

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 7779/2021

Muhammad Bashir.....Appellant

V E R S U S

The Chief Secretary & others.....Respondents

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M Bashir
Appellant

Through

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

Dated 18.11.2021

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**

V E R S U S

1. The Chief Secretary,
Government of Khyber Pakhtunkhwa,
Civil Secretariat, Peshawar
2. The Secretary,
Higher Education,
Archives & Libraries Department
Khyber Pakhtunkhwa, Peshawar
3. The Chief Minister, Khyber Pakhtunkhwa
Through Principal Secretary to Chief Minister
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 PÉTITION OF THE APPELLANT WAS REGRETTEED.

Respectfully Sheweth:

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

1. 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").
3. That the respondents filled these posts on the recommendation of ETEA on merit basis and no discretion were allowed. The selection process was a long exercise and in order of redress genuine grievances of the candidates a Grievance 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").
6. That 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 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 entertained. (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).
10. 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).

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:

GROUND S:

- A. 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.

B. That appellant was not heard at all. The right of 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 the power of personal hearing 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), Higher Education Department, Khyber 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 of this has to perform quasi judicial function which cannot be

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

- C. That inquiry officer has ignored the submission of 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 at S.No.06 was deprived, prepared 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 teaching assistants. 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.

- D. That appellant was unjustifiably found guilty of 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.

- E. 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 appellant immediately processed the recommendation of the appointment of the complainant to the Secretary Higher Education Department on 30-11-2015. However, the respondent No. 02 regretted to appoint him.
- 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.**
- c) **Any other relief deems fit and appropriate in the circumstances of the instant appeal may also be passed.**

M. Bashir

Appellant

Through

Akhunzada Ahmad Saeed
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**

AFFIDAVIT

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.

Bashir

DEPONENT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. _____/2021

Muhammad Bashir.....**Appellant**

VERSUS

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

ADDRESSES OF PARTIES

APPELLANT:

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

RESPONDENTS

1. The Chief Secretary,
Government of Khyber Pakhtunkhwa,
Civil Secretariat, Peshawar
2. The Secretary, Higher Education,
Archives & Libraries Department
Khyber Pakhtunkhwa, Peshawar
3. The Chief Minister, Khyber Pakhtunkhwa
Through Principal Secretary to Chief Minister
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
6. Khyber Pakhtunkhwa, Chamkani Mor Peshawar

Through

Akhunzada Ahmad Saeed
Advocate High Court(s)

Dated 18.11.2021



LIBRARIES DEPARTMENT

(18)

Dated Peshawar the January 8th, 2015

A

NOTIFICATION

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

S.#	Name of applicant	Action required.
1.	Mr. Naveed Iqbal, Assistant Professor of Pak Study, GDC Chitral, S. No. 16	Posting station as lecturer may be read as GDC Chitral and on promotion, he is retained at GDC Chitral against vacant post.
2.	Syed Azhar Hussain Shah, Assistant Professor of History-cum-Political Science, S. No. 17	On promotion, the officer is adjusted at GDC Khanpur, Haripur against vacant post.
3.	Hamid Hussain, Assistant Professor of Physics, GPGC Haripur, S. No. 34	On promotion, he is hereby adjusted at GDC Ghazi, Haripur against vacant post.
4.	Ashfaq Ahmad, Assistant Prof. of Urdu, GPGC Haripur, S. No. 57	On promotion, he is adjusted at GDC Ghazi, Haripur against vacant post.
5.	Tariq Ahmad, Assistant Professor of Computer Science, GDC Mingora, S. No. 24	On promotion, he was posted in GDC Mingora, Swat. But, there was no vacant post in the station. Hence, he is adjusted at GDC Kabal, Swat against vacant post.
6.	Fazal Ghaffar, Assistant Professor of Maths, S. No. 296	The officer is adjusted at GPGJC Saidu Sharif, Swat against vacant post.
7.	Muhammad Nazir, Assistant Professor of Maths, S. No. 313	The officer is adjusted at GPGJC Saidu Sharif, Swat against vacant post.
8.	Muhammad Younas, Assistant Professor of Political Science, S. No. 36	The officer is adjusted at GPGJC Saidu Sharif, Swat against vacant post.
9.	Wahced Ullah Jan, Assistant Professor of Economics, S. No. 38	On promotion, he is retained at GPGC Kohat against vacant post.
10.	Ghani-ur-Rehman, Assistant Professor of Economics	On promotion he is retained at GDC Chitral against vacant post.
11.	Majid Khan, Assistant Professor of Statistics, S. No. 54	Posting as lecturer in GPGC Mandian, Abbottabad is substituted with GPGC, Mansehra.
12.	Shah Faisal, Assistant Professor of Islamiyat, S. No. 77	On promotion, he is retained at GPGC, Karak against vacant post.

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13	Rafiqullah, Assistant Prof. of Islamiyat, S. No. 87	On promotion, he is retained at GDC Dir (Lower) against vacant post.
14	Aftab Alam, Assistant Prof. of Zoology, S. No. 91	On promotion, he was posted at GDC Dera Buner. However, his posting is substituted with GDC Pabbi, Nowshera against vacant post.
15	Mirrahmat-ud-Din, Assistant Professor of Islamiyat, (S. No. 92)	Present posting and proposed posting of the officer has been shown wrongly. The same is corrected by substituting name of the college as GAKLPGC Matta, Swat instead of GDC Pura, Shangla.
16	Zarmat Khan, Assistant Professor of Geography, S. No. 106	Posting station as lecturer may be read as GDC Chacharmati, Peshawar instead of GDC Pabbi.
17	Ibrar Khan, lecturer in Urdu, GPGC Nowshera, S. No. 162	On promotion, he was posted at GDC Garhi Kaporra, Mardan which is substituted with GPGC, Nowshera against vacant post.
18	Abdur Rashid, Assistant Professor of Urdu, GDC Gulabad, S. No. 166	Name of the officer may be corrected as Abdur Rashid instead of Abdur Rashid and his present proposed posting is substituted with GDC Gulabad, Dir (Lower) instead of GDC Gulabad, Dir (Upper).
19	Syed Ghaffoor, Assistant Professor of Urdu, S. No. 168	On promotion, he is adjusted at GDC Kabal, Swat against vacant post.
20	Muhammad Saeed, Assistant Professor of Physics, S. No. 170	On promotion, he is retained in GDC Khairabad, Mardan against vacant post.
21	Umar Farooq, Assistant Professor of Botany, GDC, Chitral, S. No. 174	On promotion, he is retained in GDC Chitral against vacant post.
22	Farman Ullah Khan, Assistant Professor of Biology, S. No. 189	On promotion, he is adjusted at GPGC, Bannu against vacant post.
23	Sikandar Ali, Assistant Professor of Chemistry, S. NO. 193	On promotion, he is retained at GPGC, Swabi against vacant post.
24	Muhammad Barkat Ali Khan, Assistant Professor of Geography, S. NO. 200	On promotion, he is adjusted at GDC, Madyan, Swat against vacant post.
25	Yousaf Khan, Assistant Professor of Urdu, S. No. 208	On promotion, he is retained in GPGC, Lakki Marwat against vacant post.
26	Muhammad Ilyas, Assistant Professor of Economics, S. No. 218	On promotion, he is retained in GPGC Mardan against vacant post.
27	Khalid Usman, Assistant Professor of English, S. No. 221	His present / proposed posting stations are substituted with GDC, Serai Naurang, Lakki Marwat instead of GDC, Ghazni Khel, Lakki Marwat.
28	Naeem Hadi, Assistant Professor of Maths, S. No. 226	On promotion, he is retained in GDC Kotha, Swabi against vacant post.
29	Muhammad Pukhtoon Zada Khan, Assistant Prof. of Biology, S. No. 235	On promotion, he is retained in Govt. AKL PG College Matta, Swat against vacant post.

	Tahir Iqbal, Assistant Professor of Economics. S. No. 237	On promotion, he is retained in GPGC, Kohat against vacant post.
31.	Khurshid Ahmad, Assistant Professor of Urdu. S. No. 244	On promotion, he is retained in GPGC, Mansehra against vacant post.
32.	Tariq Javed, Assistant Professor of Urdu. S. No. 245	GDC, Battagram wherever appears in respect of Mr. Tariq Javed may be read as GDC, Balakot, Mansehra instead of GDC, Battagram.
33.	Muhammad Atif Haider, Assistant Professor of English. S. No. 248	On promotion, he is retained in GDC, Lahor, Swabi against vacant post.
34.	Ali Bahadar, Assistant Prof. of Economics. S. NO. 255	On promotion, he was adjusted at GDC, Dir (Upper). Now he is adjusted at GDC, Gulabad, Dir (Lower) against vacant post.
35.	Shamsher Ali, Assistant Professor of Urdu. S. No. 207	On promotion, he is retained at GDC, Jower, Buner against vacant post.
36.	Muhammad Ibrahim, Assistant Professor of Economics. S. No. 202	On promotion, he was adjusted in the same college i.e. GDC, Sabirabad, Karak. Now he is adjusted at GPGC, Karak against vacant post on his own request.
37.	Attique-u-Zaman, Assistant Professor of Statistics. S. No. 302	On promotion, he was adjusted at GPGC, Haripur. Now he is adjusted at GDC, Havelian, Abbottabad against vacant post.
38.	Sajjad Ahmad, Assistant Professor of Maths. S. No. 280	On promotion, he is retained in GPGC, Timergara against vacant post.
39.	Muhammad Abdul Hafeez, Assistant Professor of Islamiyat. S. No. 64	On promotion, he was adjusted at GDC, Naguman, Peshawar. Now he is retained in GDC Mathra, Peshawar against vacant post.
40.	Kamran, Assistant Professor of English, S. No. 203	On promotion, he was posted at GAAKDC, Utmanzai, Charsadda. He is now retained in GPGC, Charsadda against vacant post.
41.	Nadeem Shah, Assistant Professor of Pak Study S. No. 216	On promotion, he was adjusted at GPGC, Mansehra. He is now adjusted at GDC, Havelian, Abbottabad against vacant post.
42.	Muhammad Bashir, Assistant Professor of History-cum-Political Science. S. No. 30	He will actualize his promotion in GC Peshawar against vacant post and thereafter will assume the charge of Deputy Director (Establishment), Directorate of Higher Education, Khyber Pakhtunkhwa, Peshawar as he is hereby posted as Deputy Director (Establishment). In the Directorate against this vacant post.
43.	Irfan Ullah, Assistant Professor of Urdu, GDC, Ghoriwala, Bannu.	On promotion, he was adjusted in GDC Ghoriwala, Bannu. Now he is adjusted at GDC No. 2, Bannu against vacant post.

ADJUSTMENTS:

S.#	Name, subject, present posting	Posted at
1.	Syed Iftikhar Jan, lecturer in Economics, GDC, Booni	GDC, Dir (Upper) against vacant post
2.	Muhammad Tahir, lecturer in Islamiyat, GDC, Thana, Malakand.	GDC, Gulabad, Dir (Lower) against vacant post.

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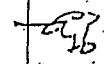
		vacant post.
Abbottabad.	lecturer in Urdu, GDC, Nathiagali,	GPGC No. 1, Abbottabad
	Muhammad Zeeshan, lecturer in English, GDC Parova, D.I. Khan.	vacant post.
	Hashim Khan, lecturer in English, GDC No. 1, D.I. Khan.	GDC No.1, D.I. Khan S. No. 6.
	Irfan Ullah, lecturer in Political Science, GDC, Gumbat, Kohat.	GDC Parova, D.I. Khan S. No. 5
	Muhammad Zubair, Assistant Professor of Computer Science, GDC, Zarabi, Swabi.	GPGC, Karak against vacant post.
	Muhammad Saeed, lecturer in English, GDC, Dir (Upper).	GDC Hayatabad, Peshawar against vacant post.
		GPGJC, Saidu Sharif, Swat against vacant post.

SECRETARY TO GOVT. OF
KHYBER PAKHTUNKHWA
HIGHER EDUCATION DEPARTMENT

EMDST: 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.
7. Principals of the concerned Government Colleges.
8. Manager, Govt. Printing Press, Khyber Pakhtunkhwa, Peshawar.
9. PS to Minister for Higher Education, Khyber Pakhtunkhwa, Peshawar.
10. PS to Secretary, Higher Education Department.
11. Officers concerned.


(HAMID ALI)
SECTION OFFICER (COLLEGES-II)

Thursday

March 13, 2014

VACANCY ANNOUNCEMENT

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 Higher 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.etea.edu.pk

Subjects:-

Arabic, Botany, Biology, Bio-Technology, Computer Science, Chemistry, English, Economics, Electronics, Environmental Science, Geography, History-cum-Civics, Home Economics, Health & Physical Education, Islamiyat, Law, Library Science, Mathematics, Micro Biology, Political Science, 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.

Terms & Conditions:-

1. 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.
2. In case of availability of the permanent substitutes of Public Service Commission/Promotee by PSB the appointment against these posts will stand terminated even before the prescribed period of two years.
3. The selection will be made on the basis of ETEA Test and academic qualification in line with the prescribed formula.
4. Attach attested copies of the educational testimonials and two fresh passport size coloured photographs with Application form.
5. Incomplete forms or without documents/ original bank voucher or received after due date will not be entertained.
6. Rs.300/- must be deposited at any branch of HBL in the name of Executive Director, ETEA, Peshawar and original voucher should be attached with the application form.
7. 2% Disable/Special Person, Quota will be observed.
8. 1% Minority Quota will be observed.
9. No TA/DA is admissible for test/interview.
10. The competent authority can stop, postpone or cancel any or all the post without assigning any reason.
11. Last date for submission of application forms is 15/4/2014.

DIRECTOR, HIGHER EDUCATION

KHYBER PAKHTUNKHWA PESHAWAR

Ph: 091-921025091-221022

Also available on www.khyberpakhtunkhwa.gov.pk INF (P) 377



GOVERNMENT OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES &
LIBRARIES DEPARTMENT

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 Member

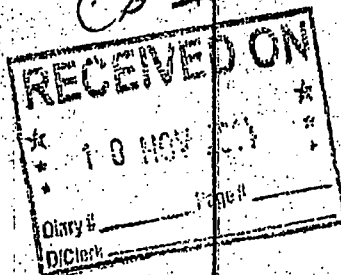
SECRETARY TO
GOVT. OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION DEPARTMENT

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.
4. PS to Secretary Higher Education Department.
5. PA to Deputy Secretary (Colleges), Higher Education Department.

SECTION OFFICER(C-II)



Handwritten notes:
A.O.
7/11/14
7/11

(24) 191 D

ENQUIRY REPORT

BACKGROUND:-

The undersigned was nominated as Inquiry 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 was conducted on 27-06-2014 and the applicant, Mr. Majid Khan S/O Sharif Khan, secured 6th position in the merit list of Teaching Assistants in the subject of Chemistry in District Mardan. Candidates upto Serial No. 8 from the merit list of the subject of Chemistry were appointed, leaving behind the present applicant at serial number 6 which is a clear violation of merit. Since then, Mr. Majid Khan has been visiting the directorate and the administrative department but in vain. The Directorate of Higher Education vide letter No. 27495/CA-IV/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-C).

PROCEEDINGS:-

1- The undersigned called Mr. Majid Khan S/O Sharif Khan on 09-07-2018 to appear in person and to furnish written 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).

2- The undersigned also called Mr. Abdur Rashid, Deputy Director (Sports) Directorate of Higher Education twice who was closely associated with the appointment of teaching assistants for discussion. He provided some documents relevant to the instant 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 latter 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:

- I. The plea of the complainant that he deserved to be appointed as Teaching Assistant is correct.
- II. The Directorate of Higher Education did not forward his name for appointment as Teaching Assistant to the administrative

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

- III. 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.
- IV. 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.
- V. The plea of the directorate that the name 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 name 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.
- VI. 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 court and adverse decision against the government is evident on face of the available record.
- VII. 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 merit 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 low in merit have been appointed. Disciplinary proceedings may, therefore, be initiated against the above for connivance, violation of merit, misconduct and inefficiency.


(MUHAMMAD AZIZ KHAN)
INQUIRY OFFICER/DS (ADMIN)

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E

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

(TEACHING ASSISTANTS 2014)

Table with columns: S.No., ROLL NO., NAME, FATHER NAME, DOB, CNIC, SUBJECT, Domicile, P.T. MARKS, T.MARKS, D.V.M. MARKS, T.MARKS, H.A.M. MARKS, T.MARKS, Academic/05, (M.Phil), P.P.S MARKS (PER YEAR), O.TOTAL, Remarks / Deficiency, CELL NO., Address.

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

(TEACHING ASSISTANTS 2014)

Merit No.	ROLL NO.	NAME	FATHER NAME	DOB	CNIC	SUBJECT	Gender	PHYSICAL FITNESS	TECHNICAL SKILLS	TEACHING SKILLS	EDUCATIONAL QUALIFICATION	MARKS IN B.A./B.S.	MARKS IN M.A./M.S.	MARKS IN M.PHIL/ED.D.	MARKS IN M.TECH/ED.M.	MARKS IN M.COM/ED.B.	MARKS IN M.AGRI/ED.A.	MARKS IN M.BUS/ED.C.	MARKS IN M.LAW/ED.D.	MARKS IN M.MAN/ED.E.	MARKS IN M.SOC/ED.F.	MARKS IN M.POL/ED.G.	MARKS IN M.HIST/ED.H.	MARKS IN M.LIT/ED.I.	MARKS IN M.PED/ED.J.	MARKS IN M.PSY/ED.K.	MARKS IN M.SPE/ED.L.	MARKS IN M.MATH/ED.M.	MARKS IN M.SCI/ED.N.	MARKS IN M.ART/ED.O.	MARKS IN M.MUSIC/ED.P.	MARKS IN M.DANCE/ED.Q.	MARKS IN M.SPORTS/ED.R.	MARKS IN M.CREATIVE/ED.S.	MARKS IN M.OTHER/ED.T.	MARKS IN M.TOTAL/ED.U.	REMARKS / DEFICIENCIES	CELL NO.	Address		
6	3020305	Majid Khan	Sharif Khan	5-2-85	16101-3945384-3	Chemistry	Male	221	27.63	776	1100	362	550	858.00	1200	27.72																			55.34		03149630665	Kot Daudat Zai Mohakafi Awanao P.O Gari Kapura Mardan C.O Ter Mard			
7	3020155	Murad Khan	Laili Ur Rahman	12-3-85	16102-7120724-7	Chemistry	Male	220	27.50	748	1100	338	550	03.23	4	26.95																			54.45		03450479791	Village Salo Shaba Abad P.O Ludkhwar Sultan Kaly Tehsil Tahri Bhal District Mardan			
8	3020268	Umar Ali	Faiz Khan	6-4-84	16101-6229318-9	Chemistry	Male	226	28.25	693	1100	344	550	722.00	1200	24.76																			54.01		03449223827	Village Faizal Kaly P.O Manga Tehsil And District Mardan			
9	3020373	Haris Khan	Abdul Qayum	2-4-82	16102-9406183-1	Chemistry	Male	205	25.63	813	1100	380	550	822.00	1200	28.20																				53.83		03442322281	Village Mulyano Kaly P.O Shah Noor Pu Takar Tehsil Tahri Bhal Dist Mard		
10	3020306	Ahsan Ali	Kasheeb Yousaf	1-9-85	16101-1260531-1	Chemistry	Male	213	26.63	765	1100	345	550	726.00	1200	25.95																				52.57		03349407731	Village & P.O Babul Tehsil Kargah District Mardan		
11	3020284	Wasif Khan	Ayub Khan	23-3-85	16102-1004668-1	Chemistry	Male	203	25.38	602	1100	280	550	03.04	4	23.20																				49.58		03155653400	Village Mehmood Abad P.O Pariko Dori Tehsil Tahri Bhal District Mard		
1	7160203	Muhammad Zahira (Engineering)	Sarameen Khan	1-4-85	16101-7913485-3	Computer Science	Male	218	27.25	860	1100			03.24	4	30.22																				57.47	NOT ELIGIBLE	03328903069	House No. 506, Street 18, Sector S Sheikh Maatooon Town Tehsil Mardan District Mardan		
2	7160329	Zahoor (Islam) (Engineering)	Noor Ul Wahab	19-12-84	16101-9317568-7	Computer Science	Male	256	32.00	827	1100			02.24	4	25.17																					57.12	Not Eligible	03339253366	House No. 53, Sector-K, Street-1, Sheikh Maatooon Mardan	
3	7160321	Shahab Khan	Abdul Rauf Khan	20-3-85	16102-1292005-5	Computer Science	Male	230	28.75	641	1100			3310.00	4500	28.37																					55.12			Village Mulyano Kaly P.O Sangar Tehsil Tahri Bhal District Mardan	
4	7160165	Shafiq Khan	Ashraf Gul	8-3-85	16102-2204562-7	Computer Science	Male	202	25.25	689	1100			03.76	4	29.45																					54.70		03465650545	Govt House, Road Kashmir Park, Jinnah Cadet College Murree	
5	7160331	Mohammad Yahya	Abdul Raaziq	14-4-85	16102-7091057-7	Computer Science	Male	212	26.50	789	1100	314	550	1382.00	2100	27.15																					53.05	Overage by 13%	03335503688	Mahallah Babrah, Sher Garh Tehsil Tahri Bhal District Mardan	
6	7160235	Salman Ahmad	Brahim Gul	5-8-85	16101-0869317-3	Computer Science	Male	203	25.38	631	1100			3454.00	4500	26.82																					52.20		03364820024	Village Kunj, P.O & Tehsil Kattag, District Mardan Kp	
7	7160353	Shah Khalid	Abdul Latif	1-3-85	15302-4514294-7	Computer Science	Male	213	26.63	586	1100	288	550	03.45	4	24.43																					51.96		03005731912	House No.4742 Navab Khan Street Canal Road Biggwar Mardan	
✓	3030188	Muhammad Ishfaq	Muhammad Quresh	31-3-85	16102-0105568-3	Economics	Male	250	31.25	839	1100			03.97	4	33.12																					64.37		03425173392	Mahallah Qazi Sahib Vei & P.O Bjar Gari Tehsil & District Mardan Kp	
✓	3030260	Muhammad Rameez	Muhammad Shakeel	25-9-85	16102-7739304-3	Economics	Male	230	28.75	832	1100			3614.00	4500	31.19																						59.94		03139751559	Village And P.O Lund Khwar (Dara) Tehsil Tahri Bhal District Mardan
✓	3030331	Munawar Javed	Muhammad Javed	31-3-85	16101-5571721-7	Economics	Male	234	29.25	770	1100			3552.00	4500	28.79																						59.04		03339276012	B-27, Sheikh Maatooon Town Mardn
4	3030295	Qaim Ullah	Risan Ullah	14-4-85	16102-3267148-1	Economics	Male	230	28.75	717	1100	03	04	03.30	4	27.29																						58.04		03469322202	Qaim Ullah S/O Risan Ali Mohallah Pakhal, Village & P.O Lund Khwar Tehsil Tahri Bhal District Mardan
5	3030172	Wassem Siraj	Risan Siraj	30-7-85	16101-4340079-5	Economics	Male	229	28.63	669	1100			3484.00	4400	28.00																						56.63		03438955071	Village & P.O Ganyala, Tehsil & District Mardan Kp

Signature

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F

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

S.No	Name Of Candidate	Subject	Domicile	Aggregate/ Position	Proposed At	Remarks
1	Adnan Khan S/O Shah Dawran, Vill. & P/O Amonat Moh. Sajjadabad Amankot Swat.	Economics	Swat	02/ 57.66	GPGJC Saidu Sharif Swat	AVP
2	Watan Nawab S/O Amir Muhammad Khan, Vill & Po Baidara Moh Kozpalao Matta Swat.	English	Swat	04/50.99	GPGJC Saidu Sharif Swat	AVP
3	Sultan Ahmad S/O Mian Bakht Minosh, Sultan Clinical Lab Opp. Central Hospital Saidu Swat.	Bio-Technology	Swat	01/56.11	GPGJC Saidu Sharif Swat	AVP
4	Tariq Aziz S/O Ahamd, Vill. & P/O Aligrama Kabal Swat.	Urdu	Swat	03/53.38	GPGJC Saidu Sharif Swat	AVP
5	Rashid Iqbal S/O Muhammad Naem, Moh. Niamatkhel Vill. & P/O Aligrama kabal swat	Chemistry	Swat	08/ 54.25	GPGJC Saidu Sharif Swat	AVP
6	Zafar Ali S/O Walayat Khan, Vill. Bagra Moh. Giro Daggar Buner.	Political Science	Buner	02/56.94	GDC Daggar Buner	AVP
7	Rahat Subhan S/O Zamin Zada, Swat College Of S&T Near Oldnadra Office Saidu Swat.	Statistics	Swat	03/55.35	GDC Chamla Buner	AVP
8	Muhammad Sangeen Khan S/O Masood Khan, House No. 174, Street # 6, Sector L-2, Phase 3, Hayatabad Peshawar.	Environmental Sc.	Charsadda	02/57.39	GDC Gul Abad Dir (L)	AVP
9	Mohammad Bar Khan S/O Tajbar Khan,	Biology	Dir (Upper)	01/59.28	GDC Waral, Dir (Upper)	AVP

	Vill. Satal P/ O Darora Dir Upper.					
✓10	Khair Rafiq S/O Khair Faqir, Vill. Chiragalai P/O Bibywar.Dir Upper.	Biology	Dir (Upper)	02/56.35	GDC Chitral <i>Bosru?</i>	AVP
✓11	Zahoor Ali S/O Gul Nabi, Moh Mirdad Khel V.P.O Yar Hussain Tehs Razzar Distt Swabi.	Urdu	Swabi	05/49.81	GDC Gandaf Swabi	AVP
✓12	Ahmad Ali S/O Hamdi Allah, Ahmad Ali C/O Sherin Taj Shop, Moh: Karim Dad Khel, Vill & P.O Yar Hussain The: Lahor, Distt: Sawabi.	Islamiyat	Swabi	03/59.28	GDC Gandaf Swabi	AVP
✓13	Faraz Ali S/O Liaqat Ali, Moh Hamza Khel V.P.O Daggi Teh Razzar Distt Swabi.	Political Science	Swabi	03/53.86	GDC Yar Hussain Swabi	AVP
✓14	Murad Khan S/O Latif Ur Rahman, Village Salo Shuta Abad P.O Lundkhar Sultan Kaly Tehsil Takht Bhai District Mardan.	Chemistry	Mardan	07/54.45	GDC Toru Mardan	AVP
✓15	Haroon Ur Rashid S/O Mohammad Khan, Vill & PO Bogara(Rangeen Khel) The. Takht Nasrati Karak.	Physics	Karak	08/51.21	Govt College Peshawar	AVP
✓16	Hasham Khan S/O Mir Alam Khan, Deheray Ghazi Mera Turangzay District & Tehsil Charsadda.	Economics	Charsadda	06/53.56	GDC Abdul Ali Khan Utmanzai	AVP
✓17	Lajbar Khan S/O Khan Wali, Wazir Bagh Road Govt. Superior Science College Gulababad Shah Mir Shop Peshawar City	Urdu	Mohmand Agency	04/49.00	GDC Shabqadar (Charsadda)	AVP
18	Taseer Ullah S/O	History/Civics	Karak	02/46.903	GDC Ahmad	AVP

(19) - Botany Ahmad Ali Khan S/O
 Botany Mardan
 3/54.12 GDC Gandaf / AVP
 Muhammad Ghaffar

(20) Chemistry Umer Ali S/O
 Chemistry Mardan
 8/54.01 GDC Gandaf
 Fareed Khan

	Shahbaz Noor, CMI Computer Acadmey Algadi Road Haji Nawaz Market 1st Flour Main City Karak.				Abad	
19	Muhammad Imran S/O Noor Shah Jan, Moh Isak Chutra Vill & P/O High School Dab Karak.	English	Karak	02/58.03	GDC Ahmad Abad	Reappointment Against AVP
20	Saud Ur Rehman S/O Zaffar Ali Khan, Javed Educational And Informational Center Tanchi Bazar Bannu.	History/Civics	F.R Bannu	02/58.06	GPGC Bannu	AVP
21	Yasir Jameel S/O Amjad Ali Khan, Po Nar Jaffar The & Dist Bannu.	Islamiyat	Bannu	01/59.90	GDC S.K Bala Bannu	AVP
22	Mirza Ali Khan S/O Zarbat Khan, Vill Tori Khel The & District Bannu.	English	F.R Bannu	11/55.58	GDC Landi Jhalandar Bannu	AVP
23	Wahid Khan S/O Mir Daraz Khan H. No E-7 C & W Colony Bannu.	English	Bannu	12/55.40	GDC Ghori Wala Bannu	AVP
24	Muhammad Sibtain S/O Haji Nawaz Mittha Pur Khurd Po Rangpur Shomali The Paharpur D.I.Khan	Islamiyat	D.I. Khan	01/53.00	GDC Paroya D.I. Khan	AVP (Age relaxation)
25	Muhammad Banaris S/O Mir Zaman, Vill: Darra Shohal, Balakot, Manshra	Pak Study	Manshra	04/52.20	GPGC Haripur	AVP
26	Tasawar Hussain S/O Sarwar Hussain, Modern School System, Near Inor Hospital, Manshra Road, Mandian Abbottabad.	English	Manshra	04/52.02	GDC Darband Manshra	Rejoining case. Another candidate is also on waiting list on S.No. 07

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Tasawar Hussain

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G



GOVERNMENT OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES &
LIBRARIES DEPARTMENT

Dated Peshawar, 02nd December, 2015.

NOTIFICATION

No.SO(C-II)/2-6/2015/HED/Teaching Assistants/ In pursuance of 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 or more).
2. Their services will be purely temporary and they will not be deemed to be Civil Servants.
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 selectee 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 list, as per criteria.
7. The Principal concerned shall be required to submit a certificate verifying academic credentials.
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.
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.

S.No	Name Of Candidate	Subject	Domicile	Proposed At	Remarks
1	Adnan Khan S/O Shah Dawran, Vill. & P/O Amonat Moh. Sajjadabad Amankot Swat.	Economics	Swat	GPGJC Saidu Sharif Swat	AVP
2	Watan Nawab S/O Amir Muhammad Khan, Vill & Po Baidara Moh Kozpalao Matta Swat.	English	Swat	GPGJC Saidu Sharif Swat	AVP
3	Tariq Aziz S/O Ahamd, Vill. & P/O Aligrama Kabal Swat.	Urdu	Swat	GPGJC Saidu Sharif Swat	AVP
4	Rashid Iqbal S/O Muhammad Naeem, Moh. Niamatkhel Vill. & P/O Aligrama kabal swat	Chemistry	Swat	GPGJC Saidu Sharif Swat	AVP
5	Zafar Ali S/O Walayat Khan, Vill. Bagra Moh. Giro Daggar Buner.	Political Science	Buner	GDC Daggar Buner	AVP
6	Rahat Subhan S/O Zamin Zada, Swat College Of S&T Near Qldnadra Office Saidu Swat.	Statistics	Swat	GDC Chamla Buner	AVP
7	Muhammad Sangeen Khan S/O	Environmental Sc.	Charsadda	GDC Gul Abad Dir (L)	AVP

Section Officer (C-1)
 Govt. Of Khyber Pakhtunkhwa
 Higher Education & Libraries Department

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

Section Officer (C-1)
Govt. Of Kh. & Libraries Deptt
Higher Education, Peshawar

16	Iltaf Khan S/O Fazal Karim, P.O Khesgi Payan Tehs & Distt Nowshera.	Pak Study	Nowshera	GDC Khan Kohi (NSR)	AVP
17	Haroon Ur Rashid S/O Mohammad Khan, Vill & PO Bogara(Rangeen Khel) The. Takht Nasratl Karak.	Physics	Karak	Govt Cdlege Peshawar	AVP
18	Hasham Khan S/O Mir Alam Khan, Dcheray Ghazi Mera Turangzay District & Tehsil Charsadda.	Economics	Charsadda	GDC Abdul Ali Khan Utmanzai	AVP
19	Lajbar Khan S/O Khan Wali, Wazir Bagh Road Govt. Superior Science College Gulababad Shah Mir Shop Peshawar City	Urdu	Mohmand Agency	GDC Shabqadar (Charsadda)	AVP
20	Taseer Ullah S/O Shahbaz Noor, CMI Computer Acadimey Algadi Road Haji Nawaz Market 1st Flour Main City Karak.	History/Civics	Karak	GDC Ahmad Abad	AVP
21	Muhammad Imran S/O Noor Shah Jan, Moh Isak Chutra Vill & P/O High School Dab Karak.	English	Karak	GDC Ahmad Abad	AVP
22	Saud Ur Rehman S/O Zaffar Ali Khan, Javed Educational And Informational Center Tanchl Bazar Bannu.	Hjstory/Civics	F.R Bannu	GPGC Bannu	AVP
23	Yasir Jameel S/O Amjad Ali Khan, Po Nar Jaffar The & Distt Bannu.	Islamiyat	Bannu	GDC S.K Bala Bannu	AVP
24	Mirza Ali Khan S/O Zarbat Khan, Vill Torl Khel The & District Bannu.	English	F.R Bannu	GDC Landi Jhalandar Bannu	AVP
25	Wahid Khan S/O Mir Daruz Khan	English	Bannu	GDC Ghorl Wala Bannu	AVP

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	H. No E-7 C & W Colony Bannu.				
26	Muhammad Banaris S/O Mir Zaman, Vill: Darra Shohal, Balakot, Mansehra	Pak Study	Mansehra	GPGC Haripur	AVP
27	Abid Hussain S/O Abdul Mateen, C/O Khani Zaman Karyana Store, Rustam Bazar, Mansehra.	Statistics	Mansehra	GPGC Mansehra	AVP
28	Muhammad Imran S/O Shahzaman, Vill and P.O: College Doraha, Moh: Chishti abad, Mansehra.	Statistics	Mansehra	GDC Lissan Nawab	AVP
29	Tasawar Hussain S/O Sarwar Hussain, Modern School System, Near Inor Hospital, Mansehra Road, Mandian Abbottabad.	English	Mansehra	GDC Darband Mansehra	AVP

SECRETARY TO
GOVT. OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION DEPARTMENT

Endst: No. & Date Even

Copy forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa.
2. Director Higher Education, Khyber Pakhtunkhwa, Peshawar.
3. Principals of the Colleges concerned.
4. District Accounts Officers concerned.
5. PS to Minister for Higher Education.
6. PS to Secretary Higher Education Department.

[Signature]
Section Officer (Colleges-II)
Govt. of Khyber Pakhtunkhwa
Higher Education & Archives
& Libraries Department

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Attn: /



**DIRECTORATE OF HIGHER EDUCATION
KHYBER PAKHTUNKHWA,
KHYBER ROAD PESHAWAR**

Phone # 091-9210242, 9211025/Fax # 9210215
No. 1211 / CA-II/ Estt: Branch/A-12/ General File /T.A

Dated Peshawar the 10 / 7 /2015

To

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

SUBJECT POSTING PROPOSAL OF TEACHING ASSISTANT.
Dear Sir,

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,

(Muhammad Bashir)

BY: DIRECTOR (ESTABLISHMENT)

C



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

I

No. SO (C-II) HED /2-6/TA/2015.
Dated Peshawar the 06.04.2016.

/448

To,

The Director,
Higher Education, Peshawar.

**SUBJECT: REQUEST TO REDRESS GRIEVANCES AND APPOINT AGAINST
TEACHING ASSISTANTS.**

I 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 proposal with regard to closing of the merit list for appointment of Teaching Assistants.

No further requests for fresh recruitment shall be entertained.

Rafiq Sami Dabeer
SECTION OFFICER (COLLEGES-II)

*100 (E) /
supp*

[Signature]
11/12/16

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11/4

[Signature]

RECEIVED ON
12 APR 2016
2647/62

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DIRECTORATE OF HIGHER EDUCATION
KHYBER PAKHTUNKHWA,
KEYBER ROAD PESHAWAR

Phone # 091-9210242, 9211025/Fax # 9211803

CA-II/ Estt: Branch/ A-12/ Teaching Assst/ M...

No. 2762

Dated Peshawar: the 17/10/17

To

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

SUBJECT

NON CONSIDERATION OF MY CASE AMONGST
MERITORIOUS CANDIDATES IN NOTIFICATION
(2ND DECEMBER, 2015).

Dear Sir,

I am directed to refer to your office letter No. SO (Colleges-II) /HED/2-6/TA/731 dated 06.09.2016 on the subject cited above and to state that Mr. Majid Khan S/O Shari 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 made upto 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/HED/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/2015/148 dated 06.04.2016. Copy enclosed for ready reference, please.

Yours Faithfully,

g. Bahi
14/10/16

(Muhammad Bahi)
DY: DIRECTOR (ESTABLISHMENT)

So. 15/2/16 g/c/BHE
Why his case
was not considered
was mistakenly not
considered by the
competent authority

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21/10/16

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PROPOSAL FOR RECRUITING ASSISTANT IN VARIOUS COLLEGES
OF PESHAWAR UNIVERSITY
AKHTUNKHWA dated 30.11.2015.

Sl. No.	NAME OF CANDIDATE	SUBJECT	DOMICILE	MERIT POSITION	PROPOSED AT	REMARK
1.	Mr. Sulman S/O Salah ud Din, H. No. C/3 Staff Colony. GDC, Kohat Road Peshawar	Pol: Science	Bannu	08/54.21	GPGC, Bannu	AVP
2.	Mr. Maaz Qazi S/O Qazi Razi ud Din, Street No Lalifabad Ring Road Patang Chowk Peshawar.	Chemistry	Peshawar	07/57.07	GC, Peshawar	AVP
3.	Mr. Mohammad Kamran S/O Islam Sher, Village Shakarpura Shagai Koroonia P.O Nahai District Peshawar.	Chemistry	Peshawar	08/56.72	GC, Peshawar	AVP
4.	Mr. Majedullah S/O Mohammad Tahir, Village & P.O Madyan Kozkalay Bahrain Swat.	Pol: Science	Swat	03/46.21	GPGJC, S/Sharif (Swat)	AVE
5.	Mr. Fidaullah Khan S/O Mohammad Ayub Khan, Kalanger Nakki P.O Lakki District Bannu.	Urdu	Bannu	06/54.59	GPGC, Bannu	AVP
6.	Mr. Haq Nawaz S/O Abdul Hameed, Village P.O Thana Mohallah Dhanda Malakand.	Pol: Science	Malakand	03/53.72	GDC, Palat (Malakand)	AVP
7.	Mr. Jamil Khan S/O Mohammad Karim, Gulbahar Colony P.O Hathyan Tehsil Takhi Bhai Mardan.	History/ Civics	Mardan	03/54.17	GDC, Kailang (Mardan)	AVP
8.	Mr. Mohammad Tariq S/O Umar Gul, Khuwaja Khei, Chamkani Peshawar.	English	Peshawar	12/46.69	GC, Peshawar	AVP
9.	Mr. Mohammad Ishaq S/O Gul Mir, Village Umar Abad P.O Umar Abad Tehsil Takhi Bhai Mardan.	Botany	Mardan	04/53.83	GDC, Kailang (Mardan)	AVP
10.	Mr. Liaqat Ali S/O Wahab Gul, Mohallah Kooz Kanday Village Baghdadada near GHSS Baghdadada Mardan.	English	Mardan	09/53.95	GPGC, Mardan	AVP
11.	Mr. Shams ud Din S/O Abdur Rasheed, Mira Saidan PMA Kakool Abbottabad.	Urdu	Abbottabad	03/44.72	GPCC, Mandian (Abbottabad)	AVP
12.	Mr. Riaz Ahmad S/O Inam Shah, Mohallah Haleemza Village Shabgadar Tehsil & P.O Shabgadar District Charsadda.	Zoology	Charsadda	04/55.48	GDC, Abdul Ali Khan (Charsadda)	AVP
13.	Mr. Irfan Khan S/O Mumtaz Khan, Postal Address Kanal Road Daura Peshawar	Urdu	Peshawar	04/49.99	GC, Peshawar	AVP

C 15

S/O Ali Lt
Umar Abad
Takhi Bhai
(Mardan)
M. Majid Khan S/O
Sharif Khan Kot
Daulatzai Mohallah
Zaranan P.O Ghari
Kapura (Mardan)

Pak: Nowshera 53.53
Studies

GDC, Khan
Kohi
(Nowshera)

AVP 6
203

Chemistry Mardan 55.34

GPGC,
Mardan

AVP 19

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(42)

**GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT**

NO. AS(D)/HD/1-1/Inquiry /2019
Peshawar, the 09th January, 2020

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

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

Respected Sir,


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


(KALIM ULLAH BALOCH)
ADDITIONAL SECRETARY (DEV)

Enclosed: of even No. and Date:

Copy of the above is forwarded to the

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


ADDITIONAL SECRETARY (DEV)

INQUIRY REPORT

SUBJECT: DISCIPLINARY PROCEEDINGS AGAINST MUHAMMAD BASHEER, ASSISTANT PROFESSOR (BPS-18) 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, (ANNEX-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 (HPE) (BPS-17) working as Deputy Director (Sports) Higher Education, Khyber Pakhtunkhwa. 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 Khan 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 Shari Khan, secured 6th position in the merit list of Teaching Assistants in the subject of Chemistry in District Mardan. Candidates upto serial No. 8 from the merit list in the subject of Chemistry, District Mardan were appointed while Mr. Majid Khan at serial No. 6th was left not appointed. Mr. Majid Khan visited Higher Education Department / Directorate of Higher Education Department many times. At last Higher Education 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 writ petition in Peshawar High Court and won the case. Higher Education department went into CPLA against him which is still pending in the August Supreme Court of Pakistan. Mr. Majid Khan has not been appointed up till now while those who were appointed have been regularized. Higher Education Department conducted fact finding inquiry which became the basis of this enquiry. Hence this enquiry.

PROCEEDINGS

Charge sheet and statement of allegations were forwarded to the accused Mr. Muhammad Bashir, Assistant Professor (BPS-18) currently working as Deputy Director (Establishment) Directorate of Higher Education Department and Mr. Abdur Rashid lecturer (HPE) (BPS-17), working as Deputy Director (Sports) 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 dated 14/11/2019 (ANNEX-C).



During the proceeding of inquiry, important documents were found not available. For example Notification of Grievances Redressal Committee, Minutes of meetings and the appointments notification wherein the aggrieved complainant (Majid Khan) was left and other two candidates below him in the merit 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 along with complete relevant record (ANNEX-B).

S#	Charge	Gist of reply of	Gist of reply of
1.	That he intentionally did not forward the name of deserving candidate Mr. Khan to Administrative Department for appointment as Teaching Assistant for his ulterior motives	He was not holding the post of Dy. Director as the look charge on 09/05/2015 and test for said posts was held on 23/05/2014.	His job was to compile merit list and to forward proposal for appointment. Mr. Abd-ur-Rashid (Accused)
II	That he violated the merit by forwarding the names of candidate despite being low in merit for appointment as Teaching Assistant Administrative Department leaving behind the mentioned candidates on the basis of favoritism.	As per record he was not assigned any responsibility regarding proposal and for this stance Dy. Director Spot was the Focal Person.	Majid Khan did not lodge any complaint against his merit order, while sending proposals was not his duty.
III	That he being custodian of the merit list concealed the factual position and misled the Administrative Department, which is a gross misconduct.	He was not given an opportunity of his defense by the fact submitted in the office of Secretary, Higher Education Directorate of Higher Education.	The merit list was maintained in a transparent manner and the merit list was a good name for the department.
IV	That he has created an embarrassment and brought bad name to the Department by depriving a deserving candidate from his right and consequent unnecessary litigation.	He proposed name of Mr. Khan in light of his appeal to Higher Education Department for appointment, but was rejected.	

On 26/11/2019 Mr. Muhammad Bashir and Mr. Abdur Rashid appeared before inquiry officer. Both of them submitted their written reply / statements. The statement of Mr. Muhammad Bashir is at (ANNEX-D) and written reply of Mr. Abdur Rashid is at (ANNEX-E). Later on accused Abdur Rashid submitted another written reply (ANNEX-F II). Gist of their statements is as follows:-

(15)

On 3rd December 2019 Section Officer (C-II) and both accused appeared before undersigned along with record. Notification of grievance redressal 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 8 (ANNEX-H), was produced but minutes of grievances 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 appeared before undersigned. Note sheet of approval of list/proposal wherein candidates at serial No. 7 and 8 were proposed for appointment was also produced (ANNEX-I). Written statement of witness, Mr. Amjad Ali Senior Clerk Directorate of Higher Education Department was recorded (ANNEX-J). He was also cross examined. Mr. Amjad Ali senior clerk Directorate of Higher Education Department stated that list/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. Minutes of meeting of grievances redressal 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 said minutes in next hearing.

On 01/01/2020 Mr. Tabir Khan Section Officer (C-II) Higher Education Department submitted written certificate/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). As per record of Directorate of Higher Education one meeting of Grievance Redressal 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 Inquiry 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

(Annex-I). By virtue of his post as Deputy Director Establishment, it was his duty to ensure that each and every candidate 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 process 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 irrelevant. But during this inquiry the accused was given ample 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 embarrassment for the Department by depriving 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-Rashid

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 Department. This reply is not satisfactory. As it transpired during the proceedings that the accused (Abdu Rashid) designation was Deputy Director Sports but he was also dealing with the issues of Teaching Assistants appointment at Directorate level. The same viewpoint was also endorsed by one witness Mr. Anjid 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 him in merit list were proposed was sent by accused Mr. Abdu Rashid, while he (Anjid Senior Clerk) processed and put up. In the Note part, there is no signature of accused (Abdu-Rashid). The other accused Mr. Basheer Ahmad signed the note part and sent it to Director

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 litigations. The reply and comments may be seen as mentioned in charge No. 1 above, please.

FINDINGS

- 1) On the basis of merit list of test conducted on 27-06-2014, by ETEA, 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 Assistants. 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 Khan (Merit position 6th) was left and candidates at merit position 7th & 8th below him were recommended / appointed, and later on regularized.
- 3) Grievances Redressal Committee was notified 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 Office- (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 Ali, senior clerk Directorate of Higher Education Department, a proposal/list excluding candidate at serial 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.

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

- 6) The list / proposal of candidates was forwarded to Director Higher Education for approval by accused Deputy Director Higher Education 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 inefficiency.
- 9) Its outcome/ result is that a deserving candidate (Mr. Majid Khan) has suffered a lot and he is still suffering and wandering from pillar to post.

CONCLUSION

Charges against accused Muhammad Bashir

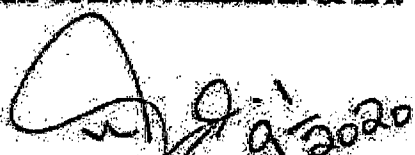
Charge No. 1	Partially proved
Charge No. 2	Partially proved
Charge No. 3	Partially proved
Charge No. 4	Partially proved

Charges against accused Abdu Rashid

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

Recommendation:

- 1) Secretary Higher Education Department may like to further probe that as to how and why the important official record, minutes of meeting, note part, attendance sheet, approvals, final recommendations and decision are missing regarding the appointment Notification No. SOC-11/2-6-2015/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 Chemistry in compliance with Peshawar High Court Judgment Order in writ petition No. 4280-P-2017 (ANNEX-O) subject to final decision by August Supreme Court of Pakistan in CPLA.


 Kalimullah Khan Baloch
 Additional Secretary 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:-

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

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of reduction in grade 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. Abdur Rashid, Lecturer in HPE (BS-17),
Currently working as Deputy Director (sports)
Directorate of Higher Education

SHOW CAUSE NOTICE

(5)

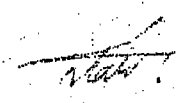
I, Mahmood Khan, Chief Minister Khyber Pakhtunkhwa, as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve you, Mr. Muhammad Bashir, Assistant Professor of Political Science (BPS-18), currently working as Deputy Director (Estt:),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

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

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of withholding of under rule 4 of the said rules.
at two annual increments for one year.
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



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

Dated Peshawar the 29th June, 2021

NOTIFICATION

No.SO(C-II)/HED/2-6/2019 / 2160-63 **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.

2. **AND WHEREAS** the Competent Authority appointed Mr. Kalim Ullah Baloch, (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.

3. **AND WHEREAS** the Inquiry Officer has examined the charges, evidence on 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".

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

6. **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.

7. **NOW THEREFORE**, 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 pleased to confirm the minor penalty of "Withholding two annual increments for one year" of Mr. Muhammad Bashir, Assistant Professor (BS-18), currently working as Deputy Director (Estt:) Directorate of Higher Education.

SECRETARY, HIGHER EDUCATION DEPARTMENT

ENDST: NO. & DATE EVEN

Copy forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director Higher Education, Khyber Pakhtunkhwa, Peshawar.
3. Deputy Director-IT, HEMIS 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.

(NAYAT HR REHMAN)

29.06.21

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24/6/21

2014 282



(52)

N

**DIRECTORATE OF HIGHER EDUCATION
KHYBER PAKHTUNKHWA**

Rano Garhi, Peshawar

Tel # 091-2650025 / 2650024

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

No. 107/1 / CA-I / Estt: Branch / A-12 / Muhd Bashir / His-cum-Poi: Sci Dated Peshawar the 16 / 7 / 2021

To

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

SUBJECT

REVIEW PETITION UNDER RULE-17 OF KHYBER PAKHTUNKHWA GOVT; SERVANTS (EFFICIENCY AND DISCIPLINE) RULES, 2011 AGAINST THE IMPUGNED NOTIFICATION NO. SO (COLLEGES-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.

Respected Sir,

السلام عليكم

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.

16/07/2021
ASSISTANT DIRECTOR (ESTT:)

To

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

Through:
Subject:

PROPER CHANNEL
REVIEW PETITION UNDER RULE 17 OF KHYBER PAKHTUNKHWA
GOVERNMENT SERVANTS' (EFFICIENCY AND DISCIPLINE) RULES,
2011 AGAINST THE IMPLIGNED NOTIFICATION NO.SO (C-11)/HED/
2-6/2019, DATED PESHAWAR THE 29TH JUNE, 2021 WHEREBY
MINOR PENALTY OF "WITHHOLDING TWO ANNUAL INCREMENTS
FOR ONE YEAR" HAS BEEN IMPOSED UPON MR MOHAMMAD
BASHIR, ASSISTANT PROF (B-18), CURRENTLY WORKING AS
DEPUTY DIRECTOR (EST) DIRECTORATE OF HIGHER EDUCATION.

Respected Sir, السلام عليكم

GROUND:

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 innocence which is violation of basic legal right as law requires that full opportunity of defence may be provided to every accused.
2. That the personal hearing was conducted in undue haste and both the departmental representatives of the department and Directorate, HED are eye witness to this fact that pro and contra of the case were not threadbare discussed nor the accused petitioner 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 Ali S/O Farid Khan respectively at Serial No 12 and 13 of the notification (F/B) respectively who were proposed both at GDC, Gandaf (Swabi) and the same was admitted before the inquiry officer during formal proceedings by Mr. Amjad Khan, the then Senior Clerk (C-1) Establishment Section, Directorate of Higher 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 grounds 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.

S. Bashir
16/7/2021

Muhammad Bashir
Deputy Director (Estt;)
Directorate of Higher Education,
Khyber 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 Khyber Pakhtunkhwa Govt. Servants (Efficiency & Discipline) Rules, 2011.

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 Education.

-Sd-
SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION DEPARTMENT

ENDST: NO. & DATE EVEN.

Copy forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director Higher Education, Khyber Pakhtunkhwa, Peshawar.
3. Deputy Director-IT, BEMIS 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 OFFICER (COLLEGES-II) 25/10/21

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

**WAKALATNAMA
(Power Of Attorney)**

Mohammad Bashir

(Petitioner)
(Plaintiff)
(Applicant)
(Appellant)
(Complainant)
(Decree Holder)

VERSUS

The Chief Secretary & others

(Respondent)
(Defendant)
(Accused)
(Judgment Debtor)

I/ We, _____ The undersigned _____ in the above noted
Service Appeal, do hereby appoint **Mr. Akhuzada Ahmad Saeed**,

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.



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

Signature of Executants

M. Bashir

Mohammad Bashir

Deputy Director

Directorate of Higher
Education

"B"

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

SB

No.
(Regd)

Appeal No. 7779 of 20 21
Muhammad Bashir
Appellant/Petitioner

The Chief Secy, Govt of KPK, Civil Secretariat Pesh.
Respondent

Respondent No. (5)

Notice to: The Director, Directorate of Higher Education
KPK, Chamkani Mor Peshawar

WHEREAS an appeal/petition under the provision of the Khyber 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 ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 04/09/2022 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any 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.....~~

Given under my hand and the seal of this Court, at Peshawar this 19th

Day of March 20 22

(For Regd)

[Signature]

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

"B"

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

SB

No.

Appeal No. 7779 of 2021

Muhammad Bashir Appellant/Petitioner

Versus

The Chief Secy, Govt of KPK, Civil Secretariat, Pesh. Respondent

Respondent No. (1)

Notice to: — The Chief Secy, Govt of KPK, Civil Secretariat Peshawar.

WHEREAS an appeal/petition under the provision of the Khyber 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 ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 04/04/2022 at 8.00 A.M. If you wish to urge anything against the appelland/petitioner you are at liberty to do so on the date fixed, or any 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.

Given under my hand and the seal of this Court, at Peshawar this 18th

Day of March 2022

(For Reply)

ISSUE BRANCH
CHIEF SECRETARY
Govt. of Khyber Pakhtunkhwa
Peshawar

3/22 For

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

"B"

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

No.

SB

Appeal No. 7779 of 2021

Muhammad Bashir Appellant/Petitioner

The Chief Secy, Govt of KPK, Civil Secretariat Pesh. Respondent

Respondent No. (2)

Notice to: The Secy Higher Education Archives & Libraries
Deptt: KPK Peshawar

WHEREAS an appeal/petition under the provision of the Khyber 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 ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on.....04/04/2022.....at 8.00 A.M. If you wish to urge anything against the appellent/petitioner you are at liberty to do so on the date fixed, or any 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.....~~

Given under my hand and the seal of this Court, at Peshawar this.....28th
Day of.....March.....20 22

(For Reply)
[Signature]
28/03

For
[Signature]
Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

"B"

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

SB

No.

Appeal No. 7779 of 20 22

Muhammad Boshir

Appellant/Petitioner

Versus
The Chief Secy Govt of KPK, Civil Secretariat Pesh.

Respondent

Respondent No. (4)

Notice to: —

The Secy Finance, Govt. of KPK, Civil Secretariat, Peshawar

WHEREAS an appeal/petition under the provision of the Khyber 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 ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on.....04/04/2022.....at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any 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.

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Copy of appeal is attached. ~~Copy of appeal has already been sent to you vide this office Notice No.....dated.....~~

Given under my hand and the seal of this Court, at Peshawar this.....18/4.....

Day of.....March.....20 22

(For Reply)

22/3

For

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

W

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
& others.....

Respondents

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(Signature)
Respondent

①

BEFORE THE HONOURABLE KHYBER PAKHTUN KHWA SERVICE TRIBUNAL
PESHAWAR

S.A # 7779/2021

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 to 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 CPLA 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.

- (9)
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.

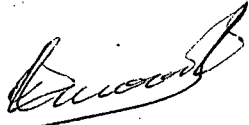
Grounds:-

- 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.

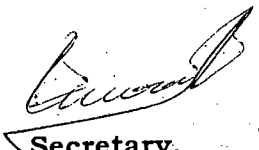
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Prayer:-

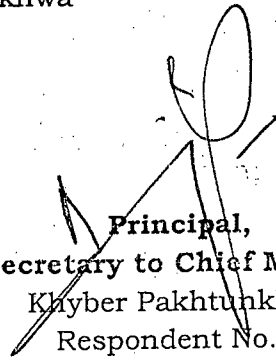
It is, therefore, humbly prayed that the instant Service Appeal is based on misconception/misstatements, hence may graciously be dismissed.



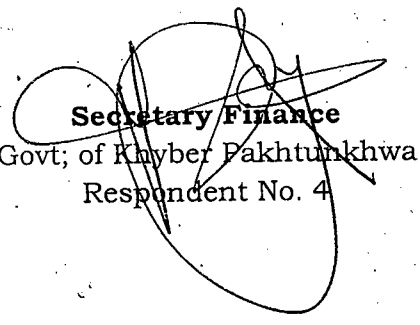
Chief Secretary,
Govt; of Khyber Pakhtunkhwa
Respondent No. 1



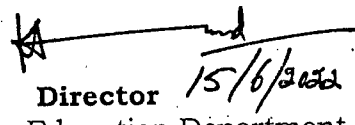
Secretary,
Higher Education Archives
& Library Department
Respondent No. 02



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



Secretary Finance
Govt; of Khyber Pakhtunkhwa
Respondent No. 4



Director 15/6/2022
Higher Education Department
Respondent No.5





GOVERNMENT OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES &
LIBRARIES DEPARTMENT

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 (Admin) Higher Education Department | Member |
| 3. Deputy Director (Estt.) Directorate of Higher Education | Member |
| 4. Deputy Director (Female) Directorate of Higher Education | Member |

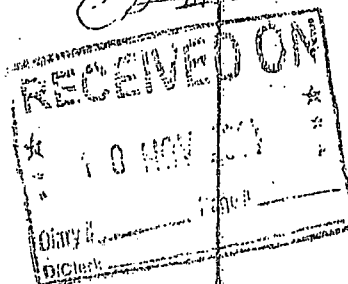
SECRETARY TO
GOVT. OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION DEPARTMENT

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.
4. PS to Secretary Higher Education Department.
5. PA to Deputy Secretary (Colleges), Higher Education Department.

SECTION OFFICER(C-II)



Handwritten notes:
A.O.
7/11/14
7/11/14
Submitt

Handwritten notes:
5 (30) 3
C

(6)

(a)

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: 26.02.2019

Petitioner(s) by:

Mr. Zahir Anwar Advocate

Respondent(s) by:

Mr. Mansoor Tary (DA)

IKRAMULLAH KHAN, J.- 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 delay, reason and justification.

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

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

Submitt

Most urgent.

R. Muhammad
23/4/19.

petitioner was eligible on the threshold 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.

03. 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.

7

31

Submitt

05. 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.

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.

07. Therefore, as respondents had illegally 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, however, we recommend the Provincial Government and the Chief Secretary, Khyber




9

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.

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

ANNOUNCED.
26.02.2019


JUDGE


JUDGE

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



10 151

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT

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

Civil Petition 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 Pakhtunkhwa, Peshawar & others Petitioner(s)
Versus

Majid Khan & others Respondent(s)

For the Petitioner(s) : Mr. Muhammad Sohail, Addl. AG
Mr. Anis Muhammad Shahzad, AOR

For the Respondent(s) : Mr. Amjad Ali, ASC

Date of Hearing : 10.03.2022

ORDER

Maqbool Baqar, J. Heard the learned Additional

Advocate General and perused the record with his able assistance.

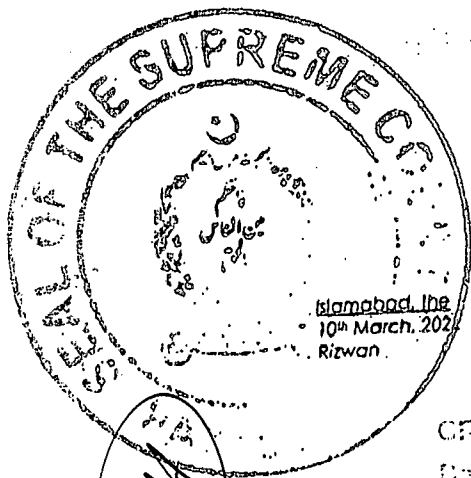
No case is made out for our interfering with the impugned judgment.

The petition is dismissed.

Sd/-J
Sd/-J
Sd/-J

Certified to be True Copy

Senior Court Associate
Supreme Court of Pakistan
Islamabad



Maqbool Baqar

CR No: 5472/22 Civil/Criminal
Date of Presentation: 10-3-22
No of Words: 300
No of Pages: 3
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Date of Completion of Copy: 18/3/22
Date of Delivery of Copy: 21-3-22

Para 29

F.C. and O.C. is submitted for signature and issue please.

30

A.P. 15/6/15

15/6/15

15-6-2015
17/6/15

15/6/15

15/6/15
16/6/15

31

Proposed of T.A for posting in various colleges is submitted for approval for sending to the Pt Govt, as discussed in the grievance redressal committee meeting held on 7-7-2015 & 10-7-2015 under the chairmanship of special Secretary H.E.D, submitted for perusal & order, please.

Submitt

A.O

14-7-2015

32

Draft proposal of

32 Candidates for posting as teaching assistant may be perused/ approved.

14/7/15

33

D/R. 15/7

34

D/R, Do the needful. 15/7/15

35

CA-II Sir, Letter on page 19 alongwith list of proposal of T&K for servicing to the P/G etc submitted for copy of same, please

36

[Signature]

[Signature]

15/7/15

15/7/15

~~15/7/15~~

Subbat

37

Rec Page 20

The Provincial Ombudsman Smt. has fixed a date for hearing on 30-9-2015 at 10.00 AM in the appointment case as



DIRECTORATE OF HIGHER EDUCATION
KHYBER PAKHTUNKHWA

Rano Garhi, Peshawar

Tel # 091-2650025 / 2650024

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

14

No. 1175-76 / CA-I/ Estt: Branch/A-12/Muht Bashir/ Hist-cum Pol:Sc Dated Peshawar the 24/5/2021

To

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

SUBJECT

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:-

1. Section Officer (Admin:) Govt; of Khyber Pakhtunkhwa,
Agriculture Department with reference to his letter No.
referred above.
2. 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 Director
Higher Education
Commission (Department)
KPK.

Subject: - Missing of an merit candidate
in notification (2nd december 2015)

Sir,

It is stated with great respect
that I am Mr-Majid S/O Sharif Khan
resident Kot Dowlat Zai Garhi Kapura
D/F Mardan KPK appeared in ETEA
entry test for teaching assistant.
According to the merit list
on ETEA web site I am an merit
number 6th.
According to the notification issued
on 2nd december 2015 (2-12-15) No. SU(ET)/2-CP/151
HED/teaching assistants candidate an
merit Number 7th i.e. Mukad Khan
& Candidate on position number 8th
i.e. Umar Ali S/O Farid Khan are
present while my name is absent.
After the 2nd notification I visited
Directorate office many time to
keep myself up to date, at last they
told me that will inform you.
But honourable Sir the situation is
quite different my name is out
of any kind of notification.
So it is requested that issue my
notification, I will be very Thankfull
for you.

Majid

VISION Institute of P.H.C
No 19 Chaman Tower
Mugam Chauri D/T Mandan
KPK

Postal Address:-

CEA

6333-5710 711

0314-9630 665

Cell No

Majid Khan S/O
Mazdan KPK

Swamp Khan

Yours obedient

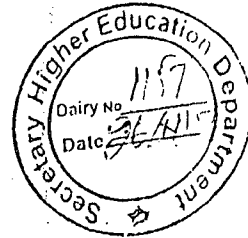
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To,

The Secretary
Higher Education Department
Khyber Pakhtunkhwa
Peshawar



**Subject:- NO REPLY OF THE APPLICATION THAT
SUBMITTED IN CASE OF TEACHING
ASSISTANT DATED 06.09.2016.**

Sir,

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.

Your's Obediently

Majid Khan S/o Sharif Khan
R/o Kot doulat zai Moh; Awanan
P/o Garhi Kapura Mardan
CNIC # 16101-3945384-3
Dated: 26.09.2017
Cell # 0333-5710711

Sublet

Handwritten notes:
D.S.(C)
2/110
SA
PR put up DFA
D.S. 7/14
11/11/16
1/2/2016
D.S. 7/14
16/11/17

MOST IMMEDIATE



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

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

17 10/21
3526

To

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

SUBJECT: - NO REPLY OF THE APPLICATION THAT SUBMITTED IN
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.

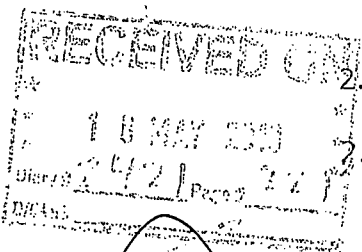
(MUHAMMAD FAYAZ KHAN)
SECTION OFFICER (C-II)

Endst:- No. & Date Even.

Copy forwarded to the:-

1. 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.

SECTION OFFICER (C-II)



Subba

H

(24) H 18/1/14 29

ENQUIRY REPORT

BACKGROUND:-

The undersigned was nominated as Enquiry Officer by the Competent Authority to hold a Fact Finding Enquiry regarding Mr. 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 was conducted on 27-06-2014 and the applicant, Mr. Majid Khan S/O Sharif Khan, secured 5th position in the merit list of Teaching Assistants in the subject of Chemistry in District Mardan. Candidates upto Serial No. 8 from the merit list of the subject of Chemistry were appointed, leaving behind the present applicant at serial number 6 which is a clear violation of merit. Since then, Mr. Majid Khan has been visiting the Directorate and the administrative department but in vain. The Directorate of Higher Education vide letter No. 27495/CA/II/Estt. Brand: /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-C).

PROCEEDINGS:-

The undersigned called Mr. Majid Khan S/O Sharif Khan on 09-07-2016 to appear in person and to furnish written statement in this regard. In compliance, Mr. Majid Khan furnished his written statement on 09-07-2016 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. Abdul Rashid, Deputy Director (Sports) Directorate of Higher Education Mirdan who was closely associated with the appointment of teaching assistants for discussion. He provided some documents relevant to the instant case. His main argument was that the applicant was left mistakenly and that letter on his name was forwarded to the administrative department for notification but the officer refused to appoint further from the old list. The fact has been admitted by the Deputy Director (Establishment) in his letter at (Annex-E).

Findings and Recommendations:

- i. The plea of the complainant that he deserved to be appointed as Teaching Assistant is correct.
- ii. The Directorate of Higher Education did not forward his name for appointment as Teaching Assistant to the administrative

(Signature)

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

- III. The C-II section failed to examine the case and to ask reasons of leaving the candidate at serial number 8 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.
- IV. 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.
- V. The plea of the directorate that the name 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 name 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.
- VI. 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 court and adverse decision against the government is evident on face of the available record.
- VII. 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 merit 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.


Abdul M

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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 complaint behind. No letter is available on record to show that the directorate has properly agitated the issue clearly stating clearly that Major Khan has an established right to be appointed after two persons now in merit have been appointed. Disciplinary proceedings may therefore, be initiated against the above for connivance, violation of merit, misconduct and inefficiency.

176 (27)

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INQUIRY OFFICER/DS (D/M)

Subba

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INQUIRY REPORT

SUBJECT: DISCIPLINARY PROCEEDINGS AGAINST MUHAMMAD
BASHEER, ASSISTANT PROFESSOR (BPS-18)
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, (ANNEX-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 (HPE) (BPS-17) working as Deputy Director (Sports) Higher Education, Khyber Pakhtunkhwa. 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 Khan 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 Sharif Khan, secured 6th position in the merit list of Teaching Assistants in the subject of Chemistry in District Mardan. Candidates upto serial No. 8 from the merit list in the subject of Chemistry, District Mardan were appointed while Mr. Majid Khan at serial No. 6th was left not appointed. Mr. Majid Khan visited Higher Education Department / Directorate of Higher Education Department many times. At last Higher Education 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 writ petition in Peshawar High Court and won the case. Higher Education department went into CPLA against him which is still pending in the August Supreme Court of Pakistan. Mr. Majid Khan has not been appointed up till now while those who were appointed have been regularized. Higher Education Department conducted fact finding enquiry which became the basis of this enquiry. Hence this enquiry.

PROCEEDINGS

Charge sheet and statement of allegations were forwarded to the accused Mr. Muhammad Bashir, Assistant Professor (BPS-18) currently working as Deputy Director (Establishment) Directorate of Higher Education Department and Mr. Abdur Rashid Lecturer (HPE) (BPS-17), working as Deputy Director (Sports) 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 dated 14/11/2019 (ANNEX-C).

(44) (22) (9)

On 26/11/2019 Mr. Muhammad Bashir and Mr. Abdur Rashid appeared before inquiry officer. Both of them submitted their written reply / statements. The statement of Mr. Muhammad Bashir is at (ANNEX-D) and written reply of Mr. Abdur Rashid is at (ANNEX-E). Later on accused Abdur Rashid submitted another written reply (ANNEX-E II). Gist of their statements is as follows:-

S#	Charge	Gist of reply of Muhammad Bashir (Accused)	Gist of reply of Mr. Abd-ur-Rashid (Accused)
I.	That he intentionally did not forward the name of deserving candidate Mr. Majid Khan, S/O Sharif Khan to Administrative Department for appointment as Teaching Assistant for his ulterior motives	He was not holding the post of Dy. Director as he took charge on 09.05.2013 and test for said posts was held on 23.05.2014.	His job was to compile merit list not to forward proposal for appointment.
II.	That He violated the merit by forwarding the names of candidate despite being low in merit for appointment as Teaching Assistant to Administrative Department, leaving behind the meritorious candidates on the basis of favouritism.	As per record he was not assigned any responsibility regarding proposal and for this stance Dy. Director Spent was the Focal Person.	Majid Khan did not lodge any complaint against his merit order, while sending proposals was not his duty.
III.	That he being custodian of the merit list concealed the factual position and misled the Administrative Department, which is a gross misconduct.	He was not given an opportunity of his defense by the fact finding inquiry officer.	A copy of duly signed final merit list was submitted in the office of Secretary, Higher Education and Directorate of Higher Education.
IV.	That he has created embarrassment and brought bad name to the Department by depriving a deserving candidate from his right and consequent unnecessary litigation.	He proposed name of the complainant (Mr. Majid Khan) in light of his appeal to Higher Education Department for appointment, but was rejected.	The merit list was maintained in a transparent manner and earn good name for the department.

During the proceeding of inquiry important documents were found not available. For example Notification of Grievances Redressal Committee, Minutes of meetings and the appointments notification wherein the aggrieved complainant (Majid Khan) was left and other two candidates below him in the merit 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 along with complete relevant record (ANNEX-F).

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On 3rd December 2019 Section Officer (C-II) and both accused appeared before undersigned along with record. Notification of grievance redressal 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 8 (ANNEX-H) was produced but minutes of grievance 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 appeared before undersigned. Note sheet of approval of list/proposal wherein candidates at serial No. 7 and 8 were proposed for appointment was also produced (ANNEX-I). Written statement of witness, Mr. Anjad Ali Senior Clerk Directorate of Higher Education Department was recorded (ANNEX-J). He was also cross examined. Mr. Anjad Ali senior clerk Directorate of Higher Education Department stated that list/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 Ashraf Rashid (accused) for approval, which he processed. Minutes of meeting of grievance redressal 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 said minutes in next hearing.

On 01/01/2020 Mr. Tahir Khan Section Officer (C-II) Higher Education Department submitted written verification 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). As per record of Directorate of Higher Education one meeting of Grievance Redressal 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 Inquiry Officer.

Comments on the reply of accused, Rashid 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 first and two other candidates below him were recommended. Copy of Note sheet is available in the record

(46)

(24)

(Annex-1). By virtue of his post as Deputy Director Establishment, it was his duty to ensure that each and every candidate 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 who gave him this proposal/list to further process 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 irrelevant. But during this inquiry the accused was given an 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 embarrassment for the Department by depriving a deserving candidate from his right and consequent unnecessary litigation. 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, Abdul Rashid

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 Department. This reply is not satisfactory. As it transpired during the proceedings that the accused (Abdul Rashid) designation was Deputy Director Sports but he was also dealing with the issues of Teaching Assistants appointment at Directorate level. The same viewpoint was also endorsed by one witness Mr. Anjild 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 him in merit list were proposed was sent by accused Mr. Abdul Rashid, which he (Anjild Senior Clerk) processed and put up. In the Note part, there is no signature of accused (Abdul Rashid). The other accused Mr. Bashir Ahmad signed the note part and sent it to Director

(17) (25)

Higher Education Department (Annex-VIII). Whoever 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 litigations. The reply and comments may be seen as mentioned in charge No. 1 above, please.

FINDINGS

- 1) On the basis of merit list of test conducted on 27-06-2014, by ETEA, 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 Assistants. 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 Khan (Merit position 6th) was left and candidates at merit position 7th & 8th below him were recommended / appointed, and later on regularized.
- 3) Grievances Redressal Committee was notified 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 Office (C-11), Higher Education Department, his staff and directorate of Higher Education were directed to furnish these documents but they failed.
- 5) As per witness Mr. Anjad Ali, senior clerk Directorate of Higher Education Department, a proposal/list excluding candidate at serial 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.

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

- 6) The list / proposal of candidates was forwarded to Director Higher Education for approval by accused Deputy Director Higher Education 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 inefficiency.
- 9) Its outcome/ result is that a deserving candidate (Mr. Majid Khan) has suffered a lot and he is still suffering and wandering from pillar to post.

CONCLUSION

Charges against accused Muhammad Bashir

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

Charges against accused Abdu Rashid

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

Recommendation:

- 1) Secretary Higher Education Department may like to further probe that as to how and why the important official record, minutes of meeting, note part, attendance sheet, approvals, final recommendations and decision are missing regarding the appointment Notification No. SOC-III/2-6-2015/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 Staff Khan District Mardan as Teaching Assistant in his subject Chemistry in compliance with Peshawar High Court Judgment Order in writ petition No. 4280-P-2017 (ANNEX-O) subject to final decision by August Supreme Court of Pakistan in CPLA.

Abdul

Kalimullah Khan Baloch
 Kalimullah Khan Baloch
 Additional Secretary PMS(BS-19)
 (Inquiry Officer)

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: Rejoinder

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 Committee 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'able 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.

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.

Appellant

Through

Akhunzada Ahmad Saeed
Advocate High Court