

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Nazara

..... Appellant

VERSUS

Director Professional Development

..... Respondent

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Dated 12.09.2023

Respondent

Through


Shahid Aziz

Senior Instructor (BPS-13)
DPD Khyber Pakhtunkhwa
Peshawar

BEFORE THE HONOURABLE COURT OF SERVICE TRIBUNAL

Appeal No.136/²2023

Khyber Pakhtukhwa
Service Tribunal

Diary No. 8785

Dated 1/11/2023

NAZRA

PETITIONER

VERSES

DIRECTORATE OF PROFESSIONAL DEVELOPMENT KP PESHAWAR

RESPONDANT NO. 1

Para Wise Comments behalf of Respondent No.1

Respectfully Sheweth

ON FACTS

- 1) Para 1 is pertaining to record, needs no comment.
- 2) Para 2 is pertaining to record, needs no comment.
- 3) Para 3 Residential accommodation on private basis is no issue. The applicant applied for the residential accommodation, for which she was not entitled. She is Primary teacher of BPS-15 and the residency for which she has applied, is for BPS-17 and above. The concerned Principal of RPDC are only recommendable authorities, the allotment authority is the Director (DPD).
- 4) Para 4 I am directed to refer to your Office notice No.1362 dated 04/09/2023 on the subject cited above and to state that before merging of ex FATA into KP all the four RPDCs i.e RPDC(M/F) Jamrud, RPDC (M) NWA and PDC (M) FR Bannu were under the administrative control of Director FATA (Education). All the Bangalow's and quarters were allotted to the Education Department employees as per Ex-FATA procedure. After merger of NMDz into KP, all the RPDCs M/F (copy attached). On 17/03/2021 Provincial Institute of Teacher Education was elevated to DPD KP and all the RPDCs (M/F) were declared under the administrative control of Director DPD KP Peshawar.

- 5) Para 5 in the light of above letter issued by DCTE Abbottabad the PSHT BPS-15 Mst: Nazra has no legal right to stay in the Bangalow No.7 of RPDC (F) Jamrud District Khyber.
- 6) Para 6-7 as commented in para 4.
- 7) Para Director DPD (Directorate of Professional Development is authorized for the allotment of bungalows located under the jurisdiction of its regional Offices. The concerned Principal will only recommend the case to the Additional Director Admin Directorate of Professional Development, and he will put the case before the Director.
- 8) Para 9 No comment.
- 9) Para 10 According to the court of Senior Civil Judge, Khyber, case title Mst: Nazra VS Principal RPDC & others, case No. 18/1 of 2023. Order 12 dated 19/05/2023. The court has issued orders for vacation of official accommodation allotted to the former, besides impugning the legality of allotment of said official accommodation in favor of respondent No.4(appeal 1362).i.e. Mst: Sadaf Asraf Subject Specialist at Regional Professional Development Centre (F) Jamrud District Khyber.

GROUNDS FOR APPEAS

- 1) Para A Comments on as on para 4.
- 2) Para B,C,D i) Mst :Nazrs total deduction =PRs. $35244196 = PRS4720/-$ per month
- ii) Required deduction B-17 = PRs $8750+2844 = PRs 11594/-$ per month
- iii) Difference = $11594 -4720 = PRs 6874/-$ per month

So, the deduction made from Mst: Nazra PSHT (complainant) is less than the require deduction i.e. Rs.11594/ per month which is contrary to HRA rules and may lead to serious audit issues.

Additional Director (Admin)
Directorate of Professional Development
Khyber Pakhtunkhwa, Peshawar

✓
DIRECTORATE OF CURRICULUM AND TEACHER EDUCATION KHYBER

PAKHTUNKHWA ABBOTTABAD

No. 6677-47
JAD/PBD/NTE(P)Sd/2015

(1)

- 1-20. All Principals,
Regional Institute of Teacher Education
(Male/Female) in Khyber Pakhtunkhwa
21. Principal,
Govt. College of Physical Education
Karak

Subject:
Memo:

ALLOTMENT OF RESIDENTIAL QUARTERS


I am directed to refer to the subject noted above and in compliance with letter No. 50 (Comp)&SED/Khyber Pakhtunkhwa/1-62/2015/V/aheddy/SE-189 dated 13.11.2015 received from Section Officer (Comp) ERSE Department Govt. of Khyber Pakhtunkhwa alongwith copy of letter regarding finding of Honorable Provincial Ombudsman Khyber Pakhtunkhwa, Peshawar for implementation of the following decision taken therein in connection with regulating the allotment of residential quarters/flungarows lying within the premises of RITE (M/F) of the Province.

DECLARATION OF PRINCIPALS/HEADS/ASSTANTS/CUSTODIANS OF QUARTERS

1. Concerned Principal of RITE(M/F) being Head of the Institution are the custodians of their Institutions & will be wholly sole incharge/responsible for the entire affairs of the residential accommodation constructed within its premises.
2. All the residential quarters/accommodation lying within the premises of RITE (M/F) will be looked after by its concerned Principals.

S.O.P FOR ALLOTMENT OF RESIDENTIAL ACCOMMODATION/QUARTERS WITHIN PREMISES OF RITE (M/F)

1. The designated accommodation where constructed in the RITE (M/F) are meant as residential accommodation of the Head of the Institutions, hence the said accommodation will not be allotted to anyone else & will remain in the name of Institutions as his/her designated accommodation.
2. Deduction of house rent of designated accommodation has to be deducted from the monthly salary of the Head of the Institution unless it is occupied by himself or otherwise.
3. The accommodation lying within the premises of RITE (M/F) is meant only for the employees of DCTE/RITE (M/F) of Khyber Pakhtunkhwa, hence the said residential accommodation will not be allotted to anyone else except staff of DCTE/RITE (M/F) of the Province.
4. The Director, DCTE Khyber Pakhtunkhwa is the competent authority for allotment of residential accommodation lying within premises of RITE (M/F) of the Province on the recommendations of Committee headed by Deputy Director (Admin) including Assistant Director (P&D) & concerned Principal as its members.
5. Each & every Principal shall maintain record of residential accommodation through a separate register indicating occupancy/course of study of residential accommodation with its type, total area, location, area, number of rooms including bath room, kitchen, store etc.
6. Complete file/data of its custodian/allottees in maintenance with name of allottees, parents etc, if any, date of allotment/occupation, deduction of monthly house rent with five percent, if leviable.
7. It may be ensured that no illegal occupant is residing in the accommodation of his/her RITE.
8. It may also be ensured that deduction of monthly house rent at prescribed rate and other utility bill, etc are regularly deducted /paid by the allottees.
9. Safeguard of the Govt. property/equipments installed within Govt. accommodation will be the task and responsibility of Head of Institution/occupant concerned.
10. If any kind of delinquency is detected or complaint is received, the Principal (concerned) will be held responsible.
11. All kinds of application of staff of DCTE/RITE (M/F) for allotment of residential accommodation will be submitted to Principal concerned.
12. Concerned Principal shall develop a register list of the applicant applying for residential accommodation with request Director DCTE Khyber Pakhtunkhwa by calling meeting of committee for decision on allotment.


Senior Instructor
Director of Residential Quarters
Department of Physical Education
Karak

P(95)

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DIRECTORATE OF CURRICULUM AND TEACHER EDUCATION KHYBER
PAKHTUNKHWA ABBOTABAD

NO 6677-47/AD(P&D) RITE (F) DABGARI

Dated: 30/11/2015

To

All Principals
Regional Institute of Teacher education
(M/F) in Khyber Pakhtunkhwa.

Subject: **ALLOTMENT OF RESIDENTIAL QUARTERS**

Memo:-

I am directed to refer to the subject noted above and in compliance with letter No SO(Comp) E&SEED/Khyber Pakhtunkhwa/1-26/2015/waheeda/SE-189 dated 13-11-2-15 received from Section Officer (Comp) E&SE Department Govt of Khyber Pakhtunkhwa along with copy of letter regarding finding of Honorable Provincial Ombudsman Khyber Pakhtunkhwa, Peshawar for implementation of the following decision taken there in connection with regulating the allotment of residential Quarters/Bungalows lying within the premises of RITE(M?F) of the Province.

DECLARATION OF PRINCIPALS RITE(M/F) AS CUSTODIANS OF QUARTERS

1. Concerned Principals of RITE(M/F) head of the institution are the custodians of their institutions & will be wholly sole Incharg/responsible for the entire affairs of the residential accommodation constructed within its premises
2. All the residential quarters/bungalows/accommodation lying within the premises of RITE (M/F) will be looked after by the concerned Principals.

S.O.P FOR ALLOTMENT OF RESIDENTIAL ACCOMODATION LYING WITHIN THE PREMISES OF RITE (M/F)

1. The designated accommodation where constructed in the RITE (M/F) are meant as residential accommodation of the Head of the Institution, hence the said accommodation will not be allotted to anyone else and will remain in the name of head of Institutions as his/her designated accommodation.
2. Deduction of house rent of designated accommodation has to be deducted from the monthly salary of the Head of the Institution either as occupied by him/her or otherwise.
3. The accommodation lying within the premises of RITE (M/F) is meant only for the employees of DCTE/RITE (M/F) of Khyber Pakhtunkhwa, hence the said residential accommodation will not be allotted of anyone else except staff of DCTE/RITEs (M/F) of the Province.
4. The Director, DCTE Khyber Pakhtunkhwa is be the competent authority for allotment of residential accommodation lying within premises of RITE (M/F) of the Province on the recommendations of Committee headed by Deputy Director (Admn) including Assistant Director (P&D) & concerned Principal as its members.
5. Each and every Principal shall maintain record of the residential accommodation through a separate register indicating, bungalow/Quarter no. detail of available accommodation with its types, total area covered area, number of rooms including bath room, kitchen store etc.

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- 13. All existing unauthorized occupants of Bungalow/Quarters be issued three notices to vacate the accommodation and then approach to their Parent Department with similar request for vacation, if no positive response is achieved, Deputy Commissioner and District Police Officer of the concerned District be requested to assist the Department in vacating the Govt: property/building
- 14. The accommodation can be vacated with one month notice from either side.
- 15. In case of retirement/death, the accommodation will remain with family of retired/deceased servant for three months.
- 16. All other terms & conditions notified by Estate Office of Establishment & Administration Department, Govt: of Khyber Pakhtunkhwa, relating to allotment of Govt: accommodation, where applicable will be applied on the Govt: accommodation lying within the premises of RITE (M/F) of the Province.

[Signature]
 Deputy Director (Admn:)
 DCTE Khyber Pakhtunkhwa
 Abbottabad
 20/11/15

Encls: No.

Copy of the above is forwarded to:-

- 1. The Senior Investigation Officer, Provincial Ombudsman Secretariat, Khyber Pakhtunkhwa, Phase-V Near NADRA Head Office, Hayatabad, Peshawar.
- 2. The Section Officer (Complain) E&SE Department Govt: of Khyber Pakhtunkhwa w/r to his letter No. SO. (Comp)E&SED/Khyber Pakhtunkhwa/3-62/2015/Waheeda /SE-189 dated 13.11.2015
- 3. PS to Secretary E&SE Department Govt: of Khyber Pakhtunkhwa Peshawar

sd -
 Deputy Director (Admn:)
 DCTE Khyber Pakhtunkhwa
 Abbottabad

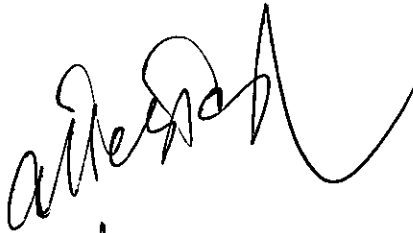
[Signature]
 Senior Instructor
 (BS-18)
 Directorate of Professional
 Development, Khyber Pakhtunkhwa Peshawar

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6. Complete Bio-data of its custodian/allottees be maintained with name of allottees, parentage, post BPS, date of allotment/occupation, deduction of monthly house rent with five percent, if leviable.
7. It may be ensured that no illegal occupant is residing in the accommodation of his/her RITE.
8. It may also be ensure that deduction of monthly house rent at prescribed rate and other utility bills, etc are regularly deducted/paid by the allottees.
9. Safeguard of the Govt: property/equipment installed within Govt: accommodation will be the risk and responsibility of the Head of the Institution/occupant concerned.
10. If any kind of deficiency is detected or complaint is received, the Principal (concerned) will be held responsible.
11. All kinds of applications of staff of DCTE/RITE (M/F) for allotment of residential accommodation will be submitted to Principal concerned.
12. Concerned Principal shall develop a merit list of all applicants applying for residential accommodation and will request Director DCTE Khyber Pakhtunkhwa for calling meeting of committee for decision of allotment.
13. All existing unauthorized occupants of Bungalow/Quarters be issued three notices to vacate the accommodation and then approach to their parent department with similar request for vacation, if no positive response is achieved, Deputy Commissioner and District Police Officer of the concerned District be requested to assist the Department in vacating the Govt: property/building.
14. The accommodation can be vacated with one month notice from either side.
15. In case of retirement/death, the accommodation will remain with family of retired/deceased servant for three months.
16. All other terms & conditions notified by Estate Office of Establishment & Administration Department, Govt: of Khyber Pakhtunkhwa, relating to allotment of Govt: accommodation, where applicable will be applied on the Govt: accommodation lying within the premises of RITE(M/F) of the Province.



Senior Instructor
(BS-18)
Directorate of Professional
Development KP Peshawar



Deputy Director (Admin)
DCTE Khyber Pakhtunkhwa
Abbottabad

FORM "A"
FORM OF ORDER SHEET
Court of Senior Civil Judge, Khyber.
Case Title: Mst. Nazira vs Principle PRDC & others
Case No: 18/1 of 2023

(Handwritten marks and circled number 4)

Serial No: of Order or Proceedings	Date of order or Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
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Order.....10 11/05/2023

Plaintiff through attorney while defendants through assistant of district attorney are present. Former sought time for arguments on the ground of non-availability of his counsel, who is unable to attend the court today due to outburst in the aftermath of political crises in the country. Similar request was also sought by assistant of district attorney. Both the requests are allowed. Case to come up for arguments on maintainability on 17/05/2023.

(IMRANULLAH)
Senior Civil Judge,
Khyber.

Order.....11 17/05/2023

Parties are present. Arguments on maintainability heard. Case to come up for order on 19/05/2023.

(IMRANULLAH)
Senior Civil Judge,
Khyber.

Order.....12 19/05/2023

Plaintiff through attorney while defendants through representative are present. Arguments on maintainability already heard and record perused.

Perusal transpired that plaintiff has challenged the action of defendants No. 1 to 5 whereby letter have issued orders for vacation of official accommodation allotted to the former

19.5.23
Senior Instructor
(BS-16) Professor
Directorate of Professional
Development, Khyber Peshawar

FORM "A"
FORM OF ORDER SHEET
 Court of Senior Civil Judge, Khyber.
 Case Title: Mst. Nazira vs Principle PRDC & others
 Case No: 18/1 of 2023

(2) (5)

Serial No: of Order or Proceedings	Date of order or Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
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Order.....12 19/05/2023
 Continued

besides, impugning the legality of allotment of said official accommodation in favour of respondent No. 6. (Sadaf Ashraf)

It is important to highlight that the core issue in the instant case is the allotment of official accommodation and this issue has been settled by the august Supreme Court of Pakistan through its judgment reported in 2023 PLC (C.S.) 367 whereby. it is held that the question of allotment of official accommodation falls within the ambit of "terms and conditions of service" therefore, ordinary civil courts have no jurisdiction to adjudicate upon such matter. The relevant portion of said judgment is reproduced herein for facility of reference: -

Relevant portion of 2023 PLC (C.S.) 367

(a) Civil service---

---Allotment of official accommodation/residence---
 Terms and conditions of service--
 -Matter of allotment or cancellation of an official residence is connected with the terms and conditions of the service of the persons in the service of Pakistan, in public service and other officials of the concerned government, autonomous, semi-autonomous bodies, authorities, corporations etc.

(b) Constitution of Pakistan---

---Art. 199--- Allotment of official accommodation/residence, issue of---Constitutional jurisdiction of

19-5-23


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FORM OF ORDER SHEET
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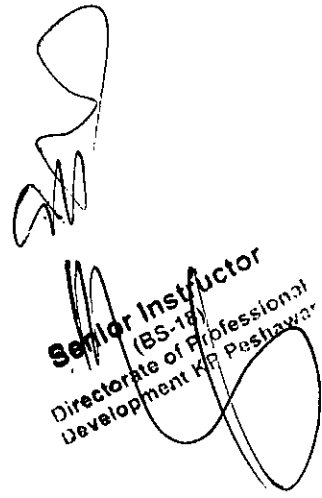
Serial No: of Order or Proceedings	Date of order or Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
<u>Order.....12</u> Continued	19/05/2023	

the High Court---Scope---Any order made or proceedings taken in respect of an official accommodation, pursuant to the applicable rules, regulations, policies, instructions, directions etc., shall not be called in question before any court, except the forums provided therein--- However, if such forum is not provided, a High Court may, if it is satisfied, exercise its power, as provided by Article 199 of the Constitution.

When confronted with above, learned counsel for the plaintiff could neither offer any plausible justification nor an exception to be taken to the above dictum resultantly, while deriving wisdom from the said judgment of august Supreme Court of Pakistan and by invoking the provision of Order-VII Rule-X of Civil Procedure Code, 1908; it is hereby held that this court lacks jurisdiction to entertain the present suit. Therefore, the instant suit is hereby returned to the plaintiff. Moharrir of the court is directed to return the original record of this case to the plaintiff after maintaining copies thereof in accordance with law and to consign the record after completion and compilation.

Announced
19/05/2023


(IMRANULLAH)
Senior Civil Judge,
Khyber.


Senior Instructor
(BS-18)
Directorate of Professional
Development KP Peshawar

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Nazara

..... Appellant

VERSUS

Director Professional Development

..... Respondent

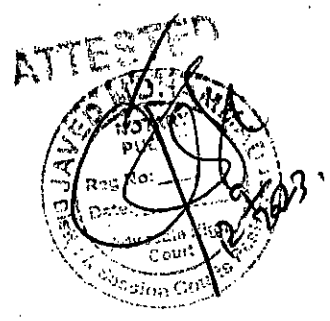
AFFIDAVIT

I, Shahid Aziz Senior Instructor BPS-18 Directorate of Professional Development (DPE) Khyber Pakhtunkhwa Peshawar do hereby affirm and declare on oath that the contents of the reply is true and correct to the best of my knowledge and belief nothing has been concealed from this Hon'ble Service Tribunal.

It is further stated that on oath in this appeal the answering Respondent have neither been placed ex-parte nor their defense has been struck off-

Dated 12.09.2023

Deponent _____
CNIC No. 1721-1472123
Mobile No. 999936740





No. 3611/DPD/2023./

Dated:12/09/2023.

AUTHORITY LETTER

Mr. Shahid Aziz Senior Instructor BS-18 Directorate of Professional Development Khyber Pakhtunkhwa is hereby authorized to attend the Khyber Pakhtunkhwa Services Tribunal Peshawar on behalf of Director, Directorate of Professional Development Khyber Pakhtunkhwa Peshawar in appeal No.1362 filed by Mst Nazara on 12/09/2023.

Additional Director (Admin)

**Additional Director (Admn)
Directorate of Professional Development
Khyber Pakhtunkhwa, Peshawar**