch Additional Serietary PASTRS-19)/ (Inquiry Officer)

L. THERE

Before The Khyber Pakhtunkhwa Service Tribunal, Peshawar

S.A NO. 7779/2021

Muhammad Bashir.....Appellant

Versus

Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa & othersRespondents

Subject: <u>Rejoinder</u>

Preliminary objections:

The preliminary objections from 1 to 5 are vehemently denied being totally incorrect and malafide.

On Facts:

1. Correct

2. Correct

3. Incorrect and misleading to the extent that though the Grievance Redressal Committee was constituted, consisting inter alia of the Deputy Director under the chairmanship of Special Secretary Higher Education Department, Khyber Pakhtunkhwa for redressal of genuine complaints of candidates for teaching assistants on 05.11.2014, however, the appellant was posted as Deputy Director at a later stage on 08/01/2015 and he could never commit any misconduct during this period as he could not participate in any of the proceeding of the Redressal Committe so the imputation of misconduct against the appellant is not justified and malafide. The respondents have not brought any evidence whereby the appellant could be connected with the misconduct. The inquiry officer was not provided with the relevant record to connect the same with the guilt or innocence of the appellant however, the same was not provided despite his repeated directions which finds place at page No. 47 of the inquiry report at finding No.04. 4. Correct, that the petitioner Mr. Majid was compelled by the

respondent to seek his genuine remedy before the Hon'rable High

Court which could have been granted departmentally without creating frivolous litigation and spared further consequential botheration.

5. Incorrect and misconceived. The findings of the inquiry report are pervert and based on presumptions. Reason provides the nexus between material considered and conclusions drawn. Reason is badly lacking in the whole proceedings conducted against the appellant. The proceedings and findings of the whole inquiry is full of inconsistency and contradictions and no nexus can be attributed for the alleged acts of omission or commission of the appellant. The charges of misconduct could not be proved against the appellant as at Para No.07 and Para No. 08 of the inquiry report the inquiry officer states that "No corruption or malafide was found on part of both accused" and further presumed that "It may be an act of error, omission, laxity or inefficiency respectively" at page No. 48 of the inquiry Report. It is stated that Section 23-A of Civil Servant Act 1973 provides protection and immunity to all civil servants for acts and omission done in good faith. As no malafide act can be attributed to the appellant therefore, the appellant may be granted this immunity for acts and omission if any, attributable to the appellant.

It may be mentioned that the inquiry officer at Page No. 47 of the report states that "one thing is clear that the accused, Abdur Rashid was surely included in the process of preparation of this proposal/list" which is a proof of non-involvement of the appellant. Beyond this at Para No. 5 of the findings of the report at Page No. 48 the inquiry officer states that "Mr. Abdur Rashid was dealing with the appointment related issues of Teaching assistant". Moreover, the merit list of the candidates had already been prepared in the year, 2014 long before posting of appellant.

6. The Para is misleading. The appellant was posted in January, 2015 and meeting of the Grievance Redressal Committee was held in July, 2015 however, as stated repeatedly in the preceding paras, the respondents have not come with any evidence connecting the appellant with the meeting of the said committee or any of its proceedings, holding the appellant guilty of any misconduct.

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> 7. Incorrect and misconceived as the appellant has never proposed but forwarded the dictated/approved candidates for appointments as Teaching Assistants on the recommendation of the Grievance Redressal Committee as evident from the note part and covering letter (Annexed as "H") with the appeal of the appellant. In this respect the statement of Mr. Amjid Ali Senior Clerk, Directorate of Higher Education, Khyber Pakhtunkhwa, that the proposals / lists of recommended candidates excluding Mr. Majid Khan was given to him for approval of the Director, Higher Education Department, Khyber Pakhtunkhwa, by Deputy Director Sports at Para No. 05 of the findings of the inquiry report.

> 8. Incorrect and misconceived. There was no cut off date for the appointment of candidates of Teaching Assistants since the constitution of Grievance Redressal Committee on 05/11/2014 and there had been piecemeal notifications of the appointment of Teaching Assistants and when the proposal of Majid khan along with others was submitted to the department on 30/11/2015, the respondent No. 02 refused to accept the proposal without any rhyme and reason, and only two days thereafter i.e. on 02/12/2015 he had made appointment of Teaching Assistant of 29 candidates. On 06/04/2016, the respondent No. 02 vide Annexure-I of the appeal conveyed that no further recruitment of Teachings Assistants shall be entertained, without any de-notification of Grievance Redressal Committee which means that the same was intact and on its recommendation appointment of Teaching Assistants could be made. Had the respondent No.02 ordered the appointment of Mr. Majid Khan Petitioner, a genuine candidate, no complication would have arisen but due to his unwise and illegal

decision un-ending litigation including the instant one emanated from the same. In fact, the respondent No.02 is to be held responsible for this mishap than the innocent appellant.

GROUNDS:

A. Incorrect. The appellant has not been treated in accordance with law. He was made scapegoat for the acts and omission of others. The fundamental right of the appellant to be treated equally and enjoy equal protection of law was denied. Pick and choose was made in the case of the appellant. The inquiry officer in the fact finding inquiry blamed both the officials of the Directorate of Higher Education, Khyber Pakhtunkhwa and Secretariat for the alleged lapses but the concerned Section officer C-II, being incharge of the concerned Section and custodian of the disputed minutes of Grievance Redressal Committee and under whose signature the appointment notifications have been issued was not proceeded at all. She was not even called for clarification of the lapse by the inquiry officer. It is totally unjust and a major point of discrimination with the appellant.

B. Incorrect, as stated in the appeal.

C. Incorrect and misleading. The appellant was not at all heard during fact finding inquiry. The respondent Department went beyond the scope of recommendations of the inquiry without recording separate reason which is required for the dispensation of justice. The respondents went contrary to the recommendations of the inquiry report that the respondent No. 02 may like to further probe as to how and why the important official record, minutes of the meetings, note part, attendance sheet, approval, final recommendations and decision are missing regarding the appointment notification No. SOC-II/2-6-15/HED/ teaching assistants dated 02-12-2015 in his office and may like to provisionally appoint a deserving candidate. In the absence of these record, disciplinary proceedings against the appellant is malafide and discriminatory.

D. Incorrect. Regular inquiry failed to point out any connection of the guilt with the appellant. Punishment on the basis of presumptions and beyond recommendation of the inquiry officer is totally arbitrary and malafide.

E. The respondents have not rebutted the claim of the appellant.

F. Incorrect and misconceived. As stated in the preceding paras the appellant cannot be punished for the acts and omission of others.

G. Incorrect and vehemently denied.

H. Incorrect and vehemently denied.

In view of the above submission the appeal of the appellant may be graciously accepted in the interest of justice and fair play.

Through

Akhun Alimad Saeed a/d/a dvocate Migh Court

Appellant

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