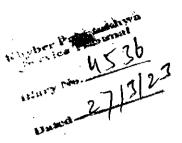
# BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 609/2022

Nadir Ali Khan

.Vs

Govt of Khyber Pakhtunkhwa & others



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| 2    | Affidavit            |          | 04    |
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DISTRICT EQUCATION OFFICER (MALE) CHARSADDA



## BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 609/2022

Nadir Ali Khan

Vs Govt of Khyber Pakhtunkhwa & others

### Written comments on behalf of Respondents

### **Preliminary Objections:**

Respectfully Sheweth:

- A. That the Appellant has no locus standi and cause of action.
- B. That the present Appeal is wrong, baseless and not maintainable, it shows no cause to be taken for adjudication, therefore, the Appeal is liable to be rejected/dismissed.
- C. That the Appeal is unjustifiable, baseless, false, frivolous and vexatious. Hence the same is liable to be dismissed with the order of special compensatory costs in favour of Respondents.
- D. That no legal right of the appellant has been violated, therefore, the appellant has no right to file the instant appeal.
- E. That the Appellant is completely estopped/precluded by his own conduct to file this Appeal.
- G. That the Appellant has not come to this Hon' able Tribunal with clean hands. The Appeal also suffers from misstatements and concealment of facts and as such the Appellant is not entitled to equitable relief.
- H. That the Appellant has no right to file the instant Appeal and the Hon' able Services Tribunal has got no jurisdiction to adjudicate upon and the Appeal is liable to be dismissed.
- I. That the instant appeal is barred by law and limitation

### **PARA WISE REPLY ON FACTS:**

1. That the appellant may be qualified but his nomenclature can't be changed from Elementary teacher to primary school teacher.



- 2. Incorrect, the appellant is not a primary school teacher rather Elementary/mosque teacher. Primary teacher have a different nomenclature than the Elementary teacher.
- 3. That the refereed notification 26/6/2012 and 11/7/2012 nowhere mention that the Elementary teacher will be upgraded.
- 4. That the appellant's appointment order reveals that he was appointed as Elementary teacher in BPS-(05) and upgraded to BPS-(07) in the same nomenclature. The nomenclature of the appellant was never changed to that of primary school teacher (PST). (Copy of notification is attached as annexure A)
- 5. That as the service of the appellant had been verified by the audit department and directed for deduction of the over payment on dated 01/04/2021, hence after lapse of at least (8) agitating the issue is illegal and time barred.
- 6. That the pay roll attached with the appeal indicates that the over payment recovery started in the month of April 2021. The recovery had been shown with the heading of deduction "wage type" code No. 3914 Education (ROP) as Rs-4000/= per month, which is according to the law and rules on the subject.

### **GROUNDS**

- A. Denied, the pay roll of the appellant for the month April, 2021 attached with the appeal clearly shows that the deduction was started from 01/04/2021.
- B. Incorrect, the appellant had been proceeded in accordance with law and rules and no Article of the constitution had been violated.
- C. That the appellant was though upgraded to BPS-12, but it was in share violation and true spirit of the notification referred by the appellant.
- D. That the appellant had been mistakenly upgraded to B.P.S 12 as P.S.T, hence, had been proceeded in light of the notification dated 26/06/2012 and 11/07/2012.
- E. & F. That the appellant had been over paid, therefore, the true spirit of the above mentioned notification demands that the same be rectified.
- G. Incorrect, the appellant had been proceeded in pursuance of the above mentioned notifications and thus the same had been rectified.
- H. That as the appellant is not entitled for the post of PST hence had been downgraded to his original post. Further the change in nomenclature is altogether beyond the jurisdiction of the answering respondents, rather it is the domain of Finance Department.

- I. & J. That the appellant had been downgraded to his original post of Elementary teacher in pursuance of the notifications dated 26/06/2012 and 11/07/2012.
- K. That as the down gradation of the appellant to his original post of Elementary teacher is not a punishment rather correction of the nomenclature in pursuance of the notification.
- L. The Answering Respondents seek permission of this Hon `able Tribunal to advance other grounds at the time of hearing of the appeal.

#### PRYER.

It, therefore, humbly stated that the appeal of the appellant is not main table as prayed for, hence, it may kindly be dismissed in favour of answering respondents please.

1. The District Education Officer (Male) Charsadda\_

2. The Director Elementary & Secondary Education

Khyber Pakhtunkhwa, Peshawar

3. The Secretary Elementary & Secondary Education

Khyber Pakhtunkhwa, Peshawar.



# BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 609/2022

Nadir Ali Khan

 $V_{s}$ 

Govt of Khyber Pakhtunkhwa & others

### AFIDAVIT

I Dr. Abdul Malik Sab DEO (M) Charsadda do hereby solemnly affirms that the information provided by the DEO (M) and the contents of the Para-wise comments submitted by respondents are true and correct and nothing has been concealed intentionally from this Hon' able tribunal.

UBAIG ATTENDED

(Dr. Abdul Malik) DISTRICK EDUCATION OFFICER (MALE) CHARSADDA

**Deponent** 



### OVERNMENT OF KHYBER PAKHTUNKHWA FINANCE DEPARTMENT (REGULATION WING)

Dated Peshawar, the 30-06-2015



### **NOTIFICATION**

NO.FD/SO(FR)7-20/2015 The competent authority has been pleased to accord approval to the upgradation of pay scales of the following provincial government employees with effect from 01-07-2015:

- Two pay scale upgradation will be allowed to all provincial government employees from BS-01 to BS-05,
- One pay scale upgradation will be allowed to all provincial government employees from BS-06 to BS-15
- c). Special Compensatory Allowance equal to difference of notional upgradation of BS-16 to BS-17 will be allowed to all provincial government employees in BS-16 in lieu of upgradation.
- Upgradation will be applicable to both pay and allowances with freezing limits and other conditions currently in vogue unless revised by the government.
- e) Pay fixation on upgradation will be applicable w.e.f. 01-07-2015 or 01-12-2015 on the option to be given by the concerned employee.
- All provincial government employees who have been upgraded en-block or individually in last five years starting from 01-07-2010 or have been granted special allowance / pay equal to 40 % or more of their normal pay shall not be entitled for the instant upgradation.
- Pay of existing incumbents of the posts shall be fixed in higher pay scales at a stage next 2. above the pay in the lower pay scale.
- All the concerned Departments will amend their respective service rules to the same effect in the prescribed manner.
- The above upgradation scheme shall not be applicable to employees of Autonomous Bodies. Semi Autonomous Bodies and Public Sector Companies.

5. Explanatory note and subsidiary instructions on the subject will be issued separately.

SECRETARY TO GOVT OF KHYBER PAKHTUNKHWA



### Endst No. & Date even.

### Copy of the above is forwarded for information and necessary action to the: -

- 1) PS to Additional Chief Secretary, FATA.
- 2) All Administrative Secretaries Government of Khyber Pakhtunkhwa.
- 3) Senior Member, Board of Revenue, Khyber Pakhtunkhwa Peshawar.
- 4) Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 5) Secretary to Governor, Khyber Pakhtunkhwa, Peshawar
- 6) Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
- 7) Secretary Provincial Assembly, Khyber Pakhtunkhwa.
- 8) All Heads of Attached Departments in Khyber Pakhtunkhwa.
- 9) Registrar, Peshawar High Court, Peshawar.
- 10) All Deputy Commissioners, Political Agents, District & Sessions Judges / Executive District Offic Khyber Pakhtunkhwa.
- 11) Chairman, Khyber Pakhtunkhwa, Public Service Commission, Peshawar.
- 12) Registrar, Service Tribunal Khyber Pakhtunkhwa.
- 13) Secretary to Govt; of Punjab, Sindh and Baluchistan, Finance Department, Lahore, Karachi and Que
- 14) The District Comptroller of Accounts, Peshawar, Mardan, Kohat, Bannu, Abbottabad, Swat and Khan.
- 15) The Senior District Accounts Officer Nowshera, Swabi, Charsadda, Haripur, Mansehra and Dir Low
- 16) The Treasury Officer, Peshawar.
- 17) All District/Agency Accounts Officers in Khyber Pakhtunkhwa / FATA.
- 18) PSO to Senior Minister for Finance, Khyber Pakhtunkhwa.
- 19) PSO to Chief Secretary, Khyber Pakhtunkhwa.
- 20) Director Local Fund Audit, Khyber Pakhtunkhwa Peshawar.
- 21) PS to Finance Secretary.
- 22) PAs to All Additional Secretaries/ Deputy Secretaries in Finance Department.
- 23) All Section Officers/Budget Officers in Finance Department.
- 24) Mr. Jabir Hussain Bangash, President, Class-IV Association, Civil Secretariat, Khyber Pakhtun Peshawar.
- 25) Mr. Manzoor Khan, President, Civil Secretariat Driver Association Khyber Pakhtunkhwa, Peshawar
- 26) Mr. Akbar Khan Mohmand, Provincial President, Class-IV Association, Khyber Pakhtunkhwa, Pesh

(MURAD AHMED) SECTION OFFICER (FR)

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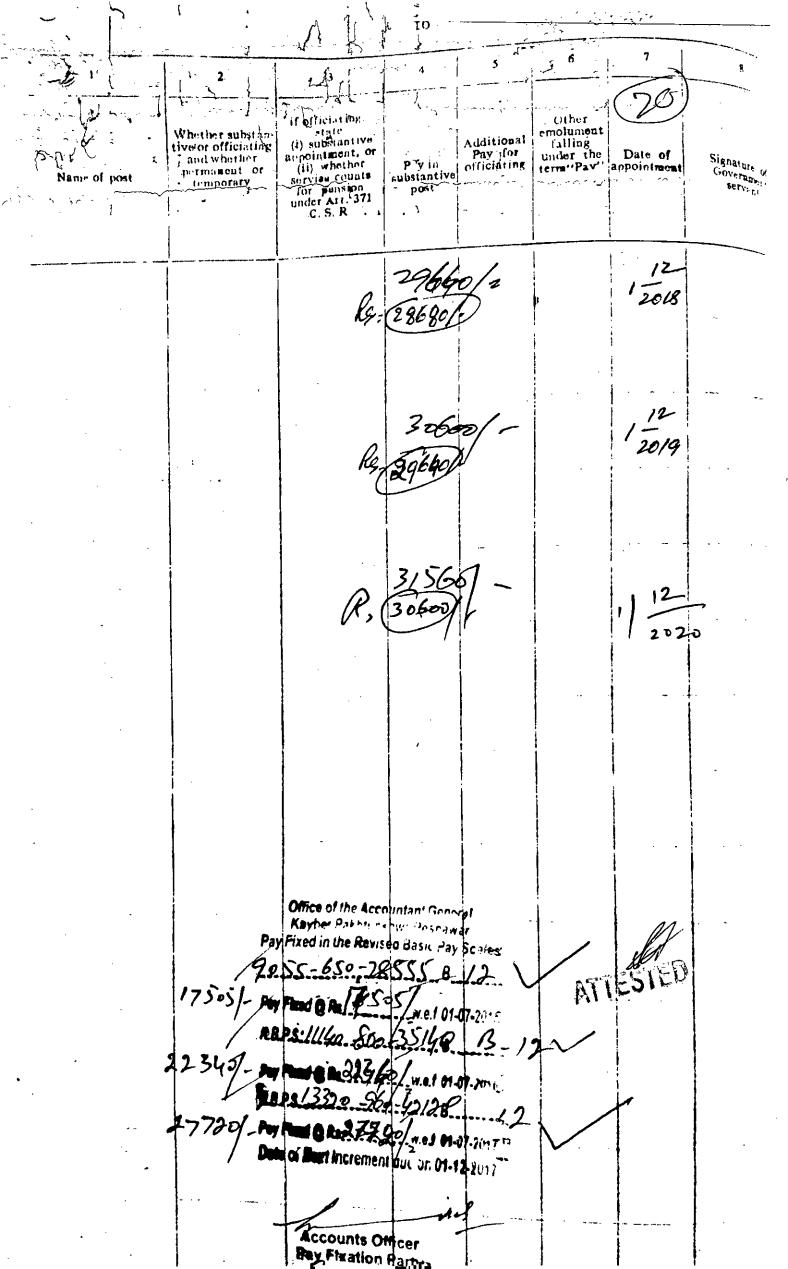
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| oy Revised by 7/15               |  | _                 | 126807                        | f                                    |  | 1.7.15              |                                    |
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### OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) E&SE CHARSADDA

m 091-9220481 omischarsadda@yahoo.com

### SANCTION OF ENCASHMENT/RETIREMENT.

Consequent upon recommendation of the Chairman Standing Medical Board/Medical Superintendent District Head Quarter Hospital Charsadda Letter No. 1595-97 \*\*\* SMB/DHQ Hospital Charsadda, dated 07-03-2020 & Director (E&SE) Khyber ankhwa Peshawar Letter No. 4663 F.No.123/Vol:58 Medical Board dated 15-06-2020, Mr: Rashid Muhammad S/O Wali Muhammad ET BPS-07 GPS Serai Kamal Uddin is hereby allowed to retire from Govt: Service on Medical Ground w.e.f 26-02-2020 (A.N) with full pensioner benefits as admissible under the rules. His D.O.B according to S/Book and SSC is <u>10-10-1965</u> and 1st Appointment date is <u>04-12-1985</u>

Sanctioned to the grant of encashment of 365 days leave in lieu of LPR is also accorded in his favour.

NOTE:-

1 Necessary entries to this effect should be made in his S/Book 2. Recovery of over payment, if any should be made from his pension/gratuity under in tion to this office.

> (JEHANGIR KHAN) DISTRICT EDUCATION OFFICER (M) CHARSADDA.

Endst No. 6486-90

/2020

Copy to the:-

- 1. Director (E&SE) Khyher Pakhtunkhwa Peshawar
- 2. District Account Officer Charsadda.
- 3. SDEO(M) Charsadda
- 4. Official concerned.
- 5. Office file.

ION OFFICER (M) CHARSAIDA