

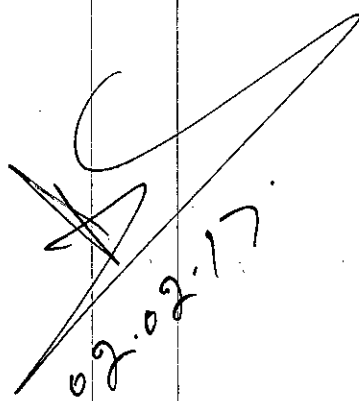
Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	02.02.2017	<p style="text-align: center;"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR</u></p> <p style="text-align: center;">Appeal No. 819/2015.</p> <p>Attaullah Khan Versus Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and others.</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:-</u></p> <p>Counsel for the appellant and Mr. Usman Ghani, Senior Government Pleader alongwith Khursheed Khan, S.O and Hameedur Rahman, A.D for respondents present.</p> <p>2. Attaullah Khan Ex-Principal Government Higher Secondary School, Bogra District Karak hereinafter referred to as the appellant has preferred the instant service appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against order dated 21.10.2014 whereby the appellant was awarded major penalty of dismissal from service and where-against his departmental review dated 19.11.2014 was not responded and hence the instant service appeal.</p> <p>3. Brief facts giving rise to the present appeal are that the appellant was serving as Principal Government Higher Secondary School, Bogra District Karak when subjected to enquiry for making different appointments in the capacity of Executive District Officer/D.E.O (Male) Elementary & Secondary Education, Charsadda and, after the conclusion of enquiry</p>

02.02.17

dismissed from service constraining him to prefer review petition dated 19.11.2014 followed by the instant service appeal.

4. Learned counsel for the appellant has argued that the charges attributed to the appellant were not conclusively established. That other members of the Departmental Selection Committee were not proceeded against and appellant was made a scape-goat being Chairman of the said committee. That regarding the appointments in BPS-11 to 15 the D.C.O Charsadda was the Chairman of the Departmental Selection Committee while the appellant was a Member of the said Committee. That the said Chairman and other Members of the committee were spared while appellant was targeted. That most of the appointments in BPS-5 were found correct by the enquiry officer. That the enquiry officer, in the light of his findings recommended minor penalty of stoppage of 3 increments but the competent authority ignored the findings and passed a very harsh punishment in the shape of dismissal of appellant from service despite the fact that the appellant had rendered almost 28 years service without any stigma or blame. Learned counsel for the appellant lastly argued that in case of grant of penalty the competent authority should have considered major penalty in the shape of reduction to lower stage in a time scale which is also one of the major penalties.

5. In support of his arguments has placed reliance on case law reported as 2014-SCMR-147 (Supreme Court of Pakistan), 2015 PLC 322 (Lahore High Court) and PLD 1989-Supreme Court-335. He also placed reliance on judgment of Hon'ble Peshawar

A handwritten signature in black ink is written over the date '02.02.17'. The signature is stylized and appears to be a cursive name. The date is written in a simple, legible font.

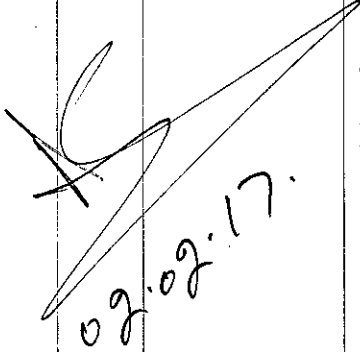
High Court Peshawar dated 24.12.2014 passed in Writ Petition No. 1662-P/2013 wherein employees acquiring requisite professional training after appointment were directed to be considered for appointment in accordance with the provisions of the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012.

6. Learned Government Pleader has argued that the appellant was involved in irregular appointments as Chairman of the Selection Committee for BPS-11 to 15. That he cannot seek protection from his liabilities on the plea that the Chairman of the other committee for BPS- 11 to 15 or other members of both the committees were not proceeded against. That the appellant was granted the major penalty in the shape of dismissal from service keeping in view the gravity of the charges and as such the impugned order warrants no interference.

7. We have heard arguments of learned counsel for the appellant as well as Mr. Usman Ghani, Senior Government Pleader for the respondents and perused the record.

8. According to the findings of the enquiry officer charges of illegal and irregular appointments against Attaullah Ex-EDO (E&SE) Charsadda were partially proved as eligible and qualified candidates were deprived of their due rights. Since the reversion of the appellant to lower stage was not permissible as such penalty of stoppage of 3 increments was proposed by the enquiry officer.

9. It is not disputed before us that the competent authority has


02.02.17.

not agreed with the recommendations of the enquiry officer and has awarded the major penalty of dismissal from service of the appellant without giving any plausible justification. It is an established principle that an authority is not bound by the recommendations of an enquiry officer/committee with reference to imposition of penalty but such authority is to give reason for awarding penalty other than the one proposed. The competent authority, in the case in hand, has formed different opinion by imposing major penalty but has given no reason for the same. In our view the appropriate penalty, if any, in the circumstances of the case was reduction of appellant to a lower stage in a time scale as suggested by the learned counsel for the appellant. We, therefore, without touching deep merit of the case, would partially allow the instant appeal and as a consequence thereof reinstate the appellant in service and would convert the awarded penalty to major penalty by placing the services of the appellant at the lowest stage in his time scale which scale shall be so reduced w.e.f. 21.10.2014 and where-after appellant would be entitled to increases as per law.. The period spent by the appellant out of service since then till date be considered as leave of the kind due. Parties are left to bear their own costs. File be consigned to the record room.

(Muhammad Azim Khan Afridi)
Chairman


02.02.17.

(Ahmad Hassan)
Member

ANNOUNCED
02.02.2017

05.12.2016

Counsel for the appellant and Mr. Usman Ghani, Sr.GP for the respondents present. Learned counsel for the appellant requested for adjournment. Request accepted. To come up for arguments on 2-2-17 before D.B.


(ASHAFAQUE TAJ)
MEMBER


(MUHAMMAD AAMIR NAZIR)
MEMBER

\$

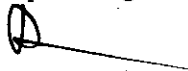
11.04.2016

Counsel for the appellant and Mr. Hameed-ur-Rehamn, AD (lit.) alongwith Sr.GP for the respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 02.08.2016.


Chairman

02.08.2016

Counsel for the appellant present. and Addl. AG for respondents present. Rejoinder submitted copy handed to learned AG. Case to come up for arguments on 10.10.2016.


Member


Member

10.10.2016

Counsel for the appellant and Mr. Hameed-ur-Rehman, AD (lit.) alongwith Additional AG for respondents present. Learned counsel for the appellant requested for adjournment. Request accepted. To come up for arguments on ~~5-12-16~~ before D.B.


(ABDUL LATIF)
MEMBER


(PIR BAKHSH SHAH)
MEMBER

12.08.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as DEO Charsadda when subjected to inquiry on the allegations of making irregularities in appointments and dismissed from service vide impugned order dated 21.10.2014 regarding which he preferred departmental appeal/review on 14.11.2014 followed by service appeal on 25.3.2015.

That the inquiry officer had recommended minor penalty while the authority has passed the major punishment in violation of the recommendations of the inquiry officer and as such the dismissal order being excessive is not tenable in the eye of law.

Points urged need consideration. Admit, subject to limitation. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 27.10.2015 before S.B.

Appellant Deposited
Security & Process Fee




Chairman

27.10.2015

Appellant with counsel and Mr. Hameed-ur-Rehman, AD (lit.) alongwith Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 9.02.2016 before S.B.


Chairman

09.02.2016

Agent of counsel for the appellant and Mr. Hameed-ur-Rehman, AD (lit.) alongwith Addl: A.G for respondents present. Written reply not submitted. Requested for further adjournment. Last opportunity granted. To come up for written reply/comments on 11.4.2016 before S.B.

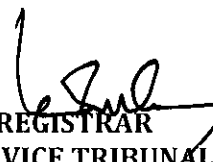

Chairman

The appeal of Mr. Attaullah Khan Ex-Principal GHSS Bogra Karak received to-day i.e. on 25.03.2015 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Memorandum of appeal may be got signed by the appellant.
- 2- Affidavit may be got attested by the Oath Commissioner.
- 3- In the memo of appeal many places have been left blank which may be filled in.
- 4- Appeal may be page marked according to the Index.
- 5- Copies of charge sheet and its reply are not attached with the appeal, which may be placed on it.
- 6- Annexures of the appeal may be attested.
- 7- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

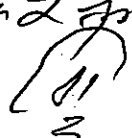
No. 405 /S.T,

Dt. 27/3 /2015


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Ijaz Anwar Adv. Pesh.

- 1) Memorandum of appeal signed by the appellant
- 2) Affidavit attested by the oath Commissioner
- 3) objections also to be removed
- 4) Page marked according to the Index
- 5) Charge sheet is filed with appeal
- 6) All the annexures be filed
- 7) Five more copies also be filed

Ijaz Anwar

2

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Appeal No. 879 /2015

Attaullah Khan, Ex- Principal Government Higher Secondary
School, Bogra Karak.

(Appellant)

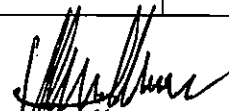
VERSUS

Govt of Khyber Paktunkhwa through Chief Secretary, Khyber
Pakhtunkhwa, Peshawar.

(Respondents)


INDEX

S-NO	Description of documents	Annexure	Page No
1	Memo of Appeal		1-5
2	Application for Condonation		6-7
3	Affidavit		8
4	Notification dated 22.04.2013 and Preliminary Inquiry Report dated 29.07.2013	A & B	9-17
5	Notification dated 21.11.2013, Charge Sheet and statement of allegations along with letter dated 28.11.2013,	C & D	18-22
6	Reply to the Charge sheet and application	E & F	23-28
7	Inquiry Report	G	29-42
8	Show Cause Notice and Reply to the Show Cause	H & I	43-48
9	Impugned Notification dated 21.10.2014	J	49
10	Departmental Review	K	50-54
11	Notification dated 18.07.2012 <i>FEED Rules</i>	L	55-65
12	Vakalatnama		66


Appellant

Through


IJAZ ANWAR
Advocate Peshawar

&

SAJID AMIN
Advocate Peshawar

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

Appeal No. 879 /2015

K.W.P. Province
Service Tribunal
Diary No. 2170
Dated 21-3-2015

Attaullah Khan, Ex- Principal Government Higher
Secondary School, Bogra Karak.

(Appellant)

VERSUS

1. Govt of Khyber Paktunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
2. Secretary Elementary and Secondary Education Khyber Pakhtunkhwa, Peshawar.
3. Director, Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar.

(Respondents)

Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the Order dated 21.10.2014, whereby the appellant has been awarded the Major penalty of "Dismissal From Service" against which his departmental Review dated 14.11.2014 has not been responded despite the lapse of statutory period.

Prayer in Appeal: -

*Filed to the
Registrar
25/3/15*

On acceptance of this appeal the impugned order dated 21.10.2014, may please be set-aside and the appellant may kindly be reinstated into service with all back benefits of service.

Re-submitted to the
Registrar

6/8/15

Respectfully Submitted:

1. That the appellant was serving in the respondent department and was lastly posted as Principal Government Higher Secondary School, Bogra Karak. During the course of his service the appellant also remained posted as of District Education Officer Male, Charsadda from 26.01.2010, to 31.12.2010 and thereafter w.e.f. 01.03.2011 to 18.04.2013.
2. That ever since his appointment the appellant has performed his duties as assigned with great zeal and devotion and there was no complaint regarding his performance.
3. That an inquiry committee was constituted vide Notification dated 22.04.2013, to conduct a fact finding inquiry regarding the alleged illegal appointments in District Charsadda. It is pertinent to mention here that the inquiry committee so constituted also included members who were Junior in Rank to the appellant. The inquiry committee conducted inquiry and while submitting its report dated 29.07.2013, recommended a formal departmental action/inquiry against the appellant. ***(Copies of the Notification dated 22.04.2013 and Preliminary Inquiry Report dated 29.07.2013, is attached as Annexure A and B)***
4. That thereafter vide letter dated 21.11.2013, an inquiry officer was appointed to conduct regular inquiry. Accordingly the appellant was served with charge sheet and statement of allegations vide letter dated 28.11.2013, containing the false and baseless allegations that “ That you while posted as Executive District Officer, E&SE/ District Education Officer (BS-19) male Charsadda committed the following irregularity: “Made irregularities in the appointment of different categories of teachers i.e. CT (M/F) Class-IV PST, PET, DM (M/F) AT, TT, Qari and junior clerks during 2010 to 2013 in violation of rules and regulation and prescribed procedure.” ***(Copies of the Notification dated 21.11.2013, Charge Sheet and statement of allegations along with letter dated 28.11.2013, are attached as Annexure C & D)***
5. That the appellant duly replied the charge sheet and refuted the allegations leveled against him vide his detailed reply, it is also pertinent to mention here that before submitting his reply, the appellant also requested for provision of the fact finding inquiry, however the same was not provided to him. ***(Copies of the Reply to the Charge sheet and application is attached as Annexure E & F)***

6. That a partial inquiry was conducted and the inquiry officer while submitting his findings, recommended the appellant for minor penalty of stoppage of three annual increments. **(Copy of the Inquiry Report is attached as Annexure G)**
7. That thereafter the appellant was served with show cause notice wherein the penalty of dismissal from service was proposed, the appellant duly replied the show cause and refuted the allegations leveled against him. **(Copies of the Show Cause Notice and Reply to the Show Cause Notice are attached as Annexure H & I)**
8. That without considering the defence reply of the appellant and in disregard of the recommendations of the inquiry officer, quite illegally the appellant was awarded the major penalty of dismissal from service, vide Notification dated 21.10.2014. **(Copy of the Notification dated 21.10.2014, is attached as Annexure J)**
9. That aggrieved from the impugned notification, the impugned, the appellant submitted his departmental review, however the same has not been responded despite the lapse of statutory period hence the instant appeal. **(Copy of the departmental review is attached as Annexure K)**
10. That the Penalty imposed upon the appellant is illegal unlawful against law and facts therefore, liable to be set aside inter alia on the following grounds:-

GROUND OF SERVICE APPEAL:


- A. That the appellant have not been treated in accordance with law, hence his rights secured and guaranteed under the law are badly violated.
- B. That no proper procedure has been followed before awarding the penalty of dismissal from service to the appellant, he has not been properly associated with the inquiry proceedings. No witness has been examined in presence of the appellant nor he has been allowed the opportunity of personal hearing, thus the whole proceedings are defective in the eye of law and an order based on such defective proceedings is liable to be set aside on this score alone.
- C. That the appellant has not been given opportunity of personal hearing, thus he has been condemned unheard.

- D. That during the inquiry proceedings statements of witnesses if any were never recorded in presence of the appellant the appellant nor the appellant has been given opportunity to cross examine those who may have deposed against him.
- E. That the committee which was constituted to conduct preliminary also consisted of members who were juniors to the appellant as could not lawfully conduct inquiry against the appellant. The recommendations submitted by the committee so constituted were defective in nature and could not be made base for proceedings against the appellant.
- F. That the inquiry officer only recommended the penalty of stoppage of three increments, however the competent authority while ignoring the recommendations of the inquiry officer, awarded the penalty of dismissal from service to the appellant. While ignoring the recommendations of the inquiry officer no reason has been stated in the show cause notice thus the penalty so imposed is in violation of the Law/rules and Reported judgments of the Apex Courts.
- G. That the charges leveled against the appellant were never proved during the inquiry proceedings the inquiry officer gave his findings on surmises and conjunctures.
- H. That the charges of committing irregularities in the appointments /promotions were false and baseless. All the requisite appointments were made after observing all codal formalities and in line with the Provincial Government Rules /Policy and prescribed procedure as laid down in the government servants (Appointment Transfer and Promotion) Rules, 1989, the same was also admitted by the inquiry officer in his observations while submitting his report.
- I. That the appellant has never committed any act or omission which could be termed as misconduct albeit he has illegally been awarded the penalty.
- J. That the appellant has been discriminated as he has been awarded the penalty of dismissal from service while other similarly placed employees has been dealt with leniently by awarding them the minor penalties.
- K. That the appellant has at his credit a long and spotless service career, the penalty imposed upon him is too harsh, hence liable to be set aside.

L. That the facts and grounds mentioned in the Replies to the Charge Sheet and show cause notice and Departmental appeal /review of the appellant may kindly be read as integral part of the instant appeal.


M. That the appellant seeks permission of the Honourable Tribunal to rely on additional grounds at the time of hearing of the instant appeal.

It is, therefore, humbly prayed that on acceptance of this appeal the impugned order dated 21.10.2014, may please be set-aside and the annual increments of the appellant may kindly be restored with all back benefits of service.


Appellant

Through


IJAZ ANWAR
Advocate Peshawar
&


SAJID AMIN
Advocate Peshawar

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

Appeal No. _____/2015

Attaullah Khan, Ex- Principal Government Higher Secondary
School, Bogra Karak.

(Appellant)

VERSUS

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

(Respondents)

***APPLICATION FOR CONDONATION OF DELAY,
IF ANY IN FILING THE TITLED APPEAL***

Respectfully submitted:

1. That the appellant has today filed the accompanied appeal before this honorable tribunal in which no date of hearing is fixed so far.
2. That the applicant prays for condonation of delay if any in filing the instant appeal inter alia on the following grounds:-

GROUND OF APPLICATION

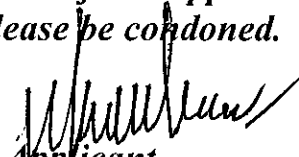
A. That the appellant throughout agitated the matter before the departmental authority and never remained negligent in perusing, he duly filed his departmental review well within 30 days of the communication of the impugned penalty order, and thereafter waited for the lapse of statutory period, however the appellant was misguided by a notification dated 18.07.2012, wherein amendment was introduced in rule 19 sub rule (2) of the Government Servants E & D Rules, 2011, which provided for period for filing of appeal before this Honourable Tribunal i.e 30 days. The amendment so introduced provided as under:-

“4. In rule 19, in sub rule (2) for the word “thirty” the word “ninety” shall be substituted.”


Therefore the appellant due to bonafide believe presumed that the period for filing appeal before the Tribunal is 90 days after the lapse of statutory period, therefore delay if any occurred in filling of the instant appeal was not willful but due to the sated reason. *(Copy of the Notification dated 18.07.2012, is attached as Annexure L)*

- B. That the delay if any in filing the instant appeal was not willful nor can the same be attributed to the appellant as, hence delay if any deserves to be condoned.
- C. That no proper procedure has been followed before the imposition of penalty upon the appellant. Thus the whole proceedings as well as the order of penalty is illegal and void ibinatio and no limitation run against such an illegal and void order.
- D. That valuable rights of the appellant are involved in the instant case in the instant case, hence the delay if any in filing the instant case deserves to be condoned.
- E. That it has been the consistent view of the Superior Courts that causes should be decided on merit rather than technicalities including limitation. The same is reported in 2014 PLC (CS) 1014 2003 PLC (CS) 769.


It is therefore humbly prayed that on acceptance of this application the delay if any in filing the instant appeal may please be condoned.


Applicant

Through


IJAZ ANWAR
Advocate Peshawar

&


SAJID AMIN
Advocate, Peshawar

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Appeal No. _____/2015

Attaullah Khan, Ex- Principal Government Higher Secondary
School, Bogra Karak.

(Appellant)

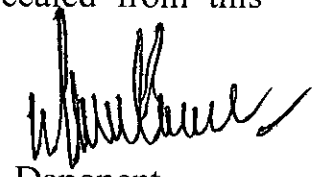
VERSUS

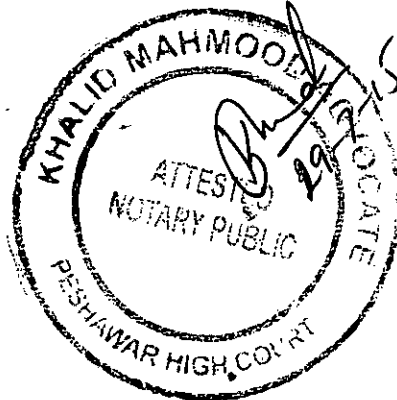
Govt of Khyber Paktunkhwa through Chief Secretary, Khyber
Pakhtunkhwa, Peshawar.

(Respondents)

AFFIDAVIT

I, **Attaullah Khan, Ex- Principal GHSS Bogra Karak**, do hereby solemnly affirm and declare that the contents of the above accompanied appeal as well as application for condonation of delay are true and correct to the best of my knowledge and belief and that nothing has been kept back or concealed from this Honourable Tribunal.


Deponent





(9) ANNEX A 35
12

297

GOVERNMENT OF KHYBER PAKHTUNKHWA
Elementary and Secondary Education Department
Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar
Phone: 091-9210480, 091-9211419

Dated Peshawar the 22.04.2013

NOTIFICATION:

SO(AB)E&SE/4-4/ENQ/CHARSADDA: The Inquiry Committee, comprising the following, is hereby constituted to scrutinize all the appointments made by Mr. Attaullah Khan, Ex-District Education Officer (Male) and other officers/officials of E&SE, Charsadda during their tenure in (BPS-1 to BPS-15):

S. No. Name of Officer with Designation

- i. Mr. Ahmad Jan, Principal (BPS-19) GHS Charsadda Khas (Chairman).
- ii. Mr. Shamsur Rehman (BPS-18), Deputy Project Manager, CIDA Project (Member).
- iii. Mr. Masal Khan, Principal (BPS-18), GHSS Mandani, District Charsadda (Member).

2. Following shall be the TORs of the Inquiry Committee:-

- a. To scrutinize all the appointments from BPS-1 to BPS-15 in the District during both the tenures of the above named officer in the capacity of EDO (E&SE) and D.E.O (Male) E&SE Charsadda and to ascertain whether these appointments were made on merit and as per recommendations of District/Departmental Selection Committee or otherwise.
- b. The Committee shall necessarily scrutinize the appointments made during March-April, 2013 and specifically in the post transfer orders scenario of the above named officer vide E&SE Department's Notification No. SO(S/M)/E&SE/4-16/2013/DEOs/Principals (BS-19) dated 18.04.13 and shall ascertain whether these appointments were made on merit and as per recommendations of District/Departmental Selection Committee or issued in back dates with malafide or otherwise.
- c. The committee shall fix responsibility on the involved officers/officials of E&SE Charsadda.

3. The Committee shall submit its report to the Competent Authority within 15 days positively.

4. All the appointments made by the above named officer in BPS-1 to BPS-15 without the recommendations of the District/Departmental Selection Committee and observance of the requisite codal formalities as per recruitment policy/criterion on or after 18.04.2013 or issued in back dates, hence void abinitio and are therefore, cancelled forthwith.

5. All principals and Headmasters of Higher Secondary Schools or High Schools or Primary Schools, as the case may be, are directed not to accept arrival reports of the freshly recruited persons who report for duty on or after 18.04.2013 and they should forward such cases to the Inquiry Officers.

y
y

10

38

OFFICE OF THE
CHAIRMAN OF

To

... forwarded to the

1. Deputy Commissioner, Charsadda.
2. Director E&SE, Khyber Pakhtunkhwa.
3. District Accounts Officer Charsadda with the direction to co-operate with the enquiry officers.
4. Section Officer (Schools/Male) E&SE Department.
5. District Education Officer (Male) Charsadda.
6. District Education Officer (Female) Charsadda.
7. Deputy District Education Officers/ Sub Divisional Education Officers (Male & Female) Charsadda with the direction to circulate it to all the concerned and co-operate with the enquiry officers.
8. Mr. Ahmad Jan, Principal (BPS-19) GHS Charsadda Khas, Charsadda.
9. Mr. Shamas ur Rehman, Deputy Project Manager (BPS-18), CIDA Project, E&SE Department.
10. Mr. Masal Khan, Principal (BPS-18), GHSS Mandani District Charsadda.
11. PS to Secretary E&SE Department, Govt of Khyber Pakhtunkhwa.
12. PS to Special Secretary E&SE Department, Govt of Khyber Pakhtunkhwa.
13. PA to Additional Secretary E&SE Department, Govt of Khyber Pakhtunkhwa.
14. PA to Deputy Secretary-I, E&SE Department, Govt of Khyber Pakhtunkhwa.

[Signature]
SECTION OFFICER (A.B)

[Signature] 23/4/13 o/c

[Signature]

Annexure "B"

(11)

37

OFFICE OF THE PRINCIPAL GOVT. HIGH SCHOOL CHARSADE KHAS
CHAIRMAN OF THE ENQUIRY COMMITTEE

No. 160 dated; 29-07-20113

To

The Secretary E & SE Department
Govt. Khyber Pakhtunkhwa Peshawar

Subject: SUBMISSION OF ENQUIRY REPORT.

Memo,

Respected sir

Kindly refer to notification No. SO(AB)E&SE/4-4/ENQ/CHARSADDA the subject matter enquiry has been conducted. The detail report of the enquiry along with seven numbers of relevant files is submitted for your good self perusal.

Ahmad Jan
Ahmad Jan

Principal Govt. High School
Charsadda Khas (Chairman)

Elementary & Secondary
Education Department
S.S. Diry No. 1350
29/7/13

SS
29/7/13
DSL

S.O(AB)
Ple. Speake

Govt. of Khyber Pakhtunkhwa
Elementary & Secondary
Education Department
S.S. Diry No. 2590
29/7/13

31/7/13

2775
21-7-12

Handwritten signature

12

Enquiry Committee

- 1. Ahmad Jan Principal GHS Charsadda Masas (Chairman)
- 2. Shamsur Rehman Dy.P.D.CIDA (Member)
- 3. Masal Khan Principal GHSS Mandani. (Member)

TOs of the Committee:

Scrutinizing of all the appointments made by Mr. Attaullah Khan EDO/DEO(M) Charsadda w.e.f. 25/2/2010 to 18/4/2013.

In compliance with the NOTIFICATION NO. SO (AB) E&SE/4-4/ENQ/CHARSADDA DATED; 22-04-2010 the committee scrutinized the appointments made by Mr. Atta Ullah Khan Ex.EDO/DEO (Male).The hardly traceable record took a lot of time.

Enquiry proceedings;

The committee held meeting under the chairmanship of Mr. Ahmad Jan and framed strategy for the collection of detail record maintained by the Office of the EDO/DEO (Male) Charsadda from the concerned Supdts/dealing Asstts through DEO (M) Charsadda. The committee also approached Dy DEOs/SDEOs, Principals and Head masters of the schools to furnish all kind of record pertaining to the subject matter cited above to the committee. The committee compiled the office and field collected record and started its scrutiny. The committee checked /studied policies, advertisements. The committee obtained a record of CT 2010, PST 2011, Deceased CT, PET, DM (M/F) 2011, AT, TT, QARI 2013, JUNIOR CLERCK 2012, SACKED EMPLOYEES 2013 (Seven files) as Annexures.

FINDINGS: 1) Appointment of CT Male & Female 2010

CT male & female, Data Entry Operators (DEO), C-IV posts were advertised in the daily newspaper. Last date of applications was 15-11-2009 under the signature of Muhammad Khan EDO Charsadda. Nos. of posts in each category were not mentioned in the advertisement. Open, Batch wise, Disable Male & Female merit lists for CT posts have been recorded. After completion of the code formalities, orders of appointments were issued vide No. 17774-1807/E-1 dated; 01-11-2010 (CT Male), No. 1800-1808/E-1 dated; 01-11-2010 (CT Female); No. 1780-85/E-1 dated; 01-11-2010 (CT Male Disable), No. 7438-44 dated; 11-05-2012, CT Male Disable, CT Female Disable (order not provided) as per given the following table;

Nomenclature of post.	Category	No of Vacancies	open merit 25%	Batch wise 75%	Disable 2%
CT	male	38	10	28	3
CT	female	20	04	15	2

[Handwritten signature]

Irregularities Noted

Out of 38 male posts only one candidate had to be appointed under the disable quota but in the instant order three candidates were appointed under separate orders which is against the rules / policy.

In CT Female out of 20 posts non was deserving to be appointed under 2% disable quota but in the instant appointment order 2 candidates have been appointed under the said quota. Similarly 21 candidates have been appointed against 20 vacant posts. This is a clear violation of rules and policy.

It is worth mentioning that Mr. Taj Muhammad had been appointed against the post of PST on basis of open merit not under disabled quota but at the time of his appointment against the post of CT under disable quota, his disability was rejected on the basis that he had availed the opportunity once. After one and half year he was appointed against the 02% disable quota as third candidate.

2) Appointment of C-IVs; Irregularities

C-IVs have been appointed in scattered dates and orders, no merit / detail record is available.

3) Appointment of PSTs 2011

While checking the record of PSTs appointed vide general order No. 2532-2621, dated 03-05-2011 and No. 2622-84 dated 03-05-2011, detail given as

S. No	PST	U/Cwise Appointments 40%	District Merit Appts	Open Appointments		Total
				60%	Disable Quota 02%	
1	Male	59	84		04	147
2	Female	Merit list and other record not available				

Irregularities

1). In these appointments Muhammad Shafique was found on the top of merit in U/C Showdag but was ignored, despite of having vacant post at GPS Haider Killi. He was appointed vide a single order No. 10626-30 dated 17-10-2011.

2). It was noted that in U/C Koz Bahram Dehri Mr. Zaheer Ullah son of Abdul Wahid has been placed at the top of merit on the bases of experience only one mark and Mr. Faris Khan Son of Alam Said at 2nd position. The experience marks must be 2, 3 or 5 and not other figure. The experience marks are countable after acquiring minimum qualification for the post. In the instant appointment Mr. Zaheer Ullah was appointed and Mr. Faris Khan was appointed later on against the single vacant post at U/C Koz Bahram Dehri. With the passage of time Mr. Faris Khan was also appointed when he brought his genuine complaint to the worthy Secretary of E&SE Department (Correspondence are on the record). The illegal practice gives rise wrong merit list and ignored the righteous persons.

3). Appointments in U/C Agra. It was noted that one Mr. Ahmad son of Sultan Muhammad S. No. 1 & Mr. Muhammad Khan son of Sultan Muhammad S. NO. 2 were two candidates. Despite of 02 vacant posts, Muhammad Khan son of Sultan Muhammad was not appointed in the general order. Later on he was considered and appointed vide No. 10696-700 dated 17-10-2011. This requires justification as to why this person was left over at first and was appointed in piece meal.

4). In U/C Batagram 02 candidates at S. No. 1 & 2 of the U/C merit list were

(14) 40-35
P-38

DSC which is against the rules. DSC has no concern with the aftermath of issuance of general appointment order.

5). In U/C Gandehri 3 candidates at S. No. 1,2,3 of the U/C merit list were taken into account. It was noted that S. No. 3 had experience but his experience was not considered at the time of appointments. In the light of writ petition No.3415/211 the honorable court sent the case for departmental dispose off to the worthy Secretary E&SE department under representation, announced on 08-03-2012 (3 paged), but the competent authority issued order of appointment in respect of the candidate without any legal defence. Had his experience been considered will in time, then only 2 deserving candidates would have got appointment instead of 3.

6). Total 143 appointments have been made. According to 2% disable quota, 3 candidates had the right of appointment under this quota but 4 candidates have been appointed which is against the rule/ policy.

7). In female PST appointments 7 PSTs were appointed in the schools having no vacant post. Later on they were adjusted at Tangi for the purpose of pay. The details are given as:

S.No.	Name	Station	Reference
1	Roomi	GGPS Chail Payan	9268-71 date 20-09-2011
2	Asma Sirtaj	GGPS Sahibi Gul Killi working at GGPS Mansooka.	Do
3	Nosheen Begum	GGPS Haya Gul Killi working at GGPS Bajawto Killi	Do
4	Bibi Aisha	GGPS Rahman ud Din Banda working at GGPS wakeel korona Nisatta	Do
5	Farhana Samad	GGPS Ghlo Ghundai working at GGPS MM Khel No.2	Do
6	Tahira Shams	GGPS Mar Dhand working at GGPS Faqir Killi Wardaga	Do
7	Rabia Gul	GGPS Dildar Gari working at GGPS Toot Killi Sardehri	Do

The record of PST female appointed in sub division Charsadda could not be provided because the record was taken away by the AUDIT party as told by supdt female.

The committee is of the view that these teachers were appointed at already filled stations. Later on they were adjusted against the vacancies of the other sub-Division, while deserving candidates were deprived.

Appointment under Deceased Quota Irregularities

While checking record of deceased quota the following irregularities were found.

- 1) Hazrat Sher son of Bahadar Sher appointed as chowkidar at GPS Abazai Tangi vide No. 3166-71 dated 12-03-2010 under deceased quota but record is silent about his posting.
- 2) Muhammad Ismail son of Ghafoor Khan appointed as C-IV Driver BPS 04 vide No. 1989-92 dated 12-03-2010 under deceased quota from other

74

(15) P. 6/7 36 41

Appointment of CT, PET, DM (M/F) 2013

The above mentioned posts were advertised in the Daily News Paper, last date of submission of application was 18-06-2011. As per minutes of DSC meeting, ETEA results, merit lists of CT (general), DM PET male & female, appointment orders were issued. The detail is given below:

Name of Posts	No. of Vacant Posts	No. of fresh appointees 40%	No. of promotee 60%	Total
CT (M)	27	11	16	27
DM (M)	03	02	01	03
PET (M)	14	11+03	Nil	14
CT (F)	14	06	08	14
DM (F)	20	04	16	20
PET (F)	05	04	01	05

Irregularities

No. of vacant posts in each category were not mentioned in the advertisement. The appointments were made in the light of merit lists but record of 2% disable quota not found.

Appointment of AT, TT, Qari 2012.

While scrutinizing the appointment of AT, TT and Qari's male / female, it was noted that appointments have been made as per detail given below:

Name of Posts	No. of Vacant Posts	No. of fresh appointees 75% Actual Apt	No. of fresh appointees 75% Actual	No. of promotee 25%	Disable 02%	Still Vacant Posts
AT (M)	15	11	08	0	0	07
TT (M)	19	15	10	0	0	05
Qari	01	01	01	0	0	
AT (F)	21	16	13	05	0	08
TT (F)	24	18	14	06	0	10
QARI (F)	14	11	11	0	0	03

ye

Irregularities

1. Share of promotion has been mentioned but not found on the ground.
2. Appointments against the TT posts were taken into account. Though advertisement issued in the light of old policy but it has been clearly mentioned that if after floating of the advertisement any change in the policy from the government will be followed accordingly. The inquiry committee considered merit list in the light of new policy. Documents of one candidate who is in position of TT post was calculated as under:

S.No	Exam passed	Marks obtained out of	Score
1	SSC	596/850	13.88
2	Intermediate	576/1100	10.47
3	BA (Islamyat+Arabi)	341/550	20.12.4
4	MA Islamyat	770/1100	14
5	ETEA	192/300	25.60
Total			76.35

The above quoted score pertain to Nauman Ullah at S. No. 14 of the merit list who has been given total score as 52.80. ETEA test has not been mentioned in the new policy. It was noted that the appointing authority has deviated from own advertisement and violated the policy.

Appointments of Junior Clerks; IRREGULARITIES

11 posts of J/Cs were advertised through a Newspaper. Closing date was mentioned 20-04-2011. The following irregularities have been observed and noted;

1. Typed materials obtained from the candidates at the time of typing test, were not maintained.
2. No merit list has been maintained of the deserving promotable 33% C-IV servants (the available record showing lack of merit list).
3. 21 candidates have been appointed / promoted against the 11 advertised vacant posts i.e. 15 fresh and 06 promotees from amongst C-IV servants on the basis of seniority cum fitness (Merit list not available)
4. The merit list of 15 fresh candidates was scrutinized by the committee. S.No1 Sher Bahadar has been declared as overage having DOB 16-02-1972 but the inquiry committee found him inducted from social welfare department through proper channel.
5. The departmental selection committee declared S.No 07 Muhammad Usman S/O Shams Ul Qamar as under age. His DOB is 20-12-1994 He was differed for the time being and 14 fresh candidates were appointed through separate orders on 11-02-2012. The order of the differed candidates was issued on 21-12-2012 at GHS Shara and further adjusted in the office of DEO (M) from GHS Sro kalay seems that he was appointed at two different stations and later on adjusted at an irrelevant station. This reflects high level nepotism.

It is worth mentioning that post of junior clerk at GHS Shara was not vacant at the time of appointment.

6. The appointment orders of the promotees from amongst the C-IV servants along with seniority were silent and not maintained by the competent authority.

76
70

9/10

[Handwritten signature]

(17)

- 2) Mati Ullah S/O Mahmood Shah GHS Ibrahim Zai
 - 3) Muslim Khan S/O Misal Khan GHS Mir Zai
- Were appointed under the sacked employed quota.
Such appointments are out of rules and not according to the Act 2012

Irregularities:

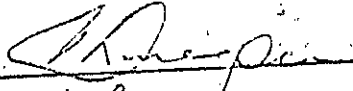
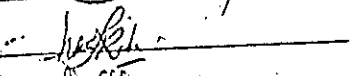
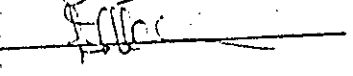
- i) Reinstated Govt employees have been appointed under sacked employees quota requires justification as to whether they were actually sacked or otherwise.
- ii) Appointment of TT on the sanad of Qirat.
- iii) Neither number of total available vacant posts nor minutes of the DSC meeting in this regard were recorded / maintained to justify the appointments. The Committee is also of the view that no clear merit list was displayed before the appointments. The old service Books with pay roll/bill are also necessary documents for the reinstatement but not recorded in the instant orders.
- iv) If a meeting of the DSC been convened and proper record maintained, this ambiguity would have not been felt as to whether these candidates are really sacked or terminated under E&D Rules, or resigned etc.
- v) Appointment on the filled post in case of Mr Fazl-e-Rahman S/O Abdul Ahat cannot be justified.
- vi) The Committee noted appointment of Mr Inam Ul Haq S/O Aziz Ul-Haq appointed Vide Endst; No. 6101-5 Dated 4/07/1996 but his DMC shows date of declaration of result of Drawing Master course as 27/02/1998.
- vii) The Committee also noted the case of Mr Akhtar Ali S/O Sher Muhammad having date of declaration of DM certificate as 11/5/1999 but he was appointed in 1996.
- viii) Similar is the case of Mr Muhammad Hayat S/O Said Ghulam who acquired the relevent professional certificate session 1998 but his appointment as PET post Vide Endst; No.9311-15 Dated 21/6/1996. The Committee is of the view that appointments made prior to acquiring the requisite qualification as mentioned above was admissible under the rules or otherwise, but now they have acquired the relevant qualifications.

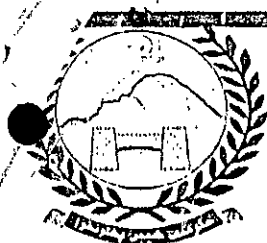
Incumbants Mr Atullah EDO w e f 25/2/2010 to 31/12/2012
 Mr Ataullah DEO MALE E&SE Charsadda
 Qazi Siraj Assistant and Record Keeper
 Zahir Shah Senior Clerk and record keeper 2010
 Shamsul Qamar Assistant and DA Class IV and J/C.

Recommendations: Keeping in view the facts and findings of the enquiry committee it is suggested that;

This enquiry may be considered Preliminary and a formal enquiry may be conducted to provide full opportunity for defense of the officer/officials enquired upon.

Enquiry Committee

- 1: Ahmad Jan Principal GHS Charsadda Khas (Chairman) 
- 2. Shamsur Rehman Dy.P.D.CIDA (Member) 
- 3. Masal Khan Principal GHSS Mandani. (Member) 



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

(18)

Annexure "C"

NOTIFICATION

Dated Peshawar the November 21, 2013

NO.SO(S/M)E&SED/4-17/2013/Attaullah Principal: The Competent Authority is pleased to appoint Mr. Muhammad Humayun Khan Chairman (BS-21), Provincial Inspection Team Peshawar as inquiry officer to conduct formal enquiry against Mr. Attaullah Khan, Ex-Executive District Officer (BS-19), E&SE/ District Education Officer (BS-19) Charsadda (Now principal BS-19 GHS Bogara District Karak) for the charges mentioned in the Charge Sheet and Statement of Allegations with immediate effect.

2. The enquiry officer shall submit recommendations/ report to the Competent Authority within (30) days positively. (Copies of Charge Sheet & Statement of Allegations are enclosed).

SECRETARY

Endst: of even No. & Date :-

Copy forwarded to the:

1. Mr. Muhammad Humayun Khan Chairman (BS-21), Provincial Inspection Team Peshawar (Copies of Charge Sheet & Statement of Allegations are enclosed).
2. Mr. Attaullah Khan, principal BS-19 GHS Bogara District Karak (Copies of Charge Sheet & Statement of Allegations are enclosed).
3. PSO to Chief Minister Khyber Pakhtunkhwa.
4. Director, E&SE Khyber Pakhtunkhwa, Peshawar.
5. PS to Secretary E&SE Department, Khyber Pakhtunkhwa.
6. PS to Additional Secretary, E&SE Department.
7. Incharge EMISE E&SE Department.
8. Office order file.


(MUJEEB-UR-REHMAN)
SECTION OFFICER (SCHOOLS/MALE)



CHARGE SHEET

(19)

1- Pervez Khattak, Chief Minister, Khyber Pakhtunkhwa as Competent Authority, hereby charge you, Mr. Attaullah Khan, Ex-EDO E&SE/ Ex-DEO (BS-19) Male Charsadda (now Principal BS-19 GHS Bogara District Karak) as follows:-

That you, while posted as Executive District Officer, E&SE/ District Education Officer (BS-19) Male Charsadda committed the following irregularity:

"Made irregularities in the appointment of different categories of teachers i.e. CT (M/F) Class-IV, PST, PET, DM (M/F) AT, TT, Qari and Junior Clerks during 2010 to 2013 in violation of rules and regulation and prescribed procedure".

2- By reason of the above, you appear to be guilty of misconduct under Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in Rule-4 of the Rules ibid.

3- You are, therefore, required to submit your written defence within seven days of the receipt of this Charge Sheet to the inquiry officer/ inquiry committee, as the case may be.

4- Your written defence, if any, should reach the inquiry officer/ inquiry committee within specified period, failing which it shall be presumed that you have no defence to put in and in that case ex-parte action shall be taken against you.

5- Intimate whether you desire to be heard in person.

6- A Statement of Allegations is enclosed.

(PERVEZ KHATTAK)
CHIEF MINISTER KHYBER PAKHTUNKHWA
COMPETENT AUTHORITY

Mr. Attaullah Khan, Ex-EDO E&SE/ Ex-DEO (BS-19) Male
Charsadda (now Principal BS-19 GHS Bogara District Karak)

[Handwritten signature]

DISCIPLINARY ACTION

I, Pervez Khattak, Chief Minister, Khyber Pakhtunkhwa as Competent Authority, am of the opinion that, Mr. Attaullah Khan, Ex-EDO E&SE/ Ex-DEO (BS-19) Male Charsadda (now Principal BS-19 GHS Bogara District Karak), has rendered himself liable to be proceeded against, as he committed the following acts/ omissions, within the meaning of Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

STATEMENT OF ALLEGATIONS

"Made irregularities in the appointment of different categories of teachers i.e. CT (M/F) Class-IV, PST, PET, DM (M/F) AT, TT, Qari and Junior Clerks during 2010 to 2013 in violation of rules and regulation and prescribed procedure".

2- For the purpose of inquiry against the said accused with reference to the above allegations, an inquiry officer/ inquiry committee, consisting of the following, is constituted under Rule-10(1)(a) of the ibid Rules:

- i. _____
- ii. _____
- iii. _____

3- The inquiry officer/ inquiry committee shall, in accordance with the provisions of the ibid Rules, provide reasonable opportunity of hearing to the accused, record its findings and make within thirty days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

4- The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the inquiry officer/ inquiry committee.

(PERVEZ KHATTAK)
CHIEF MINISTER KHYBER PAKHTUNKHWA
COMPETENT AUTHORITY

Mr. Attaullah Khan, Ex-EDO E&SE/ Ex-DEO (BS-19) Male
Charsadda (now Principal BS-19 GHS Bogara District Karak)

Handwritten signature/initials

453
21

Confidential



PROVINCIAL INSPECTION TEAM

Block No. 15, Attached Department Complex,
Khyber Road, Peshawar Cantt.

Tele: 9210956-9212270

No./INSP/34/By Name Inq/PIT/2013 1473 76

Dated: November 28, 2013

To

Mr. Attaullah Khan,
Principal, GHS, Bogara
District Karak.

Subject:

INQUIRY INTO MADE IRREGULARITIES IN THE APPOINTMENT OF DIFFERENT CATEGORIES OF TEACHERS i.e. CT (M/F) CLASS-IV, PST, PET, DM (M/F) AT, TT, QARI AND JUNIOR CLERKS DURING 2010 TO 2013 IN VIOLATION OF RULES AND REGULATION AND PRESCRIBED PROCEDURE.

Memo:

According to the Elementary & Secondary Education Department Notification No.SO(S/M) E&SED/4-17/2013/ Attaullah Principal dated 21.11.2013 (copy attached) the Competent Authority has been pleased to appoint the undersigned as Inquiry Officer to conduct formal inquiry into the subject mentioned above.

2. Copies of Charge Sheet & Statement of Allegations (in duplicate) duly signed by the Competent Authority are enclosed. One copy of Charge Sheet & Statement of Allegation duly signed may be returned as taken of receipt.
3. You are directed to submit your written reply within seven days of the receipt of Charge Sheet & Statement of Allegation failing which it shall be presumed that you have no defense to put in & in that case ex-parte action shall be taken.
4. You may also intimate whether you desire to be heard in person or otherwise.

22

5. You are also directed to attend the office of the Chairman, Provincial Inspection Team, Block No.15, Attached Department Complex, Khyber Road, Peshawar Cantt. along with relevant record on 6.12.2013 at 11:00 hours for further proceedings in the case.

28-11-13

Encl: (As above)

o/c

CHAIRMAN
Provincial Inspection Team/
Inquiry Officer

Endst: No. & Date of Even:

Copy forwarded for information to the:

1. Secretary to Government of Khyber Pakhtunkhwa, Elementary & Secondary Education Department with the request to kindly nominate a departmental representative to assist the Inquiry Officer during inquiry proceedings.
2. PSO to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
3. The Section Officer (Male/Schools) E&SE Department Peshawar w/r to Notification No. SO(S/M) E&SED/4-17/2013/Attaullah Principal dated 21.11.2013.

28-11-13

o/c

CHAIRMAN
Provincial Inspection Team/
Inquiry Officer

[Handwritten signature]

(23)

Annexure "E"

27

To

The Chairman,
Provincial Inspection Team Khyber Pakhtun Khwa, Peshawar.

Subject:- INQUIRY INTO (MADE IRREGULARITIES IN THE APPOINTMENT OF DIFFERENT CATEGORIES OF TEACHERS i.e. CT (M/F), CLASS -IV, PST, DM (M/F) AT, TT, QARI AND JUNIOR CLERKS DURING 2010 TO 2013 IN VIOLATION OF RULES AND REGULATION AND PRESCRIBED PROCEDURE.

Memo:

Kindly refer to your letter No./INSP/34/By Name/ Ing /PIT/2013 1473-76 dated 28 11/2013, on the subject noted above and to submit my reply to the charge sheet in detail.

Sir, before I submit my reply to the charge sheet served upon the undersigned by the competent authority in connection with alleged irregular appointments of different cadres in District Charsadda in detail, it is pertinent to mention here that the requisite Appointments were not made by the undersigned in one go or all alone and haphazardly.

Proper procedure as laid down in the APT Rules 1989 and other policies/yardstick of the Provincial Government regarding recruitments received from time to time were strictly observed before inking the single appointment order of every individual.

Sir, your good self will agree with me that it is an easy task to find faults in others as revealed from the preliminary inquiry report but the undersigned had left no stone unturned to carry out the said appointments in a transparent manner and keeping in view merit of every individual case such as following parameters were adopted by the undersigned before finalization of recruitment process as EDO E&SE/DEO(M) Charsadda in the year 2010 to 18/4/2013.

1. Vacancies in different categories were advertised on wide broad basis in line with the recruitment policy in vogue.
2. DSC was framed as per APT 1989.
3. Quota system reserved for promotion and deceased was followed According to the share of each cadre.
4. Recommendation of DSC and appellant/scrutiny/review committee were Given weightage to avoid unnecessary litigation for the Department.
5. Advice/guidance from the Admn and parent Departments were sought from time to time through onward and back ward correspondence(available On record) to dispose of the disputed cases/ appeals to remove the anomaly.
6. It was not just EDO/DEO Charsadda who carries out the appointments in Question in District C Charsadda all alone at his own sweet will, rather I Consulted DSC, Appellant/Scrutiny committee. Sought advice from Admn: / Parent Departments on case to case basis before issuing the appointment orders.

Sir, I submit my detailed reply to aforesaid charge sheet as under for your kind Perusal and sympathetic consideration, please.

REPLY TO OBSERVATION NO.1: APPOINTMENT OF CT MALE & FEMALE 2010.

It is submitted that 2% disabled quota has been calculated on the Total Strength of CT cadre while not on the vacant posts. No appointment of CT male/ female disabled candidates has been made in excess. Mr. Taj Muhammad CT has been appointed on 11-05-2012 according to his merit under Disabled quota after passing ETEA Test. No irregularity has been made in this case.

REPLY TO OBSERVATION NO.2

Class IVs have been appointed after advertisement and completion of all codal formalities. The record is available.

REPLY TO OBSERVATION NO.3 APPOINTMENT OF PSTs 2011

No.1: The appointment of Muhammad Shafiq PST has been made vide order No.10626-30 Dated 17-10-2011 after considering his appeal as the vacancy at GPS Haidar Kalay was not communicated in time by the DDO Male Tangi at the time of appointment on 03-05-2011.

No.2: No irregularity has been made in the appointment of Mr. Zaheer Ullah and Mr. Faris Khan at UC Koz Bahram Dheri. They have been given their due right. The observation of the inquiry committee is baseless.

No.3: Mr. Ahmad S/O Sultan Muhammad, a candidate of UC Agra at S.No.1 of the Merit list was appointed in the General order while the other at S.No.2 of the Merit list was appointed on 17-10-2011 after considering his appeal. At the time of General order 01 post of PST was indicated by Sub office of DDO male Charasadda. Later on , the 2nd post of PST was confirmed in that UC and the above named at S.No.2 of the Merit list was also appointed by giving him his due right of appointment and to avoid further litigation with the Department.

No.4: In UC Battagram, Mr. Abdur Rahim S/O Abdul Khaliq has rightly been appointed after confirming the vacancy and considering his appeal in order to avoid unnecessary litigation with the Department.

No.5: In UC Gandheri, No irregularity has been made. Two candidates at S.No.1 & 2 of the Merit list were appointed in the General order while the candidate at S.No.3 filed writ petition in the Honorable Court. The Honorable Court sent the case to the Deptt: for departmental disposal under representation announced on 08-03-2012. After receiving the Judgment, his departmental appeal (case) was thoroughly examined and being appointing authority at Distt: level, his appointment order was issued in order to avoid further litigation with the department. The Govt: of KPK E&SE department has constituted a review board / facilitation committee at the Secretariat level in cases of BPS-17 and above, at Directorate level in cases of BPS-16 and at Distt: level in cases of BPS-01 to BPS-15 directing that the aggrieved persons may be called upon to file departmental appeals which are to be resolved and decided in order to facilitate the teachers as well as to avoid the department from litigation.

No.6: It is once again stated that 2% disabled quota has been calculated on the basis of total strength of PST Cadre and not on the available vacancies. No excessive appointment of disabled persons has been made under the said quota.

No.7: The inquiry committee has mentioned that 7 PSTs were appointed in the schools having no vacant posts.

In this case it is submitted that all the 7 PSTs were appointed on open merit in such schools which were closed or having only Single Teacher at Sub Division Tehsil Charsadda. No excessive appointments have been made being competent authority. The observation is quite baseless and based on malafide intentions.

REPLY TO OBSERVATION NO.4 APPOINTMENT UNDER DECEASED QUOTA IRREGULARITIES.

No.1: No irregularity has been made under the deceased quota. Mr. Hazrat Sher S/O Bahadar Sher has not been appointed under deceased employees children quota at GPS Abazai but he has been appointed on open merit. (order photo copy attached)

No.2 Muhammad Ismail S/O Ghafoor Khan appointed as Class-IV Driver BPS-04 vide No.1989-92 dated 12-03-2010 on open merit and not under the Deceased Quota. The same appointment has also been challenged in Peshawar High Court and has been decided in his favor. Copy attached).

REPLY TO OBSERVATION NO.5 APPOINTMENT OF CT/ PET/ DM (MALE/ FEMALE) 2012.

No irregularity in the appointment of CT/ PET/ DM (Male /Female) has been made. The No. of posts of different categories are not mentioned in the advertisement because Primary Schools to Middle status and Middle to High status are upgraded each year and new posts are created as well as different cadre of teachers are also retiring on different dates and their posts are vacated. All the vacancies are calculated before the DSC meeting and the posts are filled according to the available vacancies on the recommendation of departmental selection committee.

REPLY TO OBSERVATION NO.6 APPOINTMENT OF AT/TT AND QARI 2012.

No irregularity has been made in the appointment of AT/ TT and Qari Male. The appointment of fresh candidates has been made according to 75% quota While the remaining will be filled by the department on promotion after fulfilling the promotion criteria. The AT/TT Qari appointment has been made on the basis of ETEA test and score has been calculated of each candidate on the basis of academic qualification and after receiving guidance from the department in this regard.

Mr. Nomanullah a TT candidate has rightly been placed at S.No.14 of the Merit list.

REPLY TO OBSERVATION NO.7 APPOINTMENT OF JUNIOR CLERKS IRREGULARITIES.

No irregularities have been made in the appointment of J/Clerks.

No.1: Type test of the candidates was conducted.

No.2: Merit list of promotable 33% class-IV servants has been maintained.

No.3: At the time of advertisement, the posts were 11 while the time of appointment 21 vacancies were available which were filled up according to the policy. Merit list is available.

No.4: Mr. Sher Bahadar at S.No.1 of the Merit list was declared as overage according to his date of birth. Later on he presented an appeal stating that he is working as Junior Clerk in the Social Welfare Department and presented a Forwarding Letter of his department which was not attached with the application at that time. The undersigned has considered his appeal and has issued his appointment order.

No.5: Muhammad Usman s/o Shamus Qamar at S.No.7 of the merit list was declared as under age. According to the CNIC, his date of birth is 1990 on the basis of which he appeared in the test and interview. But on checking his SSC, his Date of Birth was recorded as 20-12-1994 on the basis of which he was marked under age in the merit list against his name and he was differed for appointment. Later on he filed a departmental appeal before the undersigned and his appeal was considered in order to avoid further litigation with the department. He was appointed in school and later on adjusted in the office of DEO male Charsadda.

No.6: The appointment orders of the promotees amongst the Class-IV servants are available and seniority of the eligible candidates have been maintained.

REPLY TO OBSERVATION NO.8 APPOINTMENT OF SACKED EMPLOYEES.

No irregularity has been made in the appointment of sacked employees.

No.1: The inquiry committee has been mentioned that Mr. Muhammad Naeem and Mr. Noshad Khan were appointed and terminated in 1997 but later on they were re-instated on 05-03-1997 and 03-05-1997. At the direction of Peshawar High court Peshawar in the year 1997 test interview was conducted after advertising the posts. In June 1997, the sacked candidates which were re-instated were again terminated in the General appointment orders. The above named candidates were amongst the terminated employees.

No.2: Muhammad Arshad TT holds the Qirat Sanad as well as Sanad Firagh Shuba Dinyat; on the basis he has been appointed on the TT post.

No.3: No of total available vacancies were calculated out of which 30% share of sacked employees was worked out in each category. In the case of appointment of AT, TT, Qari, the District Coordination officer Charsadda was the competent authority, the Merit list of each category were prepared and were displayed before making the appointments. The documents as well as the Merit list and Total available vacancies were sent to the competent authority i.e. the DCO. In this regard approval in the appointment of sacked employees has been accorded by the DCO on 31-12-2012. The record of the sacked employees is available along with appointment / termination orders.

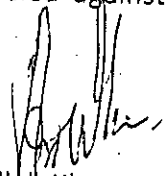
No.5: The appointment of Fazlur Rahman on Qari post has been made on vacant post.

No.6 to 8: Though Inamul Haq s/o Azizul Haq DM and Akhtar Ali s/o Sher Muhammad DM as well as Muhammad Hayat s/o Said Ghulam PLT and Jehanzeb CT have passed their professional examinations after their termination from service yet they fulfilled the required criteria of appointment of sacked employees at the time of their re-appointment in the light of sacked employees ACT 2012.

Summing up, it would be not out of place to mention here that there might be some procedural lapses on the part of DSC/Appellant Committee but that was due to human error and not deliberately. On the whole the undersigned as EDO/DEO Charsadda and other officers/officials included in the DSC/Appellant Committee tried their level best to discharge our Duties in terms of appointing authority and members of DSC/Appellant Committee in accordance with the laid down rules/policy meant for recruitment. However, the err is human and to forgive is the God.

It is, therefore, requested that the above reply may kindly be considered as valid and based on facts and I may kindly be exonerated from the Charges leveled against me in the Charge Sheet.

I also desire to be heard in person.



Attaullah Khan
Principal GHS Bogara Karak
Ex-DEO Male Charsadda.



Annexure "F" ⁴⁴

(28)

To
The Chairman,
Provincial Inspection Team Khyber Pakhtun Khwa ,Peshawar.

Subject:-

INQUIRY INTO MADE IRREGULARITIES IN THE APPOINTMENT OF DIFFERENT CATEGORIES OF TEACHERS I.e. CT (M/F), CLASS -IV, PST, DM(M/F) AT TT,QARI AND JUNIOR CLERKS DURING 2010 TO 2013 IN VIOLATION OF RULES AND REGULATION AND PRESCRIBED PROCEDURE.

Memo:

Kindly refer to your letter No./INSP/34/By Name/ inq /PIT/2013 1473-76 dated 28 11/2013, on the subject noted above and to submit that the copy of inquiry report on the basis of which the charges have been framed in the charge sheet has not been provided due to which I am unable to submit my reply to the charge sheet in detail.

It is, therefore, requested that the same may kindly be provided, in order to enable me to Submit my reply in detail to the charges leveled against me.

ofc
Attaulah Khan
Principal GHS Bogara Karak
Ex-DEO Male Charsadda.

ofc

~~Annexure B~~**SUBJECT:- INQUIRY REGARDING IRREGULAR APPOINTMENTS MADE IN DIFFERENT CADRES BY THE DEO (E&SE), CHARSADDA**

Annexure G

(29)

INTRODUCTION

According to the Elementary & Secondary Education Department Notification No SO(S/M) E&SE/4-17/2012/Attaullah Khan, Ex EDO, Charsadda dated 21.11.2013, the Chief Minister Khyber Pakhtunkhwa was pleased to appointment the undersigned as Inquiry Officer to conduct inquiry regarding irregularities committed in the appointments in different cadres as mentioned in the Charge Sheet and submit report within one month (Annexure-A). Letter in question was received on 28.11.2013. Mr. Attaullah Khan, Ex-EDO (E&SE) Charsadda was asked through registered letter for submission of his written reply within seven days failing which it shall be presumed that he had no defense to put in & in that case ex-parte decision shall be taken (Annexure-B). The Elementary & Secondary Education Department nominated Mr. Musharraf, Superintendent (Establishment), (Schools/Male) E&SE Directorate KPK as departmental representative to assist and appear before the committee along with relevant record (Annexure-C).

BACKGROUND

An inquiry committee comprising of the followings was constituted to conduct a fact finding inquiry and submit its report:-

S.No.	Name of Officer	BPS	Designation	Status
i)	Mr. Ahmad Jan	19	Principal GHS, Charsadda Khas	Chairman
ii)	Mr. Shamsur Rehman	18	(BPS-18)	Member
iii)	Mr. Masal Khan	18	Principal, GHS Mandani, Charsadda	Member

On the recommendations of fact finding inquiry committee formal inquiry has been initiated.

MR. ATTAULLAH KHAN:

On the recommendations of Public Service Commission Mr. Attaullah Khan was appointed as EDO, E&SE (BPS-19) with effect from 26-1-2010 and posted as EDO (E&SE) Charsadda. He served as EDO E&SE Charsadda upto February, 2013. Presently he is working as Principal, Government High School, Bogara, District Karak. According to his date of birth he will attain the age superannuation on 17-03-2020. According to Charge Sheet he has been charged as under (Annexure-D):-

"Made irregularities in the appointment of different categories of teachers i.e. CT (M/F) Class-IV, PST, PET, DM (M/F) AT, TT, Qari and Junior clerks during 2010 to 2013 in violation of rules, regulations and prescribed procedure."

Mr. Attaullah Khan in his written reply dated 17-1-2013 stated that all the orders have been issued in accordance with rules, regulations & policy of the Provincial

All the codal formalities were fulfilled before filling vacancies. Screening tests were conducted through ETEA. Appointments were neither made in one go nor all Selection process was completed through different committees. Appellate Committees were also constituted. On the recommendations of Appellate Committees appointments were reviewed. Appointments were made as laid down in the Department, Promotion & Transfer Rules, 1989 and instructions issued from time to time in the selection processes following parameters were followed.

- a) Vacancies were advertised widely in line with the recruitment policy in vogue.
- b) Screening tests were conducted through ETEA.
- c) District Selection Committees were constituted as per APT Rules, 1989.
- d) Quota System reserved for promotion, disable, retired employees' sons' and deceased son was followed according to the each cadre.
- e) Recommendations of DSC and Appellate Committees were given weight age to avoid unnecessary litigation.
- f) Advice from the Administrative Department was sought from time to time.
- g) The EDO does not carry out all the appointment at his own 'sweet will'; rather DSC & Appellate Committees were constituted. Members of the committees have not been charged.
- h) An Appellate Review Committee comprising of followings was constituted vide Endorsement No. 7625 dated 4-11-2011:-

S. No.	Name of Officer/ Official	Designation	Status
i)	Mr. Jehangir Khan	District Officer (M)	Chairman
ii)	Mr. Khisro Parvez	Superintendent	Member
iii)	Mr. Ruhul Qudus	Superintendent	Member

The composition of the District Selection Committee notified by the Provincial Government is as under:

- a) EDO (E&SE) Chairman
- b) Nominee of DCO Member
- c) One nominee of Administrative Deptt. Member
- d) District Officer concerned Member

He prayed that he always followed rules and regulations therefore may be exonerated. His written reply is at (Annexure-E).

Written statement of following officers/officials of E&SE Charsadda who remained associated in the scrutiny of documents and preparation of merit lists were obtained:-

S. No.	Name	Designation	Annexure
i)	Mr. Ghafar Khan	District Education Officer Charsadda	F
ii)	Mst Ulfat Begum	District Officer (F) Education Charsadda	G
iii)	Mr. Muhammad Shoab	Principal, GHS Garhi Mameed	H

	Gul, Charsadda	
Mst. Aqeela Naz	SDEO (F) Charsadda	I
Mr. Jehangir Khan	ALDO/DO/DDEO (M) Charsadda	J
Mr. Shahjehan	Superintendent, SDEO (F) Tangi	K

15

(31)

Appointment of CT Male & Female 2010

CT (Male & Female) posts were advertised in daily 'Aaj' dated 6-03-2010 (Annexure-L). Last date for submission of applications was 25-03-2010. Number of vacancies in each category was not mentioned in the advertisement. However quota for open merit, batch wise and disable was mentioned in the advertisement. After completion of codal formalities appointment orders of Thirty eight (38) CT (Male) ten by open recruitment and twenty eight on the basis of batch wise were issued vide office order No 1774-1807/E-1 dated 1-11-2010 (CT Male) (Annexure-M). Two (2) Disable (Male) candidates were appointed vide office order No 1780-06/E-1 dated 1-11-2010 (CT Male disable) (Annexure-N). Mr. Taj Muhammad was appointed against Disable Quota vide Office Order No. 7138-44 dated 11-05-2012 (Annexure-O). Mr. Muhammad Shafiq s/o Muhammad Rafiq and Mr. Muhammad Arif s/o Wasil Khan were appointed on 1-11-2010 (Annexure-P) while Mr. Taj Muhammad S/O Mian Khan on 11-5-2012 against Disable Quota. Inquiry committee was of the view that out of 38 CT (Male) posts one post falls in the share of Disable Quota. According to Accused Officer on the basis of total sanctioned posts three candidates have been appointed against quota reserved for disable persons. Mr. Taj Muhammad was appointed as PST. Subsequently he applied for the post of CT under disable quota, his disability was rejected on the basis that he had already availed the opportunity earlier. Subsequently it was noted that he had not availed disable quota earlier therefore he was appointed under disable quota.

CT (FEMALE)

Appointment orders of nineteen (19) CT (Females) were issued four on open merit and fifteen on the basis of batch wise vide Office Order No 1800-08/E-1 dated 1-11-2010 (CT Female) (Annexure-Q). Merit list of PST female (Disable) selected candidates is at (Annexure-R). Appointment orders of disable were not provided. In case of CT Female out of 19 posts quota reserved for disabled candidates comes less than one. Two candidates have been appointed against quota reserved for disable persons. Ex-DEO Charsadda claimed that quota has been calculated on the basis of overall sanctioned posts. No irregularity has been committed. Charge not proved.

Class-IV EMPLOYEES

In District Charsadda Employment Exchange has not been established so far therefore EDO, (E&SE) Charsadda invited applications for the recruitment of Class-IV through newspapers. Last date for submission of applications was 15-11-2009 and 8-9-2012 respectively (Annexure-S). During 2009, thirty four (34) Class-IV were appointed (Annexure-T). Similarly during 2012 one hundred and sixty two candidates applied for the post of Class-IV. A meeting of the DSC was scheduled to be held on 01-11-2012 in the office of EDO E&SE Charsadda which was postponed due to non arrival of representative of Administrative Department. Interviews were conducted on 14-09-2012. A meeting of DSC was held on 01-11-2012 which was attended by Mr. Attaullah Khan, EDO (E&SE), Mr. Shamsur Rehman, D.O, Mr. M. Idrees, ADO and Mr. Ruhul Qudus, Superintendent, Executive District Officer (E&SE) Charsadda prepared Constituency wise merit list of candidates which is at Annexure-U. Eighty four (84) candidates were recommended for appointment in various schools as Class-IV. Class-IV employees

32

In Union Council Agrah, Mr. Ahmed S/o Sultan Muhammad & Mr Muhammad Khan S/o Sultan Muhammad were at S.No 1 & 2 of merit list. Two vacancies were available but Mr. Muhammad Khan was not appointed in the general order. He was considered and appointed vide office order number 10696-700 dated 17-10-2011 (Annexure-BB). The Ex-EDO pointed out that Mr. Muhammad Khan submitted an appeal which was considered by the Appellate Committee. In the light of recommendations of the appellate committee he was appointed on 17-10-2011. Since Mr. Muhammad Khan has been appointed before conducting fact finding inquiry hence no irregularity has been committed. At the time of general order one post of PST was indicated by Sub office of DDO (Male) Charsadda. Later on, the 2nd post of PST was confirmed in that UC and candidate at S. No: 2 of the Merit list was also appointed by giving him his due right of appointment and to avoid further litigation with the Department.

4. In Union Council Battagram two candidates were at S. No 1 & 2 i.e. Mr Habibullah S/O Muhammad Namir and Mr. Muhammad Asim S/O Shah Nazar Khan were appointed. Candidate at serial number 3 Mr. Abdur Rahim S/o Abdul Khaliq was appointed through single order No 10621-25 dated 17-10-2011 (Annexure-CC). In UC Battagram, Mr. Abdur Rahim S/O Abdul Khaliq has rightly been appointed after confirming the vacancy and considering his appeal in order to avoid unnecessary litigation. Case has been decided on appeal.

5. In Union Council Gandheri three candidates i.e. Mr. Kamal Shah S/O Rahim Shah, Mr. Shaukat Ali S/O Sher Ali and Mr. Shaukat Ali S/O Sahibzada at serial No 1,2, & 3 were taken into account. At the time of appointment experience of Mr. Shaukat Ali S/O Sahibzada at serial No 3 was not considered. He filed Writ Petition No 3415/2011 in the Peshawar High Court Peshawar. Case was remanded to the Department for disposal. The DFO issued appointment order without contesting the case vides Office Order No.6387-92 dated 12-4-2012 (Annexure-DD). Had his experience been considered well in time, then only two deserving candidates would have got appointments instead of three. Charge proved.

Four candidates were appointed against disable quota. Inquiry Committee was of the view that the share of disable comes three. Mr. Attaullah Khan Ex-EDO (E&SE) Charsadda claimed that 2% disabled quota has been calculated on the basis of total sanctioned strength of PST Cadre and not on the available vacancies. No excessive appointment of disabled persons has been made under the said quota. Charge not proved. //

PST(Female)

It was alleged that in case of PST females seven (7) candidates were appointed vide office order No. 9268-71 dated 20-09-2011 in schools having no vacant post (Annexure-EE). Subsequently they were adjusted at Tangi for the purpose of drawal of pay. It was further added that PST Females were appointed in the Sub Division and record was not produced by advancing reasons that it is with audit as stated by Superintendent Female. The names and particulars Of Female PST are as under:-

S. No	Name	Station
1	Miss. Roomi	GGPS Chail Payan
2	Miss. Nosheen Begum	GGPS Haya Gul Killi working at GGPS Bajauro Killi
3	Miss. Asma Sirtaj	GGPS Sahib Gul Killi working at GGPS Mansooka
4	Miss. Bibi Aisha	GGPS Rahman ud din Banda working at GGPS Wala-el Koroona, Nisatta

17
6
33
11
... been appointed through separate appointment orders but on same date i.e. Annexure-V). Inquiry committee was of the view that merit list and record is not available, hence their appointments can be termed as irregular. Mr. Attaullah Khan stated that record is available. Constituency wise merit lists were prepared and produced. Majority of candidates are land donors. For the post of Class-IV no hard and fast criteria has been prescribed therefore all appointments made on the recommendations of the MPA concerned are treated as in order.

Appointment of PSTs 2011

During checking of the record it was noticed that after completion of codal formalities appointment orders of fifty nine (59) PSTs on Union Council wise and eighty four on open merit were issued vide office order No 2622-84 dated 3-5-2011 and 2532-2621 dated 3-5-2011 (Annexure-W) and (Annexure-X) respectively as per detail given below

S.No	PST	UNION COUNCIL wise Appointments 40%	District Open Merit Appts 60%	Appointments disable Quota 02%	Total
1	Male	59	84	4	147
2	Female	Merit list and other record not available.			

Four candidates were appointed against disable quota vide office order No 2570-73 dated 19-5-2011 (Annexure-Y). Merit list was not produced by advancing reason that record is still with Audit authorities.

1. Mr. Muhammad Shafiq was on the top of the merit list in the Union Council Showdag but he was ignored, despite of availability of post at Government Primary School Haider Kalay. He was appointed through a separate order No. 10626-30 dated 17-10-2011 (Annexure-Z). Ex EDO Charsadda explained that Mr. Muhammad Shafiq filed an appeal before the Appellate Committee. After considering his appeal his request was found genuine therefore he was appointed through a separate appointment order. Ex-EDO (E&SE) claimed that the vacancy at GPS Haider Kalay was not communicated in time by the DDO (Male) Tangi at the time of appointment on 03.5.2011. Since Mr. Muhammad Shafiq was appointed prior to constitution of fact finding enquiry therefore it cannot be treated as an irregularity.
2. According to tentative merit list Mr. Faris Khan was at top of the list. Mr. Zaheerullah was shown at serial number 2 of the merit list. In the final merit list Mr. Zaheerullah son of Abdul Wahid was awarded one mark for having few months experience. On the basis of his experience he was shown at the top of merit while Mr. Faris Khan S/o Alam Wahid got 2nd position. Marks awarded to Mr. Zaheerullah for having few months experience were not permissible. Marks are always awarded for having at least one year, two years and three years experience. Marks must be 2, 3 or 5 and not any other figure. Moreover appointment of Mr. Zaheerullah was in violation of rules. Mr. Attaullah Khan claimed that no irregularity has been committed in the appointment of Mr. Zaheerullah and Mr. Faris Khan at UC Kuz Bahram Dheri. They have been given their due right. Mr. Faris Khan submitted an appeal to the Secretary Elementary and Secondary Education. Subsequently Mr. Faris Khan was also appointed (Annexure-AA). Ex-DEO Charsadda had violated rules. Mr. Faris Khan got his right but on submission of appeal before Secretary E&SE. Moreover appointment of Mr. Zaheerullah is also irregular.

34

5	Miss. Farhana Samad	GGPS Gholo Ghundai working at GGPS MM Khel No.2
6	Miss. Tahira Shams	GGPS Mar Dhand working at GGPS Faqir Killi Wardagra
7	Miss. Rabia Gull	GGPS Dildar Gari working as GGPS Toot Killi Serdaeri

- Record was not produced before undersigned. It was claimed that record is still lying with Audit.
- According to Mr. Attaullah Khan twenty three (23) female PSTs were appointed on open merit vide Order No 2693-2721 dated 3-5-2011 (Annexure-FF) out of which seven were appointed in such schools which were closed due to terrorists activities or having only single teacher at Sub Division Tehsil, Tangi, Charsadda. Remaining nineteen (19) PSTs selected on Union Council wise and were posted in respective Union Councils. No excessive appointments have been made being competent authority. Observations raised by the fact finding committee are incorrect.

Appointment under Deceased Quota

Executive District Education (ESE) Charsadda appointed twenty one (21) candidates against deceased son's quota as per detail given below

S.No.	Name of candidate	Father's name	Remarks
1	Hameedullah	Saifullah	
2	Shah Hussain	Said Ma	
3	Bilal	Izzat Gu	
4	Amin Jan	Sher Muhammad	Deceased & land donor
5	Muhammad Jan	Marjan /	
6	Bilal Ahmad	Ahmad Saheed	
7	Ayesha	Sher Muhammad Khan	
8	M. Owais	Mukarram Shah	
9	Niaz Gul	Widow of Niaz Gul	
10	M. Intesham	Nizakatullah	
11	M. Shah Rukh	Nisar Muhammad	
12	Umair Ahmad	Ihsanullah	
13	M. Akif	Fazli Wali	
14	Kaleemullah	Waris Khan	
15	M. Gul	M. Jan	
16	Zarshad	Sarfraz Khan	
17	Malik Taj	Feroz Shah	
18	M. Ibrahim	Amir Nawaz	
19	Falak Taj	Ashraf Khan	
20	M. Ismail	Fazal Shah	
21	Siyar	Gulzar	

Record was checked randomly and found in order. No irregularity has been noticed.

Inquiry committee observed that Mr. Hazrat Sher S/O Bahadar Sher was appointed as Chokidar at GPS Abazai Tangi vide office order No. 3166-71 dated 12-3-2010 (Annexure-GG) under deceased quota but his name has not been reflected in the list of candidates appointed under deceased son's quota. Record further shows that second appointment order was issued on same date (Annexure-III). Finally substitution was made and Mr. Hazrat Sher S/O Bahadar Sher was shown appointed against open merit (Annexure-II). It appears that

after receipt of report of the fact finding committee changes have been made in the appointment order.

19
38

Mr. Muhammad Ismail S/O Ghafoor Khan was appointed as Driver BPS-4 against a vacant post in the office of DDO (F) Primary Charsadda vide office order No.1989-92 dated 12-3-2010 under deceased son quota. His father was an employee of WAPDA (Annexure-JJ). The Inquiry Committee is of the view that appointment is irregular for the reasons that his father is still alive. Moreover his father was an employee of WAPDA therefore Mr. Muhammad Ismail is eligible to be appointed in WAPDA. Record has been checked which shows that Mr. Muhammad Ismail S/O Ghafoor Khan was appointed as Driver BPS-4 against open merit and not against deceased son's quota. Findings of the Inquiry Committee are incorrect.

APPOINTMENTS OF AT, TT & QARI 2012

Posts of AT/TT/Qari (M/F) were advertised in 2011 and last date for submission of applications was 18-6-2011. TEA test was conducted on 3-7-2011. Successful male candidates were called at GHS Garhi Hamid Gul and female at GHS Utmarzai. During checking of record it was noted that appointment of AT, TT & Qari (Male & Female) were issued as per detail given below:-

Name of Posts	No. of vacant post	No of fresh appointment @ 75% share	Actual	Number of promotees @ 25%	Disable 2%	Still vacant
AT(M)	15	11		0	0	7
TT(M)	19	15		0	0	5
Qari(M)	1	1		0	0	-
AT(F)	21	16		5	0	8
AT(F)	24	18		6	0	10
Qari(F)	14	11		0	0	3

Inquiry committee noted that merit position of one candidate for the post of TT was calculated as under.

S.No.	Exam Passed	Marks obtained	Score
1	SSC	306/850	13.88
2	Intermediate	576/1100	10.47
3	BA (Islamiat+ Arabic)	341/550	20.124
4	MA Islamiyat	770/1100	14
5	ETEA	192/300	25.60
Total			76.35

Mr. Nomanullah at Serial No. 14 of the merit list was awarded total score of 52.80. Under the new policy no marks have been allocated for ETEA Test. It was noted that appointing authority deviated from criteria mentioned in the policy notified by the Provincial Government (Annexure-KK). Findings of fact finding committee are correct.

Nine candidates were short listed for the post of Arabic Teachers (M). Eight candidates were appointed vide Office Order No. 1644-49/Appointment/AT Dated 13-03-2013 (Annexure-LL).

Fifteen candidates were short listed for the post of Theology Teachers (M). Ten candidates were appointed vide Office Order No. 1650-55/Appointment/TT Dated 13-03-2013 (Annexure-MM).

36

Four candidates were short listed for the post of Qari (M). One candidate was appointed vide Office Order No. 1656-61/Appointment/Qari Dated 13-03-2013 (Annexure-NN).

Twenty five candidates were short listed for the post of Theology Teachers (F). Fourteen candidates were appointed vide Office Order No. 2108-20/Appointment/TT Dated 22-03-2013 and No. 2778-85/Appointment/TT dated 07-05-2013. Candidate at serial number 1 had fake certificate of 'Alamia' (Annexure-OO).

Fourteen candidates were short listed for the post of Arabic Teachers (F). Thirteen candidates were appointed vide Office Order No. 2083-96/Appointment/AT Dated 22-03-2013 and No. 2786-93/Appointment/AT. dated 07-05-2013. Candidate at serial number 1 was ignored (Annexure-PP).

Fourteen candidates were short listed for the post of Qaria (F). Eleven candidates were appointed vide Office Order No. 2097-2107/Appointment/Qaria Dated 22-03-2013 and No. 2762-67/Appointment/Qaria dated 06-05-2013 (Annexure-QQ). Candidate at serial number 5 was ignored.

Appointment of CT, PET, DM (M/F) 2013

The post of CT, PET & DM (M/F) were advertised in the news paper (Annexure-RR). Last date for submission of application was 18-06-2011. As per minutes of DSC meeting, ETEA results, merit list of CT (General) DM & PET male and female appointments orders were issued as per detail given below:-

Name of Posts	No of Vacant posts	Share of Initial Recruitment @ 40%	Share of promotion @ 60 %	Total
CT (M)	27	22	16	27
DM (M)	03	02	01	03
PET(M)	14	14	Nil	14
CT(F)	14	06	08	14
DM(F)	20	04	16	20
PET(F)	05	04	01	05

Seventeen candidates were short listed through ETEA test for the post of C.T. (M). Ten candidates were appointed vide Office Order No.7082-88/ Appointment/CT dated 11-5-2012 (Annexure-SS).

Twenty three candidates were short listed through ETEA test for the post of Drawing Master. Three candidates were appointed as DM vide Office Order No. 7103-9/ Appointment/DM dated 11-05-2012 (Annexure-TT).

Twenty seven candidates were short listed through ETEA test for the post of PET (Male). Eleven candidates were appointed vide order No. 7096-7102/ Appointment/PET dated 11-05-2012 (Annexure-UU).

Thirty one candidates were short listed through ETEA test for the post of CT (Female). Six were appointed as CT Teacher vide Office Order No.7117-23/ Appointment/CT dated 11-05-2012 (Annexure-VV).

Twenty one candidates were short listed for the post of DM (Female). Ten were appointed as T.T. (Male) vide Office Order No. 1650-55/Appointment/TT dated 13-03-2013 (Annexure-WW).

Thirty one candidates were short listed for the post of PET (F). Four candidates were appointed vide Office Order No. 7110-16/Appointment/PET Dated 11-05-

Number of vacancies in each category was not mentioned in the advertisement. The appointments were made in the light of merit list but record of two persons disable quota not found.

APPOINTMENT OF JUNIOR CLERKS

Applications were invited through news paper for eleven posts of Junior Clerks (Annexure-YY). Last date for submission of application was 20-4-2011. Mr. Muhammad Shoaib, Principal, GHS Garhi Hamid Gul conducted written test on 3-5-2011 at GHS No. 1 Charsadda, GHS Babra and GHS Garhi Hamid Gul. He also marked/checked papers. Subsequently typing test was conducted at GHS Babra on 14-5-2011 which was supervised by Mr. Jehangir Khan, District Officer E&SE, Mr. Khisro Parvez, Superintendent and Mr. Ruhul Qudus, Superintendent alongwith representative of DCO (Annexure-ZZ).

During checking of record following irregularities were noted:-

It was alleged by the fact finding committee that Typing material obtained from the candidates at the time of Typing Test was neither maintained nor produced. Typing material was produced which showed that all the candidates perfectly know typing but fact is that their performance was too poor. It appears that other candidates had appeared in the typing test.

Twenty one candidates were appointed i.e. (15) by initial recruitment and (6) by promotion. At the time of advertisement 11 posts were advertised in the newspaper. Merit list of Class-IV is available at (Annexure-AAA).

According to merit list candidates at serial number 3,6,7,17,19 and 20 have been appointed as Junior Clerks. A number of senior Class-IV at serial number 1,2,4,5, 8 to 16 and 18 were ignored.

Typing speed prescribed for initial recruitment is not applicable in case of departmental promotions. Ex-DEO Charsadda deprived a number of senior Class-IV employees and promoted their juniors on the plea that seniors do not know typing (Annexure-BBB).

On the basis of typing test a Committee comprising on the following recommended the following Class-IV for promotion to the post of Junior Clerk: :-

1. EDO, E&SE, Charsadda
2. Representative of DCO Charsadda
3. D.O. E&SE Charsadda

S.No.	Roll No.	Name	Father Name	Type Speed
1.	38	Roohul Amin	Habibur Rehman	30 w.p.m.
2.	729	Fakhriz Zaman	Shah Zaman	30 w.p.m.
3.	707	Qazi Nadeemul Haq	Qazi Azizul Haq	30 wp.m.
4.	696	Ruhul Amin	Ruhul Qudus	30 wp.m.
5.	349	Muhammad Naeem	Fida Muhammad	30 w.p.m

6.	343	Muhammad Rehman	Munawar Khan	30 w.p.m.
----	-----	-----------------	--------------	-----------

2217
6
38

Class-IV employees promoted by the Ex-DEO were totally ignorant of typing. Result of their typing test taken by the undersigned is at (Annexure-CCC) which clearly shows that typing test taken by the Ex-EDO (E&SE) Charsadda is totally fake.

Mr. Sher Bahadar at Serial No. 1 was declared overage having date of birth 16-2-1972. The Inquiry Officer found that he was an employee of Social Welfare Department (Annexure-DDD). He applied through proper channel. He being eligible was allowed to compete and selected as Junior Clerk.

Mr. Muhammad Usman Qamar S/O Shamsul Qamar at Serial No. 7 was declared under age by the DSC. His DOB is 20-12-1994. He was deferred and 14 candidates were appointed on 11-2-2012 (Annexure-EEE). His appointment order was issued on 21-12-2012 at GHS Shara & adjusted in the office of DEO (F). On 20-4-2011 i.e. the last date for submission of applications Mr. Muhammad Usman Qamar S/O Shamsul Qamar was in-eligible being under age. Moreover relaxation in under age cases is not allowed. At the time of appointment of Mr. Muhammad Usman Qamar the post of Junior Clerk was not vacant. Appointment of Mr. Muhammad Usman Qamar S/O Shamsul Qamar is irregular being underage on the last date for submission of applications.

Fifteen candidates appointed by initial recruitment were also called for typing test. Out of fifteen candidates only one candidate i.e. Mr. Sher Bahadar secured reasonable marks.

S.No	Name of J/C	Father's name	Typing speed WPM	Remarks
i	Sher Bahadar	Gul Muhammad	27	Overage. Already in service
ii	Shakeel Ahmad	Fazli Hadi	10	Failed
iii	Muhammad Noman	Majeed Khan	3	20-4-2011
iv	Sajidullah	Hisadar	3	Failed
v	Azizullah	Ambar Khan		Absent
vi	Sabir Khan	Zafar Ali		Absent
vii	Muhammad Usman Qamar	Shamsul Qamar	17	Under age. Not relaxable.
viii	Abdus Sattar	Abdus Salam		Absent
ix	Aftabullah Jan	Fazli Hadi	10	Failed
x	Ajab Khan No	Noor Rahman	7	Failed
xi	Mir Azam Shah	M. Dost Muhammad Shah		Absent
xii	Shahid Ali	Zarshad		Absent
xiii	Abdul Latif	Umar Hayat	6	Failed
xiv	Fawad Hussain	Ashfaq Hussain		Absent
xv	Muhammad Tahir	Saleem Gul		Absent

REINSTATEMENT OF SACKED EMPLOYEES

Mr. Attaullah Khan, Ex EDO (E&SE) Charsadda reinstated in service
twenty three sacked employees as per detail given below :-

S. No.	Nomenclature of post	Number of employees
i)	PST	2
ii)	DM	2
iii)	PET	2
iv)	Junior Clerk	3
v)	CT	5
vi)	TT	5
vii)	AT	3
viii)	Qari	1
Total		23

Appointment orders, termination orders and copies of service books were produced. EDO (E&SE) Charsadda should have obtained copies of salary slips which are more authenticated.

A copy of the Khyber Pakhtunkhwa sacked employees (appointment) Act, 2012 is at (Annexure-FFF). According to the text of this Act

"Where as it is expedient to provide relief to those sacked employees who were appointed on regular basis to civil post in the Province of Khyber Pakhtunkhwa and who possessed the prescribed qualification and experienced for required for the said post, during the period from 1st day of November, 1993 to the 30th day of November, 1996 (both days inclusive) and were dismissed, removed, or terminated from service during the period from 1ST of November, 1996 to 31ST of December, 1998 on various grounds"

After the promulgation of the Act sacked employees were required to submit their applications within Thirty days. Applications received after the due date shall not be entertained. If any vacancy occurs against 30 % share reserved for sacked employees in any department, the senior in age shall be considered by the concerned Departmental Selection Committee or District Selection Committee as the case may be. This Act over rides all the laws and rules for the time being enforce.

Irregularities

It was alleged that neither number of total available vacant posts nor minutes of the DSC meetings were recorded and maintained. No clear merit list was prepared before appointments of sacked employees. The old service books with pay rolls were required for the re-instatement but not recorded in the instant orders. Old salary slips were not produced despite repeated requests. If the meeting of DSC was convened and proper record was maintained, this ambiguity would have not been committed.

Mr. Attaullah Khan, Ex-EDO E&SE Charsadda committed following irregularities in the appointment of sacked employees.

- 246
40
- a) Mr. Matiullah S/O Mahmood Shah GHS Ibrahim Zai and Mr. Muslim Khan S/O Misal Khan GHS Mirzai were appointed under the sacked employees' quota (Annexure-GGG). Such appointments are not covered under the Sacked Employees Act, 2012.
- b) Appointment of Mr. Fazalur Rehman S/O Abdul Ahad against a filled post cannot be justified (Annexure-IIII). Subsequently after the retirement of Mr. Purdil Khan he was adjusted at GHS Boobak (Annexure-III)
- c) Mr. Inamul Haq S/O Azizul Haq was reinstated in service as D.M. on 31-12-2012. According to the service record he was appointed vide Endorsement No. 6101-5 dated 04-07-1996 (Annexure-JJJ). His DMC shows that result of Drawing Master course was declared on 27-02-1998 (Annexure-KKK). At the time of appointment he was not eligible and qualified therefore his reinstatement in service is irregular.
- d) Mr. Akhter Ali was reinstated in service as DM on 31-12-2012 (Annexure-LLL). The fact finding committee noted that Mr. Akhter Ali S/O Sher Muhammad passed DM Certificate on 11-05-1998 (Annexure-MMM) but he was appointed in 1996. At the time of appointment he was not eligible and qualified hence his reinstatement in service is not covered under the said Act.
- e) Mr. Muhammad Hayat S/o Said Ghulam was reinstated as D.M on 31-12-2012 (Annexure-NNN). Perusal of record revealed that he acquired professional certificate in 1996 (Annexure-OOO) whereas he was appointed as PET vide Endorsement No. 9311-15 dated 31-06-1996. His reinstatement in service is not covered under the said Act.
- f) Mr. Zia ud Din S/O Khair Muhammad and Mr. Muhammad Hayat S/O Said Ghulam, PET have been reinstated in service vide order No.3917-22/Appointment/PET dated 31-12-2012 (Annexure-PPP). Reinstatement of Mr. Muhammad Hayat PET seems irregular for the reason that the senior most in age sacked employee was required to be reinstated. It was clarified that Mr. Alamzeb has been ignored for the reason that he does not possess professional qualification even now.
- g) Four Theology Teachers have been reinstated in service. According to merit list Mr. Tasleem Khan S/O Umar Khan was at Serial No. 4. However he has been reinstated vide office Order No. 2178-82/Appointment/TT dated 16-3-2013 (Annexure-QQQ). Following three candidates senior in age to Mr. Tasleem Khan were reinstated after nine months vide Office Order No. 3911-16/Appointment/TT dated 31-12-2013 (Annexure-RRR) :-

1. Mr. Muhammad Naeem S/O Abdur Rahim
2. Mr. Naushad Khan S/O Sher Bahadar
3. Mr. Muhammad Arshid S/O Abdul Qadar

It was also noted that Mr. Shah Zaman S/O Samundar Khan was also reinstated in service as Theology Teacher vide Office Order No. 3951-55/Appointment/Sacked Employees dated 31-12-2012 (Annexure-SSS). His name was not reflected in the merit list of TT (Male) (Annexure-TTT). His name was included in the merit list of AT (Annexure-UUU).

For the post of Theology Teacher the prescribed qualification is as under:-

- i) SSC 2nd Division from a recognized Board alongwith Shahadaat Aalia from a recognized Tanzeem-ul-Wafaq-ul-Madaras

- ii) B.A/B.Sc 2nd Division alongwith two subjects Islamiyat and Arabic alongwith Shahadat-ul-Khasa from Tanzeem-ul-Wafaq-ul-Madaaras

Mr. Muhammad Arshid S/O Abdul Qadar was reinstated as TT vide order No.3929-34/Appointment/TT dated 31-12-2013 (Annexure-UUU). He obtained Sanad of Qirat and Tajveed. He was not qualified for the post of Theology Teacher.

It is fact that minutes of the meeting with regard to reinstatement of sacked employees were not available. However approval of the DCO was obtained on file.

OBSERVATIONS

It was observed that Mr. Attaullah Khan Ex-EDO (E&SE) Charsadda advertised all the posts in the news papers. Scrutiny committees were constituted. Written test and typing test were conducted. LTEA test was also arranged for the posts of CT, PET, DM, TT & Qari. Interviews were held. Merit lists were prepared and displayed. Appellate committees were also notified. A number of appeals were decided by the Appellate Committee and candidates were given their due rights. However, certain irregularities have been noted in the appointment of Junior Clerks reinstatement of sacked employees, Mr. Muhammad Usman an underage candidate was appointed as Junior Clerk, typing material produced seems fake and certain other categories. In certain cases observations raised by the fact finding committee were found valid while in other cases baseless. In order to extend undue favour to undeserving candidates written test was conducted for the post of Junior Clerks. After passing typing test merit list should have been prepared on the basis of academic record and experience etc.

RECOMMENDATIONS

1) Charge of illegal and irregular appointments leveled against Mr. Attaullah Khan, Ex-EDO Charsadda partially proved. Eligible and qualified candidates were deprived of their due rights. Mr. Attaullah Khan, Ex-EDO (E&SE) Charsadda was appointed in BPS-19 by initial recruitment through Public Service Commission hence his reversion to lower post is not permissible. It is recommended that minor penalty of stoppage of three increments may be imposed upon him.

District Selection Committee notified by Mr. Attaullah Khan, Ex-EDO Charsadda is as under:-

S.No.	Name	Designation	
1	Mr. Attaullah Khan	Ex EDO, Charsadda	Chairman
2	Mr. Maqsood Jan, (Died)	District Accounts Officer, DCO Office Charsadda	Member
3	Mr. Jehangir Khan	Deputy District Education Officer (M/F), E& SE Charsadda	Member
4	Mr. Khadim Shah, Mr. Ruhul Qudus Mr. Khisro Parvez Mr. Shah Jehan Mr. Liaqat Qazi Sirajul Haq	Superintendent, EDO, Charsadda Superintendent (Retd), EDO, Charsadda Superintendent (Retd), EDO, Charsadda Superintendent, EDO (F) Tangi Assistant, EDO Charsadda Assistant, EDO Charsadda	Member

42

Members of District Selection Committee are equally responsible therefore action may also be taken against them except M/S Roohul Qudus and Khisro Parvez who had retired from service.

Class-IV Employees who were promoted out of turn as Junior Clerks may be reverted and promotions be made purely on the basis of seniority and service record of Class-IV employees. Junior Clerks appointed by initial recruitment who do not know the typing may be terminated after serving Show Cause Notices.

Mr. Muhammad Hayat PET who has been illegally reinstated in service may be served with show cause notice and his service may be terminated and Mr. Alam Zeb PET may be reinstated against the said vacancy.

Since DCO Charsadda was appointing authority in respect of AT, TT and Qari. Moreover sacked employees were also reinstated in service with his approval therefore he may be asked to explain reasons for according approval of irregular appointments.

Mr. Shah Hussain S/O Hussan Zada was reinstated as CT teacher vide office order No. 3505-10/Appointment/CT dated 31-12-2012. Perusal of record reveals that Mr. Shah Hussain passed professional examination of CT (General) in 1998 (Annexure-WWW) His reinstatement is not covered under the Sacked Employees Act.

Mr. Jehanzeb Khan S/O Adam Khan was reinstated as CT teacher vide office order No. 3505-10/Appointment/CT dated 31-12-2012. Perusal of record reveals that Mr. Jehanzeb Khan passed professional examination of CT (General) in 1998 (Annexure-XXX) His reinstatement is not covered under the Sacked Employees Act.

Mr. Zahid Ali S/O Muslim Khan was reinstated as AT teacher vide office order No. 3929-34/Appointment/AT dated 31-12-2012 (Annexure-YYY). His appointment order and termination order were not available in the record thus his reinstatement in service is irregular.

MUHAMMAD HUMAYUN
INQUIRY OFFICER.

REGISTERED/

GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Annexure "H"

43

No. SC (S/M) E&SED/4-17/2013/Attaullah Khan
Dated Peshawar the July 17, 2014



To

Mr. Atta Ullah Khan,
Ex- Executive District Officer (BS-19) E&SE Charsadda,
(now Principal BS-19 GHS Bogara District Karak).

~~Annexure D~~

Subject: - SHOW CAUSE NOTICE

I am directed to refer to the subject noted above and to enclose herewith a copy of the Show Cause Notice wherein the Competent Authority (Chief Minister Khyber Pakhtunkhwa) has tentatively decided to impose upon you the Major Penalty of "Dismissal from Service" under Rule-4 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 in connection with the charges leveled against you.

2. You are therefore, directed to furnish your reply to the Show Cause Notice as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.
3. Your reply should reach to this Department within Seven (07) days of the delivery of this letter otherwise ex-parte action shall be taken against you.
4. Copy of the inquiry report is enclosed herewith.

(MUJEEB-UR-REHMAN)
SECTION OFFICER (SCHOOLS/MALE)

Encl: As Above:

Endst: of even number & date:

Copy of the above is forwarded to PS Secretary E&SE Department Khyber Pakhtunkhwa.

SECTION OFFICER (SCHOOLS/MALE)

SHOW CAUSE NOTICE

I, Pervez Khattak, Chief Minister Khyber Pakhtunkhwa, as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, do hereby serve you, Mr. Atta Ullah Khan, Ex-Executive District Officer, E&SE/ Ex-District Education Officer Male (BS-19), Charsadda (now Principal BS-19 GHS Bogara District Karak) as follows:

- i. That consequent upon the completion of inquiry conducted against you by the inquiry officer for which you were given opportunity of hearing; and
- ii. On going through the findings and recommendations 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:

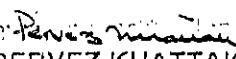
- (i) Inefficient
- (ii) Misconduct

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of dismissal from service. 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.

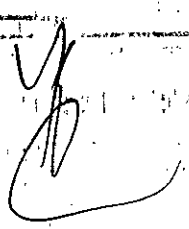
4. If no reply to this notice is received within seven days or not more than fifteen days of its delivery, it shall be presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.

5. A copy of the findings of the inquiry officer/ inquiry committee is enclosed.


 (PERVEZ KHATTAK)
 CHIEF MINISTER KHYBER PAKHTUNKHWA
 COMPETENT AUTHORITY
 09.07.2014

Mr. Atta Ullah Khan, Ex-Executive District Officer,
 E&SE/ Ex-District Education Officer Male (BS-19), Charsadda
 (now Principal BS-19 GHS Bogara District Karak).

13/12/14



(48)

Annexure "I"

72

OFFICE OF THE PRINCIPAL GHS Bogara KARAK.

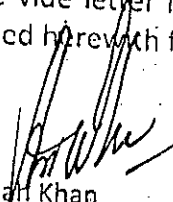
No. 786 dated 04/8/2014

The SECTION OFFICER,
Schools Male E&SE Department Khyber Pakhtunkhwa, Peshawar.

Subject:-
Memo:

REPLY TO THE SHOW CAUSE NOTICE.

Reply to the Show Cause notice served upon me vide letter No.SO S/M
E&SE Department/4-17/2013 /Attaullah Khan dated 17/7/2014 is enclosed herewith for further
Necessary action


Attaullah Khan
Ex-DEO Male Charsadda
Now principal GHS Bogara

OFFICE OF THE PRINCIPAL

SECTION OFFICER

SCHOOLS MALE

SECTION OFFICER

SCHOOLS MALE

Copy of merit list and DSC Minutes are annexed.

Kindly refer to the show cause notice served upon me by the Chief Minister Khyber Pakhtunkhwa(Competent Authority) Under E&D Rules 2011 conveyed vide letter No. SO(S/M)E&SED/4-17/2013/Attaullah Khan dated 17/7/2014 by the section officer Schools/Male and to submit my reply to the Show cause notice in detail.

Sir, before I submit my reply to the Show Cause served upon me by the competent authority in connection with inefficiency and misconduct on the basis of findings and recommendations of the Inquiry Officer/Inquiry committee, it is pertinent to mention here that the requisite Appointments were not made by the undersigned in one go or all alone and haphazardly.

Proper procedure as laid down in the APT Rules 1989 and other policies/yardstick of the Provincial Government regarding recruitments received from time to time were strictly observed before inking the single appointment order of every individual.

Sir, your good self will agree with me that it is an easy task to find faults in others as revealed from the preliminary inquiry report but the undersigned had left no stone unturned to carry out the said appointments in a transparent manner and keeping in view merit of every individual case such as following parameters were adopted by the undersigned before finalization of recruitment process as EDO E&SE/DEO(M) Charsadda in the year 2010 to 18/4/2013.

7. Vacancies in different categories were advertised on wide broad basis in line with the recruitment policy in vogue.
8. DSC was framed as per APT 1989.
9. Quota system reserved for promotion and was followed according to the share of each cadre.
10. Recommendation of DSC and appellant/scrutiny/review committee were given weightage to avoid unnecessary litigation for the Department.
11. Advice/guidance from the Admn and parent Departments were sought from time to time through onward and back ward correspondence(available On record) to dispose of the disputed cases/appeals to remove the anomaly.
12. It was not just EDO/DEO Charsadda who carries out the appointments in Question in District Charsadda all alone at his own sweet will, rather I consulted DSC, Appellant/Scrutiny committee. Sought advice from Admn: / Parent Departments on case to case basis before issuing the appointment orders.

Sir, I submit my detailed reply to aforesaid show cause notice as under for your kind Perusal and sympathetic consideration, please.

REPLY TO OBSERVATION NO.1 APPOINTMENT OF JUNIOR CLERKS IRREGULARITIES.

- The observations/recommendations raised on the appointment of junior Clerks And promotion of C-IV to the post of Junior Clerks by the Inquiry officer is quite Baseless and has no weightage.
- No.1: No irregularities have been made in the appointment of J/Clerks. Written test was taken from the candidates in order to short list them through departmental committee.
- No.2: Type test of the candidates was conducted and that task was given to Superintendent Male Mr. Khlsro Parvoz and Mr. Roohul Qudus Superintendent female being competent and responsible persons of the Department and on their recommendations, eligible candidates were declared successful in the tying test and merit list of the eligible candidates on the basis of Academic qualifications was prepared and signed by the District Selection Committee.
- No. 3: A District Selection Committee meeting was conducted in which the Merit list was thoroughly checked and found in order. The Committee approved the appointment of eligible Candidates to the available vacancies of junior Clerks.(Copy of Merit List and DSC Minutes are annexed.

The observations of the Inquiry officer about the promotion of class IV servants to the post of junior clerks is also baseless and not authentic on the following Ground.

1. 33% quota for promotion of Class IV has been maintained.
2. Seniority list of the Class IV servants having Matriculation qualification was Prepared according to their length of service.
3. For promotion to the Post of Junior Clerks the following criteria was observed according to the service Rules in Vogue of KPK Govt issued vide notification No.SOR (S&GAD)4-7/86 A dated 21/12/1982 and Govt of Pakistan

- i) SSC qualification.
 - ii) Typing experience with minimum two years' service providing that where a senior official does not possess the requisite experience at the time of filling of a vacancy, the official next junior to him possessing the requisite experience shall be promoted in preference of the senior official or officials.
- Seniority list of promotable 33% class-IV servants was maintained. The officials on Seniority list having SSC or Above qualification with knowledge of Typing(which is experience for the post of J/C) and at least two years service Were promoted which were admissible under the rules mentioned above. No irregularity has been made in these promotions, the observation of the inquiry officer is baseless and reversion of these candidates will not be authentic and will be deviation of rules/policy in vogue.

REPLY TO OBSERVATION NO.2 APPOINTMENT OF SACKED EMPLOYEES

All the observations /recommendations of the Inquiry Officer about the appointment of sacked employees is quite baseless.

1. Muhammad Hayat s/o Said Ghulam PET have passed their professional examinations after their termination from service yet they fulfilled the required criteria of appointment of sacked employees at the time of re-appointment in the light of sacked employees ACT 2012. Mr. Alamzeb Ex PET (Sacked employee) is senior to Muhammad Hayat but he has no professional training JDPE and thus he is not eligible to be appointed being untrained. The appointment of Muhammad Hayat has rightly been made and no irregularity has been made in this case.
2. Though Shah Hussain s/o Hussan Zada and Jehanzeb CT have passed their professional examinations after their termination from service yet they fulfilled the required criteria of appointment of sacked employees at the time of their re-appointment in the light of sacked employees ACT 2012. Their appointment has rightly been made and no irregularity has been made in their appointment.
3. Mr. Zahid Ali S/O Muslim Khan was appointed as AT being Sacked employee. His appointment order and termination order were already placed on file on record (copy attached) and no irregularity has been made in his appointment.

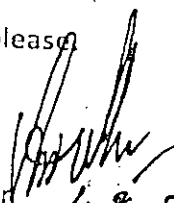
Summing up my humble submission, I beseech to your good self to reconsider the major penalty of Dismissal from service tentatively proposed to be imposed upon the undersigned on the following grounds:-

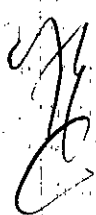
1. The aforesaid major Penalty has been based on the final Inquiry report conducted by Mr. Muhammad Hamayun Secretary Transport Peshawar against the undersigned.
2. In the said inquiry report the inquiry Officer concerned has concluded that "Charge not proved" against the undersigned in the irregular appointments of the following cadres:-
 - (i) Appointment of CT Male/Female 2010
 - (ii) Appointment of Class IV Employees
 - (iii) Appointment of PST 2011 male/Female
 - (iv) Appointment under Dec eased quota
 - (v) CT/QM/PET Male/Female
3. Secondly,concluding the inquiry report, the said inquiry officer has proposed the Minor penalty of stoppage of three annual increments as evident from the recommendations but,

- 4 On the contrary, the Department has proposed major Penalty of dismissal from service upon the undersigned which is not only great injustice with me but the very proposed major penalty is inconsistent to the recommendation contained in the inquiry report on the basis of which drastic action i.e. "Dismissal From Service" is being taken against the undersigned.
- 5 So far as the question of irregularities partially proved in the cadre of (i) Recruitment Of Junior Clerks (2) Appointment of Sacked Employees(Teachers), it is requested/explained that the undersigned being Ex-EDO/DEO E&SE Charsadda was supposed to carry out appointment/promotion of various categories in District Charsadda, there might be some procedural lapses on the part of DSC/Appellant Committee, but that was due to human error and not intentionally. On the whole, the undersigned as EDO/DEO Charsadda and other officers/Officials included in the DSC tried our level best to carry out the recruitment transparently and on-merit in accordance with the laid down rules/policy.
- 6 Last but not the least to err is human and to forgive is God.

Keeping in view my above humble submission, it is requested to your good self to kindly Review the proposed major penalty of "Dismissal From Service" in the light of recommendations of the inquiry report referred to above and keeping in view my more than 30 years service carrier for which I will be highly thankful.

Looking forward to your generous and philanthropist considerations, please


 Attaullah Khan
 4.8.2014
 Principal GHS Bogara Karak
 Ex-EDO/DEO E&SE CHD.



REGISTERED



(19) Annexure 'J'

GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Dated Peshawar the October 21, 2014

NOTIFICATION

NO.SO(S/M)E&SED/4-17/2013/Attaullah Khan Ex-EDO;

WHEREAS Mr. Attaullah Khan,

Ex-EDO, E&SE/ Ex-DEO Male BS-19 Charsadda (now Principal BS-19 GHSS Bogara Karak) 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 Mr. Muhammad Humayun Khan, Chairman BS-21, Provincial Inspection Team Peshawar (now Secretary Transport Department) was appointed as inquiry officer to conduct formal Inquiry against the accused officer, for the charges leveled against him in accordance with the rules.

3. AND WHEREAS the Inquiry officer after having examined the charges, evidences on record and explanation of the accused officer has submitted the report.

4. AND WHEREAS a show cause notice was served upon Mr. Attaullah Khan, Ex-EDO, E&SE/ Ex-DEO Male BS-19 Charsadda (now Principal BS-19 GHSS Bogara Karak) dated 09-07-2014 conveyed to him on 17-07-2014.

5. AND WHEREAS the Competent Authority (Chief Minister, Khyber Pakhtunkhwa) after having considered the charges and evidence on record, inquiry report, explanation of the accused officer in response to the show cause notice and personal hearing granted to him by Additional Secretary (Regulation), Establishment Department on behalf of Chief Minister Khyber Pakhtunkhwa on 26-09-2014, is of the view that the charges against the accused officer have been proved.

6. NOW, THEREFORE, in exercise of the powers conferred under section 14 of Khyber Pakhtunkhwa Govt: Servants (Efficiency & Discipline) Rules, 2011, the Competent Authority (Chief Minister, Khyber Pakhtunkhwa) is pleased to impose major penalty of "dismissal from service" upon Mr. Attaullah Khan, Ex-EDO, E&SE/ Ex-DEO Male BS-19 Charsadda (now Principal BS-19 GHSS Bogara Karak) with immediate effect.

SECRETARY

Endst: of Even No. & Date:

Copy forwarded to the: -

- 1- Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 2- PSO to Chief Minister Khyber Pakhtunkhwa, Peshawar.
- 3- Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
- 4- District Education Officer (Male), Charsadda/ Karak.
- 5- Mr. Attaullah Khan, Principal BS-19 GHSS Bogara Karak.
- 6- District Accounts Officer, Charsadda/ Karak.
- 7- PS to Chief Secretary Khyber Pakhtunkhwa Peshawar.
- 8- PS to Secretary, E&SE Department, Khyber Pakhtunkhwa.
- 9- Office order file.

(MUJEEB-UR-REHMAN)
SECTION OFFICER (SCHOOLS/MALE)

Annexure "E"

(50)

From:- Attaullah Khan,
Ex-EDO (E&SE)/DEO (M) BS-19 Charsadda
(now Principal BS-19 GHSS Bogara Karak)

To:- The Honorable Chief Minister (Chief Executive)
Khyber Pakhtunkhwa.

Subject: REVIEW APPEAL TO SET A SIDE THE MAJOR PENALTY OF DISMISSAL FROM SERVICE IMPOSED ON CHARGE OF CERTAIN IRREGULARITIES IN THE APPOINTMENTS.

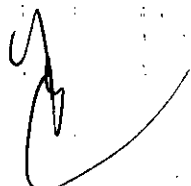
Respected Sir,

It is submitted with profound regard that the undersigned had been serving in the capacity of EDO (E&SE) /DEO (Male) Charsadda with effect from 26-01-2010 to 31-12-2010 and 1-3-2011 to 18-4-2013.

Later on, I was transferred and posted as Principal (BS-19) GHSS Bogara Karak on 19-4-2013 I served as Principal GHSS Bogara Karak with effect from 22-4-2013 to 21-10-2014.

Now I have been dismissed from service on 21-10-2014 by the competent authority vide Government of Khyber Pakhtunkhwa E&SE Department Notification No. SO (S/M)E&SED/4-17/2013/Attaullah Khan Ex-EDO dated 21-10-2014 (Annexure-A) on charges of irregular appointment of teaching/non-teaching staff during my tenure/stay as EDO E&SE/DEO (Male) Charsadda with effect from 25-2-2010 to 19-4-2013.

The appellant beseech your goodself to set aside the aforesaid major penalty of "Dismissal from Service" on the following grounds and keeping in view the contradiction between the recommendation of Inquiry Officer and the penalty imposed upon the undersigned:-



1. During my posting as EDO E&SE/DEO (M) Charsadda appointment of different categories of teaching/non teaching staff e.g. CT/PST/PET/DM/AT/TT/Qari/Junior Clerks and Class-IV were carried out during 2010-2013.
2. The undersigned being Ex-EDO (E&SE) Charsadda was appointing authority for the category of CT/DM/PET/PST/Junior Clerks and Class IV and the then DCO concerned was appointing authority for the category of AT/TT/Qari and Sacked Employees.
3. All the above mentioned appointments were made after observing all codal formalities and in line with Provincial Government rules/policy and prescribed procedure as laid down in the Government of Khyber Pakhtunkhwa(Appointments/Promotions/Transfers) Rules-1989. The same was admitted by the concerned Inquiry Officer and explicitly mentioned in the inquiry report on Page 13 of 19 having caption "OBSERVATIONS" (Annexure-B)
4. In wake of above appointments and after my transfer from the post of DEO (Male) Charsadda on 19-4-2013 followed by my posting as Principal (BS-19) GHSS Bogara Karak on 19-4-2013 **first preliminary enquiry** was conducted by a local Inquiry Committee in the aforesaid appointments. Thereafter, a formal inquiry was conducted in the appointments executed during my posting as EDO/DEO (M) Charsadda but it merits a mention here that both the aforesaid inquiries were conducted against me by the Department without any written complaint and **substantialevidence** regarding "irregularity" to have been committed by the undersigned in

the above mentioned appointments. Even there was **no mention of any complaint** with regard to said appointments both in the **preliminary as well as formal inquiry reports** (Annexure C & D) (C & B)

5. It merits a mention here that although different categories of teaching/non-teaching staff e.g. CT/PST/PET/DM/AT/TT/Qari/Junior Clerks and Class-IV were appointed during my tenure yet the Inquiry Officer, while summing up the formal enquiry report against me had concluded that "However certain irregularities have been noted in the appointments of Junior Clerks/reinstatement of sacked employees" repeat "certain irregularities"

6. It is great in justice and tyranny with the undersigned, that on charge of merely "certain irregularities" very drastic/harsh and major penalty of **"Dismissal from Service"** has been imposed upon the appellant vide Notification referred to above.

7. So much so, the **"Show Cause Notice"** (Annexure- D) served upon the undersigned and the formal enquiry report annexed "B" seemingly give an impression that I was awarded major penalty of **"Dismissal from Service"** on the recommendations of **Inquiry Officer** concerned but in fact the penalty awarded to the undersigned was found **contradictory to the recommendations of Inquiry Officer** embodied in the inquiry report on Page 13 of 19 having caption **"RECOMMENDATIONS"** (Annexure-B) wherein the Inquiry officer had exclusively recommended **"minor penalty of stoppage of three increments"** to be imposed upon the appellant.

8. What to speak of contradiction between the "RECOMMENDATIONS" of Inquiry Officer and the major penalty so awarded to me, the said penalty was also not found in line with the E&D Rules-2011 read with sub rules (4), (5) & (6) (Annexure-E)^(E) which held that "the authority shall ensure that the penalty corresponds to the degree of involvement of the accused official/officer with particular to the nature of guilt i.e. corruption, negligence, inefficiency or misconduct and shall make a **judicious decision**, according to the facts, of the case and extend of the officer's involvement in it.


Keeping in view the above factual position into consideration, I very humbly implore to your goodself that **toset aside** the aforesaid Notification of **major penalty** of "Dismissal from Service" on the grounds mentioned above briefly reproduced as under:-

- a) The then DCO Charsadda namely Mr. Syed Zafar Ali Shah was supposed appointing authority for the cadre of Sacked employees but I was penalized for the entire recruitments made during 2010-2013
- b) All the appointments were made in accordance with the prescribed procedure as observed/stated by the concerned Inquiry Officer himself in the enquiry report.
- c) No complaint regarding irregularity in the said appointments was found on the record of the office/Deptt. Even there was no mention of it in the enquiry reports.
- d) Imposition of major penalty of "Dismissal from Service" on charge of mere "certain irregularities" as concluded by the Inquiry Officer is great injustice.



e) The penalty so awarded to the undersigned was found contradictory to the "Recommendation" of Inquiry Officer and violation of sub rules (4), (5) & (6) of E&D Rules-1973 as well.

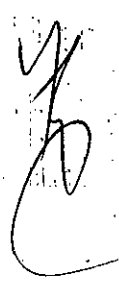
I will be very grateful to you for this act of kindness and looking forward for philanthropist gesture in my appeal in hand.

 19/11/14

(Attaullah Khan Minakhel)

Ex-EDO/DEO (M) Charsadda

Now Principal GHSS Bogara Karak



ESTABLISHMENT AND ADMINISTRATION DEPARTMENT.

NOTIFICATION

Peshawar dated the 18th July, 2012.

1. 14
15
Amendment "L"
(55)

No.SO(REG-VI)E&AD/2-6/2010.-In exercise of the powers conferred by section 26 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973), the Chief Minister of the Khyber Pakhtunkhwa is pleased to direct that in the Khyber Pakhtunkhwa (Efficiency & Discipline) Rules,2011, the following amendments shall be made, namely:

AMENDMENTS

1. In rule 4, in sub rule (1), in clause (b), for sub-clause (i), the following shall be substituted, namely:

“(i) reduction to a lower post or pay scale or to a lower stage in a time scale for a maximum period of five years:

Provided that on restoration to original pay scale or post, the penalized Government servant will be placed below his erstwhile juniors promoted to higher posts during subsistence of the period of penalty;”.

2. In rule 8, in clause (a), in the proviso, the word “immediate shall be deleted”,

3. In rule 14, in sub-rule (6), after the words “Inquiry Committee”, occurring second time, the words “subject to sub-rule (7) of rule 11” shall be added.

4. In rule 19, in sub-rule (2), for the word “thirty”, the word “ninety” shall be substituted.

5. Rule 22 shall be deleted.

CHIEF SECRETARY
GOVERNMENT OF KHYBER PAKHTUNKHWA

19.2
Endst: No. and dated even.

Copy forwarded to:-

1. Additional Chief Secretary, Govt of Khyber Pakhtunkhwa, Planning & Development Department.
2. Additional Chief Secretary (FATA), FATA Secretariat Peshawar.
3. Additional Chief Secretary, Govt of Khyber Pakhtunkhwa Home & Tribal Affairs Department.
4. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
5. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
6. The Secretary to Governor, Khyber Pakhtunkhwa.
7. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
8. All Divisional Commissioners in Khyber Pakhtunkhwa.
9. All Heads of Attached Departments in Khyber Pakhtunkhwa.
10. All Autonomous/Semi-Autonomous Bodies in Khyber Pakhtunkhwa.
11. All District Coordination Officers in Khyber Pakhtunkhwa and Political Agents in FATA.
12. The Registrar Peshawar High Court, Peshawar.
13. The Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
14. The Secretary, Khyber Pakhtunkhwa Public Service Commission, Peshawar.
15. All Additional Secretaries, Deputy Secretaries and Section Officers in Establishment & Administration Department.

naizam
19/7/12
(NAJ-MUS-SAHAR)
SECTION OFFICER/(REG: VI)



**GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(REGULATION WING)**

No. SOR-VI/E&AD/2-6
Dated Peshawar, the, 17th September, 2011

(56)

To

1. The Additional Chief Secretary, Planning & Development Department, Government of Khyber Pakhtunkhwa, Peshawar.
2. The Additional Chief Secretary (FATA), FATA Secretariat, Peshawar.
3. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
4. All the Administrative Secretaries to Government of Khyber Pakhtunkhwa.
5. All the Divisional Commissioners in Khyber Pakhtunkhwa.
6. All Heads of the Attached Departments in Khyber Pakhtunkhwa.
7. All the District Coordination Officers in Khyber Pakhtunkhwa and Political Agents in FATA.

**Subject: KHYBER PAKHTUNKHWA GOVERNMENT SERVANTS
(EFFICIENCY AND DISCIPLINE) RULES, 2011.**

Dear Sir,

I am directed to invite your attention to the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 published in the Extraordinary issue of the Government Gazette of 16th September, 2011 (copy enclosed) and to state that the procedure to be adopted for proceeding against persons in Government Service under the new rules has been substantially changed. These rules also apply to every person who is a member of the civil service of the Province or is the holder of a civil post in connection with the affairs of the Province and shall also apply to or in relation to a person in temporary employment in the civil service or post in connection with affairs of the Province.

2. Salient features of the new rules are as under:-

- (i) Doing away with Authorized Officer.
- (ii) Both competent and appellate authorities clearly defined.
- (iii) Providing express provision for personal hearing;
- (iv) Specifying duties of Departmental representative;
- (v) Recording statement of parties in the presence of accused and vice versa.
- (vi) Specific period for imposing penalty of withholding promotion or increments.
- (vii) Removal from service in cases of willful absence.

- EXTRAORDINARY
GOVERNMENT
- KB
- P
- E
- (viii) Dismissal from service in case of conviction by court on charges of corruption or moral turpitude or plea bargaining.
 - (ix) Provisions about plea bargaining.
 - (x) Procedure in cases of civil servants lent to other governments and organizations and powers of borrowing governments and organizations.
 - (xi) Express powers of appellate authority.
 - (xii) Procedure in case of joint inquiry elaborated.

Yours faithfully,


(ASHFAQ KHAN)
SECTION OFFICER (REG-VI)

Endst No. & date even.

Copy forwarded to:

1. The Secretary to Governor, Khyber Pakhtunkhwa.
2. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. The Registrar, Peshawar High Court, Peshawar.
4. The Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
5. The Director General, Provincial Disaster Management Authority, Provincial Reconstruction, Rehabilitation and Settlement Authority, House # 100, Street 13, Shami Road Peshawar.
6. All Additional Secretaries, Deputy Secretaries and Section Officers in Establishment & Administration Department.
7. Private Secretaries to all Provincial Ministers in Khyber Pakhtunkhwa.
8. Private Secretary to Chief Secretary Khyber Pakhtunkhwa, Peshawar.
9. Private Secretary to Secretary Establishment Department.
10. Private Secretary to Secretary Administration Department.
11. The Incharge Resource Centre, Estt:&Admn: Department.


SECTION OFFICER (REG-VI)



KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, FRIDAY, 16TH SEPTEMBER, 2011.

GOVERNMENT OF THE KHYBER PAKHTUNKHWA
ESTABLISHMENT AND ADMINISTRATION DEPARTMENT.

NOTIFICATION

Peshawar dated the 16th September, 2011.

No.SO(REG-VDE&AD/2-6/2010).-In exercise of the powers conferred by section 26 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973), the Chief Minister of the Khyber Pakhtunkhwa is pleased to make the following rules, namely:

1. Short title, application and commencement.---(1) These rules may be called the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

(2) These shall apply to every person who is a member of the civil service of the Province or is the holder of a civil post in connection with the affairs of the Province and shall also apply to or in relation to a person in temporary employment in the civil service or post in connection with affairs of the Province.

(3) These shall come into force at once.

2. Definitions.---(1) In these rules, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say-

- (a) "accused" means a person in Government service against whom action is initiated under these rules;
- (b) "appellate authority" means the authority next above the competent authority to which an appeal lies against the orders of the competent authority;
- (c) "appointing authority" means an authority declared or notified as such by an order of Government under the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973) and the rules made thereunder or an authority as notified under the specific laws/rules of Government;
- (d) "charges" means allegations framed against the accused pertaining to acts of omission or commission cognizable under these rules;

- (e) "Chief Minister" means the Chief Minister of the Khyber Pakhtunkhwa;
- (f) "competent authority" means-
- (i) the respective appointing authority;
 - (ii) in relation to a Government servant of a tribunal or court functioning under Government, the appointing authority or the Chairman or presiding officer of such tribunal or court, as the case may be, authorized by the appointing authority to exercise the powers of the competent authority under these rules:

Provided that where two or more Government servants are to be proceeded against jointly, the competent authority in relation to the accused Government servant senior most shall be the competent authority in respect of all the accused.

- (g) "corruption" means-
- (i) accepting or obtaining or offering any gratification or valuable thing, directly or indirectly, other than legal remuneration, as a reward for doing or for bearing to do any official act; or
 - (ii) dishonestly or fraudulently misappropriating, or indulging in embezzlement or misusing Government property or resources; or
 - (iii) entering into plea bargain under any law for the time being in force and returning the assets or gains acquired through corruption or corrupt practices voluntarily; or
 - (iv) possession of pecuniary sources or property by a Government servant or any of his dependents or any other person, through his or on his behalf, which cannot be accounted for and which are disproportionate to his known sources of income; or
 - (v) maintaining a standard of living beyond known sources of income; or
 - (vi) having a reputation of being corrupt;
- (h) "Governor" means the Governor of the Khyber Pakhtunkhwa;
- (i) "inefficiency" means failure to efficiently perform functions assigned to a Government servant in the discharge of his duties;
- (j) "inquiry committee" means a committee of two or more officers, headed by a convener, as may be appointed by the competent authority under these rules;

(58)

- (k) "inquiry officer" means an officer appointed by the competent authority under these rules;
- (l) "misconduct" includes-
- (i) conduct prejudicial to good order or service discipline; or
 - (ii) conduct contrary to the Khyber Pakhtunkhwa Province Government Servants (Conduct) Rules, 1987, for the time being in force; or
 - (iii) conduct unbecoming of Government servant and a gentleman; or
 - (iv) involvement or participation for gains, directly or indirectly, in industry, trade, or speculative transactions by abuse or misuse of official position to gain undue advantage or assumption of such financial or other obligations in relation to private institutions or persons as may compromise the performance of official duties or functions; or
 - (v) any act to bring or attempt to bring outside influence, directly or indirectly, to bear on the Governor, the Chief Minister, a Minister or any other Government officer in respect of any matter relating to the appointment, promotion, transfer or other conditions of service; or
 - (vi) making appointment or promotion or having been appointed or promoted on extraneous grounds in violation of any law or rules; or
 - (vii) conviction for a moral offence by a court of law.

(2) Words and expressions used but not defined in these rules shall have the same meanings as are assigned to them in the Khyber Pakhtunkhwa Province Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973) or any other statutory order or rules of Government for the time being in force.

3. Grounds for proceedings.---A Government servant shall be liable to be proceeded against under these rules, if he is-

- (a) inefficient or has ceased to be efficient for any reason; or
- (b) guilty of misconduct; or
- (c) guilty of corruption; or
- (d) guilty of habitually absenting himself from duty without prior approval of leave; or
- (e) engaged or is reasonably believed to be engaged in subversive activities, or is reasonably believed to be associated with others engaged in subversive activities, or is guilty of disclosure of official secrets to any un-authorized person, and his retention in service is prejudicial to national security; or



- (f) entered into plea bargaining under any law for the time being in force and has returned the assets or gains acquired through corruption or corrupt practices voluntarily.

4. Penalties.---(1) The following are the minor and the major penalties, namely:

(a) Minor penalties:

- (i) censure;
- (ii) withholding, for a specific period, promotion or increment subject to a maximum of three years, otherwise than for unfitness for promotion or financial advancement, in accordance with the rules or orders pertaining to the service or post:

Provided that the penalty of withholding increments shall not be imposed on a Government servant who has reached the maximum of his pay scale:

- (iii) recovery of the whole or any part of any pecuniary loss caused to Government by negligence or breach of order;

(b) Major penalties:

- (i) reduction to a lower post or pay scale or to a lower stage in a time scale.
- (ii) compulsory retirement;
- (iii) removal from service; and
- (iv) dismissal from service.

(2) Dismissal from service under these rules shall disqualify a Government servant from future employment under Government.

(3) Any penalty under these rules shall not absolve a Government servant from liability to any other punishment to which he may be liable for an offence, under any other law, committed by him while in service.

5. Initiation of proceedings.---(1) If on the basis of its own knowledge or information placed before it, the competent authority is of the opinion that there are sufficient grounds for initiating proceedings against a Government servant under these rules it shall either:-

- (a) proceed itself against the accused by issuing a show cause notice under rule 7 and, for reasons to be recorded in writing, dispense with inquiry:

Provided that no opportunity of showing cause or personal hearing shall be given where-

59

- (k) "inquiry officer" means an officer appointed by the competent authority under these rules;
- (l) "misconduct" includes-
- (i) conduct prejudicial to good order or service discipline; or
 - (ii) conduct contrary to the Khyber Pakhtunkhwa Province Government Servants (Conduct) Rules, 1987, for the time being in force; or
 - (iii) conduct unbecoming of Government servant and a gentleman; or
 - (iv) involvement or participation for gains, directly or indirectly, in industry, trade, or speculative transactions by abuse or misuse of official position to gain undue advantage or assumption of such financial or other obligations in relation to private institutions or persons as may compromise the performance of official duties or functions; or
 - (v) any act to bring or attempt to bring outside influence, directly or indirectly, to bear on the Governor, the Chief Minister, a Minister or any other Government officer in respect of any matter relating to the appointment, promotion, transfer or other conditions of service; or
 - (vi) making appointment or promotion or having been appointed or promoted on extraneous grounds in violation of any law or rules; or
 - (vii) conviction for a moral offence by a court of law.

(2) Words and expressions used but not defined in these rules shall have the same meanings as are assigned to them in the Khyber Pakhtunkhwa Province Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973) or any other statutory order or rules of Government for the time being in force.

3. Grounds for proceedings.---A Government servant shall be liable to be proceeded against under these rules, if he is-

- (a) inefficient or has ceased to be efficient for any reason; or
- (b) guilty of misconduct; or
- (c) guilty of corruption; or
- (d) guilty of habitually absenting himself from duty without prior approval of leave; or
- (e) engaged or is reasonably believed to be engaged in subversive activities, or is reasonably believed to be associated with others engaged in subversive activities, or is guilty of disclosure of official secrets to any un-authorized person, and his retention in service is prejudicial to national security; or

- (i) the competent authority is satisfied that in the interest of security of Pakistan or any part thereof, it is not expedient to give such an opportunity; or
 - (ii) a Government servant has entered into plea bargain under any law for the time being in force or has been convicted on the charges of corruption which have led to a sentence of fine or imprisonment; or
 - (iii) a Government servant is involved in subversive activities; or
 - (iv) it is not reasonably practicable to give such an opportunity to the accused; or
- (b) get an inquiry conducted into the charge or charges against the accused, by appointing an inquiry officer or an inquiry committee, as the case may be, under rule 11:

Provided that the competent authority shall dispense with the inquiry where-

- (i) a Government servant has been convicted of any offence other than corruption by a court of law under any law for the time being in force; or
- (ii) a Government servant is or has been absent from duty without prior approval of leave:

Provided that the competent authority may dispense with the inquiry where it is in possession of sufficient documentary evidence against the accused or, for reasons to be recorded in writing, it is satisfied that there is no need to hold an inquiry.

(2) The charge sheet or statement of allegations or the show cause notice, as the case may be, shall be signed by the competent authority.

6. **Suspension**---A Government servant against whom action is proposed to be initiated under rule 5 may be placed under suspension for a period of ninety days, if in the opinion of the competent authority, suspension is necessary or expedient, and if the period of suspension is not extended for a further period of ninety days within thirty days of the expiry of initial period of suspension, the Government servant shall be deemed to be reinstated:

Provided that the competent authority may, in appropriate case, for reasons to be recorded in writing, instead of placing such person under suspension, require him to proceed on such leave as may be admissible to him, from such date as may be specified by the competent authority.

7. **Procedure where inquiry is dispensed with**---If the competent authority decides that it is not necessary to hold an inquiry against the accused under rule 5, it shall-

- (a) inform the accused by an order in writing, of the grounds for proceeding against him, clearly specifying the charges therein, alongwith apportionment of responsibility and penalty or penalties proposed to be imposed upon him;

60

9. Procedure in case of wilful absence.---Notwithstanding anything to the contrary contained in these rules, in case of wilful absence from duty by a Government servant for seven or more days, a notice shall be issued by the competent authority through registered acknowledgement on his home address directing him to resume duty within fifteen days of issuance of the notice. If the same is received back as undelivered or no response is received from the absentee within stipulated time, a notice shall be published in at least two leading newspapers directing him to resume duty within fifteen days of the publication of that notice, failing which an *ex-parte* decision shall be taken against the absentee. On expiry of the stipulated period given in the notice, major penalty of removal from service may be imposed upon such Government servant.

10. Procedure to be followed by competent authority where inquiry is necessary.--- (1) If the competent authority decides that it is necessary to hold an inquiry against the accused under rule 5, it shall pass an order of inquiry in writing, which shall include-

- (a) appointment of an inquiry officer or an inquiry committee, provided that the inquiry officer or the inquiry committee, as the case may be, shall be of a rank senior to the accused and where two or more accused are proceeded against jointly, the inquiry officer or the convener of the inquiry committee shall be of a rank senior to the senior most accused;
- (b) the grounds for proceeding, clearly specifying the charges along with apportionment of responsibility;
- (c) appointment of the departmental representative by designation; and
- (d) direction to the accused to submit written defense to the inquiry officer or the inquiry committee, as the case may be, within reasonable time which shall not be less than seven days and more than fifteen days of the date of receipt of orders.

(2) The record of the case and the list of witnesses, if any, shall be communicated to the inquiry officer or the inquiry committee, as the case may be, along with the orders of inquiry.

(3) In a case where preliminary or fact finding inquiry was conducted, and the competent authority decides to hold formal inquiry, the inquiry officer or the inquiry committee for the purpose of conducting formal inquiry shall be different from the inquiry officer or the inquiry committee which conducted the preliminary inquiry.

11. Procedure to be followed by inquiry officer or inquiry committee.---(1) On receipt of reply of the accused or on expiry of the stipulated period, if no reply is received from the accused, the inquiry officer or the inquiry committee, as the case may be, shall inquire into the charges and may examine such oral or documentary evidence in support of the charges or in defense of the accused as may be considered necessary and where any witness is produced by one party, the other party shall be entitled to cross-examine such witness.

(2) If the accused fails to furnish his reply within the stipulated period, the inquiry officer or the inquiry committee, as the case may be, shall proceed with the inquiry *ex-parte*.

(3) The inquiry officer or the inquiry committee, as the case may be, shall hear the case on day to day and no adjournment shall be given except for reasons to be recorded in writing, in which case it shall not be of more than seven days.

(4) Statements of witnesses and departmental representative(s), if possible, will be recorded in the presence of accused and vice versa.

(5) Where the inquiry officer or the inquiry committee, as the case may be, is satisfied that the accused is hampering or attempting to hamper the progress of the inquiry, he or it shall administer a warning and if, thereafter, he or it is satisfied that the accused is acting in disregard to the warning, he or it shall record a finding to that effect and proceed to complete the inquiry in such manner as may be deemed expedient in the interest of justice.

(6) If the accused absents himself from the inquiry on medical grounds, he shall be deemed to have hampered or attempted to hamper the progress of the inquiry, unless medical leave, applied for by him, is sanctioned on the recommendations of a Medical Board; provided that the competent authority may, in its discretion, sanction medical leave up to seven days without such recommendations.

(7) The inquiry officer or the inquiry committee, as the case may be, shall submit his or its report, to the competent authority within thirty days of the initiation of inquiry:

Provided that the inquiry shall not be vitiated merely on the grounds of non-observance of the time schedule for completion of the inquiry.

12. Powers of the inquiry officer or inquiry committee.---(1) For the purpose of an inquiry under these rules, the inquiry officer or the inquiry committee, as the case may be, shall have the powers of a Civil Court trying a suit under the Code of Civil Procedure, 1908 (Act No.V of 1908), in respect of the following matters, namely:

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents, and receiving evidence on affidavits; and
- (c) issuing commissions for the examination of witnesses or documents.

(2) The proceedings under these rules shall be deemed to be the judicial proceedings within the meaning of sections 193 and 228 of the Pakistan Penal Code, 1860 (Act No. XLV of 1860).

13. Duties of the departmental representative.---The departmental representative shall perform the following duties, namely:

- (a) render full assistance to the inquiry officer or the inquiry committee, as the case may be, during the proceedings where he shall be personally present and fully prepared with all the relevant record relating to the case, on each date of hearing;
- (b) cross-examine the witnesses produced by the accused, and with the permission of the inquiry officer or inquiry committee, as the case may be, may also cross-examine the prosecution witnesses; and

14. commy
the c
ma
p

SEPTEMBER, 2011.
"I hear
be"

(61)

(c) rebut the grounds of defense offered by the accused before the inquiry officer or the inquiry committee, as the case may be.

14. Order to be passed on receipt of report from the inquiry officer or inquiry committee.---(1) On receipt of report from the inquiry officer or inquiry committee, as the case may be, the competent authority, shall examine the report and the relevant case material and determine whether the inquiry has been conducted in accordance with the provisions of these rules.

(2) If the competent authority is satisfied that the inquiry has been conducted in accordance with the provisions of these rules, it shall further determine whether the charge or charges have been proved against the accused or not.

(3) Where the charge or charges have not been proved, the competent authority shall exonerate the accused by an order in writing, or it shall follow the procedure as given in sub-rule (6) of this rule.

(4) Where the charge or charges have been proved against the accused, the competent authority shall issue a show cause notice to the accused by which it shall-

- (a) inform him of the charges proved against him and the penalty or penalties proposed to be imposed upon him;
- (b) give him reasonable opportunity of showing cause against the penalty or penalties proposed to be imposed upon him and to submit as to why one or more of the penalties as provided in rule 4 may not be imposed upon him and to submit additional defense in writing, if any, within a period which shall not be less than seven days and more than fifteen days from the day the charge or charges have been communicated to him: provided that the accused shall, in his reply to show cause notice, indicate as to whether he wants to be heard in person or not;
- (c) provide a copy of the inquiry report to the accused; and
- (d) direct the departmental representative to appear, with all the relevant record, on the date of hearing.

(5) After affording personal hearing to the accused the competent authority shall, keeping in view the findings and recommendations of the inquiry officer or inquiry committee, as the case may be, facts of the case and defense offered by the accused during personal hearing, by an order in writing-

- (i) exonerate the accused if charges had not been proved; or
- (ii) impose any one or more of the penalties specified in rule 4 if charges have been proved.

(6) Where the competent authority is satisfied that the inquiry proceedings have not been conducted in accordance with the provisions of these rules or the facts and merits of the case have been ignored or there are other sufficient grounds, it may, after recording reasons in writing, either remand the inquiry to the inquiry officer or the inquiry committee, as the case may be, with such directions as the competent authority may like to give, or may order a de novo inquiry through different inquiry officer or inquiry committee.

KHYBER PAK
case
offic
ar

(7) After receipt of reply to the show cause notice and affording opportunity of personal hearing, the competent authority shall decide the case within a period of fifteen days, excluding the time during which the post held by the competent authority remained vacant due to certain reasons.

(8) If the case is not decided by the competent authority within the prescribed period of fifteen days, the accused may submit an application before the appellate authority for early decision of his case, which may direct the competent authority to decide the case within a specified period.

15. Personal hearing.---The competent authority may, by an order in writing, call the accused and the departmental representative, alongwith relevant record of the case, to appear before him, for personal hearing on the fixed date and time.

16. Procedure of inquiry against Government servant lent to other governments or organizations etc.---(1) Where the services of Government servant to whom these rules apply are transferred or lent to any other government department, corporation, corporate body, autonomous body, authority, statutory body or any other organization or institution, hereinafter referred to as the borrowing organization, the competent authority for the post against which such Government servant is posted in the borrowing organization may-

- (a) suspend him under rule 6; and
- (b) initiate proceedings against him/her under these rules:

Provided that the borrowing organization shall forthwith inform the authority which has lent his services, (hereinafter referred to as the lending organization) of the circumstances leading to the order of his suspension or the initiation of the proceedings, as the case may be:

Provided further that the borrowing organization shall obtain prior approval of the competent authority in the lending organization before taking any action under these rules against a Government servant holding a post in basic pay scale 17 or above.

(2) If, in the light of findings of the proceedings taken against the accused in terms of sub rule (1), the borrowing organization is of the opinion that a penalty may have to be imposed on him, it shall transmit the record of the proceedings to the lending organization, and the competent authority in the lending organization shall thereupon take action against the accused under rule 14.

(3) Notwithstanding anything to the contrary contained in sub-rules (1) and (2), the Chief Minister may, in respect of certain Government servant or class of Government servants to whom these rules apply, authorize any officer or authority in the borrowing organization to exercise all the powers of the competent authority under these rules.

17. Departmental appeal and review.---(1) An accused who has been awarded any penalty under these rules may, within thirty days from the date of communication of the order, prefer departmental appeal to the appellate authority:

Provided that where the order has been passed by the Chief Minister, the accused may, within the aforesaid period, submit a review petition directly to the Chief Minister.

(2) The authority empowered under sub-rule (1) shall call for the record of the case and comments on the points raised in the appeal from the concerned department or office, and on consideration of the appeal or the review petition, as the case may be, by an order in writing-

- (a) uphold the order of penalty and reject the appeal or review petition; or
- (b) set aside the orders and exonerate the accused; or
- (c) modify the orders or reduce the penalty.

(3) An appeal or review petition preferred under these rules shall be made in the form of a petition, in writing, and shall set forth concisely the grounds of objection in impugned order in a proper and temperate language.

18. Appearance of counsel.---No party to any proceedings under these rules at any stage of the proceedings, except proceedings under rule 19, shall be represented by an advocate.

19. Appeal before Khyber Pakhtunkhwa Province Service Tribunal.---(1) Notwithstanding anything contained in any other law or rules for the time being in force, any Government servant aggrieved by any final order passed under rule 17 may, within thirty days from the date of communication of the order, prefer an appeal to the Khyber Pakhtunkhwa Province Service Tribunal established under the Khyber Pakhtunkhwa Province Service Tribunals Act, 1974 (Khyber Pakhtunkhwa Act No. I of 1974).


(2) If a decision on a departmental appeal or review petition, as the case may be, filed under rule 17 is not communicated within a period of sixty days of filing thereof, the affected Government servant may file an appeal in the Khyber Pakhtunkhwa Province Service Tribunal within a period of thirty days of the expiry of the aforesaid period, whereafter, the authority with whom the departmental appeal or review petition is pending, shall not take any further action.

20. Exception.---Notwithstanding anything to the contrary contained in these rules, in cases where Government servants collectively strike work, wilfully absent themselves from duty or abandon their official work, the competent authority in respect of the senior most accused may serve upon them, through newspapers or any other mean, such notice as may be deemed appropriate to resume duty and in the event of failure or refusal to comply with the directive contained in the notice, impose upon the defaulting Government servants any of the major penalties prescribed in these rules.

21. Indemnity.---No suit, prosecution or other legal proceedings shall lie against the competent authority or any other authority for anything done or intended to be done in good faith under these rules or the instructions or directions made or issued there-under.

22. Jurisdiction barred.---Save as provided under these rules, no order made or proceedings taken under these rules shall be called in question in any court and no injunction shall be granted by any court in respect of any decision so made or proceedings taken in pursuance of any power conferred by, or under these rules.

23. Repeal.---(1) The Khyber Pakhtunkhwa government servants (Efficiency & Discipline) Rules, 1973 are hereby repealed.



(2) Notwithstanding the repeal of the aforesaid rules, all proceedings pending immediately before the commencement of these rules against any Government servant under repealed rules shall continue under these rules.

(3) Notwithstanding the repeal of the aforesaid rules, all proceedings pending immediately before the commencement of these rules against any employee under the said repealed rules or under the Khyber Pakhtunkhwa Civil Servants Act, 1973 and rules made thereunder, or any other law and rules shall continue under that law and rules, in the manner provided thereunder.

**SECRETARY TO
GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT.**



13

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, FRIDAY, 16TH SEPTEMBER, 2011.

PROVINCIAL ASSEMBLY OF KHYBER PAKHTUNKHWA

NOTIFICATION

Dated Peshawar, the 16th September, 2011

No. PA/Khyber Pakhtunkhwa/Bills/2011/44905.—The Khyber Pakhtunkhwa Removal from Service (Special Powers) (Repeal) Bill, 2011 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 12th September, 2011 and assented to by the Governor of Khyber Pakhtunkhwa on 15th September, 2011 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

THE KHYBER PAKHTUNKHWA REMOVAL FROM SERVICE (SPECIAL POWERS) (REPEAL) ACT, 2011

(KHYBER PAKHTUNKHWA ACT NO. XIV OF 2011)

(first published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa (Extraordinary), Dated the 16th September, 2011).

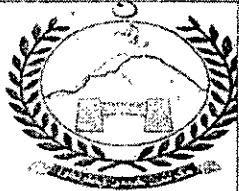
AN
ACT

*to repeal the Khyber Pakhtunkhwa Removal from Service
(Special Powers) Ordinance, 2000.*

WHEREAS it is expedient to repeal the Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000 (Khyber Pakhtunkhwa Ord. No. V of 2000), for the purpose hereinafter appearing;

It is hereby enacted as follows:

1. Short title and commencement.—(1) This Act may be called the Khyber Pakhtunkhwa Removal from Service (Special Powers) (Repeal) Act, 2011.



**GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(REGULATION WING)**

No. SOR-VI/E&AD/2-6
Dated Peshawar, the, 17th September, 2011

To

1. The Additional Chief Secretary, Planning & Development Department, Government of Khyber Pakhtunkhwa, Peshawar.
2. The Additional Chief Secretary (FATA), FATA Secretariat, Peshawar.
3. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
4. All the Administrative Secretaries to Government of Khyber Pakhtunkhwa.
5. All the Divisional Commissioners in Khyber Pakhtunkhwa.
6. All Heads of the Attached Departments in Khyber Pakhtunkhwa.
7. All the District Coordination Officers in Khyber Pakhtunkhwa and Political Agents in FATA.

Subject: THE KHYBER PAKHTUNKHWA REMOVAL FROM SERVICE (SPECIAL POWERS) (REPEAL) ACT, 2011.

Dir Sir,

I am directed to refer to the subject noted above and to enclose a copy of Provincial Assembly of Khyber Pakhtunkhwa Gazette notification bearing No PA/Khyber Pakhtunkhwa/Bills/2011/44905 dated 16th September, 2011 for information and further necessary action.

Yours faithfully,

M Khan
SECTION OFFICER (REG-VI)

Endst No. & date even.

Copy forwarded to:

1. The Secretary to Governor, Khyber Pakhtunkhwa.
2. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. The Registrar Peshawar High Court, Peshawar.
4. The Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
5. The Director General, Provincial Disaster Management Authority, Provincial Reconstruction, Rehabilitation and Settlement Authority, House # 100, Street 13, Shami Road Peshawar.
6. All Additional Secretaries, Deputy Secretaries and Section Officers in Establishment & Administration Department.
7. Private Secretaries to all Provincial Ministers in Khyber Pakhtunkhwa.
8. Private Secretary to Chief Secretary Khyber Pakhtunkhwa, Peshawar.
9. Private Secretary to Secretary Establishment Department.
10. Private Secretary to Secretary Administration Department.
11. The Incharge Resource Centre, Estt.&Admn: Department.

M Khan
SECTION OFFICER (REG-VI)

64

(2) It shall come into force at once.

2. Repeal of the Khyber Pakhtunkhwa Ord. No. V of 2000.---(1) The Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000 (Khyber Pakhtunkhwa Ord. No. V of 2000) is hereby repealed.

(2) For removal of doubts, it is hereby provided that all proceedings pending, immediately before the commencement of this Act, against any person in Government service or corporation service, under the Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000 (Khyber Pakhtunkhwa Ord. No. V of 2000), and rules made thereunder, shall continue under the said repealed law and rules in the manner provided thereunder.

(3) Subject to sub-section (2), on the repeal of the said Ordinance, all disciplinary matters relating to persons in Government service, to whom the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Act No. XVIII of 1973) and the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 1973, apply, shall be governed under the aforesaid Act and the rules made thereunder and persons in corporation service shall be governed under the law applicable to them and rules and by-laws made thereunder.

BY ORDER OF MR. SPEAKER
PROVINCIAL ASSEMBLY OF KHYBER
PAKHTUNKHWA.

(AMANULLAH)
SECRETARY,
PROVINCIAL ASSEMBLY OF KHYBER
PAKHTUNKHWA.

Printed and published by the Manager,
Staty. & Ptg. Deptt., Khyber Pakhtunkhwa, Peshawar



65



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(REGULATION WING)

No. SOR-VI/E&AD/2-6
Dated Peshawar, the, 13th June, 2012

To

2. The Additional Chief Secretary, Planning & Development Department, Government of Khyber Pakhtunkhwa, Peshawar.
2. The Additional Chief Secretary (FATA), FATA Secretariat, Peshawar.
3. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
4. All the Administrative Secretaries to Government of Khyber Pakhtunkhwa.
5. All the Divisional Commissioners in Khyber Pakhtunkhwa.
6. All Heads of the Attached Departments in Khyber Pakhtunkhwa.
7. All the District Coordination Officers in Khyber Pakhtunkhwa and Political Agents in FATA.

Subject: KHYBER PAKHTUNKHWA GOVERNMENT SERVANTS (EFFICIENCY AND DISCIPLINE) RULES, 2011.

Dear Sir,

I am directed to refer to the subject noted above and to state that Provincial Government of Khyber Pakhtunkhwa in its extraordinary issue of the Government gazette of September 2011, issued Khyber Pakhtunkhwa Government servants (Efficiency and Discipline) Rules 2011 vide circular letter dated 17th Sep 2011. However it has been observed that the enquiry Proceedings against civil servants under Government servants Efficiency and Discipline Rules 2011 are delayed unduly for various reasons, causing hardships to the affected officers on one hand and defeating the purpose of speedy disposal of cases, on the other.

In view of the above, in all disciplinary cases, the following procedures should be strictly observed:-

- i) No delay should occur at any stage of a disciplinary case.
- ii) The enquiry officer may be carefully selected on the basis of his competency and capability to hold the enquiry.
- iii) The time limit of thirty days as prescribed for completion of the inquiry report should not be further extended except in exceptional circumstances.

- iv) The enquiry officer should be specifically directed to complete the enquiry within the prescribed period.
- v) Untill the inquiry is completed the enquiry officers, the accused as well as witnesses concerned should not be permitted to proceed on leave, training course or transfer in or outside Pakistan.
- vi) A check list regarding the day to day progress should be maintained by the enquiry officer, as far as possible.
- vii) The enquiry proceedings should be held without interruption, on day to day basis.
- viii) On receipt of the enquiry report the case should expeditiously be moved to the competent authority for obtaining his orders.
- ix) The enquiry officer should clearly fix responsibility and assess the losses caused to the Provincial exchequer and recommend recovery thereof, from the concerned officers/officials responsible, to avoid chances of De-novo inquiry and to reduce time taken in such like cases to the best possible extent.

Yours faithfully
13/6/12
(NAJ-MUS-SAHAR)
SECTION OFFICER (REG-VI)
Ph #. 0919210892.

Endst No. & date even.

Copy forwarded to:

1. The Secretary to Governor, Khyber Pakhtunkhwa.
2. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. The Registrar, Peshawar High Court, Peshawar.
4. The Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
5. The Director General, Provincial Disaster Management Authority.
6. All Additional Secretaries, Deputy Secretaries and Section Officers in Establishment & Administration Department.
7. Private Secretaries to all Provincial Ministers in Khyber Pakhtunkhwa.
8. Private Secretary to Chief Secretary Khyber Pakhtunkhwa, Peshawar.
9. Private Secretary to Secretary Establishment Department.
10. Private Secretary to Secretary Administration Department.
11. The Incharge Resource Centre, Estt:&Admn: Department.

13/6/12
SECTION OFFICER (REG-VI)

POWER OF ATTORNEY

In the Court of KPK Sawa Tribunal Peshawar
A. Wa. Ullah } For
} Plaintiff
} Appellant
} Petitioner
} Complainant

VERSUS

Govt of KP DC Et } Defendant
} Respondent
} Accused
}

Appeal/Revision/Suit/Application/Petition/Case No. _____ of _____
Fixed for _____

I/We, the undersigned, do hereby nominate and appoint

IJAZ ANWAR ADVOCATE, SUPREME COURT OF PAKISTAN

Sajid Amin Advocate my true and lawful attorney, for me in my same and on my behalf to appear at Peshawar to appear, plead, act and answer in the above Court or any Court to which the business is transferred in the above matter and is agreed to sign and file petitions. An appeal, statements, accounts, exhibits. Compromises or other documents whatsoever, in connection with the said matter or any matter arising there from and also to apply for and receive all documents or copies of documents, depositions etc, and to apply for and issue summons and other writs or subpoena and to apply for and get issued and arrest, attachment or other executions, warrants or order and to conduct any proceeding that may arise there out; and to apply for and receive payment of any or all sums or submit for the above matter to arbitration, and to employ any other Legal Practitioner authorizing him to exercise the power and authorizes hereby conferred on the Advocate wherever he may think fit to do so, any other lawyer may be appointed by my said counsel to conduct the case who shall have the same powers.

AND to all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not, as may be proper and expedient.

AND I/we hereby agree to ratify and confirm all lawful acts done on my/our behalf under or by virtue of this power or of the usual practice in such matter.

PROVIDED always, that I/we undertake at time of calling of the case by the Court/my authorized agent shall inform the Advocate and make him appear in Court, if the case may be dismissed in default, if it be proceeded ex-parte the said counsel shall not be held responsible for the same. All costs awarded in favour shall be the right of the counsel or his nominee, and if awarded against shall be payable by me/us

IN WITNESS whereof I/we have hereto signed at _____
the _____ day to _____ the year _____
Executant/Executants _____
Accepted subject to the terms regarding fee _____

SAJID AMIN
ADVOCATE HIGH COURT
Legal Advisor Services & Labour Laws Consultants
FR-3-4, Fourth Floor, Bilour Plaza Peshawar Cantt.
Ph: 091-5272054, Mob: 0333-4584986, 03339155956

Ijaz Anwar
Ijaz Anwar
Advocate High Courts & Supreme Court of Pakistan
ADVOCATES, LEGAL ADVISORS, SERVICE & LABOUR LAW CONSULTANT
FR-3-4, Fourth Floor, Bilour Plaza, Saddar Road, Peshawar Cantt
Ph.091-5272154 Mobile-0333-9107225

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeals # 879/2015.

Attaullah Khan, Ex-Principal, GHSS, Bogra Distt: Karak & 5 others.....Applicant
VERSUS
Secretary E&SE, Deptt: Govt: of Khyber Pakhtunkhwa & others..... Respondents

Reply to the Application for condonation of delay for & on behalf of Respondents.

Respectfully Sheweth,

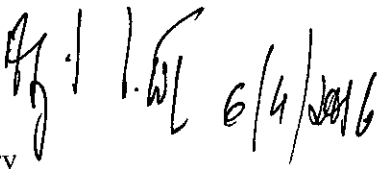
The Respondents submit as under:-

1. That Para-1 needs no further comments.
2. That para-2 is incorrect and denied. The appeal of the Appellant is badly time barred and is liable to be dismissed on the following grounds inter-alia.


GROUND.

- A. Incorrect and denied the statement of the Applicant is incorrect and denied. The matter has become badly time barred hence is liable to be dismissed on the grounds that the referred Rules & Notification dated 18-07-2012 are not applicable upon the case of the Applicant. Further as per law each and every day is to explained while no such explanation has been mentioned in the Application.
- B. Incorrect & denied, Detailed reply has been given in ground-A, hence no further comments.
- C. Incorrect & Denied. The Applicant has been treated as per Law, Rules & Procedure prior to the issuance of the impugned Notification dated 21-10-2014 by the Respondent No. 2 after observing all the codal formalities.
- D. Incorrect & denied, hence needs no further comments.
- E. Incorrect & denied, the case of the Applicant is hit by the Law of limitation and is liable to be dismissed on the grounds that the cited case law are not applicable upon the case of the Applicant.

In view of the above made submissions, it is, therefore, most humbly requested that this Honourable Tribunal may very graciously be pleased to dismiss the application in hand with cost in favour of the Respondents.


Secretary
Elementary & Secondary Education,
Department

(Respondent No. 1 & 2)


Director,
Elementary & Secondary Education,
Department.

(Respondent No. 3 & 4)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeals # 879-884/2015.

Attaullah Khan, Ex-Principal, GHSS, Bogra Ditt: Karak & 5 others.....**Appellants**
VERSUS

Secretary E&SE, Deptt: Govt: of Khyber Pakhtunkhwa & others..... **Respondents**

Parawise comments for & on behalf of Respondents No. 1-3.

Respectfully Sheweth,

The Respondents submit as under:-

Preliminary Objections:-

1. The appellant has got no cause of action/ locus standi.
2. The instant appeal is badly time barred.
3. The appellant has concealed the material facts from this Hon 'able Tribunal, hence is liable to be dismissed on this score.
4. The appellant has not come to this Hon 'able Tribunal with clean hands.
5. The appellant has filed the instant appeal on malafide intensions just to pressurize the Respondents for illegal service benefits.
6. The present appeal is liable to be dismissed for mis-joinder & non joinder of necessary parties.
7. The instant appeal is against the prevailing law and rules.
8. The appellant is estopped by his own conduct to file the instant appeal.
9. The instant appeal is not maintainable in its present form and also in the present circumstances of the issue.
10. That the impugned Notification dated 21-10-2014 is legally competent and is liable to be maintained in favour of the Respondents.
11. That the appellant is not entitled for the grant of the relief she has sought from this Hon'able Tribunal.
12. That this Hon'able Tribunal has got no jurisdiction to entertain the instant service appeal.
13. That the instant Appeal is barred by Law.
14. That the Appellant has been treated as per Law, Rules & Policy.

FACTS.

1. That Para-1 needs no comments being pertains to the service record of the Appellant.
2. That para-2 is also subject to proof.
3. Para-3 is correct to the extent that an inquiry has been conducted against the Appellant vide Notification dated 22-04-2013 with the following terms of reference (TORs).

- a. To securitize all the appointments from BS-01 to BS-15 during the tenure of the Appellant against the EDO/DEO (M) Charsadda post in the Respondent Department
- b. To scrutinize the Appointments made during the March, April 2014 in the above mentioned scales to see that whether the appointment were made on merits and as per recommendation of the DSC or have been issued in back dates with immediate effect or otherwise.
- c. The Committee shall fix responsibility on the involved officers of E&SE, Department Distt: Charsadda and submit inquiry report within a period of fifteen days to the Competent Authority.

The inquiry report was submitted on 29-07-2013 wherein the Appellant has been found guilty of above mentioned charges. (Copy of the mentioned Notification & Inquiry Report are Annexures-A & B)

4. Para-4 is correct to the extent that a regular inquiry has been conducted against the appellant for probing the above mentioned charges/statements of allegations by the Competent Authority wherein the Appellant has been found guilty and has thus been proceeded against the E& D Rules 2011 and has been removed from service vide the impugned Notification dated 21-10-2014 issued by the Respondent No. 2 in the light of the facts of circumstances of the case on charges of making of illegal, unwarranted and even back dates appointments orders in favour of various teaching cadres posts on ill-will and malafide intentions and has thus caused huge financial and administrative losses the national treasury as well as bad reputation to the Respondent Department.

5. Para-5 is correct to the extent that unsatisfactory reply has been submitted by the Appellant wherein he could not prove has innoce regarding the alleged statement of allegations leveled against the Appellant by the Respondent Department during his tenure as and EDO (S&L) then D.E.O (M) E&SE, District Charsadda hence he has been removed from service vide Notification dated 21-10-2014 by the Respondents No. 2 after observing all the codal formalities in the instant case which is not only legal but is also liable to be maintained in favour of the Respondents in the interest of justice. (Copies of the Show Cause Notice, Statement of Allegations & Impugned Notification are Annexures- C, D & E)

6. Para-6 is incorrect & denied, the Appellant has been found guilty by the Competent Authority and has thus been proceeded against the E&D Rules 2011 vide Notification 21-10-2014 issued by the Respondents No. 2 in the interest of justice.(copy of the Inquiry Report is Annex-F)

7. That para-7 is correct to the extent that a show cause notice dated 17-07-2014 has been served upon the Appellant by the Respondent No. 2 in the light of the above mentioned statements of allegations.

8. That Para-8 is correct to the extent that the Appellant has been awarded the major penalty of removal from service vide Notification dated 21-10-2014 after considering all the material available on record by the Respondent NO. 2 in the light of the facts and circumstance of the case as mentioned in the foregoing paras of the instant reply.

9. That para-9 is incorrect & Denied, hence needs no further comments.

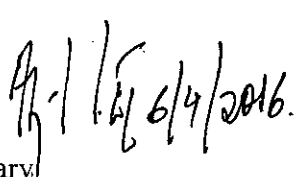
10. That Para-10 is incorrect and denied. The impugned Notification dated 21-10-2014 is in accordance with Law, Rules & Policy and the same is liable to be maintained in favour of the Respondents on the following grounds inter-alia.

GROUND.

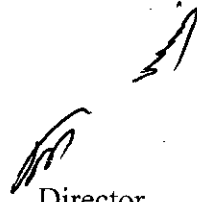
- A. Incorrect and denied: The appellant has been treated as per Law, Rules and Procedure vide Notification dated 21-10-2014 in the light of the facts and circumstances of the case, hence is liable to be maintained in the interest of justice.
- B. Incorrect and denied. Detailed reply of this ground has already been given in the foregoing prara, hence no further comments.
- C. Incorrect and denied. The statement of the Appellant is mis-leading as against the factual position as agitated in the foregoing paras. The impugned order was issued after fulfilling all codal formalities.
- D. Incorrect and denied, Detailed reply has been given above, hence no further comments.
- E. Incorrect and denied, the statement of the Appellant is against the Law, Rules and circumstances of the case, the Appellant has been found guilty of the above mentioned charges/statement of allegations by the Respondent No. 2. After observing all the required codal formalities prior to the issuance of the impugned Notification dated 21-10-2014.
- F. Incorrect and denied, The Appellant has been found guilty by the Competent Authority in the instant case vide Notification dated 21-10-2014 issued by the Respondent Department. Therefore, the plea of the Appellant in this ground is also without any legal force and justification.
- G. Incorrect & denied, Detailed reply has been given in the foregoing paras.
- H. Incorrect & denied, the referred Rules is not applicable upon the case of he Appellant hence denied on the grounds as mentioned above.
- I. Incorrect & denied the statement of the Appellant is mis-leading and without any legal force, hence is liable to be dismissed in the light of the above made submission in the foregoing paras of the instant reply.
- J. Incorrect & denied, the Appellant has not been discriminated in the instant case by the Respondent Department, rather he has been treated as per Law, Rules & Procedure vide Notification dated 21-10-2014 issued by the Respondent No. 2 after observed all the coald formalities

- K. Incorrect & denied the Appellant has been treated as per Law Rules & Policy in the instant case by Respondents in the light of the materials available on record vide Notification dated 21-10-2014 issued by the Respondent No. 2.
- L. Legal, however, the Respondents seek leave this Hon'able to advance addl: grounds/record at the time of arguments on main appeal.

In view of the above made submissions, it is, therefore, most humbly requested that this Honourable Tribunal may very graciously be pleased to dismiss the appeal in hand with cost in favour of the Respondents.


Secretary,
Elementary & Secondary Education,
Department

(Respondent No. 1 & 2)


Director,
Elementary & Secondary Education,
Department.

(Respondent No. 3)

(12)

Enquiry Committee

1. Ahmad Jan Principal GHS Charsadda Haas-(Chairman)
 2. Shamsur Rehman Dy.P.D.CIDA (Member)
 3. Masal Khan Principal GHSS Mandani. (Member)

Terms of the Committee:

Scrutinizing of all the appointments made by Mr. Attaullah Khan EDO/DEO(M) Charsadda w.e.f. 25/2/2010 to 18/4/2013.

In compliance with the NOTIFICATION NO. SO (AB) E&SE/4: J/ENQ/CHARSADDA DATED; 22-04-2010 the committee scrutinized the appointments made by Mr. Atta Ullah Khan Ex.EDO/DEO (Male). The hardly traceable record took a lot of time.

Enquiry proceedings;

The committee held meeting under the chairmanship of Mr. Ahmad Jan and framed strategy for the collection of detail record maintained by the Office of the EDO/DEO (Male) Charsadda from the concerned Supdts/dealing Asstts through DEO (M) Charsadda. The committee also approached Dy DEOs/SDEOs, Principals and Head masters of the schools to furnish all kind of record pertaining to the subject matter cited above to the committee. The committee compiled the office and field collected record and started its scrutiny. The committee checked /studied policies, advertisements. The committee obtained a record of CT 2010, PST 2011, Deceased CT, PET, DM (M/F) 2010, AT, TT, QARI 2013, JUNIOR CLERCK 2012, SACKED EMPLOYEES 2013 (Seven files) as Annexures.

FINDINGS: 1) Appointment of CT Male & Female 2010

CT male & female, Data Entry Operators (DEO), C-IV posts were advertised in the daily newspaper. Last date of applications was: 15-11-2009 under the signature of Muhammad Khan EDO Charsadda. Nos. of posts in each category were not mentioned in the advertisement. Open, Batch wise, Disable male & Female merit lists for CT posts have been recorded. After completion of the codi formalities, orders of appointments were issued vide No. 17774-1807/E-1 dated; 01-11-2010 (CT Male), No. 1800-1808/E-1 dated; 01-11-2010 (CT Female); No. 1780-85/E-1 dated; 01-11-2010 (CT Male Disable), No. 7138-14 dated; 11-05-2012 CT Male Disable, CT Female Disable (order not provided) as per given the following table;

Nomenclature of post.	Category	No of Vacancies	open merit 25%	Batch wise 75%	Disable 2%
CT	male	38	10	28	3
CT	female	20	04	15	2

Out of 38 male posts only one candidate had to be appointed under the disable quota but in the instant order three candidates were appointed under separate orders which is against the rules / policy.

In CT Female out of 20 posts non was deserving to be appointed under 2% disable quota but in the instant appointment order 2 candidates have been appointed under the said quota. Similarly 21 candidates have been appointed against 20 vacant posts. This is a clear violation of rules and policy.

It is worth mentioning that Mr. Taj Muhammad had been appointed against the post of PST on basis of open merit not under disabled quota but at the time of his appointment against the post of CT under disable quota, his disability was rejected on the basis that he had availed the opportunity once. After one and half year he was appointed against the 02% disable quota as third candidate.

2) Appointment of C-IVs; Irregularities

C-IVs have been appointed in scattered dates and orders, no merit / detail record is available.

3) Appointment of PSTs 2011

While checking the record of PSTs appointed vide general order No. 2532-2621, dated 03-05-2011 and No. 2622-84 dated 03-05-2011, detail given as

S. No	PST	U/Cwise Appointments 40%	District Merit Appts 60%	Open Appointments 2%	Disable Quota 02%	Total
1	Male	59	84	04		147
2	Female	Merit list and other record not available				

Irregularities

1). In these appointments Muhammad Shafique was found on the top of merit in U/C Showdag but was ignored, despite of having vacant post at GPS Haider Killi. He was appointed vide a single order No. 10626-30 dated 17-10-2011.

2). It was noted that in U/C Koz Bahram Dehri Mr. Zahcer Ullah son of Abdul Wahid has been placed at the top of merit on the bases of experience only one mark and Mr. Faris Khan Son of Alam Said at 2nd position. The experience marks must be 2, 3 or 5 and not other figure. The experience marks are countable after acquiring minimum qualification for the post. In the instant appointment Mr. Zahcer Ullah was appointed and Mr. Faris Khan was appointed later on against the single vacant post at U/C Koz Bahram Dehri. With the passage of time Mr. Faris Khan was also appointed when he brought his genuine complaint to the worthy Secretary of E&SE Department (Correspondence are on the record). The illegal practice gives rise wrong merit list and ignored the righteous persons.

3). Appointments in U/C Agra. It was noted that one Mr. Ahmad son of Sultan Muhammad S. No. 1 & Mr. Muhammad Khan son of Sultan Muhammad S. NO. 2 were two candidates. Despite of 02 vacant posts, Muhammad Khan son of Sultan Muhammad was not appointed in the general order. Later on he was considered and appointed vide No. 10696-700 dated 17-10-2011. This requires justification as to why this person was left over at first and was appointed in picce meal.

4). In U/C Batagram 02 candidates at S. No. 1 & 2 of the U/C merit list were

(14) 40-35
12-3-11

DSC which is against the rules. DSC has no concern with the aftermath of issuance of general appointment order.

5). In U/C Gandehri 3 candidates at S. No. 1,2,3 of the U/C merit list were taken into account. It was noted that S. No. 3 had experience but his experience was not considered at the time of appointments. In the light of writ petition No.3415/211 the honorable court sent the case for departmental dispose off to the worthy Secretary E&SE department under representation, announced on 08-03-2012 (3 paged), but the competent authority issued order of appointment in respect of the candidate without any legal defence. Had his experience been considered will in time, then only 2 deserving candidates would have got appointment instead of 3.

6). Total 143 appointments have been made. According to 2% disable quota, 3 candidates had the right of appointment under this quota but 4 candidates have been appointed which is against the rule/policy.

7). In female PST appointments 7 PSTs were appointed in the schools having no vacant post—Later on they were adjusted at Tangi for the purpose of pay. The details are given as:

S.No.	Name	Station	Reference
1.	Roomi	GGPS Chail Payan	9268-71 date 20-09-2011
2.	Aisma Sirtaj	GGPS Sahib Gul Killi working at GGPS Mansooka.	Do
3	Nosheen Begum	GGPS Haya Gul Killi working at GGPS Bajawo Killi	Do
4	Bibi Aisha	GGPS Rahman ud Din Banda working at GGPS wakeel korona Nisatta	Do
5	Farhana Samad	GGPS Ghlo Ghundai working at GGPS MM Khel No.2	Do
6	Tahira Shams	GGPS Mar Dhand working at GGPS Faqir Killi Wardaga	Do
7	Rabia Gul	GGPS Dildar Gari working at GGPS Toof Killi Sardehri	Do

The record of PST female appointed in sub division Charsadda could not be provided because the record was taken away by the AUDIT party as told by supdt female.

The committee is of the view that these teachers were appointed at already filled stations. Later on they were adjusted against the vacancies of the other sub-Division, while deserving candidates were deprived.

Appointment under Deceased Quota Irregularities

While checking record of deceased quota the following irregularities were found.

- 1) Hazrat Sher son of Bahadar Sher appointed as chowkidar at GPS Abazai Tangi vide No. 3166-71 dated 12-03-2010 under deceased quota but record is silent about his posting.
- 2) Muhammad Ismail son of Ghafoor Khan appointed as C-IV Driver BPS 04 vide No. 1989-92 dated 12-03-2010 under deceased quota from other

(15) 36 41
P. 4/7 7

Appointment of CT, PET, DM (M/F) 2013

The above mentioned posts were advertised in the Daily News Paper, last date of submission of application was 18-06-2011. As per minutes of DSC meeting, ETEA results, merit lists of CT (general), DM PET male & female, appointment orders were issued. The detail is given below:

Name of Posts	No. of Vacant Posts	No. of fresh appointees 40%	No. of promotee 60%	Total
CT (M)	27	11	16	27
DM (M)	03	02	01	03
PET (M)	14	11+03	Nil	14
CT (F)	14	06	08	14
DM (F)	20	04	16	20
PET (F)	05	04	01	05

Irregularities

No. of vacant posts in each category were not mentioned in the advertisement. The appointments were made in the light of merit lists but record of 2% disable quota not found.

Appointment of AT, TT, Qari 2012.

While scrutinizing the appointment of AT, TT and Qari's male / female, it was noted that appointments have been made as per detail given below:

Name of Posts	No. of Vacant Posts	No. of fresh appointees 75% Actual Apt	No. of promotee 25%	Disable 02%	Still Vacant Posts
AT (M)	15	11	08	0	07
TT (M)	19	15	10	0	05
Qari	01	01	01	0	
AT (F)	21	16	13	05	08
TT (F)	24	18	14	06	10
QARI (F)	14	11	11	0	03

(16) P 575 42

Irregularities

1. Share of promotion has been mentioned but not found on the ground.
2. Appointments against the TT posts were taken into account. Though advertisement issued in the light of old policy but it has been clearly mentioned that if after floating of the advertisement any change in the policy from the government will be followed accordingly. The inquiry committee considered merit list in the light of new policy. Documents of one candidate who is in position of TT post was calculated as under:

S.No	Exam passed	Marks obtained out of	Score
1	SSC	596/850	13.88
2	Intermediate	576/1100	10.47
3	BA (Islamiyat+Arabi)	341/550	20.12.4
4	MA Islamiyat	770/1100	14
5	ETEA	192/300	25.60
Total			76.35

The above quoted score pertain to Nauman Ullah at S. No. 14 of the merit list who has been given total score as 52.80. ETEA test has not been mentioned in the new policy. It was noted that the appointing authority has deviated from own advertisement and violated the policy.

Appointments of Junior Clerks; IRREGULARITIES

11 posts of J/Cs were advertised through a Newspaper. Closing date was mentioned 20-04-2011. The following irregularities have been observed and noted;

1. Typed materials obtained from the candidates at the time of typing test, were not maintained.
2. No merit list has been maintained of the deserving promotable 33% C-IV servants (the available record showing lack of merit list).
3. 21 candidates have been appointed / promoted against the 11 advertised vacant posts i.e. 15 fresh and 06 promotees from amongst C-IV servants on the basis of seniority cum fitness (Merit list not available)
4. The merit list of 15 fresh candidates was scrutinized by the committee. S.No1 Sher Bahadar has been declared as **overage** having DOB 16-02-1972 but the inquiry committee found him inducted from social welfare department through proper channel.
5. The departmental selection committee declared S.No 07 Muhammad Usman S/O Shams Ul Qamar as under age. His DOB is 20-12-1994 He was differed for the time being and 14 fresh candidates were appointed through separate orders on 11-02-2012. The order of the differed candidates was issued on 21-12-2012 at GHS Shara and further adjusted in the office of DEO (M) from GHS Sro kalay seems that he was appointed at two different stations and later on adjusted at an irrelevant station. This reflects high level nepotism.

It is worth mentioning that post of junior clerk at GHS Shara was not vacant at the time of appointment.

6. The appointment orders of the promotees from amongst the C-IV servants along with seniority were silent and not maintained by the competent authority.

J.K.

(17) P.S.

- 2) Mati Ullah S/O Mahmood Shah GHS Ibrahim Zai
 - 3) Muslim Khan S/O Misal Khan GHS Mir Zai
- Were appointed under the sacked employed quota.
Such appointments are out of rules and not according to the Act 2012

Irregularities:

- i) Reinstated Govt employees have been appointed under sacked employees quota requires justification as to whether they were actually sacked or otherwise.
- ii) Appointment of TT on the sanad of Qirat.
- iii) Neither number of total available vacant posts nor minutes of the DSC meeting in this regard were recorded / maintained to justify the appointments. The Committee is also of the view that no clear merit list was displayed before the appointments. The old service Books with pay roll/bill are also necessary documents for the reinstatement but not recorded in the instant orders.
- iv) If a meeting of the DSC been convened and proper record maintained, this ambiguity would have not been felt as to whether these candidates are really sacked or terminated under E&D Rules, or resigned etc.
- v) Appointment on the filled post in case of Mr Fazl-e-Rahman S/O Abdul Ahad cannot be justified.
- vi) The Committee noted appointment of Mr Inam Ul Haq S/O Aziz Ul-Haq appointed Vide Endst; No. 6101-5 Dated 4/07/1996 but his DMC shows date of declaration of result of Drawing Master course as 27/02/1998.
- vii) The Committee also noted the case of Mr Akhtar Ali, S/O Sher Muhammad having date of declaration of DM certificate as 11/5/1999 but he was appointed in 1996.
- viii) Similar is the case of Mr Muhammad Hayat S/O Said Ghulam who acquired the relevant professional certificate session 1998 but his appointment as PET post Vide Endst; No.9311-15 Dated 21/6/1996. The Committee is of the view that appointments made prior to acquiring the requisite qualification as mentioned above was admissible under the rules or otherwise, but now they have acquired the relevant qualifications.

Incumbents

Mr Atullah EDO w.e f 25/2/2010 to 31/12/2012
 Mr Ataulah DEO MALE ESSE Charsadda
 Qazi Siraj Assistant and Record Keeper
 Zahir Shah Senior Clerk and record keeper 2010
 Shamsul Qamar Assistant and DA Class IV and J/C.

Recommendations: Keeping in view the facts and findings of the enquiry committee it is suggested that;
 This enquiry may be considered Preliminary and a formal enquiry may be conducted to provide full opportunity for defense of the officer/officials enquired upon.

Enquiry Committee

- 1. Ahmad Jan Principal GHS Charsadda Khais
- 2. Shamsur Rehman Dy.P.D.CIDA
- 3. Masal Khan Principal GHSS Mandani.

(Chairman) [Signature]
 (Member) [Signature]
 (Member) [Signature]

GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

(18)

Annexure "C"

CERTIFICATION

Dated Peshawar the November 21, 2013

NO.SO(S/M)E&SED/4-17/2013/Attaullah Principal: The Competent Authority is pleased to appoint Mr. Muhammad Humayun Khan Chairman (BS-21), Provincial Inspection Team Peshawar as inquiry officer to conduct formal enquiry against Mr. Attaullah Khan, Ex-Executive District Officer (BS-19), E&SE/ District Education Officer (BS-19) Charsadda (Now principal BS-19 GHS Bogara District Karak) for the charges mentioned in the Charge Sheet and Statement of Allegations with immediate effect.

2. The enquiry officer shall submit recommendations/ report to the Competent Authority within (30) days positively. (Copies of Charge Sheet & Statement of Allegations are enclosed).

SECRETARY

Endst: of even No. & Date :-

Copy forwarded to the:

1. Mr. Muhammad Humayun Khan Chairman (BS-21), Provincial Inspection Team Peshawar (Copies of Charge Sheet & Statement of Allegations are enclosed).
2. Mr. Attaullah Khan, principal BS-19 GHS Bogara District Karak (Copies of Charge Sheet & Statement of Allegations are enclosed).
3. PSO to Chief Minister Khyber Pakhtunkhwa.
4. Director, E&SE Khyber Pakhtunkhwa, Peshawar.
5. PS to Secretary E&SE Department, Khyber Pakhtunkhwa.
6. PS to Additional Secretary, E&SE Department.
7. Incharge EMISE E&SE Department.
8. Office order file.

(MUJEEB-UR-REHMAN)
SECTION OFFICER (SCHOOLS/MALE)

CHARGE SHEET

I, Pervez Khattak, Chief Minister, Khyber Pakhtunkhwa as Competent Authority, hereby charge you, Mr. Attaullah Khan, Ex-EDO E&SE/ Ex-DEO (BS-19) Male Charsadda (now Principal BS-19 GHS Bogara District Karak) as follows:-

That you, while posted as Executive District Officer, E&SE/ District Education Officer (BS-19) Male Charsadda committed the following irregularity:

"Made irregularities in the appointment of different categories of teachers i.e. CT (M/F) Class-IV, PST, PET, DM (M/F) AT, TT, Qari and Junior Clerks during 2010 to 2013 in violation of rules and regulation and prescribed procedure".

2- By reason of the above, you appear to be guilty of misconduct under Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in Rule-4 of the Rules ibid.

3- You are, therefore, required to submit your written defence within seven days of the receipt of this Charge Sheet to the inquiry officer/ inquiry committee, as the case may be.

4- Your written defence, if any, should reach the inquiry officer/ inquiry committee within specified period, failing which it shall be presumed that you have no defence to put in and in that case no action shall be taken against you.

5- Intimate whether you desire to be heard in person.

6- A Statement of Allegations is enclosed.

PERVEZ KHATTAK
CHIEF MINISTER, KHYBER PAKHTUNKHWA
COMPETENT AUTHORITY

Mr. Attaullah Khan, Ex-EDO E&SE/ Ex-DEO (BS-19) Male Charsadda (now Principal BS-19 GHS Bogara District Karak)

DISCIPLINARY ACTION

1. Pervez Khattak, Chief Minister, Khyber Pakhtunkhwa as Competent Authority, am of the opinion that, Mr. Attaullah Khan, Ex-EDO E&SE/ Ex-DEO (BS-19) Male Charsadda (now Principal BS-19 GHS Bogara District Karak), has rendered himself liable to be proceeded against, as he committed the following acts/ omissions, within the meaning of Rule-3 of the Khyber Pakhtunkhwa Government Servants' (Efficiency and Discipline) Rules, 2011.

STATEMENT OF ALLEGATIONS

"Made irregularities in the appointment of different categories of teachers i.e. CT (M/F) Class-IV, PST, PET, DM-(M/F) AT, TT, Qari and Junior Clerks during 2010 to 2013 in violation of rules and regulation and prescribed procedure".

2. For the purpose of inquiry against the said accused with reference to the above allegations, an inquiry officer/ inquiry committee, consisting of the following, is constituted under Rule-10(1)(a) of the ibid Rules:

- 1. _____
- 2. _____
- 3. _____

3. The inquiry officer/ inquiry committee shall, in accordance with the provisions of the ibid Rules, provide reasonable opportunity of hearing to the accused, record its findings and make within thirty days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

4. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the inquiry officer/ inquiry committee.

(PERVEZ KHATTAK)
CHIEF MINISTER KHYBER PAKHTUNKHWA
COMPETENT AUTHORITY

Mr. Attaullah Khan, Ex-EDO E&SE/ Ex-DEO (BS-19) Male
Charsadda (now Principal BS-19 GHS Bogara District Karak)

44
Annexure "F" 58

(28)

The Chairman,
Provincial Inspection Team Khyber Pakhtun Khwa ,Peshawar.

Subject:-

INQUIRY INTO MADE IRREGULARITIES IN THE APPOINTMENT OF DIFFERENT CATEGORIES OF TEACHERS i.e. CT (M/F), CLASS -IV, PST, DM(M/F) AT, TT, QARI AND JUNIOR CLERKS DURING 2010 TO 2013 IN VIOLATION OF RULES AND REGULATION AND PRESCRIBED PROCEDURE.

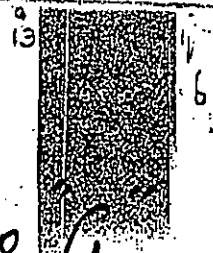
Memo:

Kindly refer to your letter No./INSP/34/By Name/ inq /PIT/2013 1473-76 dated 28 11/2013, on the subject noted above and to submit that the copy of inquiry report on the basis of which the charges have been framed in the charge sheet has not been provided due to which I am unable to submit my reply to the charge sheet in detail.

It is, therefore, requested that the same may kindly be provided, in order to enable me to Submit my reply in detail to the charges leveled against me.

o/c
Attaullah Khan
Principal GHS Bogara Karak
Ex-DEO Male Charsadda.

~~Annexure B~~



OBJECT- INQUIRY REGARDING IRREGULAR APPOINTMENTS MADE IN DIFFERENT CADRES BY THE DEO (E&SE), CHARSADDA

Annexure G
29

INTRODUCTION

According to the Elementary & Secondary Education Department Notification No SO(S/M) E&SE/4-17/2012/Attaullah Khan, Ex EDO, Charsadda dated 21.11.2013, the Chief Minister Khyber Pakhtunkhwa was pleased to appointment the undersigned as Inquiry Officer to conduct inquiry regarding irregularities committed in the appointments in different cadres as mentioned in the Charge Sheet and submit report within one month (Annexure-A). Letter in question was received on 28.11.2013. Mr. Attaullah Khan, Ex-EDO (E&SE) Charsadda was asked through registered letter for submission of his written reply within seven days failing which it shall be presumed that he had no defense to put in & in that case ex-parte decision shall be taken (Annexure-B). The Elementary & Secondary Education Department nominated Mr. Musharraf, Superintendent (Establishment), (Schools/Male) E&SE Directorate KPK as departmental representative to assist and appear before the committee along with relevant record (Annexure-C).

BACKGROUND

An inquiry committee comprising of the followings was constituted to conduct fact finding inquiry and submit its report:-

S.No.	Name of Officer	IPS	Designation	Status
1	Mr. Ahmad Jan	19	Principal GHS, Charsadda Khas	Chairman
2	Mr. Shamsur	18	(IPS-18)	Member
3	Mr. Masud Khan	18	Principal, GHS Mandani, Charsadda	Member

On the recommendations of fact finding inquiry committee formal inquiry has been conducted.

On the recommendations of Public Service Commission Mr. Attaullah Khan was appointed as EDO E&SE (IPS-19) with effect from 26-1-2010 and posted as EDO (E&SE) Charsadda. He was later transferred as EDO E&SE Charsadda upto February, 2013. Presently he is working as Principal, Government High School, Bogara, District Karak. According to his date of birth he will reach the age superannuation on 17-03-2020. According to Charge Sheet he has been charged as under (Annexure-D):-

"These irregularities in the appointment of different categories of teachers i.e. CT (Class IV, PGT, PET, DM (M/F) AT, TT, Qari and Junior clerks during 2010 to 2013 a violation of rules, regulations and prescribed procedure."

Mr. Attaullah Khan in his written reply dated 17-1-2013 stated that all the orders have been issued in accordance with rules, regulations & policy of the Provincial Government.

36 6

All the codal formalities were fulfilled before filling vacancies. Screening conducted through ETEA. Appointments were neither made in one go nor all selection process was completed through different committees. Appellate Committees were also constituted. On the recommendations of Appellate Committees appointments were reviewed. Appointments were made as laid down in the Recruitment, Promotion & Transfer Rules, 1989 and instructions issued from time to time the selection processes following parameters were followed.

- Vacancies were advertised widely in line with the recruitment policy in vogue.
- Screening tests were conducted through ETEA.
- District Selection Committees were constituted as per APT Rules, 1989.
- Quota System reserved for promotion, disable, retired employees sons' and deceased son was followed according to the each cadre.
- Recommendations of DSC and Appellate Committees were given weight age to avoid unnecessary litigation.
- Advice from the Administrative Department was sought from time to time.
- The EDO does not carry out all the appointment at his own sweet will; rather DSC & Appellate Committees were constituted. Members of the committees have not been charged.
- An Appellate Review Committee comprising of followings was constituted vide Endorsement No. 7625 dated 4.11.2011:-

S. No.	Name of Officer/ Official	Designation	Status
i)	Mr. Jehangir Khan	District Officer (M)	Chairman
ii)	Mr. Khisro Parvez	Superintendent	Member
iii)	Mr. Ruhul Qudus	Superintendent	Member

The composition of the District Selection Committee notified by the Provincial Government is as under:

- | | |
|---|----------|
| a) EDO (E&SE) | Chairman |
| b) Nominee of DCO | Member |
| c) One nominee of Administrative Deptt: | Member |
| d) District Officer concerned | Member |

He prayed that he always followed rules and regulations therefore may be exonerated. His written reply is at (Annexure-E).

Written statement of following officers/officials of E&SE Charsadda who remained associated in the scrutiny of documents and preparation of merit lists were obtained:-

S. No.	Name	Designation	Annexure
i)	Mr. Ghafar Khan	District Education Officer Charsadda	F
ii)	Mst Ulfat Begum	District Officer (F) Education Charsadda	G
iii)	Mr. Muhammad Shoab	Principal, GHS Garhi Mameed	H

	Gul, Charsadda	
Zeela Naz	SDEO (F) Charsadda	I
Jehangir Khan	ALDO/DO/DDEO (M) Charsadda	J
Shahjehan	Superintendent, SDEO (F) Tangi	K

15
31

Appointment of CT Male & Female 2010

CT (Male & Female) posts were advertised in daily 'Aaj' dated 6-03-2010 (Annexure-L). Last date for submission of applications was 25-03-2010. Number of vacancies in each category was not mentioned in the advertisement. However quota for open merit, batch wise and disable was mentioned in the advertisement. After completion of codal formalities appointment orders of Thirty eight (38) CT (Male) ten by open recruitment and twenty eight on the basis of batch wise were issued vide office order No 1774-2007/E-1 dated 1-11-2010 (CT Male) (Annexure-M). Two (2) Disable (Male) candidates were appointed vide office order No 1780-06/E-1 dated 1-11-2010 (CT Male disable) (Annexure-N). Mr. Taj Muhammad was appointed against Disable Quota vide Office Order No. 7138-44 dated 11-05-2012 (Annexure-O). Mr. Muhammad Shafiq s/o Muhammad Rafiq and Mr. Muhammad Arif s/o Wasil Khan were appointed on 1-11-2010 (Annexure-P) while Mr. Taj Muhammad S/O Mian Khan on 11-5-2012 against Disable Quota. Inquiry committee was of the view that out of 38 CT (Male) posts one post falls in the share of Disable Quota. According to Accused Officer on the basis of total sanctioned posts three candidates have been appointed against quota reserved for disable persons. Mr. Taj Muhammad was appointed as PST. Subsequently he applied for the post of CT under disable quota, his disability was rejected on the basis that he had already availed the opportunity earlier. Subsequently it was noted that he had not availed disable quota earlier therefore he was appointed under disable quota.

CT (FEMALE)

Appointment orders of nineteen (19) CT (Females) were issued four on open merit and fifteen on the basis of batch wise vide Office Order No 1800-08/E-1 dated 1-11-2010 (CT Female) (Annexure-Q). Merit list of PST female (Disable) selected candidates is at (Annexure-R). Appointment orders of disable were not provided. In case of CT Female out of 19 posts quota reserved for disabled candidates comes less than one. Two candidates have been appointed against quota reserved for disable persons. Ex-DEO Charsadda claimed that quota has been calculated on the basis of overall sanctioned posts. No irregularity has been committed. Charge not proved.

Class-IV EMPLOYEES

In District Charsadda Employment Exchange has not been established so far therefore EDO, (E&SE) Charsadda invited applications for the recruitment of Class-IV through newspapers. Last date for submission of applications was 15-11-2009 and 8-9-2012 respectively (Annexure-S). During 2009, thirty four (34) Class-IV were appointed (Annexure-T). Similarly during 2012 one hundred and sixty two candidates applied for the post of Class-IV. A meeting of the DSC was scheduled to be held on 01-11-2012 in the office of EDO E&SE Charsadda which was postponed due to non arrival of representative of Administrative Department. Interviews were conducted on 14-09-2012. A meeting of DSC was held on 01-11-2012 which was attended by Mr. Attaullah Khan, EDO (E&SE), Mr. Shamsur Rehman, D.O. Mr. M. Idrees, ADO and Mr. Ruhul Qudus, Superintendent, Executive District Officer (E&SE) Charsadda prepared Constituency wise merit list of candidates which is at Annexure-U. Eighty four (84) candidates were recommended for appointment in various schools as Class-IV. Class-IV employees

Union Council Agrah, Mr. Ahmed S/o Sultan Muhammad & Mr Muhammad Sultan Muhammad were at S.No 1 & 2 of merit list. Two vacancies available but Mr. Muhammad Khan was not appointed in the general order. He was considered and appointed vide office order number 10696-700 dated 17-10-2011 (Annexure-BB). The Ex-EDO pointed out that Mr. Muhammad Khan had filed an appeal which was considered by the Appellate Committee. In the light of recommendations of the appellate committee he was appointed on 17-10-2011. Since Mr. Muhammad Khan has been appointed before conducting fact finding inquiry hence no irregularity has been committed. At the time of general order one post of PST was indicated by Sub office of DDO (Male) Charsadda. Later on, the 2nd post of PST was confirmed in that UC and candidate at S. No: 2 of the Merit list was also appointed by giving him his due right of appointment and to avoid further litigation with the Department.

4. In Union Council Battagram two candidates were at S. No 1 & 2 i.e. Mr Habibullah S/O Muhammad Namir and Mr. Muhammad Asim S/O Shah Nazar Khan were appointed. Candidate at serial number 3 Mr. Abdur Rahim S/o Abdul Khaliq was appointed through single order No 10621-25 dated 17-10-2011 (Annexure-CC). In UC Battagram, Mr. Abdur Rahim S/O Abdul Khaliq has rightly been appointed after confirming the vacancy and considering his appeal in order to avoid unnecessary litigation. Case has been decided on appeal.

5. In Union Council Gandheri three candidates i.e. Mr. Kamal Shah S/O Rahim Shah, Mr. Shaukat Ali S/O Sher Ali and Mr. Shaukat Ali S/O Sahibzada at serial No 1, 2, & 3 were taken into account. At the time of appointment experience of Mr. Shaukat Ali S/O Sahibzada at serial No 3 was not considered. He filed Writ Petition No 3415/2011 in the Peshawar High Court Peshawar. Case was remanded to the Department for disposal. The DDO issued appointment order without contesting the case vide Office Order No.6387-92 dated 12-4-2012 (Annexure-DD). Had his experience been considered well in time, then only two deserving candidates would have got appointments instead of three. Charge proved.

Four candidates were appointed against disable quota. Inquiry Committee was of the view that the share of disable comes three. Mr. Ataulah Khan Ex-EDO (E&SE) Charsadda claimed that 2% disabled quota has been calculated on the basis of total sanctioned strength of PST Cadre and not on the available vacancies. No excessive appointment of disabled persons has been made under the said quota. Charge not proved.

PST(Female)

It was alleged that in case of PST females seven (7) candidates were appointed vide office order No. 9268-71 dated 20-09-2011 in schools having no vacant post (Annexure-EE). Subsequently they were adjusted at Tangi for the purpose of drawal of pay. It was further added that PST Females were appointed in the Sub Division and record was not produced by advancing reasons that it is with audit as stated by Superintendent Female. The names and particulars Of Female PST are as under:-

S. No	Name	Station
1	Miss. Roomi	GGPS Chail Payan
2	Miss. Nosheen Begum	GGPS Haya Gul Killi working at GGPS Bajauro Killi
3	Miss. Asma Sirtaj	GGPS Salibi Gul Killi, working at GGPS Mansooka
4	Miss. Bibi Aisha	GGPS. Rahman ud din Banda working at GGPS Wakeel Koroona, Nisatta

17
33
6

appointed through separate appointment orders but on same date i.e. (e-v). Inquiry committee was of the view that merit list and record is not hence their appointments can be termed as irregular. Mr. Attaullah Khan that record is available. Constituency wise merit lists were prepared and ed. Majority of candidates are land donors. For the post of Class-IV no hard and criteria has been prescribed therefore all appointments made on the recommendations of the MPA concerned are treated as in order.

Appointment of PSTs 2011

During checking of the record it was noticed that after completion of codal formalities appointment orders of fifty nine (59) PSTs on Union Council wise and eighty four on open merit were issued vide office order No 2622-84 dated 3-5-2011 and 2532-2621 dated 3-5-2011 (Annexure-W) and (Annexure-X) respectively as per detail given below

S.No	PST	UNION COUNCIL wise Appointments 40%	District Open Merit Appts 60%	Appointments disable Quota 02%	Total
1	Male	59	84	4	147
2	Female	Merit list and other record not available.			

Four candidates were appointed against disable quota vide office order No 2570-73 dated 19-5-2011 (Annexure-Y). Merit list was not produced by advancing reason that record is still with Audit authorities.

1. Mr. Muhammad Shafiq was on the top of the merit list in the Union Council Showdag but he was ignored, despite of availability of post at Government Primary School Haider Kalay. He was appointed through a separate order No. 10626-30 dated 17-10-2011 (Annexure-Z). Ex EDO Charsadda explained that Mr. Muhammad Shafiq filed an appeal before the Appellate Committee. After considering his appeal his request was found genuine therefore he was appointed through a separate appointment order. Ex-EDO (E&SE) claimed that the vacancy at GPS Haider Kalay was not communicated in time by the DDO (Male) Tangi at the time of appointment on 03.5.2011. Since Mr. Muhammad Shafiq was appointed prior to constitution of fact finding enquiry therefore it cannot be treated as an irregularity.
2. According to tentative merit list Mr. Faris Khan was at top of the list. Mr. Zaheerullah was shown at serial number 2 of the merit list. In the final merit list Mr. Zaheerullah son of Abdul Wahid was awarded one mark for having few months experience. On the basis of his experience he was shown at the top of merit while Mr. Faris-Khan S/o Alam had got 2nd position. Marks awarded to Mr. Zaheerullah for having few months experience were not permissible. Marks are always awarded for having at least one year, two years and three years experience. Marks must be 2, 3 or 5 and not any other figure. Moreover experience marks are awarded after acquiring minimum qualification for the post. Appointment of Mr. Zaheerullah was in violation of rules. Mr. Attaullah Khan claimed that no irregularity has been committed in the appointment of Mr. Zaheerullah and Mr. Faris Khan at UC Kuz Bahram Dheri. They have been given their due right. Mr. Faris Khan submitted an appeal to the Secretary Elementary and Secondary Education. Subsequently Mr. Faris Khan was also appointed (Annexure-AA). Ex-DEO Charsadda had violated rules. Mr. Faris Khan got his right but on submission of appeal before Secretary E&SE. Moreover appointment of Mr. Zaheerullah is also irregular.

5	Miss. Farhana Samad	GGPS Gholo Ghundai working at GGPS MM Khel No.2
6	Miss. Tahira Shams	GGPS Mar Dhand working at GGPS Faqir Killi Wardagra
7	Miss. Rabia Gull	GGPS Dildar Gari working as GGPS Toot Killi Serdaeri

- Record was not produced before undersigned. It was claimed that record is still lying with Audit.
- According to Mr. Altaullah Khan twenty three (23) female PSTs were appointed on open merit vide Order No 2693-2721 dated 3-5-2011 (Annexure-FF) out of which seven were appointed in such schools which were closed due to terrorists activities or having only single teacher at Sub Division Tehsil, Tangi, Charsadda. Remaining nineteen (19) PSTs selected on Union Council wise and were posted in respective Union Councils. No excessive appointments have been made being competent authority. Observations raised by the fact finding committee are incorrect.

Appointment under Deceased Quota

Executive District Education (ESE) Charsadda appointed twenty one (21) candidates against deceased son's quota as per detail given below

S.No.	Name of candidate	Father's name	Remarks
1	Hameedullah	Saifullah	
2	Shah Hussain	Said Mahmood	
3	Bilal	Izzat Gul	
4	Amin Jan	Sher Muhammad	Deceased & land donor
5	Muhammad Jan	Marjan Ali	
6	Bilal Ahmad	Ahmad Saheed	
7	Ayesha	Sher Muhammad Khan	
8	M. Owais	Mukarram Shah	
9	Niaz Gul	Widow of Niaz Gul	
10	M. Intesham	Nizakatullah	
11	M. Shah Rukh	Nisar Muhammad	
12	Umair Ahmad	Ihsanuddin	
13	M. Akif	Fazli Wahid	
14	Kaleemullah	Waris Khan	
15	M. Gul	M. Jan	
16	Zarshad	Sarfraz Khan	
17	Malik Taj	Feroz Shah	
18	M. Ibrahim	Amir Nawaz	
19	Falak Taj	Ashraf Khan	
20	M. Ismail	Fazal Shah	
21	Siyar	Gulzar	

Record was checked randomly and found in order. No irregularity has been noticed.

Inquiry committee observed that Mr. Hazrat Sher S/O Bahadar Sher was appointed as Chokidar at GPS Abazai Tangi vide office order No. 3166-71 dated 12-3-2010 (Annexure-GG) under deceased quota but his name has not been reflected in the list of candidates appointed under deceased son's quota. Record further shows that second appointment order was issued on same date (Annexure-HH). Finally substitution was made and Mr. Hazrat Sher S/O Bahadar Sher was shown appointed against open merit (Annexure-II). It appears that

after receipt of report of the fact finding committee changes have been made in the appointment order.

38

Mr. Muhammad Ismail S/O Ghafoor Khan was appointed as Driver BPS-4 against a vacant post in the office of BDO (F) Primary Charsadda vide office order No.1989-92 dated 12-3-2010 under deceased son quota. His father was an employee of WAPDA (Annexure-JJ). The Inquiry Committee is of the view that appointment is irregular for the reasons that his father is still alive. Moreover his father was an employee of WAPDA therefore Mr. Muhammad Ismail is eligible to be appointed in WAPDA. Record has been checked which shows that Mr. Muhammad Ismail S/O Ghafoor Khan was appointed as Driver BPS-4 against open merit and not against deceased son's quota. Findings of the Inquiry Committee are incorrect.

APPOINTMENTS OF AT, TT & QARI 2012

Posts of AT/TT/Qari (M/F) were advertised in 2011 and last date for submission of applications was 18-6-2011. TEA test was conducted on 3-7-2011. Successful male candidates were called at GHS Garhi Hamid Gul and female at GHS Utmarzai. During checking of record it was noted that appointment of AT, TT & Qari (Male & Female) were issued as per detail given below:-

Name of Posts	No. of vacant post	No of fresh appointments @ 75% share	Actual	Number of promotees @ 25%	Disable 2%	Still vacant
AT(M)	15	11	11	0	0	7
TT(M)	10	15	10	0	0	5
Qari(M)	1	1	1	0	0	-
TT(F)	21	16	16	5	0	8
AT (F)	24	18	18	6	0	10
Qari(F)	14	11	11	0	0	3

Inquiry committee noted that merit position of one candidate for the post of TT was calculated as under.

S. No.	Exam Passed	Marks obtained	Score
1	SSC	396/850	13.88
2	Intermediate	576/1100	10.47
3	BA (Islamiat+ Arabic)	341/550	20.124
4	MA Islamiyat	770/1100	14
5	ETEA	192/300	25.60
Total			76.35

Mr. Nomanullah at Serial No. 14 of the merit list was awarded total score of 52.80. Under the new policy no marks have been allocated for ETEA Test. It was noted that appointing authority deviated from criteria mentioned in the policy notified by the Provincial Government (Annexure-KK). Findings of fact finding committee are correct.

Nine candidates were short listed for the post of Arabic Teachers (M). Eight candidates were appointed vide Office Order No. 1644-49/Appointment/AT Dated 13-03-2013 (Annexure-LL).

Fifteen candidates were short listed for the post of Theology Teachers (M). Ten candidates were appointed vide Office Order No. 1650-55/Appointment/TT Dated 13-03-2013 (Annexure-MM).

Four candidates were short listed for the post of Qari (M). One candidate was appointed vide Office Order No. 1656-61/Appointment/Qari Dated 13-03-2013 (Annexure-NN).

Twenty five candidates were short listed for the post of Theology Teachers (F). Fourteen candidates were appointed vide Office Order No. 2108-20/Appointment/TT Dated 22-03-2013 and No. 2778-85/Appointment/TT dated 07-05-2013. Candidate at serial number 1 had fake certificate of 'Alamia' (Annexure-OO).

Fourteen candidates were short listed for the post of Arabic Teachers (F). Thirteen candidates were appointed vide Office Order No. 2083-96/Appointment/AT Dated 22-03-2013 and No. 2786-93/Appointment/AT dated 07-05-2013. Candidate at serial number 1 was ignored (Annexure-PP).

Fourteen candidates were short listed for the post of Qaria (F). Eleven candidates were appointed vide Office Order No. 2097-2107/Appointment/Qaria Dated 22-03-2013 and No. 2762-67/Appointment/Qaria dated 06-05-2013 (Annexure-QQ). Candidate at serial number 5 was ignored.

Appointment of CT, PET, DM (M/F) 2013

The post of CT, PET & DM (M/F) were advertised in the news paper (Annexure-RR). Last date for submission of application was 18-06-2011. As per minutes of DSC meeting, ETEA results, merit list of CT (General) DM & PET male and female appointments orders were issued as per detail given below:-

Name of Posts	No of Vacant posts	Share of Initial Recruitment @ 40%	Share of promotion @ 60 %	Total
CT (M)	27	22	16	27
DM (M)	03	02	01	03
PET (M)	14	14	Nil	14
CT (F)	14	06	08	14
DM (F)	20	04	16	20
PET (F)	05	04	01	05

Seventeen candidates were short listed through ETEA test for the post of C.T. (M). Ten candidates were appointed vide Office Order No.7082-88/ Appointment/CT dated 11-5-2012 (Annexure-SS).

Twenty three candidates were short listed through ETEA test for the post of Drawing Master. Three candidates were appointed as DM vide Office Order No. 7103-9/ Appointment/DM dated 11-05-2012 (Annexure-TT).

Twenty seven candidates were short listed through ETEA test for the post of PET (Male). Eleven candidates were appointed vide order No. 7096-7102/ Appointment/PET dated 11-05-2012 (Annexure-UU).

Thirty one candidates were short listed through ETEA test for the post of CT (Female). Six were appointed as CT Teacher vide Office Order No.7117-23/ Appointment/CT dated 11-05-2012 (Annexure-VV).

Twenty one candidates were short listed for the post of DM (Female). Ten were appointed as T.T. (Male) vide Office Order No. 1650-55/Appointment/TT dated 13-03-2013 (Annexure-WW).

Thirty one candidates were short listed for the post of PET (F). Four candidates were appointed vide Office Order No. 7110-16/Appointment/PET Dated 11-05-

Number of vacancies in each category was not mentioned in the advertisement. The appointments were made in the light of merit list but record of two persons disable quota not found.

APPOINTMENT OF JUNIOR CLERKS

Applications were invited through news paper for eleven posts of Junior Clerks (Annexure-YY). Last date for submission of application was 20-4-2011. Mr. Muhammad Shoaib, Principal, GHS Garhi Hamid Gul conducted written test on 3-5-2011 at GHS No. 1 Charsadda, GHS Babra and GHS Garhi Hamid Gul. He also marked/checked papers. Subsequently typing test was conducted at GHS Babra on 14-5-2011 which was supervised by Mr. Jehangir Khan, District Officer E&SE, Mr. Khisro Parvez, Superintendent and Mr. Ruhul Qudus, Superintendent alongwith representative of DCO (Annexure-ZZ).

During checking of record following irregularities were noted:-

It was alleged by the fact finding committee that Typing material obtained from the candidates at the time of Typing Test was neither maintained nor produced. Typing material was produced which showed that all the candidates perfectly know typing but fact is that their performance was too poor. It appears that other candidates had appeared in the typing test.

Twenty one candidates were appointed i.e. (15) by initial recruitment and (6) by promotion. At the time of advertisement 11 posts were advertised in the newspaper. Merit list of Class-IV is available at (Annexure-AAA).

According to merit list candidates at serial number 3,6,7,17,19 and 20 have been appointed as Junior Clerks. A number of senior Class-IV at serial number 1,2,4,5, 8 to 16 and 18 were ignored.

Typing speed prescribed for initial recruitment is not applicable in case of departmental promotions. Ex-DEO Charsadda deprived a number of senior Class-IV employees and promoted their juniors on the plea that seniors do not know typing (Annexure-BBB).

On the basis of typing test a Committee comprising on the following recommended the following Class-IV for promotion to the post of Junior Clerk: :-

1. EDO, E&SE, Charsadda
2. Representative of DCO Charsadda
3. D.O. E&SE Charsadda

S.No.	Roll No.	Name	Father Name	Type Speed
1.	38	Roohul Amin	Habibur Rehman	30 w.p.m.
2.	729	Fakhruz Zaman	Shah Zaman	30 w.p.m.
3.	707	Qazi Nadeemul Haq	Qazi Azizul Haq	30 wp.m.
4.	696	Ruhul Amin	Ruhul Qudus	30 wp.m.
5.	349	Muhammad Naeem	Hida Muhammad	30 w.p.m

Class-IV employees promoted by the Ex-DEO were totally ignorant of typing. Result of their typing test taken by the undersigned is at (Annexure-CCC) which clearly shows that typing test taken by the Ex-EDO (E&SE) Charsadda is totally fake.

Mr. Sher Bahadar at Serial No. 1 was declared overage having date of birth 16-2-1972. The Inquiry Officer found that he was an employee of Social Welfare Department (Annexure-DDD). He applied through proper channel. He being eligible was allowed to compete and selected as Junior Clerk.

Mr. Muhammad Usman Qamar S/O Shamsul Qamar at Serial No. 7 was declared under age by the DSC. His DOB is 20-12-1994. He was deferred and 14 candidates were appointed on 11-2-2012 (Annexure-EEE). His appointment order was issued on 21-12-2012 at GHS Shara & adjusted in the office of DEO (F). On 20-4-2011 i.e. the last date for submission of applications Mr. Muhammad Usman Qamar S/O Shamsul Qamar was in-eligible being under age. Moreover relaxation in under age cases is not allowed. At the time of appointment of Mr. Muhammad Usman Qamar the post of Junior Clerk was not vacant. Appointment of Mr. Muhammad Usman Qamar S/O Shamsul Qamar is irregular being underage on the last date for submission of applications.

Fifteen candidates appointed by initial recruitment were also called for typing test. Out of fifteen candidates only one candidate i.e. Mr. Sher Bahadar secured reasonable marks.

S.No	Name of J/C	Father's name	Typing speed WPM	Remarks
i	Sher Bahadar	Gul Muhammad	27	Overage. Already in service
ii	Shakeel Ahmad	Fazli Hadi	10	Failed
iii	Muhammad Noman	Majeed Khan	3	20-4-2011
iv	Sajidullah	Hisadar	3	Failed
v	Azizullah	Ambar Khan		Absent
vi	Sabir Khan	Zafar Ali		Absent
vii	Muhammad Usman Qamar	Shamsul Qamar	17	Under age. Not relaxable.
viii	Abdus Sattar	Abdus Salam		Absent
ix	Aftabullah Jan	Fazli Hadi	10	Failed
x	Ajab Khan No	Noor Rahman	7	Failed
xi	Mir Azam Shah	M. Dost Muhammad Shah		Absent
xii	Shahid Ali	Zarhad		Absent
xiii	Abdul Latif	Umar Hayat	6	Failed
xiv	Fawad Hussain	Ashfaq Hussain		Absent
xv	Muhammad Tahir	Saleem Gul		Absent

REINSTATEMENT OF SACKED EMPLOYEES

Mr. Attaullah Khan, Ex EDO (E&SE) Charsadda reinstated in service

Force sacked employees as per detail given below :-

	Nomenclature of post	Number of employees
i)	PST	2
ii)	DM	2
iii)	PET	2
iv)	Junior Clerk	3
v)	CT	5
vi)	TT	5
vii)	AT	3
viii)	Qari	1
	Total	23

Appointment orders, termination orders and copies of service books were produced. EDO (E&SE) Charsadda should have obtained copies of salary slips which are more authenticated.

A copy of the Khyber Pakhtunkhwa sacked employees (appointment) Act, 2012 is at (Annexure-FFF). According to the text of this Act:

"Where as it is expedient to provide relief to those sacked employees who were appointed on regular basis to civil post in the Province of Khyber Pakhtunkhwa and who possessed the prescribed qualification and experienced for required for the said post, during the period from 1st day of November, 1993 to the 30th day of November, 1996 (both days inclusive) and were dismissed, removed, or terminated from service during the period from 1ST of November, 1996 to 31st of December, 1998 on various grounds"

After the promulgation of the Act sacked employees were required to submit their applications within Thirty days. Applications received after the due date shall not be entertained. If any vacancy occurs against 30 % share reserved for sacked employees in any department, the senior in age shall be considered by the concerned Departmental Selection Committee or District Selection Committee as the case may be. This Act over rides all the laws and rules for the time being enforce.

Irregularities

It was alleged that neither number of total available vacant posts nor minutes of the DSC meetings were recorded and maintained. No clear merit list was prepared before appointments of sacked employees. The old service books with pay rolls were required for the re-instatement but not recorded in the instant orders. Old salary slips were not produced despite repeated requests. If the meeting of DSC was convened and proper record was maintained, this ambiguity would have not been committed.

Mr. Attaullah Khan, Ex-EDO E&SE Charsadda committed following irregularities in the appointment of sacked employees.

12/6
24/6
40

Mr. Matiullah S/O Mahmood Shah GHS Ibrahim Zai and Mr. Muslim Khan S/O Misal Khan GHS Mirzal were appointed under the sacked employees' quota (Annexure-GGG). Such appointments are not covered under the Sacked Employees Act, 2012.

- b) Appointment of Mr. Fazalur Rehman S/O Abdul Ahad against a filled post cannot be justified (Annexure-IIIII). Subsequently after the retirement of Mr. Purdil Khan he was adjusted at GHS Doobak (Annexure-III)
- c) Mr. Inamul Haq S/O Azizul Haq was reinstated in service as D.M. on 31-12-2012. According to the service record he was appointed vide Endorsement No. 6101-5 dated 04-07-1996 (Annexure-JJJ). His DMC shows that result of Drawing Master course was declared on 27-02-1998 (Annexure-KKK). At the time of appointment he was not eligible and qualified therefore his reinstatement in service is irregular.
- d) Mr. Akhter Ali was reinstated in service as DM on 31-12-2012 (Annexure-LLL). The fact finding committee noted that Mr. Akhter Ali S/O Sher Muhammad passed DM Certificate on 11-05-1998 (Annexure-MMM) but he was appointed in 1996. At the time of appointment he was not eligible and qualified hence his reinstatement in service is not covered under the said Act.
- e) Mr. Muhammad Hayat S/O Said Ghulam was reinstated as D.M on 31-12-2012 (Annexure-NNN). Perusal of record revealed that he acquired professional certificate in 1996 (Annexure-OOO) whereas he was appointed as PET vide Endorsement No. 9311-15 dated 31-06-1996. His reinstatement in service is not covered under the said Act.
- f) Mr. Zia ud Din S/O Khair Muhammad and Mr. Muhammad Hayat S/O Said Ghulam, PET have been reinstated in service vide order No.3917-22/Appointment/PET dated 31-12-2012 (Annexure-PPP). Reinstatement of Mr. Muhammad Hayat PET seems irregular for the reason that the senior most in age, sacked employee was required to be reinstated. It was clarified that Mr. Alamzeb has been ignored for the reason that he does not possess professional qualification even now.
- g) Four Theology Teachers have been reinstated in service. According to merit list Mr. Tasleem Khan S/O Umar Khan was at Serial No. 4. However he has been reinstated vide office Order No. 2178-82/Appointment/TT dated 16-3-2013 (Annexure-QQQ). Following three candidates senior in age to Mr. Tasleem Khan were reinstated after nine months vide Office Order No. 3911-16/Appointment/TT dated 31-12-2013 (Annexure-RRR) :-

1. Mr. Muhammad Naeem S/O Abdur Rahim
2. Mr. Naushad Khan S/O Sher Bahadar
3. Mr. Muhammad Arshid S/O Abdul Qadar

It was also noted that Mr. Shah Zaman S/O Samundar Khan was also reinstated in service as Theology Teacher vide Office Order No. 3951-55/Appointment/Sacked Employees dated 31-12-2012 (Annexure-SSS). His name was not reflected in the merit list of TT (Male) (Annexure-TTT). His name was included in the merit list of AT (Annexure-UUU).

For the post of Theology Teacher the prescribed qualification is as under:-

- i) SSC 2nd Division from a recognized Board alongwith Shahadaat Aalia from a recognized Tanzeem-ul-Wafaq-ul-Madaras

Mr. Muhammad Arshid S/O Abdul Qadar was reinstated as TT vide order No.3929-34/Appointment/TT dated 31-12-2013 (Annexure-UUU). He obtained Sanad of Qirat and Tajweed. He was not qualified for the post of Theology Teacher.

It is fact that minutes of the meeting with regard to reinstatement of sacked employees were not available. However approval of the DCO was obtained on file.

OBSERVATIONS

It was observed that Mr. Attullah Khan Ex-EDO (E&SE) Charsadda advertised all the posts in the news papers. Scrutiny committees were constituted. Written test and typing test were conducted. LTEA test was also arranged for the posts of CT, PET, DM, TT & Qari. Interviews were held. Merit lists were prepared and displayed. Appellate committees were also notified. A number of appeals were decided by the Appellate Committee and candidates were given their due rights. However, certain irregularities have been noted in the appointment of Junior Clerks reinstatement of sacked employees, Mr. Muhammad Usman an underage candidate was appointed as Junior Clerk, typing material produced seems fake and certain other categories. In certain cases observations raised by the fact finding committee were found valid while in other cases baseless. In order to extend undue favour to undeserving candidates written test was conducted for the post of Junior Clerks. After passing typing test merit list should have been prepared on the basis of academic record and experience etc.

RECOMMENDATIONS

1) Charge of illegal and irregular appointments leveled against Mr. Attaullah Khan, Ex-EDO Charsadda partially proved. Eligible and qualified candidates were deprived of their due rights. Mr. Attaullah Khan, Ex-EDO (E&SE) Charsadda was appointed in BPS-19 by initial recruitment through Public Service Commission hence his reversion to lower post is not permissible. It is recommended that minor penalty of stoppage of three increments may be imposed upon him.

District Selection Committee notified by Mr. Attaullah Khan, Ex-EDO Charsadda is as under:-

S.No	Name	Designation	
1	Mr. Attaullah Khan	Ex EDO, Charsadda	Chairman
2	Mr. Maqsood Jan, (Died)	District Accounts Officer, DCO Office Charsadda	Member
3	Mr. Jehangir Khan	Deputy District Education Officer (M/F), E& SE Charsadda	Member
4	Mr. Khadim Shah, Mr. Ruhul Qudus Mr. Khisro Parvez Mr. Shah Jehan Mr. Liaqat Qazi Sirajul Haq	Superintendent, EDO, Charsadda Superintendent (Retd), EDO, Charsadda Superintendent (Retd), EDO, Charsadda Superintendent, EDO (F) Tangi Assistant, EDO Charsadda Assistant, EDO Charsadda	Member

42

Members of District Selection Committee are equally responsible therefore action may be taken against them except M/S Roshul Qudus and Khisro Parvez who had retired from service.

Class-IV Employees who were promoted out of turn as Junior Clerks may be reverted and promotions be made purely on the basis of seniority and service record of Class-IV employees. Junior Clerks appointed by initial recruitment who do not know the typing may be terminated after serving Show Cause Notices.

Mr. Muhammad Hayat PET who has been illegally reinstated in service may be served with show cause notice and his service may be terminated and Mr. Alam Zeb PET may be reinstated against the said vacancy.

Since DCO Charsadda was appointing authority in respect of AT, TT and Qari. Moreover sacked employees were also reinstated in service with his approval therefore he may be asked to explain reasons for according approval of irregular appointments.

Mr. Shah Hussain S/O Hussan Zada was reinstated as CT teacher vide office order No. 3505-10/Appointment/CT dated 31-12-2012. Perusal of record reveals that Mr. Shah Hussain passed professional examination of CT (General) in 1998 (Annexure-WWW) His reinstatement is not covered under the Sacked Employees Act.

Mr. Jehanzeb Khan S/O Adam Khan was reinstated as CT teacher vide office order No. 3505-10/Appointment/CT dated 31-12-2012. Perusal of record reveals that Mr. Jehanzeb Khan passed professional examination of CT (General) in 1998 (Annexure-XXX) His reinstatement is not covered under the Sacked Employees Act.

Mr. Zahid Ali S/O Muslim Khan was reinstated as AT teacher vide office order No. 3929-34/Appointment/AT dated 31-12-2012 (Annexure-YYY). His appointment order and termination order were not available in the record thus his reinstatement in service is irregular.

MUHAMMAD HUMAYUN
INQUIRY OFFICER.

GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Annexure H

No. SC (S/M) E&SED/4-17/2013/Attaullah Khan
Dated Peshawar the July 17, 2014

(43)

~~Annexure D~~

Mr. Atta Ullah Khan,
Ex- Executive District Officer (BS-19) E&SE Charsadda,
(now Principal BS-19 GHS Bogara District Karak).

Subject: - SHOW CAUSE NOTICE

I am directed to refer to the subject noted above and to enclose herewith a copy of the Show Cause Notice wherein the Competent Authority (Chief Minister Khyber Pakhtunkhwa) has tentatively decided to impose upon you the Major Penalty of "Dismissal from Service" under Rule-4 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 in connection with the charges leveled against you.

2. You are therefore, directed to furnish your reply to the Show Cause Notice as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.
3. Your reply should reach to this Department within Seven (07) days of the delivery of this letter otherwise ex-parte action shall be taken against you.
4. Copy of the inquiry report is enclosed herewith.

Encl: As Above:

(MUJEEB UR-REHMAN)
SECTION OFFICER (SCHOOLS/MALE)

Enclst: of even number & date:

Copy of the above is forwarded to PS Secretary E&SE Department Khyber Pakhtunkhwa.

SECTION OFFICER (SCHOOLS/MALE)

(44)

12

SHOW CAUSE NOTICE

I, Pervez Khattak, Chief Minister, Khyber Pakhtunkhwa, as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, do hereby serve you, Mr. Alta Ullah Khan, Ex-Executive District Officer, E&SE/ Ex-District Education Officer Male (BS-19), Charsadda (now Principal BS-19 GHS Bogara District Karak) as follows:

- i. That consequent upon the completion of inquiry conducted against you by the inquiry officer for which you were given opportunity of hearing; and
- ii. On going through the findings and recommendations 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:

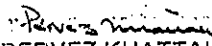
- (i) Inefficient
- (ii) Misconduct

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of dismissal from service 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/ inquiry committee is enclosed.


 (PERVEZ KHATTAK)
 CHIEF MINISTER KHYBER PAKHTUNKHWA
 COMPETENT AUTHORITY
 09.07.2014

Mr. Alta Ullah Khan, Ex-Executive District Officer,
 E&SE/ Ex-District Education Officer Male (BS-19), Charsadda
 (now Principal BS-19 GHS Bogara District Karak).

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

In the matter of
Appeal No. 879/2015

Attaullah Ex-Principal Government Higher Secondary School,
Bogra Karak. *(Appellant)*

VERSUS

Government of Khyber Pakhtukhwa through Chief Secretary
Khyber Pakhtukhwa Peshawar & others.
(Respondents)

REJOINDER TO THE PARA WISE REPLY ON
BEHALF OF THE APPELLANT

Respectfully submitted:

The appellant submits his rejoinder as under:

ON PRELIMINARY OBJECTIONS:

1. Contents incorrect and misleading, the appellant has illegally been awarded the penalty of dismissal from service hence he has got the necessary cause of action and locus standi to file the instant appeal.
2. Contents incorrect and misleading, the instant appeal is filed well within the prescribed period of limitation.
3. Contents incorrect and misleading, all facts necessary for the disposal of appeal are brought before this honorable court and nothing has been concealed.
4. Contents incorrect and misleading, the appellant has come to the tribunal with clean hands.
5. Contents incorrect and misleading the appellant has illegally been awarded penalty, he is thus an aggrieved civil servant and has file the instant appeal against the illegal action taken against him and no malafide or bad intention is involved.
6. Incorrect and misleading, all necessary parties are arrayed in the appeal.

7. Contents incorrect and misleading, the appeal is well accordance with the prescribed law and rules.
8. Contents incorrect and misleading, no rule of estoppel is applicable in the instant case.
9. Contents incorrect and misleading, the appeal being filed well in accordance with the prescribed rule and procedure hence maintainable in its present form and also in the present circumstances of the case.
10. Contents incorrect and misleading, the impugned notification dated 21-10-2014 is passed in violation of the law and procedure prescribed under the law is thus liable to set aside.
11. Contents incorrect and misleading, the appellant has not been treated in accordance with law and rules hence entitled for the grant of relief he sought from the honorable tribunal.
12. Contents incorrect and misleading, the appellant is an aggrieved civil servant, and moreover the matter relates to its term and condition of his service hence only this honorable tribunal has got jurisdiction to entertain and adjudicate the instant appeal.

ON FACTS

1. Contents need no reply, however contents of Para-1 of the appeal are true and correct.
2. Contents need no reply, however contents of Para-2 of the appeal are true and correct.
3. Contents being partially admitted to that extant need no reply rest of the contention of the respondents regarding proof of charges against the appellant is unfounded and baseless hence denied.
4. Contents of Para-4 of the appeal are correct, the reply submitted to the Para is incorrect, misleading and based on surmises and conjunctures.
5. Contents of Para-5 of the appeal are correct, the reply submitted to the Para is incorrect, misleading and without any proof.
6. Contents of Para-6 of the appeal are correct, the reply submitted to the Para is incorrect and misleading, the charges leveled against the appellant remained unproved during the inquiry albeit he has been illegally awarded the penalty in violation of the procedure prescribed under the law and rules.

7. Contents need no reply however contents of para-7 of the appeal are correct.
8. Contents of Para-8 of the appeal are correct, the reply submitted to the Para is incorrect and misleading.
9. Contents of Para-9 of the appeal are correct, the reply submitted to the Para is incorrect and misleading.
10. Contents of Para-10 of the appeal are correct, the reply submitted to the Para is incorrect and misleading.

GROUNDS

The Grounds (A to M) taken in the memo of appeal are legal and will be substantiated at the time of arguments.

It is therefore humbly prayed that the appeal of the appellant may please be accepted as prayed for.

Through

Appellant

IJAZ ANWAR
Advocate, Peshawar.

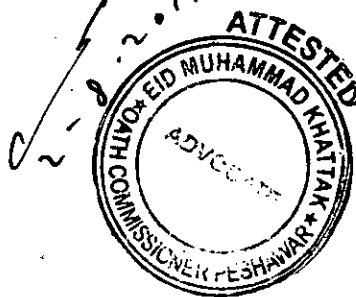
&

SAJIB AMIN
Advocate, Peshawar.

AFFIDAVIT

I do, hereby solemnly affirm and declare on oath that the contents of the above rejoinder as well as titled appeal are true and correct and nothing has been kept back or concealed from this Honourable Tribunal.

Deponent



KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 294 /ST

Dated 6 / 2 / 2017


To

The Secretary E&SE,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: - JUDGMENT

I am directed to forward herewith a certified copy of Judgement dated 2.02.2017 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

Received
Bazir Sirajul Haq
Assistant
Secretary
13/2/17



DCO Rawalpindi

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT & ADMN: DEPARTMENT
(REGULATION WING)

No. SOR-V (E&AD) 2-7/2012
Dated + 10th May, 2012

To

1. The Senior Member,
Board of Revenue, Khyber Pakhtunkhwa.
2. All Administrative Secretaries in Khyber Pakhtunkhwa.
3. All Heads of Attached Departments in Khyber Pakhtunkhwa.
4. All Commissioners in Khyber Pakhtunkhwa.
5. All District Coordination Officers in Khyber Pakhtunkhwa.

Subject: CONSTITUTION OF DISTRICT SELECTION/PROMOTION COMMITTEE

Dear Sir,

I am directed to refer to the subject cited above and to state that in partial modification of this department letter No.SOR-V(E&AD)2-7/2003 dated 1st November, 2006, the competent authority is pleased to reconstitute the Departmental Selection/Promotion Committee at District level for posts in BPS-1 to BPS-15 as under:-

- A) Departmental Selection/Promotion Committee at District level for posts in BS-11 to BS-15
- | | |
|---|----------|
| i) DCO | Chairman |
| ii) EDO concerned (DO(R&E/ACO for Revenue Deptt: and office of DCO respectively). | Member |
| iii) One member to be nominated by the Admn: Deptt: (in case of Revenue Department, the member to be nominated by the Commissioner of the Division concerned) | Member |

- B) Departmental Selection/Promotion Committee at District level for Posts in BS-1 to BS-10

- | | |
|---|----------|
| i. EDO concerned | Chairman |
| ii. One member to be nominated by the DCO | Member |
| iii. One member to be nominated by the Admn: Department | Member |
| iv. District Officer concerned. | Member |

mb
14/5/12
DS-II ✓
SO (M)
SO (F)
SO (PE)
SO (G)
PS to S. Secy 2391
14/5/12

PA to DS-II

RM 4 folder

SS
14/5/12
mb

Govt. of Khyber Pakhtunkhwa
Elementary & Secondary
Education Department
DS-II Diary No.
Date.....

11 15/5/12

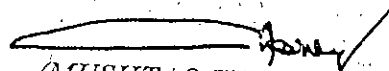
C) Departmental Selection/Promotion Committee at District level for Posts in BS-1 to BS-10 in the Office of the DCO

- | | | |
|------|--|----------|
| i. | ACO | Chairman |
| ii. | One member to be nominated by the DCO. | Member |
| iii. | One Member to be nominated by the Admn. Deptt. | Member |

D) Departmental Selection/Promotion Committee at District level for Posts in BS-1 to BS-10 in the Office of the DO(R&E)

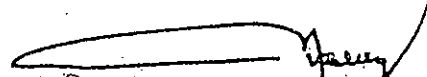
- | | | |
|------|---|----------|
| i. | District Officer (Revenue & Estate) | Chairman |
| ii. | One member to be nominated by the DCO | Member |
| iii. | Deputy District Officer Revenue concerned. | Member |
| iv. | One member to be nominated by the Commissioner of the Division concerned. | Member |

Yours faithfully,


(MUSHTAQ HUSSAIN)
Deputy Secretary (Reg-III)

Endst: of even No. & Date.

Copy forwarded to All Additional Secretaries/Deputy Secretaries/Section Officers in Establishment & Administration Department.


Deputy Secretary (Reg-III)

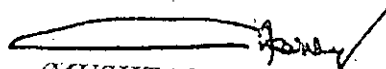
C) Departmental Selection/Promotion Committee at District level
for Posts in BS-1 to BS-10 in the Office of the DCO

- | | | |
|------|---|----------|
| i. | ACO | Chairman |
| ii. | One member to be nominated by the DCO. | Member |
| iii. | One Member to be nominated by the Admn:
Deptt: | Member |

D) Departmental Selection/Promotion Committee at District level
for Posts in BS-1 to BS-10 in the Office of the DO(R&E)

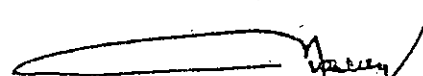
- | | | |
|------|--|----------|
| i. | District Officer (Revenue & Estate) | Chairman |
| ii. | One member to be nominated by the DCO | Member |
| iii. | Deputy District Officer Revenue concerned. | Member |
| iv. | One member to be nominated by the
Commissioner of the Division concerned. | Member |

Yours faithfully,


(MUSHTAQ HUSSAIN)
Deputy Secretary (Reg-III)

Endst: of even No. & Date.

Copy forwarded to All Additional Secretaries/Deputy Secretaries/Section
Officers in Establishment & Administration Department.


Deputy Secretary (Reg-III)



DCO Khyber Pakhtunkhwa

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT & ADMN: DEPARTMENT
(REGULATION WING)

No. SQR-V (E&AD) 2-7/2012
Dated 10th May, 2012.

To

1. The Senior Member,
Board of Revenue, Khyber Pakhtunkhwa.
2. All Administrative Secretaries in Khyber Pakhtunkhwa.
3. All Heads of Attached Departments in Khyber Pakhtunkhwa.
4. All Commissioners in Khyber Pakhtunkhwa.
5. All District Coordination Officers in Khyber Pakhtunkhwa.

Subject:

CONSTITUTION OF DISTRICT SELECTION/PROMOTION
COMMITTEE

Dear Sir,

I am directed to refer to the subject cited above and to state that in partial modification of this department letter No.SQR-V(E&AD)2-7/2003 dated 1st November, 2006, the competent authority is pleased to reconstitute the Departmental Selection/Promotion Committee at District level for posts in BPS-1 to BPS-15 as under:-

A) Departmental Selection/Promotion Committee at District level
for posts in BS-11 to BS-15

- | | | |
|------|--|----------|
| i) | DCO | Chairman |
| ii) | EDO concerned (DO(R&E/ACO for Revenue Deptt: and office of DCO respectively). | Member |
| iii) | One member to be nominated by the Admn: Deptt: (in case of Revenue Department, the member to be nominated by the Commissioner of the Division concerned) | Member |

B) Departmental Selection/Promotion Committee at District level
for Posts in BS-1 to BS-10

- | | | |
|------|--|----------|
| i. | EDO concerned | Chairman |
| ii. | One member to be nominated by the DCO | Member |
| iii. | One member to be nominated by the Admn: Department | Member |
| iv. | District Officer concerned. | Member |

DS-II ✓

SO (M)
SO (F)
SO (PE)
SO (G)

PS to S-seay 2391
14/5/12 mb

PA to DS-II

Am G folder file

Govt. of Khyber Pakhtunkhwa
Elementary & Secondary
Education Department

DS-II Diary No.
Date,

11/15/12