

**BEFORE THE HONORABLE SERVICE TRIBUNAL,**  
**KHYBER PAKHTUNKHWA.**

SERVICE APPEAL NO. 563/2023

PROF. SHARIF GUL

.....(Appellant)

VERSUS

GOVERNMENT OF KHYBER PAKHTUNKHWA  
THROUGH SECRETARY HIGHER EDUCATION,  
DEPARTMENT.

.....(Respondents)

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SECTION OFFICER (LIT)  
HIGHER EDUCATION DEPARTMENT

①

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR.**

**SERVICE APPEAL NO. 563/2023**

Prof. Shareef Gul

Khyber Pakhtunkhwa  
Ser  
6714  
Dated 26/07/23  
..... Appellant.

**VERSUS**

Government of Khyber Pakhtunkhwa and others

..... Respondents.

**JOINT PARA-WISE COMMENTS ON BEHALF OF RESPONDENT NO. 1, 2 And 3.**

Respectfully Sheweth: -

**PRELIMINARY OBJECTIONS: -**

1. The appellant has neither cause of action nor locus standi to file the instant service appeal in this honorable Service Tribunal.
2. That the Appellant is estopped by his own conduct to file the instant appeal.
3. The appellant has not come with clean hands to this honorable tribunal and concealed material facts disclosure thereof may disentitle the appellant from the relief as prayed for.
4. That filing of this appeal is futile exercise and wastage of precious time of this Honorable Service Tribunal, liable to be dismissed forthwith.
5. That the instant appeal is not maintainable in its present form.
6. That the appeal in hand is barred by limitation.
7. The instant appeal is bad for non-joinder of necessary parties.

**ON FACTS: -**

1. Correct. However, the appellant assumed charge as lecturer in Botany on 11.11.1987.
2. Correct. However, services of the appellant were regularized w.e.f 23.01.1988.
3. Pertains to record.
4. Pertains to record.
5. Pertains to record.
6. Pertains to record.
7. Correct, with further explanation that merely approval was accorded to the 5-tier formula by the Finance Department while SSRC rules were notified on 12.09.2022 (**Annex-A**) after the retirement of the appellant and thus came into force after the notification ibid.
8. Correct, with further explanation that the implementation of 5-tier formula is not possible without issuance of Audit Copy from Finance Department which is part of the process that is completed after the approval and notification of SSRC Rules.
9. Pertains to record however, the appellant alongwith other applicants submitted numerous applications from time to time for the implementation of the formula ibid and requested for promotion to the post of Professor (BPS-21) which were sent to the Directorate of

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Higher Education Department to work on the Working Paper with regards to the Appellant which was replied to by the Director Higher Education that the Service Rules of Five-Tier formula for the post of Professor (BPS-21) have not been notified yet and cases under the same formula/service structure will be processed after its proper approval/Notification. It is worth mentioning here that the formula ibid (SSRC Rules) has been properly approved and notified on 12.09.2022. (Annex-B)

10. Correct, with further explanation that such meetings were scheduled from time to time for the purpose of finalizing SSRC Rules/implementation of 5-tier formula.
11. Correct, with further explanation that as the Appellant himself stated that Draft Rules were sent for approval which does not mean Implementation of the said Rules as the same were discussed and amended from time to time before proper approval/notification of the said Rules after the SSRC Meeting i.e. 12.09.2022.
12. Correct, with further explanations that as the appellant/applicants submitted numerous applications for the implementation of the formula ibid from time to time prior to the proper approval and notification of the Service Rules by the concerned Authority. Therefore, the promotion of the appellants to the post of Professor (BPS-21) could not be considered without Service Rules which are necessary for Promotion and working on such posts/positions. Moreover, the appellant stood retired from Government Service on 01.04.2021 (Annex-C) long before the Notification of Service Rules that is i.e. 12.09.2022.
13. Correct, with further explanation that the implementation of the said formula was in pipeline, therefore, due to which the promotion cases to the post of Professor (BPS-21) could not be processed.
14. Incorrect, hence denied. As the appellant could not be considered for promotion before the approval/Notification of said formula, therefore, the appellant has no legal grounds to file and to obtain any relief in the instant case.


**ON GROUNDS: -**


- A. Incorrect, hence denied. The appellant has been dealt with in accordance with law and no discrimination has been done to him.
- B. Incorrect, hence denied. The appellant has been dealt within the four corners of law/Rules.
- C. Incorrect, hence denied. The appellant has been treated in accordance with Law & Rules. Without any discrimination.
- D. Para is Legal, hence left to the wisdom of this Honorable Tribunal.
- E. Para is Legal, hence left to the wisdom of this Honorable Tribunal.
- F. Incorrect, hence denied, as explained in the preceding paras "on facts".
- G. Para is Legal, hence left to the wisdom of this Honorable Tribunal.
- H. Para is Legal, hence left to the wisdom of this Honorable Tribunal.
- I. Incorrect, hence denied. The appellant has been dealt in accordance with law and there is nothing malafide on part of the respondents.
- J. Incorrect, hence denied. The appellant has been dealt within the four corners of law/Rules.

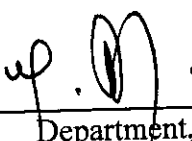
- (7)
- K. Incorrect, hence denied. The appellant has been dealt within the four corners of law/Rules.
- L. Incorrect, hence denied. The appellant has been dealt within the four corners of law/Rules.
- M. Incorrect, hence denied. The appellant has been dealt within the four corners of law/Rules.
- N. That the respondents may also be allowed to raise further grounds at the time of arguments before the honorable Service Tribunal.

**Prayer: -**

In view of the above submissions, it is humbly prayed that the Service Appeal in hand may graciously be dismissed with costs.

  
**Respondent No. 1.** \_\_\_\_\_  
Chief Secretary, Government of Khyber  
Pakhtunkhwa, Peshawar.

  
**Respondent No. 2.** \_\_\_\_\_  
Secretary, Higher Education Department, Khyber  
Pakhtunkhwa, Peshawar.

  
**Respondent No. 3.** \_\_\_\_\_  
Secretary, Finance Department, Khyber  
Pakhtunkhwa, Peshawar.

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**PESHAWAR**

**SERVICE APPEAL NO.563/2023**  
**PROF. SHARIF GUL**

..... **Appellant.**

**Versus**

**GOVT. OF KHYBER PAKHTUNKHWA**  
**& OTHERS**

..... **Respondents.**

**AFFIDAVIT**

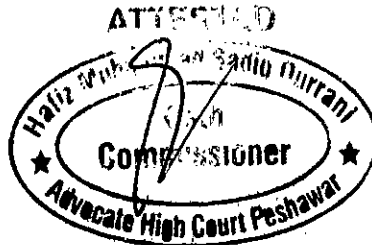
I, Qazi Muhammad Ayaz, Section Officer Litigation/ Litigation Officer (BPS-17), Higher Education Department do hereby solemnly declare and affirm on oath, that the contents of para wise comments on Behalf of Respondents is correct to the best of my knowledge and belief and that nothing has been concealed therein from this Hon'able Court. It is further submitted on oath that the respondents have neither been placed ex-party nor that defense have been struck-off.

*[Handwritten Signature]*  
Deponent

CNIC No.17301-7027499-5

Tel/Mob:091-9211027

26 JUL 2023



Annexure A



# GOVERNMENT OF KHYBER PAKHTUNKHWA HIGHER EDUCATION, ARCHIVES & LIBRARIES DEPARTMENT

Dated Peshawar the 12<sup>th</sup> September, 2022

## NOTIFICATION

**NO.SO(C-II)/HED/2-5/2022/SSRC/4057-62** In pursuance of the provisions contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 and in supersession of all previous Notifications issued in this behalf, the Higher Education, Archives and Libraries Department, in consultation with the Establishment Department and the Finance Department hereby lays down the method of appointment, qualification and other conditions specified in the column No. 3 to 5 of the APPENDIX which shall be applicable to the posts in the faculty of General College Cadre as specified in column No. 2 of the APPENDIX:

### APPENDIX

S. No.	Nomenclature of Post	Minimum Qualification for appointment by initial recruitment	Age Limit	Method of Recruitment
1.	Principal (BPS-21)	---	---	By promotion on the basis of seniority-cum-fitness from amongst the holder of the posts of the Professors (BPS-20) with at least three years' service as such and have successfully completed mandatory training of four (04) months.
2.	Principal (BPS-20)/ Principal (BPS-19)	---	---	By transfer from amongst the Professors (BPS-20) or Associate Professor (BPS-19), as the case may be.

Section Officer (C.II)  
Govt. Of Khyber Pakhtunkhwa  
Higher Education,  
Archives & Libraries Department

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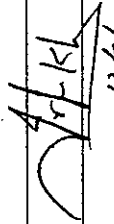
Section Officer (Librarian)  
& Libraries Department  
Khyber Pakhtunkhwa

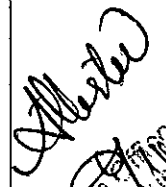
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3.	Professor (BPS-20)	Ph.D in the relevant subject with twelve (12) years' experience in College Cadre or a HEC Recognized Universities/ DAI's having published (05) research papers in HEC recognized journals	40-50 years	<p>(a) 90% by promotion, on the basis of seniority-cum-fitness, from amongst the persons holding the post in BPS-19 in the College Cadre having successful completion of mandatory training of thirty (30) days with at least:-</p> <ul style="list-style-type: none"> <li>(i) Five (5) years' service in BPS-19 as such in case of person initially appointed in BPS-19; or</li> <li>(ii) Twelve (12) years' service in BPS-18 as such and above in case of person initially appointed in BPS-18; or</li> <li>(iii) Seventeen (17) years' service in BPS-17 and above;</li> </ul> <p>(b) 10% by initial recruitment.</p>
4.	Associate Professor (BPS-19)	<p>(i) Ph.D or equivalent qualification in the relevant subject from recognized University with nine (09) years teaching/research experience in a recognized College/University or professional experience in the relevant field and at least Two (02) research publications as a Principal author in HEC recognized journals;</p> <p style="text-align: center;">or</p> <p>(ii) MS/M.Phil or equivalent qualification in the relevant subject from a recognized University with eleven (11) years teaching/research experience in a recognized College/University or professional experience in the relevant field with at least Four (04) research publications as a Principal author in a HEC recognized journals;</p> <p style="text-align: center;">or</p> <p>(iii) Second Class Master's degree or equivalent qualification in the relevant subject from a recognized University with Twelve (12) years teaching/research experience in the recognized College /University</p>	30-45 years	<p>(a) 80% by promotion on seniority-cum-fitness basis, from amongst the Assistant Professors (BPS-18) having successful completion of mandatory training of thirty (30) days with at least;</p> <ul style="list-style-type: none"> <li>(i) Seven (07) years' service in BPS-18 in case of person initially appointed in BPS -18; or</li> <li>(ii) Twelve (12) years' service in BPS-17 and above; and</li> </ul> <p>(b) 20% by initial recruitment.</p>

  
 12/1/22  
 Section Officer (C-II)  
 Govt. Of Khyber Pakhtunkhwa  
 Higher Education  
 Archives & Libraries Department

  
 Section Officer (Librarian)  
 Higher Education, Archives  
 & Libraries Department  
 Khyber Pakhtunkhwa

5.	Assistant Professor (BPS-18)	(i) Ph.D in the relevant subject from a recognized University with three (03) years teaching/research experience in a recognized College/University; or (ii) MS/M.Phil. or equivalent qualification in the relevant subject from a recognized University with five (05) years teaching/research experience in a recognized College/University; or (iii) Second Class Master's degree or equivalent qualification in the relevant subject from a recognized University with seven (07) years' experience in a College Cadre or recognized Universities/ DAI's.	25-40 years	(a) 80 % by promotion, on seniority-cum-fitness basis, from amongst the Lecturers with at least five (05) years' service in BPS-17 as such and having successful completion of mandatory training prescribed by the Government for College Teachers in BPS-17 from time to time; and  (b) 20 % by initial recruitment.
6.	Lecturer (BPS-17)	Second Class Master's degree or equivalent qualification in the relevant subject from a recognized University.	21-30 years	By initial recruitment.

Note: College Cadre Teachers in BPS-19 and BPS-20 shall be exempted from the mandatory training after attaining the age of 58 years or above.

SECRETARY TO GOVT.  
OF KHYBER PAKHTUNKHWA  
HIGHER EDUCATION DEPARTMENT

Endst: No.SO(C-II)/HED/2-5/2022/SSRC

Copy is forwarded to the: -

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Secretaries to Govt. of Khyber Pakhtunkhwa, Establishment, Finance & Law Department.
3. Secretary to Govt. of Khyber Pakhtunkhwa, Public Service Commission, Peshawar.
4. Manager Printing Press Khyber Pakhtunkhwa Peshawar with the request for publishing in official gazette.
5. Director Higher Education, Khyber Pakhtunkhwa, Peshawar.
6. Director-IT, (HEMIS Cell), Higher Education Department.
7. PS to Minister for Higher Education Department.
8. PS to Secretary Higher Education Department.
9. Master File.

4/12/22  
9/12/22  
Section Officer (Librarians)  
& Archives  
Higher Education Department  
Khyber Pakhtunkhwa

12/9/22  
SECTION OFFICER (COLLEGES-II)

Section Officer (C.II)  
Govt. Of Khyber Pakhtunkhwa  
Peshawar





GOVERNMENT OF KHYBER PAKHTUNKHWA  
HIGHER EDUCATION, ARCHIVES &  
LIBRARIES DEPARTMENT  
CIVIL SECRETARIAT

NO.SO(C-I)/HE/1-1/Joint Appeal for Promotion /6472  
Dated Peshawar the 14/04/2021

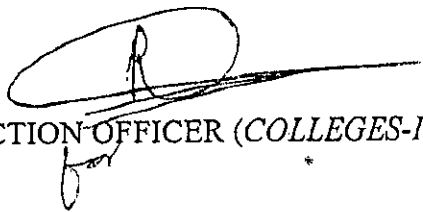
To

The Director,  
Higher Education Khyber Pakhtunkhwa,  
Peshawar.

Subject: - JOINT APPEAL FOR COMPLETE IMPLEMENTATION OF 5-TIER  
FORMULA AND CONVENING PROVINCIAL SELECTION BOARD  
MEETING FOR PROMOTION TO BPS-21, PRIOR TO RETIREMENTS.

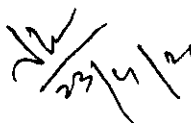
I am directed to refer to the subject noted above and to enclose herewith a copy of self-explanatory application submitted by Prof. Sharif Gul and Prof. Abdul Jabbar with the request to work on the Working Paper with regard to these officers, so that the same may be sent to Establishment Department for the forthcoming PSB meeting, please.

Encl. As above.

  
SECTION OFFICER (COLLEGES-I)

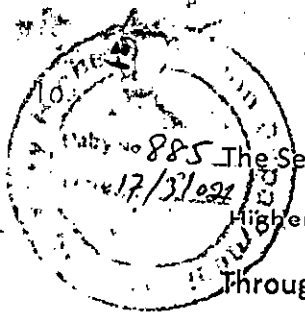
  
Section Officer (Litigation)  
Higher Education, Archives  
& Libraries Department  
Khyber Pakhtunkhwa

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Khyber Pakhtunkhwa  
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The Secretary to Government of Khyber Pakhtunkhwa,  
Higher Education Archives and Libraries Department Peshawar.

Through Proper Channel,

Subject: JOINT APPEAL FOR COMPLETE IMPLEMENTATION OF 5-TIER FORMULA AND CONVENING PROVINCIAL SELECTION BOARD MEETING FOR PROMOTION TO BPS-21, PRIOR TO OUR RETIREMENT

R/Sir,

We the senior professors of Higher Education Department College Sector humbly submit the following facts and figures for your kind consideration and necessary action that:

1. The Government of Khyber Pakhtunkhwa has accorded approval to the 5-tier formula for college teachers of the Higher Education Department w.e.f 1<sup>st</sup> July 2020.
2. Consequent upon the partial implementation of the same 5-tier formula, many college teachers got posting, transfer and promotion to the higher grades on these newly created posts, ranging from BPS-17 to BPS-20; while promotion of 5<sup>th</sup> tier i.e. BPS-21 is still awaited for want of convening PSB meeting and delay in the notification of the approved minutes of S.S.R.C meeting for drafting the document in legal language.
3. We are the senior most Professors of the Higher Education Department in BPS.20, and fully entitled for promotion to BPS-21 but due to partial implementation of the 5-tier formula in the Higher Education Department we are deprived of our genuine right of timely promotion.
4. Keeping in view our meritorious services for more than 30 years in the Higher Education Department, we the senior most professors submit a humble request for complete implementation of 5-tier formula and convening PSB meeting for our promotion to BPS-21 before our retirement in April, 2021. Hope that our genuine request mentioned in the subject above, will be honored in the last days of our active service. We will be thankful for the quick action and support extended to us for a genuine cause based on justice and equality.

Best regards,  
Your Sincerely, *A. Jabbar* 15/03/2021

1. Prof: Sharif Gul,  
Principal GSSC Peshawar  
Date of retirement. 01-04-2021.  
Cell # 03339139880

2. Prof: Abdul Jabbar,  
Principal GDC Kohi Sher Haider, Bara  
Date of retirement. 17-04-2021  
Cell # 03339103767

Copy for information to the:

1. PS to the Chief Secretary, Higher Education Department, Government of Khyber Pakhtunkhwa, Peshawar.

*Allee*  
Section Officer (Litigation)  
Higher Education Archives  
Higher Education Department  
Khyber Pakhtunkhwa

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

THROUGH PROPER CHANNEL.

Subject: - IMPLEMENTATION OF 5-TIER FORMULA.

R/Sir,

It is humbly submitted before your esteemed and venerated office that the Government of Khyber Pakhtunkhwa very kindly accorded approval to the 5-tier formula for the teachers of Higher Education Department.


In this regard, I have the following submissions to present before your honor.


1. Minutes of the meeting of S.S.R.C have been approved and some of our colleagues have got promotions on the basis of the new 5-tier formula i.e. formula implemented from BPS-17 to BPS-20.
2. The issuance of Notification of BPS-21 is still pending in the plea that the same is being checked and amended by the law department as per legal language being the requirement of such documents. As per my assessment, this is being done to delay the case.
3. I am the Principal (BPS-20) of Government Superior Science College, Peshawar. My retirement is due on 1<sup>st</sup> April 2021. Like a number of our colleagues who got retired without getting their due right of promotion to BPS-21, this delay in the issuance of Notification will deprive me as well as a number of other grade 20 officers of HED, of our due right of promotion to BPS-21.

It is therefore, requested that the matter may please be intervened in personally and a special P.S.B meeting may please be convened for the promotion of BPS-20 officers in early March 2020, thus enabling us to be honored with Grade 21 and rid of a sense of frustration and deprivation.

Best regards.

Yours truly,

  
Section Officer (Litigation)  
Higher Education, Archives  
& Libraries Department  
Khyber Pakhtunkhwa

  
(Sharif Gul)  
Principal  
GSSC, Peshawar

Copy for information to the:

1. PS to the Chief Secretary, Higher Education Department, Government of Khyber Pakhtunkhwa, Peshawar.



**DIRECTORATE OF HIGHER EDUCATION**

**KHYBER PAKHTUNKHWA**

**Rano Garhi, Peshawar**

Tel # 091-2650025 / 2650024

E-mail:- [dhekpesh@gmail.com](mailto:dhekpesh@gmail.com)

Facebook.com/dhekpeshawar Twitter.com/dhekpeshawar

No. 2809

/ CA-1/ Estt Branch/A-12/ Abdul Jabbar/ Botany

Dated Peshawar the 6/5 /2021

To

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

**SUBJECT: JOINT APPEAL FOR COMPLETE IMPLEMENTATION OF 5-TIER FORMULA AND CONVENING PROVINCIAL SELECTION BOARD MEETING FOR PROMOTION TO BPS-21 PRIOR TO RETIREMENTS.**

Respected Sir, السلام عليكم

I am directed to refer to your letter No. SO(Colleges-I)/HE/1-1/Joint Appeal for Promotion/6472 dated 14.04.2021 on the subject cited above and to state that the Service Rules of 5-tier formula for the post of Professor (B-21) has not been notified yet and cases under the same formula /service structure will be framed after its proper approval/ Notification, please.

Yours Faithfully,

*(Signature)*  
*(Mohammad Bashir)* 6/5/2021

**BY: DIRECTOR (ESTABLISHMENT)**

*(Signature)*  
Attested  
Section Officer (Liaison)  
Higher Education & Archives  
& Librarians Department  
Khyber Pakhtunkhwa

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GOVERNMENT OF KHYBER PAKHTUNKHWA  
HIGHER EDUCATION, ARCHIVES &  
LIBRARIES DEPARTMENT  
CIVIL SECRETARIAT

Dated Peshawar the 23/04/2021

**NOTIFICATION**

**NO.SO(C-1)/HE/1-9/LPR/2021/Sharif Gul:**Sanction is hereby accorded to the grant of 365-days leave encashment in lieu of L.P.R. in respect of Mr. Sharif Gul, Ex-Professor (BPS-20) of Economics / Ex-Principal, Government Superior Science College, Peshawar under the Rule-20 of the Revised Leave Rules-1981.

The officer concerned stood retired from Government Service with effect from 01.04.2021(A.N) on attaining the age of superannuation.

SECRETARY  
HIGHER EDUCATION DEPARTMENT

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

*Copy forwarded to the:*

1. Accountant General Khyber Pakhtunkhwa, Peshawar.
2. Director, Higher Education Khyber Pakhtunkhwa, Peshawar w/r to his letter No.2328/CA-I/Estt: Branch/A-12/Sharif Gul/Economics dated 16.04.2021.
3. Principal, Government Superior Science College, Peshawar.
4. Director (HEMIS), Higher Education Department.
5. Officer concerned.
6. Master File.

SECTION OFFICER (COLLEGES-I)



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

**AUTHORITY LETTER**

Mr. Qazi Muhammad Ayaz, Section Officer Litigation/ Litigation Officer (BPS-17), Higher Education Department, is hereby authorized to submit Joint para wise comments in the Khyber Pakhtunkwa Service Tribunal, Peshawar in SA No. 563/2023 titled Prof. Sharif Gul VS Govt. of Khyber Pakhtunkwa & others on behalf of official Respondents.

**DEPUTY SECRETARY (LITIGATION)**  
**Higher Education Department**  
**Govt. of Khyber Pakhtunkhwa**  
**Higher Education Archives &**  
**Libraries Department**