


# FORM OF ORDER SHEET

Court of \_\_\_\_\_

Appeal No.

1760/2023

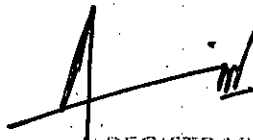
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	29/08/2023	<p>The appeal of Mst. Ayesha Qureshi is re-submitted today by Mr. Muhammad Arshad Khan Tanoli Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on <u>30-08-2023</u>.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

The appeal submitted by Mr. Muhammad Arshad Khan Tanoli Advocate today i.e. on 16.08.2023 is incomplete on the following score which is returned to him for completion and resubmission within 15 days.

1. Annexure-B of the appeal is illegible which may be replaced with legible/better one.
2. Copies of enquiry mentioned in para 04 & 08 of the appeal are not attached with the appeal.

No. 3094 /S.T,

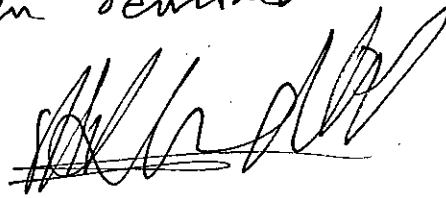
Dt. 25/08 /2023

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Muhammad Arshad Khan Tanoli Adv.  
Supreme Court.

Sir,

As required, the objections  
have been removed



29/8/2023

Inquiry Report are attached as 19A-19E.  
Bettery copy are attached. 1.  
29/08/2023

**BEFORE CHAIRMAN KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR**

Service Appeal No. 1760 /2023

Miss Ayesha Qureshi Ex-Assistant, Public Library Mansehra, presently  
Circuit House, Mansehra.

...APPELLANT

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Higher Education Archive  
and Libraries, Peshawar & others.

...RESPONDENTS

**SERVICE APPEAL**

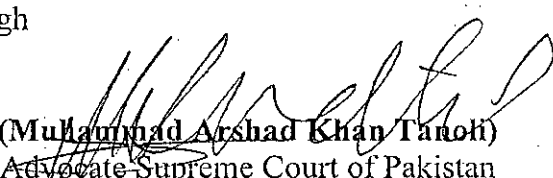
**INDEX**


S.#	Description	Page No.	Annexure
1.	Service appeal along with affidavit	1 to 14	
2.	Copy of advertisement dated 12/03/2019	15	"A"
3.	Copy of final merit list showing the appellant at the top of the merit list	16-17	"B"
4.	Copy of appointment order dated 29/09/2020	18	"C"
5.	Copy of first termination order 27/07/2022 of the appellant	19	"D"
6.	Copy of re-instatement order dated 21/10/2022	20	"E"
7.	Copy of impugned removal from service order dated 28/04/2023	21	"F"
8.	Copy of departmental appeal order dated 11/05/2023	22-23	"G"
9.	Copy of experience certificate of the appellant issued by FATA secretariat on 16/12/2019 and verification letter dated 22/09/2021 of respondent No. 2	24-25	"H"
10.	Copy of judgment	26-28	"I"
11.	Wakalatnama	29	

...APPELLANT

Dated: \_\_\_\_\_/2023

Through

  
(Muhammad Arshad Khan Tanohi)  
Advocate Supreme Court of Pakistan

&  
  
(Muhammad Ibrahim Khan)  
Advocate High Court, Abbottabad

1

**BEFORE CHAIRMAN KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR**

Service Appeal No. 1760 /2023

Miss Ayesha Qureshi Ex-Assistant, Public Library Mansehra, presently  
Circuit House, Mansehra.

...APPELLANT

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Higher Education  
Archive and Libraries, Peshawar.
2. Director Archive and Libraries Khyber Pakhtunkhwa, Peshawar.
3. Librarian, Public Library Mansehra.

...RESPONDENTS

**SERVICE APPEAL** UNDER SECTION 4 OF  
KPK SERVICE TRIBUNAL ACT, 1974 FOR  
DECLARATION TO THE EFFECT THAT THE  
APPELLANT GOT APPOINTMENT AS  
ASSISTANT AND WAS POSTED AT PUBLIC  
LIBRARY MANSEHRA ACCORDING TO THE  
MERIT HAVING ALL THE PRESCRIBED  
REQUISITE QUALIFICATION THAT  
RESPONDENT NO.2 EARLIER TERMINATED  
THE APPELLANT ON 27/07/2022 WITHOUT  
ISSUING ANY SHOW CAUSE NOTICE  
PROPER INQUIRY MENTIONED IN KPE & D

RULES 2011. THAT THE APPELLANT FILED DEPARTMENTAL APPEAL AGAINST HER EARLIER TERMINATION ORDER DATED 27/07/2022 WHICH WAS ACCEPTED BY THE RESPONDENT NO.1 AND RE-INSTATED THE APPELLANT IN SERVICE WITH ALL SERVICE BACK BENEFITS VIDE ORDER DATED 21/10/2022 BUT THE APPELLANT WAS AGAIN REMOVED FROM SERVICE WITH RECOVERY OF ALL PAY AND ALLOWANCES WITHDRAWN BY HER FROM THE DATE OF HER APPOINTMENT TO THE DATE OF REMOVAL FROM THE SERVICE ON THE GROUND THAT 10 MARKS OF EXPERIENCE OF FATA SECRETARIAT WHERE SHE SERVED VOLUNTARILY ILLEGALLY ALLOWED TO HER IN FINAL MERIT LIST. IS NOT PERMISSIBLE THE PLEA OF RESPONDENTS IS ILLEGAL, AGAINST THE LAW AND DISCRIMINATORY, PERVERSE AND IMPUGNED REMOVAL FROM SERVICE ORDER DATED 28/04/2023 IS LIABLE TO BE SET-ASIDE.

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PRAYER;- ON ACCEPTANCE OF THE INSTANT SERVICE APPEAL, THE IMPUGNED REMOVAL FROM SERVICE ORDER DATED 28/04/2023 MAY GRACIOUSLY BE ORDERED TO BE SET-ASIDE AND RESPONDENTS MAY BE DIRECTED TO RE-INSTATE THE APPELLANT IN SERVICE WITH ALL SERVICE BACK BENEFITS. ANY OTHER RELIEF WHICH THIS HONOURABLE TRIBUNAL MAY DEEM FIT AND APPROPRIATE IN THE CIRCUMSTANCES OF THE CASE BE GRANTED TO THE APPELLANT.

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Respectfully Sheweth:-

That the facts forming the back grounds of the instant service appeal are arrayed as under;-

1. That the respondents' Departmental Advertised the post of Assistant BPS – 16 vide advertisement dated 23/03/2019 and the appellant applied for appointment alongwith all the requisite prescribed qualification

mentioned in the advertisement. Copy of advertisement dated 12/03/2019 is annexed as Annexure "A".

2. That the appellant got through and qualified EATA test. That the appellant obtained 51 marks in the final marks and she was placed at the top of merit list for appointment as Assistant. Copy of final merit list showing the appellant at the top of the merit list is annexed as Annexure "B".
3. That following this, appointment order of the appellant was issued on 29/09/2020. Copy of appointment order dated 29/09/2020 is annexed as Annexure "C".
4. That on the complaint of one Mst. Makhdoom Rehman resident of Hayatabad Peshawar, the appellant was previously terminated from service on the sole ground that experience certificate attached by the appellant alongwith application was issued by the FATA Secretariat Peshawar where she served w.e.f 01/07/2015 to 30/06/2018

on voluntarily basis vide termination from service order dated 27/07/2022 without conducting proper Inquiry under KP E & D rule 2011. Copy of first termination order 27/07/2022 of the appellant is annexed as Annexure "D".

5. That later on the appellant filed departmental appeal to respondent No. 1 against the first termination order dated 27/07/2022 which was accepted and the appellant was re-instated on service with all service back benefits. Copy of re-instatement order dated 21/10/2022 is annexed as Annexure "E".

6. That respondent No. 1 directed the competent authority to conduct fresh inquiry and on the basis of fresh inquiry, the appellant was again removed from service vide impugned removal from service order dated 28/04/2023. Copy of impugned removal from service order dated 28/04/2023 is annexed as Annexure "F".



7. That the appellant feeling aggrieved, filed the departmental appeal against removal from service order dated 11/05/2023 which is still pending for adjudication before the appellate authority. Copy of departmental appeal order dated 11/05/2023 is annexed as Annexure "G".

Hence, the instant service appeal of the appellant is filed on the following grounds:-

**GROUND:-**

- a) That the appellant obtained experience certificates from Government department w.e.f 01/07/2015 to 30/06/2018 which was duly got verified by the respondents' department from FATA Secretariat vide letter No. 1526/3/10 DA 22/09/2021 of respondent No. 2. Copy of experience certificate of the appellant issued by FATA secretariat on 16/12/2019 and verification letter dated 22/09/2021 of respondent No. 2 are annexed as Annexure "H".

- b) That the concerned authority duly acknowledge the experience certificate of the appellant which reads "Miss Ayesha Qureshi worked at FATA defunct library on voluntarily basis without pay and allowances for library work experience and knowledge for period of 03 years and certificate issued to her is correct".
- c) That the experience certificate was duly issued by FATA Secretariat on the basis of which 10 marks, was correctly awarded by the Departmental Selection Committee in final merit list and the appellant was appointed on the basis of merit having higher score.
- d) That the appellant was removed from service on sole ground that she served in FATA secretariat on voluntarily basis and she does not receive pay and allowances. The justification of

department is illegal because experience certificate is not illegal which was obtained by the appellant from FATA Secretariat and served the said Secretariat without any payment and in such circumstances experience certificate is valid and validly obtained by the appellant. Therefore the removal from service order of the appellant is against the law and based on malafide intentions on the part of respondents' department.

- e) That it is submitted that at the time of appointment, the appellant was serving in respondents' department in Molana Muhammad Ishaq Memorial library and having all the requisite prescribed qualification. It is further submitted that the appellant was Master in library Science and obtained excellent marks in her interview for appointment for the post of Assistant in the department. In this regard merit list showing 7 marks out

of 8 in interview which is already attached.

- f) That there is no illegality in appointment order of the appellant because appellant was appointed on merit in transparent manner observed by respondents' department in all respect. It is further added that on simple so called compliant of Mst. Makhdoom Rehman who could not qualify interview and declared failed in final merit list. The respondents' department with malafide intentions initiated the fact finding inquiry and on the basis of finding of the inquiry the appellant was terminated from service on 27/07/2022 and the appellate authority i.e. respondent No. 1 set-aside the termination order of the appellant vide order dated 21/10/2022. It is further submitted that the appellate authority directed to the competent authority to conduct fresh inquiry under KPE & D rule,

2011 vide re-instated order 21/10/2011. The appellate authority as per latest judgment of Supreme Court of Pakistan The authorized officer cannot direct the competent authority to conduct De-Novo Inquiry. In this regard reliance is placed on reported judgment 2023 SCMR 1109. Copy of judgment is annexed as Annexure "I".

- g) That the Honourable Supreme Court of Pakistan is also held in so may cases that even an employee is appointed without following prescribed procedure and even without advertisement the employee can not be removed/dismissed from service vide judgment of Apex Court reported 2023 PLC(C.S) 972.
- h) That the appellant has served the department as Assistant, in public library Mansehra since 2020 to 2023

and had accrued the rights to serve the department. The competent authority cannot undo the appointment order of the appellant once she had acquired valuable rights. The reason expectation is involved.

- i) That this facts may not be left to fade an oblivion that the experience certificate of the appellant was not found bogus because same was duly verified by the issuing authority on the letter of respondent No. 2 Hence, the impugned Removal from service order is liable to be cancelled.
  
- j) That the court should not fold up its hands while granting relief to aggrieved appellant. It is worth mentioning that the appellant was duly appointed by the Departmental Selection Committee after thorough scrutiny of documents/credentials. The appellant is innocent and is being made scape goat for making room for

appointment of other blue eyed complainant who could not qualify her interview and was declared failed in the final merit list.

- k) That no stretch of the imagination disentitle the appellant to serve as assistant in public library Mansehra as per law and the articles of constitution of Islamic Republic of Pakistan 1973. As per Article 27 of the constitution no person especially in service can be barred only on the basis of sex and gender.
- l) That the matter in issue relates to the terms and conditions of service, therefore, the Honourable Tribunal has jurisdiction to entertain the lis under Article 212 of the Constitution.
- m) That the valuable rights of the appellant are involved.
- n) That other points shall be urged at the time of arguments.

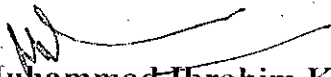
It is therefore, humbly prayed that on acceptance of the instant service appeal, the impugned removal from service order dated 28/04/2023 may graciously be ordered to be set-aside and respondents may be directed to re-instate the appellant in service with all service back benefits. Any other relief which this honourable tribunal may deem fit and appropriate in the circumstances of the case be granted to the appellant.

  
...APPELLANT

Through

Dated: \_\_\_\_\_/2023

  
(Muhammad Arshad Khan Tanoli)  
Advocate Supreme Court of Pakistan  
&

  
(Muhammad Ibrahim Khan)  
Advocate High Court, Abbottabad

**VERIFICATION:-**

Verified on oath that the contents of foregoing appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.

  
...APPELLANT



**BEFORE CHAIRMAN KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR**

Service Appeal No. \_\_\_\_\_/2023

Miss Ayesha Qureshi Ex-Assistant, Public Library Mansehra, presently  
Circuit House, Mansehra.

...APPELLANT

**VERSUS**

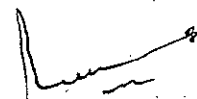
Government of Khyber Pakhtunkhwa through Secretary Higher Education Archive  
and Libraries, Peshawar & others.

...RESPONDENTS

**SERVICE APPEAL**

**AFFIDAVIT**

I, *Miss Ayesha Qureshi Ex-Assistant, Public Library Mansehra,*  
*presently Circuit House, Mansehra,* do hereby solemnly affirm and  
declare that the contents of foregoing appeal are true and correct to the best  
of my knowledge and belief and nothing has been concealed therein from  
this Honourable Court.



**DEPONENT**



19/10/23

7. No TADA is allowed for test/Interview
8. Original Documents shall be presented at the time of interview. Post applied for may clearly be written on the right corner of the envelope.
12. Proposed format can be downloaded from [www.livestockres.kp.gov.pk](http://www.livestockres.kp.gov.pk)

P-15 A/03  
INF(P)1068/19

DR. FAZLUL HASSAN ROBINI

# Annex - A

1) ایک نئے سال کے آغاز میں 2019ء میں بطور پروفیسر کے طور پر ملازمت کرنے کے لیے درخواستیں جمع کروانے کے لیے طلبہ کے لیے ای میل ایڈریس اور درخواستیں جمع کروانے کے لیے ای میل ایڈریس کے بارے میں تفصیلات درج ذیل ہیں۔  
 2) درخواستیں جمع کروانے کے لیے ای میل ایڈریس [www.cica.edu.pk](http://www.cica.edu.pk) پر ملے گا۔

سلسلہ	اساتذہ کی تعداد	اساتذہ کی تعداد	اساتذہ کی تعداد	اساتذہ کی تعداد	اساتذہ کی تعداد
1	اسٹنٹ (BPS-16)	02	20-32	فرائض کو (ایک پوسٹ) (ساتھ)	ای میل کی ایک
2	کمپوٹر ایڈیٹر (BPS-16)	02	20-32	فرائض کو (ایک پوسٹ) (ایک پوسٹ)	ای میل کی ایک
3	یونیورسٹی لائبریریئر (BPS-14)	01	18-30	1 دن - 1 (ایک سال)	ای میل کی ایک
4	کمپیوٹر ایڈیٹر (BPS-13)	01	18-30	1 دن - 1 (ایک سال)	ای میل کی ایک
5	یونیورسٹی لائبریریئر (BPS-14)	10	18-32	1 دن - 1 (ایک سال) (ایک سال) (ایک سال) (ایک سال) (ایک سال) (ایک سال) (ایک سال) (ایک سال) (ایک سال) (ایک سال)	ای میل کی ایک
6	یونیورسٹی لائبریریئر (BPS-07)	06	18-32	1 دن - 1 (ایک سال) (ایک سال) (ایک سال) (ایک سال) (ایک سال) (ایک سال)	ای میل کی ایک
7	ایڈیٹر (BPS-07)	01	20-32	1 دن - 1 (ایک پوسٹ)	ای میل کی ایک
8	ایڈیٹر (BPS-07)	02	20-32	1 دن - 1 (ایک سال) (ایک سال)	ای میل کی ایک
9	ایڈیٹر (BPS-07)	01	20-32	1 دن - 1 (ایک سال)	ای میل کی ایک

1) ایک سے زیادہ اساتذہ کی تعداد کے لیے درخواستیں جمع کروانے کے لیے ای میل ایڈریس [www.cica.edu.pk](http://www.cica.edu.pk) پر ملے گا۔  
 2) اساتذہ کی تعداد کے لیے ای میل ایڈریس [www.cica.edu.pk](http://www.cica.edu.pk) پر ملے گا۔  
 3) اساتذہ کی تعداد کے لیے ای میل ایڈریس [www.cica.edu.pk](http://www.cica.edu.pk) پر ملے گا۔  
 4) اساتذہ کی تعداد کے لیے ای میل ایڈریس [www.cica.edu.pk](http://www.cica.edu.pk) پر ملے گا۔  
 5) اساتذہ کی تعداد کے لیے ای میل ایڈریس [www.cica.edu.pk](http://www.cica.edu.pk) پر ملے گا۔  
 6) اساتذہ کی تعداد کے لیے ای میل ایڈریس [www.cica.edu.pk](http://www.cica.edu.pk) پر ملے گا۔  
 7) اساتذہ کی تعداد کے لیے ای میل ایڈریس [www.cica.edu.pk](http://www.cica.edu.pk) پر ملے گا۔  
 8) اساتذہ کی تعداد کے لیے ای میل ایڈریس [www.cica.edu.pk](http://www.cica.edu.pk) پر ملے گا۔  
 9) اساتذہ کی تعداد کے لیے ای میل ایڈریس [www.cica.edu.pk](http://www.cica.edu.pk) پر ملے گا۔

INF(P)1068/19

Annex - B  
P-18

Recruitment of Assistant (BPS-16) in the Directorate of Anti-Doping/Anti-Doping KIP Pushover through ETEA  
Zone/Quota-wise Merit List (Excluding Interview Marks)

Sl. No.	Roll No.	Name	Father Name	POB	Category	Age	Tested	Merit	Score	Rank	Qualification	Remarks
02014	02014	...	...	...	...	...	...	...	...	...	...	...
02015	02015	...	...	...	...	...	...	...	...	...	...	...
02016	02016	...	...	...	...	...	...	...	...	...	...	...
02017	02017	...	...	...	...	...	...	...	...	...	...	...
02018	02018	...	...	...	...	...	...	...	...	...	...	...
02019	02019	...	...	...	...	...	...	...	...	...	...	...
02020	02020	...	...	...	...	...	...	...	...	...	...	...
02021	02021	...	...	...	...	...	...	...	...	...	...	...
02022	02022	...	...	...	...	...	...	...	...	...	...	...
02023	02023	...	...	...	...	...	...	...	...	...	...	...
02024	02024	...	...	...	...	...	...	...	...	...	...	...
02025	02025	...	...	...	...	...	...	...	...	...	...	...
02026	02026	...	...	...	...	...	...	...	...	...	...	...
02027	02027	...	...	...	...	...	...	...	...	...	...	...
02028	02028	...	...	...	...	...	...	...	...	...	...	...
02029	02029	...	...	...	...	...	...	...	...	...	...	...
02030	02030	...	...	...	...	...	...	...	...	...	...	...
02031	02031	...	...	...	...	...	...	...	...	...	...	...
02032	02032	...	...	...	...	...	...	...	...	...	...	...
02033	02033	...	...	...	...	...	...	...	...	...	...	...
02034	02034	...	...	...	...	...	...	...	...	...	...	...
02035	02035	...	...	...	...	...	...	...	...	...	...	...
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02044	02044	...	...	...	...	...	...	...	...	...	...	...
02045	02045	...	...	...	...	...	...	...	...	...	...	...
02046	02046	...	...	...	...	...	...	...	...	...	...	...
02047	02047	...	...	...	...	...	...	...	...	...	...	...
02048	02048	...	...	...	...	...	...	...	...	...	...	...
02049	02049	...	...	...	...	...	...	...	...	...	...	...
02050	02050	...	...	...	...	...	...	...	...	...	...	...

AN



M. A. ...  
M. A. ...  
M. A. ...

P-17

Recruitment of Assistant (OPS-16) in the Directorate of Archives/Records, I.P.S. Level of, through LTA  
 Zone: Bangalore Final Merit List

Roll No	Name	Home Address	DOB	Gender	Qualification	Marked out of 100	Use of English	Computer	Reasoning	General Knowledge	Current Affairs	Self-Appraisal	Interview	Final Merit	Remarks
201	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
202	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
203	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
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211	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
212	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
213	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
214	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
215	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
216	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
217	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
218	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
219	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
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222	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
223	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
224	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
225	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
226	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
227	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
228	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
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NOTE: Final/Definitive in the Merit List are subject to verification of the qualifying candidates. All cases of caste, award of fee subject to verification of the candidates by the respective authorities.

*[Handwritten Signature]*

*[Handwritten Signature]*

*[Handwritten Signature]*





No. 1578 Dated 30th Sept 2020

ORDER

Annex-C

In pursuance of office order No. 50834/DA dated 29/09/2020 Mrs. Aysha Qureshi, Librarian, Maulana Muhammad Ishaq Public Library, Abbottabad is hereby relieved from her duties w.e.f. 30/09/2020. An enabling order for her duties as Assistant in Directorate of Archives & Libraries, Peshawar.

P-18

(Irfan Ullah Jan)  
Assistant Director  
Maulana Muhammad Ishaq  
Public Library, Abbottabad

Encl. No. & Date even.

Copy Forwarded to:

- 1- The Director of Archives & Libraries, Peshawar.
- 2- The Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 3- The District Accounts Officer, Abbottabad.
- 4- The Incharge, Public Library, Abbottabad.
- 5- Office Order File.
- 6- Personnel File.

Attested

*[Signature]*

Car. Abbottabad

Assistant Director  
Maulana Muhammad Ishaq  
Public Library, Abbottabad

**MAULA MUHAMMAD ISHAQ PUBLIC LIBRARY,  
ABBOTTABAD**

No. 1575 Dated 30<sup>th</sup> Sept, 2020.

**ORDER**

In pursuance of office order No. 1508/3/1/DA dated 29.09.2020. Mrs. Ayesha Qureshi, Librarian-II Maulana Muhammad Ishaq Public Library, Abbottabad is hereby relieved from her duties w.e.f 30.09.2020 (A.N) enabling her to join duties as Assistant in Directorate of Archives & Libraries, Peshawar.

**(Irfan Ullah Jan)**  
Assistant Director  
Maulana Muhammad Ishaq  
Public Library, Abbottabad.

**Endst: No. & Date even.**

Copy forwarded to:-

1. The Director of Archives & Libraries, Peshawar.
2. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
3. The District Accounts Officer, Abbottabad.
4. The Incharge, Public Library, Abbottabad.
5. Office Order File.
6. Personal File.

Assistant Director  
Maulana Muhammad Ishaq  
Public Library Abbottabad





(E)

31 Annex - D

F/06

DIRECTORATE OF ARCHIVES & LIBRARIES,  
KHYBER PAKHTUNKHWA, PESHAWAR.

Phone: - 091- 9210100 Website: - [www.kpdal.gov.pk](http://www.kpdal.gov.pk),  
[www.facebook.com/KParchivesandlibraries](http://www.facebook.com/KParchivesandlibraries)

No. 1428 /3/1/DA Dated 27<sup>th</sup> July, 2022.

ORDER

P-19

In pursuance of Section Officer (C-IV), Higher Education, Archives & Libraries Department letter No. SO(C-IV) HED/1-6/Archives Misc/Complaint/Ms. Makhtoon Rahman/2022/1396 dated 25-07-2022, the services of Mrs. Ayesha Qureshi, Assistant, Public Library, Mansehra is hereby terminated with immediate effect.

02- She is hereby directed to deposit all the salaries/payments in the Government Treasury drawn since her appointment as Assistant (BPS-16) vide order No. 1508/3/1/DA dated 29-09-2020.

(Raheela Hafeez)  
Director of Archives & Libraries,  
Khyber Pakhtunkhwa, Peshawar

Endst: No. & Date even.

Copy forwarded to: -

- 1 PS to Secretary, Higher Education Department, Khyber Pakhtunkhwa.
- 2 The District Accounts Officer, Mansehra with request of stoppage of salary of the official with immediate effect.
- 3 The Section Officer (C-IV), Higher Education, Archives & Libraries Department with the request to kindly approach Law Department, Khyber Pakhtunkhwa for consultation in connection with initiation of Criminal Proceedings against the afore-mentioned official in light of findings of the inquiry report communicated vide his afore-mentioned letter.
- 4 The Librarian, Public Library, Mansehra for information and necessary action.
- 5 The Official Concerned.
- 6 Office Orders File.

*Attested*  
*MU*  
Director of Archives & Libraries,  
Khyber Pakhtunkhwa, Peshawar

*D*  
Director of Archives & Libraries,  
Khyber Pakhtunkhwa, Peshawar.

**INQUIRY REPORT ABOUT EXPERIENCE CERTIFICATE OF MISS AYESHA QURESHI, ASSISTANT, PUBLIC LIBRARY, MANSEHRA, ORDERED VIDE DIRECTOR, ARCHIVES & LIBRARIES NO. 2269-70/3/10/DA DATED 07-11-2022.**

01- **BACKGROUND.**

i)- The Directorate of Archives & Libraries advertised one post of Assistant (BS-16) reserved under female quota on 12-03-2019. Miss Ayesha Qureshi, then having less than one year service as Librarian-II (BS-09) in Public Library, Abbottabad, also applied to the post of Assistant and secured 4<sup>th</sup> position with 134-marks as per provisional merit list received from ETEA vide No. ETEA/2-54/2017/4443 dated 29-07-2020, whereas, Miss Maryam Sahibzada, Miss Makhtoom Rahman and Miss Shahzadi Khushboo were placed ahead of her at 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> position with 144, 143 and 136 marks respectively. A footnote was recorded on the said list to the effect that "*Errors/Omissions in the merit list are subject to rectification by the appointing authority*" (Annex-A).

ii- After uploading result/merit position on ETEA's website, the said Ayesha Qureshi, submitted an application to ETEA for inclusion of experience marks to her provisional merit position on 21-02-2020. The application was marked to the Ex-Director, then appointing authority and chairman of Departmental Selection Committee for decision.

**Annex-B**

iii- At the time of interview on 24-09-2020, Miss Ayesha Qureshi produced 07 years voluntary experience certificate of working as Library Assistant in archival library of the defunct FATA Secretariat. In reference to the said application, the Ex-Director apprised the Selection Committee that in wake of lockdown due to Corona virus pandemic, the application has been referred to him by ETEA with telephonic instructions for verification from the concerned quarter and taking decision in the matter, besides, in light of the aforementioned "Footnote", he in capacity of the appointing authority, is also authorized to decide the matter. Thereafter, he telephonically verified the certificate from concerned quarter. After examination of the term "experience" in light of provisions of ESTACODE, the committee allotted 10-marks to the said Ayesha Qureshi. Thereafter, Mrs. Raheela Hafeez, then Chief Librarian/Member, Selection Committee submitted an application to the Ex-Director to authenticate relevancy of the certificate from Establishment Department and verify the same from the concerned quarter before issuance of appointment order. Resultantly, with addition of further 07-marks in interview, she topped the final merit list with 151-marks and was appointed to the post of Assistant on 29-09-2020 with condition of verification of her testimonials/documents from concerned authorities. Miss Maryam Sahibzada and Miss Makhtoom Rahman were placed on the waiting list with 147 and 146-marks respectively. (Annex-C).

iv)- Meanwhile a post of Assistant fell vacant due to premature retirement of the former incumbent from service on 01-10-2020, thereby, the Ex-Director/then appointing authority convened another meeting of Departmental Selection Committee on 09-10-2020 to consider appointment of Miss Maryam Sahibzada against second/additional post of Assistant so as to rectify overall deficiency in various cadres under female quota.

Thereof, as per condition No. 10 of the advertisement, the Selection Committee unanimously recommended the proposal with condition that the subject additional appointment in the quota will be rectified from future vacancies. Consequently, Miss Maryam Sahibzada was also appointed under female quota on 13-10-2020. **Annex-D**

v)- Thereafter, Miss Makhtoom Rahman, 2<sup>nd</sup> candidate of the waiting list, filed complaint before Provincial Ombudsman to the effect that Miss Ayesha Qureshi has been appointed on a fake experience certificate, hence, appointment of Miss Ayesha Qureshi may be cancelled with replacement of her (Makhtoom Rahman) appointment the second/additional post under female quota. The Ombudsman Office in its findings dated 21-04-2022 declared the said experience certificate dubious for having no proper file or diary/dispatch number, not countersigned from Head of the concerned department and recommended impartial inquiry to fix responsibility for violation of merit and appointment on fake documents. Meanwhile, due to defunct status of the FATA Secretariat, the certificate was verified from the issuing officer on 28-09-2021. **Annex-E**

vi)- As per recommendation of the Ombudsman Office, the Higher Education Department conducted fact finding inquiry in the matter vide letter dated 18-05-2022, wherein, the certificate was declared fake for the reasons that the Planning and Development Department did not respond to the letters sent for verification of the experience certificate, therefore, as per directions of Higher Education Department letter dated 25-07-2022, the service of Miss Ayesha Qureshi was terminated vide Director, Archives & Libraries order dated 27-07-2022. She filed appeal against the termination order which was accepted and she was reinstated into service with directions to the Director, Archives & Libraries for conducting fresh disciplinary proceedings against her under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 vide High Education Department notification dated 21-10-2022. In compliance thereof, a formal inquiry has been ordered with serving of proper charge sheet to Miss Ayesha Qureshi, Assistant vide No. 2269-70/3/10/DA dated 07-11-2022. **Annex-F.**

02- **PROCEEDINGS.**

All concerned were directed to personally appear before the committee for clarification and submission of their written statements. Crux of their verbal clarification and written statements, are as under: -

i)- **VERBAL AND WRITTEN STATEMENTS OF MISS AYESHA QURESHI DATED 23-12-2022**

She explained that she submitted all academic and experience certificate to the ETEA in time, however, experience marks on account of 03-years voluntary experience certificate from the defunct FATA Secretariat was not added to my provisional merit list. Therefore, she submitted an application to the ETEA for the said purpose. In wake of corona virus pandemic, the application was sent to the Director, Archives & Libraries with instruction of telephonic verification during meeting of Departmental Selection Committee. The certificate was telephonically verified from the concerned department during interview and also from the issuing officer. She has been appointed on the basis of merit and the

experience criteria prescribed Khyber Pakhtunkhwa Regulation, 2017 is not applicable to the instant case. The complaint was lodged by Miss Makhtoom Rahman in connivance of Mr. Dilshad Hussain Khattak Librarian, who directly harassed her during service and has been proved involved thereof in the inquiry report of Directorate of Archives & Libraries.

**Annex-G**

ii)- VERBAL AND WRITTEN STATEMENTS OF MR. ZAHIR ULLAH KHAN, EX-DIRECTOR, THEN CHAIRMAN AND APPOINTING AUTHORITY DATED 23-12-2022

He explained that in wake of lockdowns of the public offices due to Covid 19 pandemic, he was authorized by ETEA to decide the said application of Miss Ayesha Qureshi submitted to ETEA for inclusion of experience marks to the merit, thereby, he was authorized by ETEA to decide the matter in capacity of the appointing authority. He added that except Ayesha Qureshi, all other female candidates showed reservation for assuming duties other than their home districts. He telephonically verified the experience certificate during interview and after examination of the experience as per provisions of ESTACODE, he (in capacity of the appointing authority) has rightly granted experience marks to the said Ayesha Qureshi. **Annex-H**

iii)- VERBAL AND WRITTEN STATEMENT OF MRS. RAHEELA HAFEEZ, THEN CHIEF LIBRARIAN/MEMBER OF DEPARTMENTAL SELECTION COMMITTEE DATED 31-12-2022

She explained the Miss Ayesha Qureshi produced 03-years voluntary experience certificate issued from defunct FATA Secretariat during interview on 24-09-2020. In reference to the certificate, the Ex-Director apprised the Selection Committee that Miss Ayesha Qureshi had submitted an application to ETEA for inclusion of her experience marks in the merit. ETEA has referred the application to him for decision after telephonic verification of the certificate from the concerned quarter, besides, he, in capacity of the appointing authority, is also authorized to decide the matter in light of Footnote recorded on the provisional merit list of ETEA. Thereafter, the Ex-Director telephonically verified the certificate from the concerned quarter and after examination of the experience in light of the provision in ESTACODE, the committee agreed in principle to accept the certificate with condition of establishing its relevancy and verification from the concerned quarters. She further submitted an application to the Ex-Director on 28-09-2020, reminding therein, authentication and verification of the certificate from the concerned quarter. She added that after promotion as Director, she verified the certificate from the issuing officer and conducted primary investigation with ETEA, whereof, she proposed inquiry in the matter before submission of para wise comments to Ombudsman Office, however, the same was not acceded to by the Higher Education Department. She further added that the Selection Committee fulfilled its role to the extent of accepting decision of the Ex-Director for granting experience marks in light of provisions of the ESTACODE, however, it was the responsibility of the Ex-Director (then competent authority) to establish relevancy of the certificate and verify the certificate from the competent forum, therefore, she has fulfilled her responsibilities to that extent. **Annex-I.**

*Amir Aziz Khan*  
*Headman*

iv)- VERBAL AND WRITTEN STATEMENTS OF MR. RAFI ULLAH, THEN SECTION OFFICER(C-IV), DEPARTMENTAL REPRESENTATIVE OF HIGHER EDUCATION DEPARTMENT

He appeared and provided a copy of his earlier reply submitted in the formal inquiry to the Managing Director, Khyber Pakhtunkhwa Education Foundation for consideration in instant inquiry. He added that Miss Ayesha Qureshi produced 03-years voluntary experience certificate issued from defunct FATA Secretariat during interview on 24-09-2020. In reference to the certificate, the Ex-Director apprised the Selection Committee that Miss Ayesha Qureshi had submitted an application to ETEA for inclusion of her experience marks in the merit(Annex-B, supra). ETEA has referred the application to him for decision after telephonic verification of the certificate from the concerned quarter, besides, he, in capacity of the appointing authority, is also authorized to decide the matter in light of Footnote recorded on the provisional merit list of ETEA. Thereafter, the Ex-Director telephonically verified the certificate from the concerned quarter and after examination of the experience in light of the provision in ESTACODE, he awarded 10 marks of experience to Miss Ayesha Qureshi, whereby, she topped the final merit position and was recommended for selection by the committee. Mr. Rafi Ullah Khan added that the Selection Committee fulfilled its role in terms of accepting decision of the Ex-Director for granting experience marks in light of provisions of the ESTACODE, however, it was the responsibility of the Ex-Director(then competent authority) to establish relevancy of the certificate and verify the certificate from the competent forum. Therefore, he is not responsible for non-authentication and non-verification of the certificate. Annex-J.

v)- VERBAL AND WRITTEN STATEMENTS OF MR. MUHAMMAD ALI BHATTI, CONSULTANT/LIBRARIAN, REFERENCE & ARCHIVAL LIBRARY OF EX-FATA SECRETARIAT, PESHAWAR.

He explained that the Miss Ayesha Qureshi rendered voluntarily served for three years without taking pay. He issued three years volunteer experience certificate to her on orders of high-ups of the said Secretariat and the certificate is correct. Annex-K(page 01-02).

vi)- ADVICE IN THE EXPERIENCE CERTIFICATE TAKEN FROM ESTABLISHMENT DEPARTMENT.

It was clarified that the experience means experience gained in a regular full paid job after obtaining the required qualification and the experience should be in line/relevant to the post. Annex-K (page 03-05)

vii)- Meanwhile, report of the formal inquiry constituted against members of the then Selection Committee in the matter was submitted to Higher Education Department, whereof, show causes notices were issued. Annex-M page 01 to 06, infra

03- FINDINGS.

Findings on the basis of available record are as under: -

i)- Miss Ayesha Qureshi was initially placed at 4<sup>th</sup> position of the provisional merit list of ETEA with 134 marks and with addition of further seventeen marks (seven in interview and ten of experience) secured 151-marks and topped the final merit list. It was

noticed that without experience, she would be relegated to 3<sup>rd</sup> position with 141 marks, hence, her final merit position and subsequent eligibility for appointment against one post of Assistant is based on the experience marks. **Annex-A, supra.**

ii)- As per footnote recorded on provisional ETEA's merit list (**Annex-A, supra**) and confirmation of ETEA vide letter dated 30-11-2021, the Ex-Director, in capacity of the appointing authority was authorized by ETEA to settle the matter as per application of Miss Ayesha Qureshi (**Annex-B supra**). The Ex-Director in his statement dated 23-12-2022 has also accepted the entire responsibility of the decision of allotting experience marks. The Ex-Director has also accepted responsibility for deciding the matter in his statement dated 16-12-2021 and other statement submitted in the formal inquiry on 05-10-2022. **Annex-H, supra.**

iii) - As per application of Mrs. Raheela Hafeez dated 28-09-2020, then Chief Librarian/member, Selection Committee submitted to the Ex-Director (**Annex-I, supra**) and conditions mentioned in the appointment order of Miss Ayesha Qureshi, the Ex-Director, in capacity of competent authority was bound to timely authenticate and verify the certificate from concerned forums, however, the Ex-Director failed to do till his retirement on 29-03-2021.

iv) - After promotion to the post of Director on 05-08-2021, Mrs. Raheela Hafeez (former member, Selection Committee) verified the certificate from the issuing officer due to defunct status of the FATA Secretariat (**Annex-E, supra**) and after initial investigation with ETEA vide letters dated 24-11-2021 and 13-12-2021, she proposed inquiry in the matter before submission of para wise comments to Ombudsman Office vide letter dated 13-01-2022, however, the Higher Education Department did not accede to vide letter dated 20-01-2022. **Annex-L.**

v)- In the formal inquiry ordered by Higher Education Department, the Ex-Director has been found responsible for the said decision, whereas, members of the then Selection Committee were found partially responsible for the matter in terms of not recording dissenting note against decision of the Ex-Director, whereof, show cause notices have been issued to them. Thus the certificate has been invalidated in the said inquiry. **Annex-M**

vi)- The certificate was issued by Mr. Muhammad Ali Bhatti, Caretaker/Incharge, Archival Library, defunct FATA Secretariat. After merger of the former tribal areas into Khyber Pakhtunkhwa province, the library has been functioning under the Planning & Development Department and supervised by the said Muhammad Ali Bhatti. During fact finding inquiry, the experience certificate was forwarded to Planning & Development Department for verification, however, in spite of repeated reminders, no response was received, whereupon, the certificate was declared fake. It was noticed that though Mr. Muhammad Ali Bhatti verified the certificate during proceedings of the instant inquiry, however, he failed to countersign the same from Head of the department i.e. Secretary, Planning & Development and provide relevant record of the certificate like

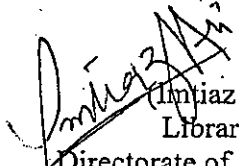
application of the candidate, approval, attendance etc. Therefore, the certificate was invalid being not issued or countersigned by the head of concerned department.

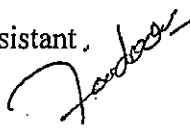
vii)- The certificate is in conflict with spirit of the experience criteria mentioned in Khyber Pakhtunkhwa Public Service Regulations, 2017 in terms of its voluntary/unpaid status and provision of ESTA CODE (Annex-C, supra) in terms its irrelevancy for the post of Assistant. It was noticed that there is huge difference in the responsibilities/duties of Library Assistant and Assistant as the former is related to organization of library matters, whereas, the latter deals matters pertaining to budget, accounts and establishment. (Annex-N). The same aspects have been also mentioned in the guidance received from Establishment Department, wherein, the term experience has been clarified as regular full paid job after obtaining required qualification and being inline with the post (Annex- K, supra), besides, the certificate has been also invalidated in the formal inquiry of Higher Education Department, wherein, the inquiry officer showed reservation over acceptance and granting marks on such experience certificates which ultimately affect merit to personal likings.

viii)- The complainant Miss Makhtoom Rahman being placed at 3<sup>rd</sup> position of the final merit list, has no cause of action for appointment to second/additional post of Assistant under the quota as it is the prerogative of the appointing authority to decide increase or decrease in appointments against available vacancies in the public interest.

04- CONCLUSION.

It is evident from the above that no provisions exists for granting experience marks on the basis of unpaid/voluntary or irrelevant experience certificate not countersigned by the head of concerned department, hence, Miss Ayesha Qureshi was granted 10 marks on the basis of an invalid experience and experience certificate, the subtraction of which will relegate her to 3<sup>rd</sup> position on the final merit list with overall 141 marks. Therefore, it stands proved that Miss Ayesha Qureshi produced invalid experience certificate which led to her appointment as Assistant.

  
(Imtiaz Ali)  
Librarian  
Directorate of Archives &  
Libraries, Peshawar.

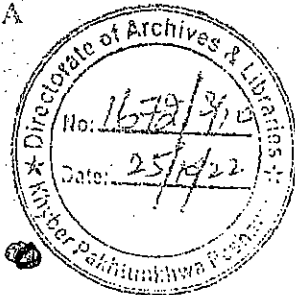
  
(Faridoon Khan)  
Junior Microfilming officer  
Directorate of Archives &  
Libraries, Peshawar



**32 Annex-E**

**GOVERNMENT OF KHYBER PAKHTUNKHWA  
HIGHER EDUCATION, ARCHIVES AND  
LIBRARIES DEPARTMENT**

Dated Peshawar the, October 21, 2022.



**P-20**

**NOTIFICATION.**

**No. SO (C-IV)/HED/2-6/Avesha Quershi/Reinstatement/20212-** WHEREAS, Mst. Ayesha Quershi, Assistant (BPS-16), Public Library, Mansehra was proceeded against under of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 and a major penalty of "Termination from service" was imposed upon her on 25.07.2022.

2. AND WHEREAS, an inquiry was conducted by Additional Secretary (Development), Higher Education Department against her on the allegations of illegal appointment by the Director Archives and Libraries, Khyber Pakhtunkhwa in which it was proved that she was appointed illegally. In light of the Inquiry report, the official concerned was removed from service by terminating her on 25.07.2022 without following due process i.e Show Cause notice was not issued to her and other formalities were not followed.

3. AND WHEREAS, the accused submitted an appeal to the worthy Secretary, Higher Education Department on 05.08.2022 for reinstatement into service.

4. NOW THEREOF, the Competent Authority after having considered the facts of the case under relevant section of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rule-2011, is pleased to accept the appeal submitted by Mst. Ayesha Quershi, Assistant (BPS-16), Public Library, Mansehra and is pleased to Reinstated her with all back benefits with further directions, that in light of fact finding inquiry, fresh disciplinary proceedings may be initiated against her strictly in accordance with the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011.

**SECRETARY  
HIGHER EDUCATION DEPARTMENT**

**ENDST: NO. & DATE EVEN.**

Copy forwarded for information and further necessary action to:-

1. Director, Archives and Libraries, Khyber Pakhtunkhwa Peshawar.
2. PS to Secretary, Higher Education Department.
3. Mst. Ayesha Quershi, Assistant (BPS-16), Public Library, Mansehra.
4. Master File.

*[Signature]*

SECTION OFFICER (C-IV)

*Altered*

*[Signature]*  
Director, Archives and Libraries  
Khyber Pakhtunkhwa Peshawar

*[Signature]*  
Pls discuss





DIRECTORATE OF ARCHIVES & LIBRARIES,  
KHYBER PAKHTUNKHWA, PESHAWAR.

Phone: - 091- 9210100 Website: - www.kpdal.gov.pk  
www.facebook.com/KPArchivesandLibraries

No. 42/2023 Dated 21/04/2023.

9  
Annex - F

**ORDER**

No. (42) 13/10/DA. WHEREAS, Miss Ayesha Qureshi, Assistant (BPS-16), Public Library, Manshra, Directorate of Archives & Libraries, Khyber Pakhtunkhwa was proceeded against under Section 5 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011.

P-21

02- WHEREAS, a show cause notice for appointment to the post of Assistant (BPS-16) on an invalid experience certificate was served upon the official on her office address with attachment of the inquiry report vide No. 339/3/10/DA dated 29-03-2023.

03- WHEREAS, reply of the official to the show cause notice (received on 13-04-2023) was found evasive and dissatisfactory.

04- WHEREAS, the official was also afforded opportunity of personal hearing on 27-04-2023, during which she failed in quoting rules, regulations allowing allotment of experience marks on the basis of a voluntary/unpaid and irrelevant 03-years certificate not verifiable from the head of concerned department.

05- AND WHEREAS, after considering the findings & recommendations of the inquiry report, dissatisfactory reply to the show cause notice and failure in substantiation of justifiable grounds for allotment of marks on an invalid experience certificate during personal hearing, the competent authority is satisfied that the allegation pertaining to the appointment of Miss Ayesha Qureshi, Assistant, Public Library, Manshra stands proved, resultantly, her appointment order as Assistant BPS-16, is void ab-inito.

06- NOW THEREFORE, in exercise of powers conferred under rule-04 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, the competent authority is pleased to impose the major penalty of removal from service upon Miss Ayesha Qureshi, Assistant, Public Library, Manshra, Directorate of Archives & Libraries, Khyber Pakhtunkhwa with recovery of all pay and allowances drawn from the date of her appointment as Assistant(BPS-16) since 29-09-2020.

(Raheela Hafeez)  
Director, Archives & Libraries,  
Khyber Pakhtunkhwa, Peshawar.

**Endst: No. & Date Even.**

Copy forwarded to: -

- 01- Deputy Director(Investigation), Provincial Ombudsman Secretariat, Peshawar.
- 02- Section Officer(C-IV), Higher Education, Archives & Libraries Department, notification No. SO(C-IV)HED/26/Ayesha Qureshi/Re-instatement/2012 dated 21-10-2022.
- 03- Incharge Librarian, Public Library, Manshra.
- 04- Official concerned.
- 05- Office orders file.

Attested

*[Signature]*

*[Signature]*  
Director of Archives & Libraries,  
Khyber Pakhtunkhwa, Peshawar.

To  
The Secretary  
Higher Education Archives and Libraries Department  
Government Of Khyber Pakhtunkhwa, Peshawar.

Annex-G

P-22

**DEPARTMENTAL APPEAL AGAINST IMPUGNED REMOVAL FROM SERVICE ORDER # 400/3/10 DATED 28/4/2023 RECEIVED BY THE APPELLANT ON 5/5/2023**

1. Reference is made to impugned removal from service order # 400/3/10 dated 28/04/2023. (Copy of impugned order is attached)
2. That the appellant was appointed as Assistant BPS 16 in Directorate of Archives and Libraries KP Peshawar vide order no 1508/3/1/DA on 29/09/2020. (copy attached)
3. That the Appellant was appointed by the department on the basis of merit and securitization of documents of the appellant. It is further submitted that the Appellant was removed from service vide order no 1428/3/1/DA dated 27/07/2022 and thereafter on acceptance of the appeal of the Appellant, her removal order was cancelled and she was reinstated in service vide reinstatement order SO(C-IV)/HED/2-6/Ayesha Qureshi/Reinstatement/2021 dated 21/10/2022 copy of first removal from service order dated 25/07/2022 and reinstatement order dated 21/10/2022 is attached.
4. The Appellant qualified test and interview as per law and she was placed at the top of the merit list hence, the appellant was appointed as Assistant in BPS-16 in Library.
5. That so-called allegation on experience certificate that the Appellant served in the department FATA defunct library on voluntarily bases without remuneration. It is further stated that experience certificate of the appellant is genuine and not fake. As the Appellant for getting her experience served in FATA defunct library on voluntary basis.
6. That the allegation of voluntary service is baseless and the experience certificate obtained by the Appellant from FATA defunct library is genuine and the marks of experience was rightly granted to the appellant. That the impugned removal from service order is illegal, against the law and without lawful justification on the following grounds:-

**GROUNDS:-**

- I. That the appellant got appointment as assistant in BPS-16 purely on merit. The experience certificate of the appellant is not bogus or fake. It is also submitted that sometime, the individuals obtained certificate on internship/working on voluntarily basis in the esteemed organization for the purposes of getting job on the basis of experience of the organization.
- II. That competent authority, Director Archives and Libraries issued appointment order of the appellant on the basis of documents on record. Thereafter, the petitioner took over the charge and served the department with zeal and zest and after serving two & a half Years, now, the

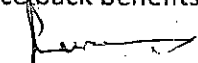
P-23

appointment order of the appellant has been cancelled and she has been removed from service which is against the law. The valuable rights of the appellant have/ had accrued the appellant.

- III. That the competent authority cannot remove the Appellant from service at this belated stage. That there was no deficiency in the documents of the appellant at the time of appointment, but if any so-called deficiency was there at the time of appointment as per version of the competent authority, the deficiency was to be communicated to the Appellant well within the time.
- IV. That the competent authority without observing the codal formalities, without following the prescribed procedure removed the appellant from service which is perverse, discriminatory against the law, based on whims and wishes of the competent authority. Besides, the competent authority is going to accommodate some blue-eyed and near relative at the altar of the appellant. It is further submitted that salary cannot be recovered from the appellant as the appellant got appointment on merit and served the department with devotion and left no stone unturned in the smooth functioning of the library/department.

**Prayer:-**

In view of the above it is prayed that impugned removal from service order 400/3/10 dated 28/04/2023 may graciously be ordered to set-aside and the appellant may be reinstated in service with all service back benefits.



Yours Faithfully

Ayesha Qureshi (Assistant)

Mobile & Whatsapp No (0300-0591540)

Ayeshaqureshi932@gmail.com

Public Library near circuit House Kashmir road Mansehra

11/5/23

**ATTACHMENTS:**

1. Appointment order
2. Termination order
3. Reinstatement order
4. Reply of show-cause notice

*Handwritten signature*

*Handwritten signature*

Public Library near circuit House Kashmir road Mansehra

①

The

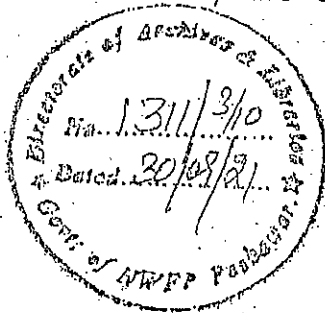
25 Annex-H E/05  
Director, Archives Libraries KPK, Peshawar.

Subject: VERIFICATION OF EXPERIENCE CERTIFICATES

P-24

With reference to your letter No.1526/310/DA dated 22.9.2021.

Miss Ayesha Qureshi Worked at FATA defunct Library on voluntarily bases without pay. & Allowance for library work experience & knowledge for period of three years' certificate issued to her is correct.



Muhammad Ali Bhatti 28/09/21  
Muhammad Ali Bhatti

Lib/Estt

Alteed

Asst. En. Abbottabad

P-25



FATA SECRETARIAT, PESHAWAR


Tel No: 091-9210539.

No. \_\_\_\_\_

Date: 11/12/2019

TO WHOM IT MAY CONCERN

It is certified that Miss. Ayesha Qureshi D/O Mr. Muhammad Khaleeq, CNIC NO.13503-7998044-0, worked as Library Assistant in the Reference and Archival Library FATA Secretariat, Peshawar w.e. 1<sup>st</sup> July 2015 to 30<sup>th</sup> June 2018. Voluntarily, she assistant the undersigned in Archival Library management and Administration. She is dedicated, honest and efficient. I am fully satisfied with her performance and wish her success in her future and career.

  
MOHAMMAD ALI BHATTI  
Consultant/Incharge  
Reference & Archival Library  
FATA Secretariat Peshawar.  
Consultant Librarian  
Civil Secretariat FATA  
8311-909321

arbitrator alone is the judge of the quality as well as the quantity of the evidence. He is the final arbiter of dispute between the parties. He acts in a quasi-judicial manner and his decision is entitled to utmost respect and weight.<sup>5</sup> By applying the afore-noted principles of law on the subject and considering the petitioner's objections within the limited scope of court's jurisdiction in testing the validity of Award this Court is not supposed to sit as a court of appeal and make a roving inquiry and look for latent errors of law and facts in the Award. The arbitration is a forum of the parties' own choice its decision should not be lightly interfered by the court, until a clear and definite case within the purview of the section 30 of the Act is made out. We do not find any jurisdictional, procedural or substantive error patently floating on the record that could justify interference by this Court.

6. As far as the question of misconduct by Arbitrators is concerned, it would not be out of place to mention here that a misconduct of an Arbitrator in the judicial sense means failure to perform his essential duty or any conduct inconsistent with his duties, resulting in substantial miscarriage of justice between the parties.<sup>6</sup> We have gone through the objection petition filed by the petitioner against the Award and find that all the objections substantially relate to the merits of the case. Even the particulars and other necessary details of any misconduct were not given by the petitioner in their objection petition. Also, the petitioner failed to point out any conduct of the Arbitrators that was inconsistent with their essential duty or any breach of duty resulting in substantial miscarriage of justice between the parties. The allegations against the Arbitrators are vague and nebulous. No substantial grounds with precision are pleaded which could be construed to be misconduct by the Arbitrators to the satisfaction of this Court.<sup>7</sup> We find no illegality in the Award or misconduct on the part of the Arbitrators in deciding the issues. The decision of the Arbitrators on all the issues are logical, convincing, based on cogent evidence and supported by reasons. The Contract and its documents have been examined by the Arbitrators and interpreted by them and this Court has no jurisdiction to substitute the evaluation done by the Arbitrators. Since the petitioner had failed to make out a case of misconduct before learned trial and High Court on the part of the Arbitrators, and so is the case

<sup>5</sup> Mian Corporation v. Messrs Lever Brothers of Pakistan Ltd. PLD 2006 SC 169.

<sup>6</sup> Brooke Bond (Pakistan) Ltd v. Conciliator Appointed by the Government of Sindh PLD 1977 SC 237

<sup>7</sup> President of Islamic Republic of Pakistan v. Syed Tasneem Hussain Naqvi 2004 SCMR 590, Muhammad Ramzan v. Additional District Judge, Multan 2005 SCMR 1542 and Province of Punjab v. Messrs Sufi Construction Company 2005 SCMR 1724.

before this Court; hence, we are also not inclined to examine the factual controversy under Article 185(3) of the Constitution of Islamic Republic of Pakistan. In these circumstances, leave is refused and this petition is dismissed. We, however, highlight that the arbitration falls within the domain of alternate dispute resolution ("ADR") and the parties having once resorted to out of court dispute resolution, they must abide by the decision of the Arbitrators rather than challenging the same in the court of law, as it defeats the purpose of ADR. In this case, the petitioner challenged the Award in the civil court thereafter in the High Court and now before us. The Award was announced in the year 2010 and the petitioner is still litigating the matter in 2023, totally undermining the purpose of ADR. Such practice must be strictly curbed.

7. Before parting with this order, we have observed that the petitioner has dragged the Award in the courts for over last 10 years, which passes for vexatious litigation; wasting the time of all courts below as well as this Court. Such frivolous litigation clogs the pipelines of justice causing delay in deciding genuine claims pending before us. Such vexatious and frivolous petitions add to the pendency of cases which overburdens the Court dockets and slows down the engine of justice. Such vexatious and frivolous litigation must be dealt with firmly and strongly discouraged.<sup>8</sup> We, therefore, are minded to impose costs on the petitioner in the sum of Rs. 300,000/- which shall be paid to the respondent within a month and in case of its failure to pay the said costs, the same shall be recoverable as a money decree.

MWA/N-6/SC

Petition dismissed.

2023 S C M R 1109

[Supreme Court of Pakistan]

Present: Umar Ata Bandial, C.J.  
and Muhammad Ali Mazhar, JJ

FIDA HUSSAIN---Petitioner -

versus

CHIEF SECRETARY, KHYBER PAKHTUNKHWA,  
CIVIL SECRETARIAT and others---Respondents

Civil Petition No. 1777 of 2020, decided on 7th April, 2023.

(Against Order judgment 24.04.2020 passed by the Peshawar High Court, Peshawar in W.P. No. 4181-P of 2018)

<sup>8</sup> See Naveed ul Islami v. District Judge 2023 SCP 32 (Citation on the official website of this Court) on the objectives of imposition of costs.

*Civil service---*

*---Disciplinary proceedings---De novo inquiry, directions for--- Authorized officer (Member, Board of Revenue)---Authorized officer cannot issue directions to the competent authority to decide the disciplinary proceedings in a particular manner nor could he give directions to conduct a de novo inquiry if proceedings were dropped/filed after due consideration.*

The Authorized officer cannot impose any condition or issue directions to the competent authority to decide the disciplinary matter in a particular manner. The holding of inquiry under Civil Servant laws on the allegation of misconduct is a routine affair and a common phenomenon which is triggered after the issuance of a show cause notice and statement of allegations, and when Inquiry Report is submitted to the competent authority then it is their domain, with proper sense of duty, to impose the penalty keeping in mind the gravity of charges, if proved, during the inquiry. It is not mandatory that, in all circumstances, the competent authority should agree with the recommendations of the Inquiry Officer or Inquiry Committee, but in case the competent authority decides to impose a penalty greater than that recommended by the Inquiry Officer, then obviously some reasons are to be assigned with proper application of mind, after providing a right of personal hearing to the accused, and in case the competent authority decides to file the Inquiry Report without taking any action thereon, with proper reasoning, then obviously there would be no justification to expect a de novo inquiry to start from scratch in each and every case without any lawful justification. [p. 1112] A

Petitioner in person.

Asif Hameed Qureshi, Advocate Supreme Court for Respondents.

Respondent No. 7 in person.

Date of hearing: 7th April, 2023.

**JUDGMENT**

MUHAMMAD ALI MAZHAR, J.--This Civil Petition for leave to appeal is directed against the judgment dated 24.04.2020 passed by the Peshawar High Court in W.P. No. 4181-P/2018 whereby the writ petition filed by the respondent No.7 was allowed.

2. The transient facts of the case are that the respondent No. 07 was appointed as Patwari on Ad hoc basis on 14.09.1988 by respondent No. 06 with the condition that the appointment would be made regular after qualifying the Patwar Training Course from a Patwar Training School. According to the petitioner, the respondent No.7 appeared in the

Patwar Course Examination in November, 1996, without possessing the Intermediate Qualification, whereas the petitioner was appointed as Patwari on regular basis on 21.07.1996. Actually, the dispute cropped up between the petitioner and respondent No. 07 with regard to the inter-se seniority as Patwari. The petitioner filed Service Appeal No. 603/2017 before the learned Khyber Pakhtunkhwa Service Tribunal, Peshawar ("Tribunal") which was allowed vide its Judgment dated 26.11.2019. During the pendency of the Appeal, the petitioner on the basis of some documents came to discover some irregularities in the appointment of respondent No. 07, therefore, he filed a complaint to the Chief Secretary, KPK, Peshawar. A fact finding inquiry was conducted and as a result thereof, the Inquiry Officer found the appointment of respondent No. 07 illegal and recommended disciplinary action. The report was forwarded to the respondent No. 06 but, after due consideration, no action was initiated and the respondent No.6 filed the Inquiry Report on the basis that the matter of inter-se seniority between the parties was pending adjudication before the learned Tribunal. The respondent No. 2 directed the respondent No. 6 to comply with recommendation of the Inquiry Officer and conduct de novo inquiry. The respondent No. 07, being aggrieved of the order of conducting de novo inquiry, filed Writ Petition No. 4181-P/2018 in the learned Peshawar High Court which was allowed vide impugned Judgment dated 24.04.2020 with the observation that direction of conducting de novo inquiry resulted in a miscarriage of justice.

3. The petitioner in person argued that the High Court has wrongly held that the petitioner filed the first application dated 21.03.2018, and the second application on the same facts, but as a matter of fact, the petitioner in his service appeal before the Tribunal only questioned the seniority list published in 2017, whereas the second application was for the implementation of the fact finding inquiry report. The administrative order passed by the respondent No. 02 for conducting the fact finding inquiry was in accordance with law. In the revenue hierarchy the ultimate authority is the Senior Member of the Board of Revenue ("BOR"), then come the Members BOR, the Director (Land Record Manual), the Commissioners and the Deputy Commissioners in their respective capacities as provided in the Land Revenue Act, 1967. He further argued that the respondent No.06 was not justified in filing the Fact Finding Inquiry Report instead of taking action on it.

4. Heard the arguments. In fact the bone of contention in the matter was with regard to the eligibility of respondent No.7 to be appointed as a Patwari. The fact finding inquiry was conducted but the competent authority was dissatisfied with the outcome of the inquiry, hence it was filed. After the filing of the report, another application was submitted to

the respondent No.2, whereby the respondent No. 6 was directed to take action in view of the recommendations made by the Inquiry Officer. The respondent No.7 (petitioner before the High Court), being aggrieved by the initiation of the second round of disciplinary action, challenged it in the High Court. The predominant disagreement between the petitioner and respondent No.7 was in essence intertwined with the fixation of inter se seniority which is also reflected in the impugned judgment, that when the recommendations of the Inquiry Officer were submitted to the Deputy Commissioner, he concluded that the claim of Fida Hussain, Patwari (present petitioner) is not sustainable, and may be filed because he and the other Patwaris have filed service appeals which are pending in the Tribunal. The High Court further observed in the impugned judgment that the order of filing the Inquiry was passed on 03.07.2018 by the Deputy Commissioner which was never challenged by the respondent No.7 (petitioner before the High Court), but on 17.07.2018 he moved another application before the respondent No.2 with the same allegations and, on his application, vide office order dated 08.08.2018, the respondent No.6 was directed to initiate further steps in the light of the recommendations of the Inquiry Officer. The competent authority was not bound to accept the recommendations of the Inquiry Officer and the respondent No.6, after considering the facts and circumstances of the case and providing an opportunity of hearing, filed the report. The Authorized officer could not impose any condition or issue directions to the competent authority to decide the matter in a particular manner, therefore the direction of proposed de novo inquiry was rightly not approved by the High Court. In our view also, the holding of inquiry under Civil Servant Laws on the allegation of misconduct is a routine affair and a common phenomenon which is triggered after the issuance of a show cause notice and statement of allegations, and when Inquiry Report is submitted to the competent authority then it is their domain, with proper sense of duty, to impose the penalty keeping in mind the gravity of charges, if proved, during the inquiry. It is not mandatory that, in all circumstances, the competent authority should agree with the recommendations of the Inquiry Officer or Inquiry Committee, but in case the competent authority decides to impose a penalty greater than that recommended by the Inquiry Officer, then obviously some reasons are to be assigned with proper application of mind, after providing a right of personal hearing to the accused, and in case the competent authority decides to file the Inquiry Report without taking any action thereon, with proper reasoning, then obviously in this second limb there would be no justification to expect a *de novo* inquiry to start from scratch in each and every case without any lawful justification.

5. The respondent No.7 has also filed C.M.A. No.5231/2022, which reflects that the petitioner had filed Execution Petition No.57/2020

in his Service Appeal No.603/2017 before the Tribunal for the implementation of the order, which was disposed of on 15.07.2022 with the observation that, in the Tribunal's judgment dated 26.11.2019, the impugned seniority list of the year 2014-15 was set aside and the respondents were directed to draw a fresh seniority list and, as a consequence thereof, the respondent-department, while following the procedure laid down in section 8 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule 17 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, issued the seniority list on 18.01.2022 with which the petitioner was not satisfied at all. The learned Tribunal held that the judgment dated 26.11.2019 has been implemented by the respondents according to its spirit and if the petitioner is aggrieved by the seniority list dated 18.01.2022, it gives a fresh cause of action to the petitioner, who is at liberty to approach the competent forum, if he is so advised.

6. After arguing at some length, the petitioner admitted that his Service Appeal No.1184/2022 is pending before the Tribunal with regard to the fixation of inter se seniority, so he submits that he would be satisfied if some directions are issued to the learned Tribunal to decide his pending appeal expeditiously to which the respondent No.7 and his learned counsel also concede.

7. In the wake of the above discussion, although we do not find any irregularity or perversity in the impugned judgment passed by the learned High Court, but at the same time we feel it is appropriate to dispose of this Civil Petition with the direction to the learned Khyber Pakhtunkhwa Service Tribunal to decide the pending appeal of the petitioner within a period of two months after receiving a copy of this judgment. The petition is disposed of accordingly.

MWA/F-12/SC

Order accordingly.

2023 S.C.M.R. 1113

[Supreme Court of Pakistan]

Present: Munib Akhtar and  
Sayed Mazahar Ali Akbar Naqvi, JJ

SARDAR MUHAMMAD (DECEASED)

through LRs---Appellant

versus

TAJ MUHAMMAD (DECEASED)  
through LRs and others---Respondents

Civil Appeal No. 840 of 2017, decided on 6th April, 2023.



کورٹ فیس

وکالت نامہ 29 P.

Service Tribunal left Peshawar عدالت

Miss Ayesha Bureshi بنام Govt of left عنوان

Appellant متجانب:

Service Appeal نوعیت مقدمہ:

باعث تحریر آنکہ

مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی و جواب دہی کل کاروائی متعلقہ آں مقام

Atd: Muhammad Arshad Khan Tanoli Asc of Peshawar

محمد ارشد خان تانولی صاحب موصوف و مقدمہ کی کل کاروائی کا کانس اختیار ہوا ہے

صاحب موصوف کو کرنے راضی نامہ و تقرر ثالث و فیصلہ برحلف و دینے اقبال دعویٰ اور بصورت دیگر ڈگری

کرانے اجراء وصولی چیک روپیہ و عرضی دعویٰ کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا اور بصورت

ضرورت مقدمہ مذکور کی کل یا کسی جزوی کاروائی کے لئے کسی اور وکیل یا مختار صاحب قانونی کو اپنے ہمراہ اپنی

جگہ تقرر کا اختیار بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا

ساختہ پرداختہ مجھ کو منظور و قبول ہوگا۔ دوران مقدمہ جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب ہوگا اس کے

مستحق وکیل صاحب ہوں گے۔ نیز بقایا رقم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی پیشگی مقام دورہ پر ہوا

حد سے باہر ہو تو وکیل صاحب موصوف پابند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اور اگر مختار مقرر کردہ میں

کوئی جزو بقایا ہو تو وکیل صاحب موصوف مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست براد

استجارت نالاش بصیغہ مفلسی کے دائر کرنے اور اس کی پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔

لہذا وکالت نامہ تحریر کیا تاکہ سند رہے۔

محمد ارشد خان تانولی

Muhammad Arshad Khan Tanoli Asc of Peshawar

المرقوم: Acep

Muhammad

Abraham Khan Adv

Adv Atd

دہلی ڈسٹریکٹ بھری (دہلی آباد)