

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

02.2.2017

Counsel for the appellant and Mr. Usman Ghani, Sr.GP alongwith Khursheed Khan, SO and Hameedur Rahman, AD for respondents present.

Vide our detailed judgment of to-day in connected service appeal No.880/2015, titled "Liaqat Ali Versus Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and others", we accept the present appeal also as per detailed judgment. Parties are left to bear their own costs. File be consigned to the record room.


Member

ANNOUNCED
02.2.2017


Chairman

02.02.17-

11.04.2016

Counsel for the appellant and Mr. Hamçed-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

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12.08.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as a civil servant when subjected to inquiry on the allegations of irregularities in appointments and awarded minor penalty in the shape of stoppage of one annual increments for three years on 21.10.2014 regarding which he preferred departmental appeal on 18.11.2014 which was not responded and hence the instant service appeal on 27.3.2015.

That no regular inquiry was conducted against the appellant and the punishment inflicted after issuance of only show cause notice.

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

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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

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 883 / 2015


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
<p>1</p> <p>2</p>	<p>06.08.2015</p> <p>10-8-15</p>	<p>The present appeal was received on 27.3.2015 which was returned to the counsel for the appellant for completion and resubmission within 15 days. Today i.e on 06.8.2015 he resubmitted the same late by 128 days. The same may be entered in the institution register and put up to the Worthy Chairman for appropriate order please.</p> <p style="text-align: right;">  REGISTRAR </p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>12-8-15</u>.</p> <p style="text-align: right;">  CHAIRMAN </p>

The appeal of Mr. Shah Jehan Superintendent Education Department received to-day i.e. on 30.03.2015 is incomplete on the following score which is returned to the counsel for the appellants 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, statement of allegations, show cause notice, enquiry report and replies thereto are not attached with the appeal which may be placed on it.
- 6- Copy of impugned order dated 21.10.2014 mentioned in the heading of the appeal is not attached with the appeal which may be placed on it.
- 7- Copy of departmental appeal is not attached with the appeal which may be placed on it.
- 8- Six more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 419 /S.T,

Dt. 30/3 /2015


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Ijaz Anwar Adv. Pesh.

- 1) Memorandum of Appeal may be got signed by Appellant
- 2) Affidavit may be attested by Oath Commissioner.
- 3) Objection No-3 be removed
- 4) Appeal may be page marked in Index properly.
- 5) Copies of Charge Sheet, Statement of Allegations, Show Cause Notice, Enquiry Report and Replies on Pleas on it in Appeal.
- 6) Copy of impugned order dated 21-10-2014 on Annex - D on Page - 25
- 7) Copy of D.A. is attached on Annex - F Page 3
- 8) Six more copies are attached in Appeal

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Appeal No. 883/2015

Shah Jehan, Superintendent BPS-17, Office of the DEO
(Female) Charsadda.

(Appellant)

VERSUS

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

(Respondents)

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Appellant

Through


IJAZ ANWAR
Advocate Peshawar


SAJID AMIN
Advocate Peshawar

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

A.W.F. Province
Service Tribunal
Diary No. 278
Dated 27-3-2015

Appeal No. 883 /2015

Shah Jehan Superintendent BPS-17, Office of the DEO
(Female) Charsadda.

(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.
4. District Education Officer (Female) Charsadda.

(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 minor penalty "Stoppage of annual increment for three years" against which his departmental Appeal dated 18.11.2014 has not been responded despite the lapse of statutory period.

Filed to Reg
27/3/15

Prayer in Appeal: -

Co-submitted to
and filed.

6/1/15

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.

Respectfully Submitted:

1. That the appellant was initially appointed as Junior Clerk in the respondents department. During the course of his service the appellant also got promotions and was lastly promoted to the post of Superintendant BPS 17.
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 while serving in the said capacity, an inquiry was conducted regarding alleged irregular appointments in District Charsadda, against the then EDO. The inquiry officer after conclusion of the inquiry submitted his report wherein besides other recommendations, also recommended that action may also be taken against the members of the District Selection Committee. It is pertinent to mention here that the appellant was never associated with the inquiry so conducted. *(Copy of the inquiry report is attached as Annexure A)*
4. That without serving upon the appellant any charge sheet or statement of allegations, directly a show cause notice dated 09.07.2014, was served upon the appellant vide letter dated 17.07.2014, which he duly replied and refuted the allegations leveled against him. *(Copies of the Show Cause Notice along with forwarding letter dated 17.07.2014 and reply to the show cause notice is attached as Annexure B & C)*
5. That thereafter the appellant was awarded the minor penalty of stoppage of annual increment for three years vide order dated 21.10.2014. The order was however communicated to the appellant on 31.10.2014. *(Copy of the order dated 21.10.2014, is attached as Annexure D)*
6. That against the order dated 21.10.2014, the appellant filed his departmental appeal dated 18.11.2014, however the same has not been responded despite the lapse of 90 days statutory period. *(Copy of the Departmental Appeal is attached as Annexure E)*
7. That the impugned orders are 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 Stoppage of Annual Increment for three years to the appellant, neither he has been served with any charge sheet or statement of allegations, nor inquiry has been conducted against the appellant, the inquiry officer on whose recommendations the appellant was proceeded against, never associated the appellant with the proceedings thus the whole proceedings are nullity in the eye of law.
- C. That the appellant has not been given opportunity of personal hearing, thus he has been condemned unheard.
- D. That the appellant has never been served with any charge sheet or statement of allegations thus he has been denied opportunity to defend himself against the charges.
- E. That even the inquiry that was conducted against the then DEO, Charsadda , the appellant was never associated with the inquiry nor statements of witnesses if any were recorded in presence of the appellant nor the appellant has been given opportunity to cross examine those who may have deposed against him.
- F. That the charges leveled against the appellant were never probed properly nor the same were proved during the inquiry conducted against the then EDOs, albeit the appellant has been awarded the penalty.
- 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 adopting shorter procedure in the instant case was uncalled for and illegal the charges were never admitted by the appellant hence the issuance of show cause notice has prejudice his case and in fact he was condemned unheard.
- I. That the matter in hand required a full fledged regular inquiry, for the proof or otherwise of the charges, in the absence of regular inquiry imposition of penalty is illegal and unlawful.

- J. That the appellant has never committed any act or omission which could be termed as misconduct albeit he has illegally been awarded the penalty.
- K. That the appellant at his credit a long and spotless service career, the penalty imposed upon him is a stigma on his bright and spotless service career hence liable to be set aside.
- L. That the facts and grounds mentioned in the reply to the show cause notice and departmental appeal of the appellant may also 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

Shah Jehan, Superintendant BPS-17, Office of the DEO
(Female) Charsadda.

(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 F)*

- 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.

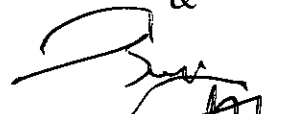

Applicant

Through



IJAZ ANWAR
Advocate Peshawar

&


SAJID AMIN

Advocate, Peshawar

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Appeal No. ____/2015

Shah Jehan, Superintendant BPS-17, Office of the DEO
(Female) Charsadda.

(Appellant)

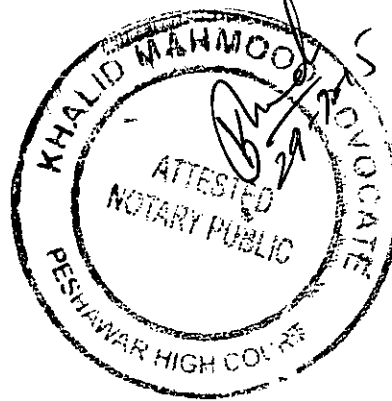
VERSUS

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

(Respondents)

AFFIDAVIT

I, **Shah Jehan, Superintendant BPS-17, Office of the DEO (Female) Charsadda**, 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

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Annex: A

CONFIDENTIAL

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

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

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Government. All the codal formalities were fulfilled before filling vacancies. Screening tests were conducted through ETEA. Appointments were neither made in one go nor all the 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 Appointment, 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 Appellant 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 4-8-2011:-

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 Shoaib	Principal, GHS Garhi Mameed	H

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

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 1780-86/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

have 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 Said 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.

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 DEO 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 Wakeel Koroona, Nisatta

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 (E&SE) 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 Malal	
3	Bilal	Izzat Gul	
4	Amin Jan	Sher Muhammad	Deceased & land donor
5	Muhammad Jan	Marjan Ali	
6	Bilal Ahmad	Ahmad Saeed	
7	Ayesha	Sher Muhammad Khan	
8	M. Owais	Mukarram Shah	
9	Niaz Gul	Widow of Niaz Gul	
10	M. Ihtesham	Nizakatuulah	
11	M. Shah Rukh	Nisar Muhammad	
12	Umair Ahmad	Ihsanuddin	
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-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.

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. ETEA test was conducted on 3-7-2011. Successful male candidates were called at GHS Garhi Hamid Gul and female at GGHS Utmanzai. 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		Number of promotees @ 25%	Disable 2%	Still vacant
			Actual			
AT(M)	15	11	8	0	0	7
TT(M)	19	15	10	0	0	5
Qari(M)	1	1	1	0	0	-
TT(F)	21	16	13	5	0	8
AT (F)	24	18	14	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	596/850	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).

(18)

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	Fida Muhammad	30 w.p.m

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

18

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.

- 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-HHH). 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 1998 (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-ui-Wafaq-ul-Madaras

- (20)
- 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. ETEA 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

(21)

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.

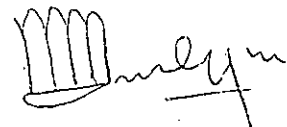
Mr. Muhammad Hayat PET who has been illegally reinstated in service may be served with show cause notice and his service may be terminated and Mr. Alam Zeb PET may be reinstated against the said vacancy.

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.



Approved B

(22)



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

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

To

Mr. Shah Jehan,
Superintendent (BS-16) o/o the Executive District
Officer (Female), E&SE, Tangi District Charsadda.

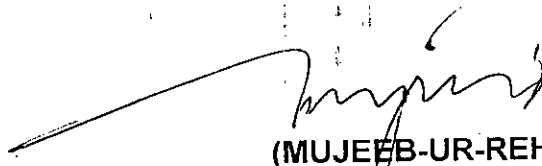
Subject: - **SHOW CAUSE NOTICE**

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 Minor Penalty of "Stoppage of annual increments for three years" under Rule-4 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 in connection with the charges leveled against you.

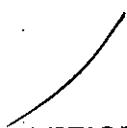
2. You are therefore, directed to furnish your reply to the Show Cause Notice as to why the aforesaid penalty should not be imposed upon you and **also intimate whether you desire to be heard in person.**
3. Your reply should reach to this Department **within Seven (07) days** of the delivery of this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

Encl: As Above:

Endst: of even number & date:


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

Copy of the above is forwarded to PS to 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. Shah Jehan, Superintendent BS-16, office of Executive District Officer, (F) E&SE Tangi District Charsadda**, as follows:

- i. That consequent upon the completion of inquiry conducted against **Mr. Atta Ullah Khan** by the inquiry officer and on going through the findings and recommendations of the inquiry officer, the material on record and other connected papers under Rule-5 (b) (ii) read with Rule-7 (a) of the said Rules,

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 stoppage of Annual increment under rule 4 of the said rules. for three years.

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
 (PERVEZ KHATTAK)
 CHIEF MINISTER KHYBER PAKHTUNKHWA
 COMPETENT AUTHORITY
 03.07.2014.

Mr. Shah Jehan, Superintendent BS-16, office of Executive District Officer, (F) E&SE Tangi District Charsadda



3/5/14

ANNEXED :- C
(24)

TO

**The Section Officer (S/M)
Govt; of Khyber pakhtun khwa
Elementary and Secondary Education
Department.**

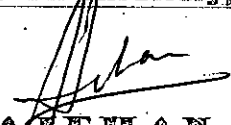
Subject SHOW CAUSE NOTICE(REPLY).

R/Sir:-

Kindly refer your letter no SO(S/M)E&SED/4-17/2013/Atta
Ullah and others dated 17/07/2014, on the subject cited above and to
request you that I was the member of scrutiny committee in the CT
2010 Only, not in others categories forth-with and nor member of the
selection committee.

As for as the Appointment is concern its relates to the District
selection committee sir, I was not part of J/clerk and sake employ etc
nor member of the scrutiny/District selection committee in the
Appointment J/Clerks and sake employ and I have no concern with it.
It is there-fore requested to kindly exonerate from the charges level
against me.

Your, s Obediently,


SHAJEHAN
Superintendent
SDEO (Male) Tangi



REGISTERED



(25) *APPROVED - D*
GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Dated Peshawar the October 21, 2014

NOTIFICATION

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

WHEREAS Mr. Shah Jehan,

Superintendent BS-16, O/O Executive District Officer, (Female) E&SE Tangi District Charsadda was proceeded against under the Khyber Pakhtunkhwa Govt: Servants (Efficiency & Discipline) Rules, 2011 for the charges pointed out by Mr. Muhammad Humayun Khan, Chairman BS-21, Provincial Inspection Team Peshawar (now Secretary Transport Department) /inquiry officer who conducted formal Inquiry against Mr. Attullah Khan, Ex-DEO Male BS-19 Charsadda (now Principal BS-19 GHSS Bogara Karak) for the charges leveled against him in accordance with the rules.

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

3. **AND WHEREAS** a show cause notice was served upon Mr. Shah Jehan, Superintendent BS-16, O/O Executive District Officer, (Female) E&SE Tangi District Charsadda dated 09-07-2014 conveyed to him on 17-07-2014.

4. **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.

5. **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 minor penalty of "stoppage of annual increment for three years" upon Mr. Shah Jehan, Superintendent BS-16, O/O Executive District Officer, (Female) E&SE Tangi District Charsadda 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.
- 5- Mr. Shah Jehan, Superintendent BS-16, O/O Executive District Officer, (Female) E&SE Tangi District Charsadda.
- 6- District Accounts Officer, Charsadda.
- 7- PS to Chief Secretary Khyber Pakhtunkhwa Peshawar.
- 8- PS to Secretary, E&SE Department, Khyber Pakhtunkhwa.
- 9- Office order file.

[Signature]
(MUJEEB-UR-REHMAN)
SECTION OFFICER (SCHOOLS/MALE)

ANNEX: E
26

From:- Shah Jehan Superintendent O/O SDEO(M) Tangi
(Ex; Superintendent O/O SEDO (Female) Tangi Charsadda.

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

Subject: REVIEW APPEAL TO SET A SIDE THE MINOR PENALTY OF STOPPAGE OF ANNUAL INCREMENTS FOR 3 YEARS IMPOSED ON CHARGE OF CERTAIN IRREGULARITIES IN THE APPOINTMENTS MADE BY ATTAULLAH KHAN EX-ED/ DEO(M) CHARSADDA

Respected Sir,

It is submitted with due regard that the petitioner has been serving in the capacity of Superintendent in (E&SE) Deptt: for the last 37 years.

An inquiry was conducted on charges of irregular appointment of teaching/ non-teaching staff during the tenure/stay as EDO E&SE/ DEO (M) Charsadda against Attaullah Khan with effect from 25-02-2010 to 19-04-2013.

In the said inquiry report, the inquiry officer has proposed the Minor Penalty of stoppage of Annual increments of Attaullah Khan Ex- EDO/DEO (M) Charsadda to be imposed upon him. The inquiry officer has also held that the District Selection Committee is also responsible for the irregular appointments and action may also be taken against them. (Copy attached as Annexure A).

Now the Minor penalty of stoppage of Annual increment for three years have been imposed upon the petitioner by the competent authority being member of District Selection Committee vide Government of Khyber Pakhtunkhwa E&SE Department Notification No. SO (S/M) E& SED/ 4-17/2013/ Attaullah Khan Ex-EDO dated 21/10/2013 (Annexure-B) on charges of irregular appointment of teaching/ non-teaching staff during the tenure/ stay of Attaullah Khan as EDO E&SE/DEO (Male) Charsadda with effect from 25-02-2010 to 19-04-2013.

The appellant beseech your good self to set aside the aforesaid Minor penalty of "Stoppage of Annual Increments for three years" on the following grounds and keeping in view the contradiction between the recommendation of Inquiry Officer and the penalty imposed upon the Petitioner:-

1. During my posting as Superintend at SDEO(F) Tangi was appointed as a member of scrutiny committee to check the documents for preparation of merit list ~~list~~ of CT Teachers for the years 2010 only as per evidence of enquiry officer report on page no 2 of 19 and 3 of 19 and handed over to the chairman of scrutiny committee for further process to the competent authority as per rule and policy.

2. Mr. Attaullah Khan Ex-EDO (E&SE) Charsadda was appointing authority for the category of CT/DM/PET/PST/Junior Clerk /C/IV and the than DCO Concern was appointing authority for the AT/TT/Qari and sacked employees .
3. I have not been member of District Selection Committee.
4. All the Above mentioned appointments were made on the recommendations of the **District Selection Committee** after observing all codal formalities 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 "**OBSERVAITONS**" (Annexure-B)
5. In wake of above appointments and after the transfer of Attaullah Khan from the post of DEO (Male) Charsadda on 19-04-2013 followed by his posting as Principal (BS-19) GHSS Bogara Karak on 19-04-2013, **first preliminary enquiry** was conducted by a local Inquiry was conducted in the appointments executed during his posting as EDO / DEO (M) Charsadda but it merits a mention here that both the aforesaid inquiries were conducted against Mr. Attaullah Khan EEDO/ DEO by the Department without **any written complaint and substantial evidence** regarding "**irregularity**" to have been committed by him or by the DSC in the above mentioned appointments. Event 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).
6. 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~~^{the} tenure yet Inquiry Officer, while summing up the formal enquiry report against Attaullah Khan had concluded that "**However certain irregularities have been noted in the appointments of Junior Clerks/ reinstatement of sacked employees**" repeated "**certain irregularities**"
7. It is great in justice and tyranny with the Petitioner, that on charge of merely "**Certain irregularities**" committed by **District Selection Committee**" and not by the appellant, very drastic/ harsh action and Minor penalty of "**Stoppage of Annual Increments for three years**" has been imposed above instead of District Selection Committee which has already notified by the Government.
8. So much so, the "**Show Cause Notice**" (Annexure-E) served upon the Petitioner and the formal enquiry report annexed "D" seemingly give an impression that I was awarded Minor penalty of "**Stoppage of Annual Increments for three years**" 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 "**minor penalty of stoppage of three increments**" to be imposed upon Mr. Attaullah Khan EEDO/ DEO (M) Charsadda. The



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Inquiry Officer has also concluded that **District Selection Committee** is also responsible for the said irregular appointments, action may also be taken against them.

9. **The District Selection Committee Notified by Government of Khyber Pakhtunkhwa Establishment Department is as under:**

For Posts in BPS-1 to BPS-10

J)	Executive District Officer	Chairman.
	District Officer concerned	Member.
	Nominee of DCO	Member.
	Representative of Admin Deptt:	Member.

For the post in BPS-11 to 15 and sacked Employees

K)	District Coordination Officer	Chairman
	Executive District Officer	Member
	District Officer Male/Female	Member
	Assistant District Officer Estt:	Member
	Representative of Adm: Deptt	Member

10. What to speak of **contradiction** between the "**RECOMMENDATIONS**" of Inquiry Officer and the Minor 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-F) which held that "the authority shall involvement of the accused official/ officer with particular to the nature of guilt i.e corruption, make a **Judicious decision**, according to the fact, 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 good self that to set aside the aforesaid Notification of **Minor Penalty of "Stoppage of Annual Increments for three years"** on the grounds mentioned above briefly reproduced as under:-

- a). That the Petitioner has not been a member of District Selection Committee notified by Government of Khyber Pakhtunkhwa which have also been stated in the reply of Show Cause notice and on the eve of personal hearing on 26-09-2014 before the Additional Secretary Establishment Govt: of Khyber Pakhtunkhwa. The Petitioner has performed duty during 2009, to date in SDEO(F/M) Offices tangi .
- b). That instead of penalizing the District Selection Committee, the Petitioner which is not a member of District Selection Committee has been penalized by imposition of Minor Penalty of "Stoppage of Annual increments for three years".
- c). All the appointments were made in accordance with the prescribed procedure as observed/ stated by the concerned Inquiry Officer himself in the enquiry report.
- d). Moreover no single complaint is on the ground against the petitioner.
- e). That the inquiry against Attaullah Khan Ex-EDO was not conducted in accordance with law hence cannot be relied upon.
- f). Prior to Show Cause Notice, no charge sheet/ statement of allegation has been issued to the petitioner, hence the whole proceedings are illegal and unlawful. No penalty can be imposed on the basis of such show cause notice.



(29)


g). That the petitioner is an honest, efficient person and as rendered more than 36 years, service to the entire satisfaction of his superiors. The petitioner has not committed any act of misconduct in the entire service and have always abide by the rules and regulations of the Provincial Government and have discharges duty honestly and efficiently.

h). Imposition of Minor penalty of "Stoppage of Annual Increments for three years" upon the Petitioner instead of **District Selection Committee** on charge of more "Certain irregularities" as concluded by the Inquiry Officer is great injustice.

i). 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 patron gesture in my appeal in hand.

Your,s Obedient Servant


(SHAM JEHAN) 18/11

Superintendent BPS-17 o/o SDEO (M) Tangi
Ex-Superintendent BPS-16 o/o SEDO (F)Tangi
Charsadda



ESTABLISHMENT AND ADMINISTRATION DEPARTMENT.
NOTIFICATION

AMIA: F
(30)

Peshawar dated the 18th July, 2012.

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



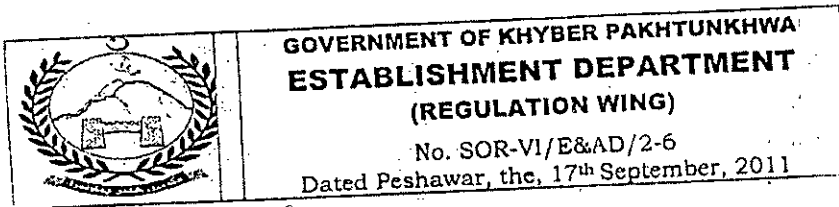
Endst: No. and dated even.

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)

[Handwritten signature]



(32)

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.

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EXTRAORDINARY
GOVERNMENT

- (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.

KH

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.

(Signature)
SECTION OFFICER (REG-VI)

(Signature)

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REGISTERED NO. PIII
GAZETTE

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-VIE&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;

- (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-

ER, 2011.

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- (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

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- (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;

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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*.

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(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

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- (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.

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(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) 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.

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SEP. 2011

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(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:

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Staty. & Ptg. Deptt., Khyber Pakhtunkhwa, Pesh.



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(REGULATION WING)

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

45

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,

NM 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.

NM Khan
SECTION OFFICER (REG-VI)

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REGISTERED NO. VIII

G A Z E T T E



EXTRAORDINARY

GOVERNMENT

KHYBER PAKHTUNKHWA

Published by Authority

FRIDAY, 16TH SEPTEMBER, 2011.

PROVINCIAL ASSEMBLY OF KHYBER PAKHTUNKHWA

NOTIFICATION

Dated Peshawar, the 16th September, 2011

No. PAKHYPER PAKHTUNKHWA BILLS 2011/14525—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 16th 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)

(It is published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Exercise of the King or 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 herein after 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.



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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.

(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



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 with in 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 MR Justice Faisal Raza
Sheh Jehan

} For
} Plaintiff
} Appellant
} Petitioner
} Complainant

VERSUS

Govt of KPK and others

} 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

and Sajid Amin Adv 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 Peshawar the _____ day to _____ the year _____

Executant/Executants _____
Accepted subject to the terms regarding fee _____

Ijaz Anwar

Advocate High Courts & Supreme Court of Pakistan

ADVOCATES, LEGAL ADVISORS, SERVICE & LABOUR LAW CONSULTANT
FR-3 C-3, Fourth Floor, Bilal Plaza, Saddar Road, Peshawar Cantt
Ph: 091-5272159 Mobile-0331-9107225

Sajid Amin
Adv

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeals # 883/2015.

Shah Jehan, Supdt: BS-17, O/O the D.E.O (F) Charsadda.....**Appellant**
VERSUS

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

Parawise comments for & on behalf of Respondents No. 1-4.

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 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.(Copy of the Show Cause Notice is Annex-C & D).

5. Para-5 is correct to the extent that unsatisfactory reply has been submitted by the Appellant wherein he could not prove has innocence regarding the alleged charges leveled against the Appellant. hence the minor penalty of stoppage of Annual increments for three years has been imposed upon the Appellant 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. (Copy the Impugned Notification is Annex- 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 incorrect & denied, the impugned Notificaiton dated 21-10-2014 is accordance with Law, Rules & Procedure, hence liable to be maintained in favour of the Respondents on the grounds that the Appeal of the Appellant is also liable to be dismissed on the following grounds inter-alia.

GROUNDS.

- 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 codel formalities.
- D. Incorrect and denied, the Appellant has been served proper Show Cause Notice contained Detailed Statement of Allegations/Charge Sheet duly replied by the Appellant in an unsatisfactory and inconveniencing form, hence he has been awarded a minor penalty of stoppage of three Annual increments under the provision of FR-29 by the Respondent NO. 2.
- 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 plea of the Appellant is liable to be dismissed in favour of the Respondents.
- 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 been found guilty by the Respondent Department regarding the mentioned charges in the Show Cause Notice during the inquiry, hence he has been awarded minor penalty of stoppage of three annual increments vide Notification dated 21-10-2014, issued by the Respondent No.2.
- 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.
- L. The facts and grounds as mentioned above may also be treated as an integral part of this reply on & for behalf of the Respondents in the interest of justice.

M. 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

6/4/2016

(Respondent No. 1 & 2)

Director,
Elementary & Secondary Education,
Department.

(Respondent No. 3 & 4)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeals # 883/2015.

Shah Jehan, Superintendent (BS-17) O/O DEO (F) Charsadda.....**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,

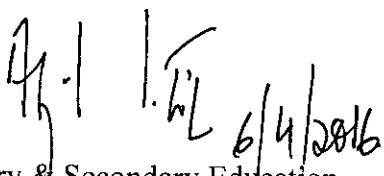
The Respondents submit as under:-

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 laible to be dismissed on the following grounds inter-alia.

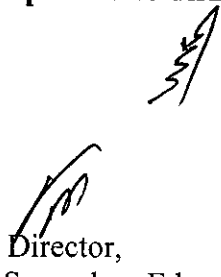
GROUND.

- 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)

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ANNEX: A

CONFIDENTIAL

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

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

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ment. All the codal formalities were fulfilled before filling vacancies. Screening tests were conducted through ETEA. Appointments were neither made in one go nor all the 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 Appellant 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 4-8-2011:-

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 Shoaib	Principal, GHS Garhi Mameed	H

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

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 1774-107/E-1 dated 1-11-2010(CT Male) (Annexure-M). Two (2) Disable (Male) candidates were appointed vide office order No 1780-86/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

(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 Said 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.

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 DEO 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 Wakeel Koroona, Nisatta

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 (E&SE) 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 Malal	
3	Bilal	Izzat Gul	
4	Amin Jan	Sher Muhammad	Deceased & land donor
5	Muhammad Jan	Marjan Ali	
6	Bilal Ahmad	Ahmad Saeed	
7	Ayesha	Sher Muhammad Khan	
8	M. Owais	Mukarram Shah	
9	Niaz Gul	Widow of Niaz Gul	
10	M. Ihtesham	Nizakatuulah	
11	M. Shah Rukh	Nisar Muhammad	
12	Umair Ahmad	Ihsanuddin	
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-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.

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. ETEA test was conducted on 3-7-2011. Successful male candidates were called at GHS Garhi Hamid Gul and female at GGHS Utmanzai. 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		Number of promotees @ 25%	Disable 2%	Still vacant
			Actual			
AT(M)	15	11	8	0	0	7
TT(M)	19	15	10	0	0	5
Qari(M)	1	1	1	0	0	-
TT(F)	21	16	13	5	0	8
AT (F)	24	18	14	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	596/850	13.88
2	Intermediate	576/1100	10.47
3	BA (Islamiyat+Arbic)	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).

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			Actual			
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Qari(M)	1	1	1	0	0	-
TT(F)	21	16	13	5	0	8
AT (F)	24	18	14	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
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Total			76.35

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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).

(15)

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	Fida Muhammad	30 w.p.m

343	Muhammad Rehman	Munawar Khan	30 w.p.m.
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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 Haq	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.

(18)

- 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-HHH). 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 1998 (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 proscribed qualification is as under:-

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

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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. ETEA 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

(21)

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.

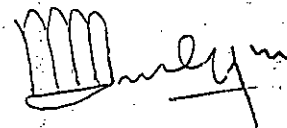
Mr. Muhammad Hayat PET who has been illegally reinstated in service may be served with show cause notice and his service may be terminated and Mr. Alam Zeb PET may be reinstated against the said vacancy.

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.

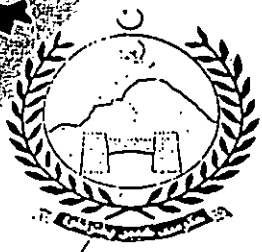
Amended B

(22)

REGISTERED

GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

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



To

Mr. Shah Jehan,
Superintendent (BS-16) o/o the Executive District
Officer (Female), E&SE, Tangi District Charsadda.

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 Minor Penalty of "Stoppage of annual increment for three years" under Rule-4 of the Khyber Pakhtunkhwa Government Service (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 and why the aforesaid penalty should not be imposed upon you and also intimate to the authority your desire to be heard in person.

3. Your reply should reach to this Department within Seven (07) days of the receipt of this letter otherwise ex-parte action shall be taken against you.

4. Copy of the inquiry report is enclosed herewith.

Encl: As Above:

Endst: of even number & date:

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

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

SECTION OFFICER (SCHOOLS/MALE)

(23)

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. Shah Jehan, Superintendent BS-16, office of Executive District Officer, (F) E&SE Tangi District Charsadda, as follows:

i. That consequent upon the completion of inquiry conducted against Mr. Atta Ullah Khan by the inquiry officer and on going through the findings and recommendations of the inquiry officer, the material on record and other connected papers under Rule-5 (b) (ii) read with Rule-7 (a) of the said Rules,

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 stoppage of Annual increment under rule 4 of the said rules.
for three years.

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
(PERVEZ KHATTAK)
CHIEF MINISTER KHYBER PAKHTUNKHWA
COMPETENT AUTHORITY
09.07.2014

Mr. Shah Jehan, Superintendent BS-16, office of Executive District Officer, (F) E&SE Tangi District Charsadda

3/5/14

1

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

In the matter of
Appeal No. 883/2015

Shah Jehan, Superintendant BPS-17, Office of the DEO
(female) Charsadda. *(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 stoppage of annual increment for three years, 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 in 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 of Para 3 of the appeal are correct, the reply submitted to the Para No. 3 is totally incorrect and misleading 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.
7. Contents of Para-6 of the appeal are correct, the reply submitted to the Para is incorrect and misleading.

GROUND

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
IJAZ ANWAR

Advocate, Peshawar.

&

Sajid Amin
SAJID 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
Deponent 2/8/16

