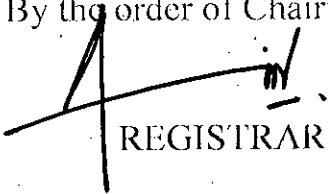


FORM OF ORDER SHEET

Court of _____

Appeal No. 18/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	01/01/2024	<p>The appeal of Mst. Javera Ashraf received today by registered post through Mr. Muhammad Arshad Khan Tanoli Advocate. It is fixed for preliminary hearing before touring Single Bench at A.Abad on _____.</p> <p>By the order of Chairman  REGISTRAR</p>

KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR

CHECK LIST

Versus

JAVEERA ASHRAF Appellant

..... Respondents

S NO	CONTENTS	YES	NO
1.	This petition has been presented by: <u>Advocate</u> <u>Court</u>	√	
2.	Whether Counsel/Appellant/Respondent/Deponent have signed the requisite documents?	√	
3.	Whether appeal is within time?	√	
4.	Whether the enactment under which the appeal is filed mentioned?	√	
5.	Whether the enactment under which the appeal is filed is correct?	√	
6.	Whether affidavit is appended?	√	
7.	Whether affidavit is duly attested by competent Oath Commissioner?	√	
8.	Whether appeal/annexures are properly paged?	√	
9.	Whether certificate regarding filing any earlier appeal on the subject, furnished?	√	
10.	Whether annexures are legible?	√	
11.	Whether annexures are attested?		
12.	Whether copies of annexures are readable/clear?	√	
13.	Whether copy of appeal is delivered to AG/DAG?	√	
14.	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	√	
15.	Whether numbers of referred cases given are correct?	√	
16.	Whether appeal contains cutting/overwriting?	x	
17.	Whether list of books has been provided at the end of the appeal?	√	
18.	Whether case relate to this court?	√	
19.	Whether requisite number of spare copies attached?	√	
20.	Whether complete spare copy is filed in separate file cover?	√	
21.	Whether addresses of parties given are complete?	√	
22.	Whether index filed?	√	
23.	Whether index is correct?	√	
24.	Whether Security and Process Fee deposited? On _____		
25.	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On _____		√
26.	Whether copies of comments/reply/rejoinder submitted? On _____		
27.	Whether copies of comments/reply/rejoinder provided to opposite party? On _____		

It is certified that formalities/documentation as required in the above table have been fulfilled

Name:- Hoshey Talwar

Signature:- [Signature]

Dated:- 20/12/23

BEFORE THE SERVICE TRIBUNAL KPK
PESHAWAR

Service Appeal No. 18 /2023

Javera Ashraf D/O Muhammad Ashraf (SPST), GGPS Banda Jalal Khan *A. Ahsan*

VERSUS

Government of Khyber Pakhtunkhwa,
through Secretary, Elementary & Secondary
Education, Peshawar etc...RESPONDENTS

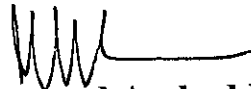
SERVICE APPEAL

S No.	Particular of Documents	Annexure	Pages
1	Service Appeal		1-12
2	Application		13-14
3	Promotion Order	A	15-16
4	Copies of Relevant Rules	B	17-29
5	Copies of Policy	C	30
6	Copy of Impugned Notification	D	31
7	Promotion Order	E	32-33
8	Copies of Departmental appeal	F	34
9	Copies of Restraining order & Relevant law	G-H	35-36
10	W>Nama		

Dated: _____/2023

Javeri
...APPELLANT

Through


(Muhammad Arshad Khan Tana)
Advocate Supreme Court of Pakistan

&


(MUHAMMAD IBRAHIM KHAN)
Advocate High Court Abbottabad

BEFORE THE SERVICE TRIBUNAL KPK
PESHAWAR

Diary No. 10070
Date: 1-1-2024

Service Appeal No. 18 /2023

Javera Ashraf D/O Muhammad Ashraf (SPST), GGPS Banda Jalal Khan, Abbottabad

...PETITIONER

VERSUS

1. Government of Khyber Pakhtunkhwa, through Chief Secretary Khyber Pakhtunkhwa, Peshawar.
2. Secretary Establishment Khyber Pakhtunkhwa, Peshawar.
3. Secretary Law & Justice, Khyber Pakhtunkhwa, Peshawar.
4. Secretary Elementary & Secondary Education, Peshawar.
5. Director Elementary & Secondary Education, Peshawar.
6. District Education Officer (Female), Abbottabad.

...RESPONDENTS

SERVICE APPEAL UNDER SECTION 4 OF KPK SERVICE TRIBUNAL ACT, 1974 FOR DECLARATION TO THE EFFECT THAT IMPUGNED NOTIFICATION NO. SO(POLICY)E&AD/1-312020, DATED 06/06/2023, WHEREIN, RESPONDENTS' DEPARTMENT HAVE MADE IT COMPULSORY FOR THE APPELLANT TO GET PROMOTION TO THE NEXT RANK. AND SHALL AVAIL HER PROMOTION, FAILING WHICH, DISCIPLINARY ACTION SHALL BE

Filed by day
at
Regd. 01/01/24

TAKEN AGAINST THE EMPLOYEE WHO DOES NOT AVAIL HER PROMOTION ORDER, UNDER KHYBER PAKHTUNKHWA EFFICIENCY AND DISCIPLINARY RULES 2011. IT IS FURTHER SUBMITTED THAT NO PUNISHMENT IS MENTIONED IN ORIGINAL NOTIFICATION DATED 06/08/2020. HENCE GUIDANCE/POLICY ISSUED BY THE RESPONDENT IS ULTRA VIRES, TO THE RULES AND RIGHTS OF THE EMPLOYEES AS THE SAME IS VOID AND DOES NOT COME WITHIN THE DEFINITION RULES AS PER SECTION 25 OF KP CIVIL SERVANT ACT, 1973, BESIDES, IMPUGNED NOTIFICATION DATED 06/06/2023, IS ILLEGAL AND IS TO BE STRUCT DOWN. THE PROMOTION OF THE APPELLANT WHICH PREVIOUSLY IS FOREGONE MAY BE SET-ASIDE AS THE PROMOTION OF THE EMPLOYEES IS A KIND OF APPOINTMENT WHICH IS ALWAYS OPTIONAL ON THE PART OF THE EMPLOYEES. IT IS FURTHER SUBMITTED THAT THERE IS NO CONDITION MENTIONED IN THEIR INITIAL APPOINTMENT ORDER. THE IMPUGNED NOTIFICATION DATED 06/06/2023 IS ULTRA VIRES TO THE PREVAILING RULES ON THE SUBJECT AND IS TO BE STRUCT DOWN AS WELL

AS PROMOTION ORDER DATED 29-08-2023 TO THE EXTENT OF THE APPELLANT IS TO BE SET-ASIDE.

PRAYER: ON ACCEPTANCE OF THE INSTANT SERVICE APPEAL, THE IMPUGNED NOTIFICATION NO. SO(POLICY)E&AD/1-3/2020, DATED 06/06/2023 MAY BE ORDERED TO BE STRUCK DOWN BEING VOID AND ULTRA VIRES TO THE RULES AND RIGHTS OF THE APPELLANT. IT IS FURTHER PRAYED THAT PROMOTION ORDER DATED 29/08/2023 TO THE EXTENT OF THE APPELLANT MAY BE ORDERED TO BE SET-ASIDE. ANY OTHER RELIEF WHICH THIS HONOURABLE TRIBUNAL DEEMS FIT AND PROPER IN THE CIRCUMSTANCES OF THE CASE MAY ALSO BE GRANTED TO THE APPELLANT.

Respectfully Sheweth:-

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

1. That the appellant was appointed as P.S.T in the respondents' department and thereafter was promoted to the post of S.P.S.T. BPS 14. Copy of

promotion order of the appellant is annexed as Annexure "A".

2. That the appellant is low paid employee and being a female teacher hardly able to serve in the far-flung mountainous hilly areas of District Abbottabad.
3. That as per K.P Appointment/ Promotion/ Transfer Rules 1989, as well as in other sister services of the other Provinces and Federation as well, availing of promotion by the employees is always optional and the employees as a matter of right may avail or foregone their promotion and the next employee in seniority list is to be promoted. Copies of the relevant rules are annexed as Annexure "B".
4. That as per notification No. SD (Policy)/EDAD/1-3/2020 dated 06/08/2020, the punishment on account of foregoing of promotion was withdrawn. Copy of notification No. SD (Policy)EV AD/1-3/2020 dated 06/08/2020 is attached as Annexure "C"

5. That some employees specifically female teachers have foregone their promotion as they could not serve in the areas where there is no facility of accommodation and no houses of their elders are available to look after them in far-flung and solitary mountainous hard areas.
6. That as per Section 25 of per KP Civil Servant Act, 1973, rules to the extent of terms and condition is framed by the Chief Minister and such promotion rules are not made applicable with retrospective effect. The rules framed are published in the Gazzet notification and part of parcel of KP Civil Servant appointment, transfer and promotion rules 1989.
7. That Government of K.P without following the rules position mentioned in para 6 above, promulgated Notification No. SO(Policy)E&AD/1 - 3/2020, dated 06/06/2023, and has been made mandatory to the employees to avail the promotion otherwise, disciplinary action shall be taken against them under K.P E&D Rules 2011.

Therefore, the impugned and void Notification is reproduced as under;

"Furthermore, those officers/officials who do not comply with promotion order of the competent authority or try to evade promotion through different means shall be proceeded against under Khyber Pakhtunkhwa Civil Servants (Efficiency & Discipline) Rules, 2011, please".

Copy of impugned and void notification is annexed as Annexure "D".

8. That the appellant has foregone her promotion to the post of PSI-IT but even than the appellant has been promoted vide order dated 29/08/2023 and posted to GGPS Bamochi which is illegal. Copy of promotion order of the appellant at Serial No. 20 is annexed as Annexure "E".
9. That the petitioner feeling aggrieved, filed appeals to the respondents, but the grievances of the appellant have not so far been redressed. Copies of departmental appeals on the void notification and promotion order are annexed as Annexure "F".

10. That the appellant with other employees filed writ petition No. 973-A/2013 and 1101-A/2023 before the Honourable High Court Abbottabad Bench and obtained restraining order dated 14/09/2023 to cover the mandatory statutory period of 89 days. Copy of restraining order dated 14/09/2023 and writ petition No. 973-A/2023 and 1101-A/2023 is annexed as Annexure "G".

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

GROUND:-

- a. That as per judgments of the superior courts, a valid Notification which confers rights is always applicable with retrospective effect whereas, Notification/ law which adversely affects the interests of the employees is always prospective. The notification/ guidance dated 06/06/2023 is void having no legal sanctity is contradictory to the

notification dated 06/08/2020, hence, the said notification is liable to be set-aside.

- b. That there is no terms and conditions of service mentioned in the appointment order of the appellant wherein, availing of promotion is mandatory. It is further submitted that employees in the past, have foregone their promotion alongwith their posting. It is submitted that when domestic and other personal issues do not permit the employees/appellant to avail the promotion order and in that case, the employees who foregone their promotion were allowed not to avail the promotion for a period or 04 years and on second refusal the employees were permanently debarred from availing the facility of promotion during their entire service. Hence the employees, himself/herself forebear agonies of foregoing their promotions. As a result, junior to the appellant according to the order of seniority cum fitness are granted promotion to next rank. Relevant laws on

forgoing the promotion and self inflicted penalties are annexed as Annexure "H".

- c. That as per Civil Servant laws, promotion is a kind of appointment which is always optional to get promotion or not. The appellant's promotion order dated 29/08/2023 is void, illegal and against the law and the same to the extent of the appellant is liable to be set-aside.
- d. That it is further submitted that on account of grant of promotion, some employees who are suffering from severe medical ailment and others who are facing acute domestic issues cannot avail promotion with transfer in far-flung/hard areas. Besides, the unmarried female teachers suffer a lot therefore, no employee can be compelled to accept the promotion compulsorily which is not beneficial to the employee but if an employee does not avail and get benefit of her promotion it must be optional for the employees as to whether to avail or foregone

the benefits. Now, respondent No. 6 has promoted the appellant which is illegal and liable to be set-aside.

- e. That non-availing of promotion and foregoing thereof does not cause loss to the government exchequer and in consequence of foregoing promotion, pave way to the next employee in seniority, aspiring for promotion could be promoted.
- f. That the impugned promotion Notification dated 06/06/2023 is perverse, discriminatory, against the law, pungent and is a blunt blow of hammer on the rights of the appellant. It is not out of place to mention here that the appellant are lady teachers and have to look after their children as well as ailing dependent family members and in these circumstances in the presence of impugned Notification dated 06/06/2023 would not be able to serve in the department and which shall amount to the snatching of bread and butter of the poor employees.

g. That the government has illegally imposed restriction of 55 years of age for availing retirement/benefits after rendering 25 years of service whichever is later, Therefore, the appellant is unwilling to avail benefits of promotion. Hence, the availing of promotion must be declared as optional as it was invogue prior to the impugned void Notification dated 06/06/2023. Hence impugned Notification is liable to be set-aside.

h. That the matter in issue relates to the terms and conditions of service, hence, under Article 212 of the constitution the Honourable Tribunal has jurisdiction to entertain the instant service appeal. Besides, the appeal of the appellant is well within the time of limitation


It is, therefore, humbly prayed that on acceptance of the instant service appeal, the impugned notification No. SO(policy)E&AD/ I - 3/2020, dated 06/06/2023 may be ordered to be

struct down being void and ultra virus to the rules and rights of the appellant. It is further prayed that promotion order dated 29/08/2023 to the extent of the appellant may be ordered to be set-aside. Any other relief which this Honourable Tribunal deems fit and proper in the circumstances of the case may also be granted to the appellant.

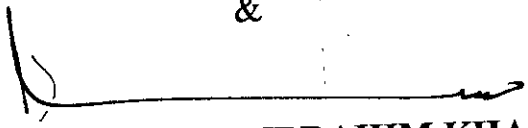
Javeria
...APPELLANT

Through

Dated: _____/2023


(Muhammad Arshad Khan Tana)
Advocate Supreme Court of Pakistan

&


(MUHAMMAD IBRAHIM KHAN)
Advocate High Court Abbottabad

AFFIDAVIT:

I, Javera Ashraf D/O Muhammad Ashraf, GGPS Banda Jalal Khan, do hereby solemnly affirm and declare that the contents of foregoing application are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.



BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Service Appeal No. _____ 2023

Javera Ashraf D/O Muhammad Ashraf, GGPS Banda Jalal Khan.

...PETITIONER

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa, Peshawar.
2. Secretary Establishment Khyber Pakhtunkhwa, Peshawar.
3. Secretary Law & Justice, Khyber Pakhtunkhwa, Peshawar.
4. Secretary Elementary & Secondary Education, Peshawar.
5. Director Elementary & Secondary Education, Peshawar.
6. District Education Officer (Female), Abbottabad.

....RESPONDENTS

**APPLICATION FOR SUSPENSION OF
IMPUGNED NOTIFICATION NO.
SO(POLICY)E&AD/1-3/2020, DATED
06/06/2023 AND PROMOTION ORDER DATED
29/08/2023 TO THE EXTENT OF
APPELLANT/APPLICANT TILL FINAL
DISPOSAL OF MAIN SERVICE APPEAL.**

Respectfully Sheweth;

1. That the instant application may be treated as part and parcel of service appeal of the appellant.
2. That the appellant has brought a good prima facie case and balance of convenience also lies in favour of the appellant.

3. There is likelihood of success of the appellant in the lis. The impugned notification dated 06/06/2023 is against Section 25 of KP Civil Servant Act, 1973 and promotion order dated 29/08/2023 of the appellant/applicant is also to be set-aside.

4. That valuable rights of the appellant are involved.

In view of the above it is humbly prayed that notification No. SO(POLICY)E&Ad/1-3/2020, dated 06/06/2023 and promotion order dated 29/08/2023 to the extent of appellant/applicant may graciously be ordered to be suspended till final disposal of the main service appeal.

Javeria

..APPELLANT

Through;

Dated; _____/2023

[Signature]
(Muhammad Arshad Khan Tanoli)

Advocate Supreme Court of Pakistan

[Signature]
(Muhammad Ibrahim Khan)

Advocate High court

AFFIDAVIT;

I, Javera Ashraf D/O Muhammad Ashraf, GGPS Banda Jalal Khan, do hereby solemnly affirm and declare that the contents of foregoing application are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.



Javeria

DEPONENT

SPST BPS 14
Promotion
09 days
copy
Date 13/4/2013

OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) ABBOTTABAD.

OFFICE ORDER

Consequent upon the recommendation of the Departmental Promotion Committee and in the pursuance of Government of Khyber Pakhtunkhwa Elementary & Secondary Education Notification No.SO(B&A)/1-8/E&SE/2012 dated 11/07/2012 and Finance Department Endorsement No.SO (FR)/ FD/10-22(E) /2010 dated 16/07/2012, the Female PSTs BPS-12 are hereby promoted to the post of Senior Primary School Teacher BPS-14 (Rs-8000-610-26300) Plus usual allowances as admissible under the rules on the regular basis under the existing recruitment policy of the Provincial Govt: Notified vide No.SO(PE)14-5/SSRC/Meeting/2012 teaching cadre dated 13/11/2012 on the terms and conditions given below with immediate effect in the interest of public service.

Annex A

P-15

Total No. of Sanctioned Post of PSTs(F) (verified from DAO)	1695
No. of Senior Primary School Teacher as per breakup	559
Share of Promotion of Senior Primary School Teacher BPS-14 as per breakup	559
Net to be promoted as Senior Primary School Teacher BPS-14	251
DEFERRED CASES	
	1

S.N o.	Sen L.No.	NAME OF TEACHER	Present School	Present Circle	Promoted as SPST BPS-14 & Posted as under	Posting Circle
1	77	Shazia Parveen	GGPS City ATD	Abbottabad	GGPS City ATD	Abbottabad
2	125	Khailda Bibi	GGPS Dhamtour	Dhamtour	GGPS Dhamtour	Dhamtour
3	127	Khailda Shaheen	GGPS City ATD	Abbottabad	GGPS City ATD	Abbottabad
4	129	Qaisra Shaheen	GGPS City ATD	Abbottabad	GGPS City ATD	Abbottabad
5	149	Nighat Firdous	GGPS Salhad	Abbottabad	GGPS Salhad	Abbottabad
6	180	Salma Tahira	GGPS Salhad	Abbottabad	GGPS Malikpura No.3	Abbottabad
7	242	Baby Tabassum	GGPS Langra	Havelian	GGPS Langra	Havelian
8	251	Tahira Bibi	GGPS Barseen	Havelian	GGPS Rehmat Abad	Abbottabad
9	270	Bibi Farzana	GGPS Dhamtour	Dhamtour	GGPS Dhamtour	Dhamtour
10	287	Shamim Akhtar	GGPS Dhangar	Abbottabad	GGPS Dhangar	Abbottabad
11	288	Abida Parveen	GGPS Salhad	Abbottabad	GGPS-Salhad	Abbottabad
12	295	Suryia Naz	GGPS Jalsi Pani	Abbottabad	GGPS Dhari	Abbottabad
13	305	Farah Iqbal	GGPS Nawanshehr No.1	Abbottabad	GGPS Nawanshehr No.1	Abbottabad
14	333	Tayyaba Bibi	GGPS Malikpura No.2	Abbottabad	GGPS Malikpura No.2	Abbottabad
15	334	Farzana	GGPS Banda Lamba	Qalandarabad	GGPS Banda Lamba	Qalandarabad
16	338	Rizwana Shaheen	GGPS Nawanshehr No.2	Abbottabad	GGPS Nawanshehr No.2	Abbottabad
17	343	Farhat Shahnaz	GGPS (Comp) ATD	Abbottabad	GGPS (Comp) ATD	Abbottabad
18	345	Bibi Dilshad	GGPS Banda Lamba	Qalandarabad	GGPS Banda Ali Khan	Qalandarabad
19	357	Fizza Batoool	GGPS Havelian Village	Havelian	GGPS Havelian Village	Havelian
20	363	Zohra Khatoon	GGPS Banda Lamba	Qalandarabad	GGPS Banda Pino Khail	Qalandarabad
21	372	Basar un Nisa	GGPS Kiyala	Havelian	GGPS Rajoyia	Havelian
22	390	Aneeqa Shawaar	GGPS (Comp) ATD	Abbottabad	GGPS (Comp) ATD	Abbottabad
23	393	Neelam dar	GGPS Sheikhul Bandi No.2	Abbottabad	GGPS Sheikhul Bandi No.2	Abbottabad
24	401	Noreen Gul	GGPS Choona Kari	Abbottabad	GGPS Choona Kari	Abbottabad
25	402	Shazia Nisar	GGPS Malikpura No.2	Abbottabad	GGPS Malikpura No.2	Abbottabad
26	415	Naghmana Kousar	GGPS Sheikhul Bandi No.2	Abbottabad	GGPS Sheikhul Bandi No.2	Abbottabad
27	416	Rifhat Ara	GGPS Sheikhul Bandi No.1	Abbottabad	GGPS Sheikhul Bandi No.1	Abbottabad
28	424	Yasmin Bano	GGPS Khola Kehal	Abbottabad	GGPS Khola Kehal	Abbottabad
29	493	Tehseen	GGPS City ATD	Abbottabad	GGPS City ATD	Abbottabad
30	516	Salma Bibi	GGPS Kakul No.1	Abbottabad	GGPS Kakul No.1	Abbottabad
31	522	Nagina Ghafoor	GGPS City ATD	Abbottabad	GGPS Malikpura No.3	Abbottabad
32	529	Raheela Bibi	GGPS Ghumawan	Abbottabad	GGPS Nawanshehr No.3	Abbottabad
33	561	Saeeda Bano	GGPS Kunj ATD	Abbottabad	GGPS Kunj ATD	Abbottabad
34	619	Rubina	GGPS (Comp) ATD	Abbottabad	GGPS (Comp) ATD	Abbottabad
35	621	Rifhat Sultana	GGPS Upper Kehal ATD	Abbottabad	GGPS Khola Kehal ATD	Abbottabad
36	637	Rukshanda Jabeen	GGPS Salhad	Abbottabad	GGPS Mohallah Taj	Abbottabad

Attested
Mu

S.N o.	Sen L.No.	NAME OF TEACHER	Present School	Present Circle	Promoted as SPST BPS-14 & Posted as under	Posting Circle
237	1297	Bibi Amina Kasur.	GGPS Pathar Gali	Boi	GGPS Sajkot	Qalandarabad
238	1298	Nazia Bibi	GGPS Kokal Barseen	Havelian	GGPS Ghora Baz Gran	Havelian
239	1299	Shabnum Gul	GGPS B.S.Khan	Havelian	GGCMS Barwal	Havelian
240	1300	Nazra Shaheen	GGPS Kaseel	Havelian	GGPS Bandi Dhundan	Qalandarabad
241	1301	Khushnooda Begum	GGPS Sheikh-ul-Bandi NO-1 ATD	Abbottabad	GGPS Sheikhul-Bandi No-1	Abbottabad
242	1301 B	Asia Bibi	GGPS Banda Abdul Jabar	Havelian	GGPS Banda Abdul Jabar	Havelian
243	1303	Shaziz Bibi	GGPS Panj Ghran	Havelian	GGPS Panj Ghran	Havelian
244	1306	Gul Naz	GGPS Salhad	Abbottabad	GGPS Pawa	Sherwan
245	1307	Nosheen Naz	GGPS Banda Said Khan	Dhamtour	GGPS Banda Said Khan	Dhamtour
246	1308	Salma Bibi	GGPS Dheri Rajoyia	Dhamtour	GGPS Kehal Rajoyia	Dhamtour
247	1309	Zahida Parveen	GGCMS Mirpur	Abbottabad	GGCMS Mirpur	Abbottabad
248	1311	Shama Mehboob	GGCMS Mirpur	Abbottabad	GGCMS Mirpur	Abbottabad
249	1313	Alia Begum	GGPS Shamshr Naka	Qalandarabad	GGPS Kholay	Qalandarabad
250	1314	Javeria Ashraf	GGPS Shamshr Naka	Qalandarabad	GGPS Bandi Dhundan	Qalandarabad
251	1315	Najma Bibi	GGPS Maira Mirpur ATD	Abbottabad	GGPS Kasaki Kalan	Abbottabad

Terms & Conditions.

- 1 On their Promotion, the teacher concerned will be on probation for a period of one year in terms and section-6(2) of Khyber Pakhtunkhwa Civil servant Act 1973 read with rule 15(1) of civil servant (Appointment, Promotion & Transfer) Rules 1989.
- 2 They will be governed by such rules and regulations as may be issued from time to time by the Government.
- 3 Their services can be terminated at any time, in case their performance is found unsatisfactory during probationary period. In case of misconduct, they will be preceded under the rules from time to time.
- 4 Their Inter-Se-Seniority on lower post will remain intact.
- 5 They will give an undertaking to be reforded in their service book to the effect that if any over paymentis made to them in the light of this order will be recovered and if they are wrongly promoted they will be reversed.
- 6 They should join their post within 15 days of the issuance of this notification. In case of failure to join their posts within 15 days of the issuance of this notification, their promotion will expire automatically and no subsequent appeals will be entertained.
- 7 Necessary entry shall be recorded in their original service books.
- 8 Charge report shall be submitted immediaterly to all concerned.
- 9 Checking of verification of all the documents shall be insured by the DDO Concerned.
- 10 No TA/DA is allowed.

SUB DIVISIONAL EDU: OFFICER
(FEMALE) ABBOTTABAD.

Endst: No. 1865-72-IEB/PST

DISTRICT EDUCATION OFFICER
(FEMALE) ABBOTTABAD

Dated 13/4/2013

Copy forwarded to:

- 1 PS to Secretary to Govt: of Khyber Pakhtunkhwa, E & SED Peshawar.
- 2 Director E & SED Khyber Pakhtunkhwa Peshawar.
- 3 District Accounts Officer Abbottabad.
- 4 Sub Divisional Education Officer Female Abbottabad.
- 5 Budget & Accounts Officer Local Office.
- 6 Officials concerned.
- 7 Office File.



DISTRICT EDUCATION OFFICER
(FEMALE) ABBOTTABAD

Attested
[Signature]

Annex-B

P-29 R17

16. ESTA CODE [Establishment Code Khyber Pakhtunkhwa]

(10) details of service record.

(a) Synopsis of ACR

Year	Overall assessment	Assessment made in the ACR about		
		Quantity and output of work	Integrity	Fitness for promotion
		(a)	(b)	(c)
1		2		3

(b) Pen picture recorded in the ACRs during last five years.

(c) Particulars of penalties imposed under the Govt. Servants (Efficiency & Discipline) Rules, 1973:-

Name of Penalty	Grounds of Penalty	No. and date of Penalty imposing order
-----------------	--------------------	--

(Authority: letter No.SOR-I(S&GAD)4-13/87, Dated 30.11.2000)

CHAPTER - II

Statutory provision regarding Appointment.

Section 5 of Civil Servants Act, 1973 - Appointment to a civil service of the Province or to a civil post in connection with the affairs of the Province shall be made in the prescribed manner by the Governor or by a person authorised by the Governor in that behalf.

Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989

No. SOR-I (S&GAD) 4-1/80, dated 31st January, 1989.---In exercise of the powers conferred by section 26 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act XVIII of 1973) the Governor of the Khyber Pakhtunkhwa is pleased to make the following rules, namely:-

PART-I GENERAL

1. **Short title and commencement.**---(1) These rules may be called the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989.

ESTA CODE [Establishment Code Khyber Pakhtunkhwa] 17

(2) They shall come into force at once. P-28

2. **Definitions.**---(1) In these rules, unless the context otherwise requires:-

(a) "Appointing Authority" in relation to a post, means the persons authorised under rule 4 to make appointment to that post;

(b) "Basic Pay Scale" means the Basic Pay Scale for the time being sanctioned by Government, in which a post or a group of posts is placed;

(c) "Commission" means the Khyber Pakhtunkhwa Public Service Commission;

(d) "Departmental Promotion Committee" means a committee constituted for making selection for promotion or transfer to such posts under a Department, or offices of Government which do not fall within the purview of the Provincial Selection Board.]

(dd) "Departmental Selection Board" means a Board constituted for the purpose of making selection for initial recruitment /appointment to posts under a Department or office of Government in Basic Pay Scale 17 not falling within the purview of the Commission".

Provided that more than one such Committee may be constituted for civil servants holding different scales of pay.]

(e) "Departmental Selection Committee" means a committee constituted for the purpose of making selection for initial appointment to posts under a department, or office of Government [in Basic Pay Scale 17 and below not falling within the purview of the Commission].

(f) "post" means a post sanctioned in connection with the affairs of the Province, but not allocated to all Pakistan Unified Grades; and

(g) "Provincial Selection Board" means the Board constituted by Government for the purpose of selection of civil servants for promotion or transfer to posts in respect whereof the appointing authority under rule 4 is the Chief Minister and shall consist of such persons as may be appointed to it by Government from time to time.]

(2) Words and expressions used but not defined in these rules shall have the same meanings as are assigned to them in the Khyber Pakhtunkhwa Civil

1. Substituted vide Notification No. SOR-I(S&GAD)4-1/80(Vol. II), dated 14-01-1992.
2. Clause(dd) added by Notification No. SOR-III(S&GAD)2-7/86, dated 08-12-1994.
3. Substituted by Notification No. SOR-III(S&GAD)2-7/86, dated 08-12-1994.
4. Clause "(g)" substituted by Notification No. SOR-I(S&GAD)4-1/80/Vol.II dated 14-01-

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Servants Act, 1973 (N.W.F.P Act XVIII of 1973) or any other statutory order or rules of Government for the time being in force.

3. **Method of Appointment.**---(1) Appointment to posts shall be made by any of the following methods, namely:--

- (a) by promotion or transfer in accordance with the provisions contained in Part-II of these rules; and
 - (b) by initial recruitment in accordance with the provisions contained in Part-III of these rules;
- (2) The method of appointment, qualifications and other conditions applicable to a post shall be such as laid down by the Department concerned in consultation with the Services and General Administration Department and the Finance Department.

4. **Appointing Authority.**---The authorities competent to make appointment to posts in various basic pay scales shall be as follows:--

S.No	Posts	Appointing Authority
1.	(a) Posts in Basic Pay Scale 18 and above including posts in Basic Pay Scale 17 borne on any of the following services; <ul style="list-style-type: none"> (i) Former Provincial Civil Service (Executive Branch); (ii) Former Provincial Civil Service (Judicial Branch); and (iii) Provincial Civil Secretariat Service. 	Chief Minister.
	[(b) Posts in Basic Pay Scale 17, other than those covered by (a) above and the post of Deputy Superintendent of Police; and]	Chief Secretary.
	[(c) Posts of Deputy Superintendent of Police	Provincial Police Officer / Inspector-General of Police]
2.	Posts in Basic Pay Scale 16	(a) In the case of Secretariat of the Government of

1. Substituted by Notification No. SOSRI(S&GAD)4-1/75(Vol.I) dated 22-08-1991.
 2. Substituted for "Posts in Basic Pay Scale 17 other than those covered by (a) above" by Notification No. SOR-III(E&GAD)2(144)03, dated 22-09-2003. (PLD 2004 NWPF St. 61)
 3. Added by SOR-III(E&GAD)2(144)03, dated 22-09-2003. (PLD 2004 NWPF St. 61)

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S.No	Posts	Appointing Authority
		Khyber Pakhtunkhwa, the Chief Secretary.

(b) In case of High Court, the Chief Justice, and

(c) In the case of Attached Department:

(i) the Head of Attached Department concerned; and

(ii) In any other case the Secretary of the Department concerned.

3. Posts in Basic Pay Scales 3 to 15.

(a) In the case of civil servants borne on ministerial establishment of Civil Courts subordinate to High Court, the officer authorised as such by the Chief Justice; and

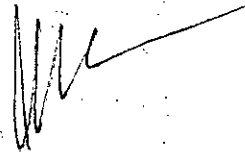
(b) In other cases--
 (i) an officer declared under the relevant Delegation of Powers Rules, which shall to this extent be deemed as operative; or

(ii) Where no such appointing authority has been declared, the Secretary to Government, or the Head of an Attached Department/Office as the case may be.

4. Posts in Basic Pay Scale 1 and 2

Deputy Secretary in charge of Administration or office, as the case may be

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5. ¹[Departmental Promotion and Selection Committee/Board].-- (1) In each Department or office of Government there shall be one or more Departmental Promotion Committee and Departmental Selection Committee [or, as the case may be, Departmental Selection Board], the composition of which shall be determined by the Services and General Administration Department of the Department in consultation with the Services and General Administration Department.

(2) Each such Committee ³[or the Board, as the case may be], shall consist of at least three members, one of whom shall be appointed as Chairman.

⁴[6. Procedure when recommendation is not accepted.--When an appointing authority for Basic Pay Scale 17 or below does not accept the recommendation of a Departmental Promotion or Selection Committee, or the Departmental Selection Board, as the case may be, it shall record its reasons and obtain orders of the next higher authority.]

PART-II
APPOINTMENT BY PROMOTION OR TRANSFER

7. Appointment by Promotion or Transfer.--²[(1) Except as otherwise provided in any service rules for the time being in force, appointment by promotion or transfer to posts in respect whereof the appointing authority under rule 4 is the Chief Minister shall ordinarily be made on the recommendation of the Provincial Selection Board and promotion and transfer to posts other than those falling within the purview of the Provincial Selection Board shall ordinarily be made on the recommendation of appropriate Departmental Promotion Committee.]

(2) Appointment by transfer shall be made from amongst the persons holding appointment on regular basis in the same basic pay scale, in which the posts to be filled, exists;

(3) Persons possessing such qualifications and fulfilling such conditions as laid down for the purpose of promotion or transfer to a post shall be considered by the Departmental Promotion Committee or the Provincial Selection Board for promotion or transfer, as the case may be.

⁶[(4) No promotion on regular basis shall be made to posts in Basic Pay Scale 18, unless the officer concerned has completed such minimum length of service as may be specified from time to time, or, in case of posts in Basic pay Scale 19 to 21, the officer, besides having the minimum length of service for the time being required for promotion, has also attended such training and passed such departmental examination as may be prescribed from time to time.]

1. The Heading substituted by Notification No. SORI(S&GAD)2-7/86, dated 08-12-1994.
2. Inserted by Notification No. SORI(S&GAD)2-7/86, dated 08-12-1994.
3. The words inserted by Notification No. SORIII(S&GAD)2-7/86, dated 08-12-1994.
4. Rule 6 substituted by Notification No. SORIII(S&GAD)2-7/86, dated 08-12-1994.
5. Sub-rule(1) of rule 7 substituted by Notif. No. SORI(S&GAD)4-1/80(Vol.II), dated 14-01-1992.
6. Sub-rule 4 of Rule 7 substituted by Notif. No. SOR-I(S&GAD)4-1/80 (Vol-III) dated 30-12-1999.

⁵[(5) If on an order of promotion or before promotion any civil servant declines in writing, to accept promotion, such civil servant shall not be considered for such promotion for the next four years following the order;

Provided that if he declines to avail the benefit of promotion for the second time, then he shall stand superseded permanently for such promotion.]

8. Inter-Provincial Transfer.--(1) Persons holding appointment in BPS 1 to 15 under Federal Government and other Provincial Government may, in deserving cases, be transferred to equivalent posts under these rules:--

Provided that--

- (i) the Federal Government or the Government of the Province concerned, as the case may be, has no objection to such a transfer;
- (ii) the person seeking transfer possesses the requisite qualification and experience and the post to which his transfer is intended can, under the rules, be filled by transfer;
- (iii) the person concerned holds appointment to the post in his parent Department on regular basis;
- (iv) the person concerned is a bonafide resident of the Khyber Pakhtunkhwa;
- (v) a vacancy exists to accommodate the request of such a transfer; and
- (vi) provided further that in most deserving cases, the merit of which shall be determined on case to case basis and the decision of the Competent Authority in that behalf shall be final, Government may allow transfer of a civil servant in BPS-16 and above, subject to the aforesaid conditions.

(2) A person so transferred shall be placed at the bottom of the cadre strength which he joins for the purposes of determining his seniority vis-a-viz other members borne on the cadre.

(3) It will be the sole discretion of the appointing authority to accept or refuse a request of transfer under this rule and any decision made in this behalf shall be final and shall not be quoted as precedence in any other case.

9. Appointment on Acting Charge or current Charge Basis.--
(1) Where the appointing authority considered it to be in the public interest to fill a post reserved under the rules for departmental promotion and the most senior civil servant belonging to the cadre or service concerned, who is otherwise eligible for

1. Sub-rule (1) of Rule 7 added by Notif. No. SOR-VI(ESAD)1-3/2009/Vol-VIII dated 22-10-2011

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motion, does not possess the specified length of service the authority may appoint him to that post on acting charge basis 1[

Provided that no such appointment shall be made, if the prescribed length of service is short by more than 2(three years).]

3[(2)

(3) In the case of a post in Basic Pay Scale 17 and above, reserved under the rules to be filled in by initial recruitment, where the appointing authority is satisfied that no suitable officer drawing pay in the basic pay scale in which the post exists is available in that category to fill the post and it is expedient to fill the post, it may appoint to that post on acting charge basis the most senior officer otherwise eligible for promotion in the organisation, cadre or service, as the case may be, in excess of the promotion quota.

(4) Acting charge appointment shall be made against posts which are likely to fall vacant for period of six months or more. Against vacancies occurring for less than six months, current charge appointment may be made according to the orders issued from time to time.

(5) Appointment on acting charge basis shall be made on the recommendations of the Departmental Promotion Committee or the Provincial Selection Board, as the case may be.

(6) Acting charge appointment shall not confer any vested right for regular promotion to the post held on acting charge basis.

PART-III INITIAL APPOINTMENT

10. Appointment by Initial Recruitment--(1) Initial appointment to posts 4[in various pay scales] shall be made--

(a) if the post falls within the purview of the Commission, on the basis of Examination or test to be conducted by the Commission; or

(b) if the post does not fall within the purview of the Commission, in the manner as may be determined by Government.

1. Full stop at the end of rule 9(1) replaced by colon and proviso added by Notification No. SOR(S&GAD)4-1/80(V.II), dated 20-10-1993.
2. Subs. for the words "one year" by Notification No. SOR(S&GAD)4-1/80(Vc.III), dated 14-03-1996.
3. Deleted by Notif. No. SOR-VI(E&AD)1-3/2009/Vol-VIII dated 22-10-2011. At the time of deletion the said sub-rule (2) of Rule 9 was as under:
(2) So long as a civil servant holds the acting charge appointment, a civil servant junior to him shall not be considered for regular promotion but may be appointed on acting charge basis to a higher post.
4. The words "in Basic Pay scale 16 to 21" substituted by Notif. No. SOR(S&GAD)1-117/91(C), dated 12-10-1993.

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1[(2) Initial recruitment to posts which does not fall within the purview of the Commission shall be made on the recommendation of the Departmental Selection Committee, after vacancies have been advertised in newspapers;]

2[Provided that nothing contained in this sub-rule shall apply to the household staff of the Chief Minister's House Peshawar, Frontier House Islamabad, Frontier Rest House Baran, Swat and Abbottabad, Frontier House Nathiagali and Shahi-Mehman Khana, Peshawar and any other House to be established by the Government.3[.]

4[.....]

5[Provided further that the appointment in Basic Pay Scale- 1 to 4 shall be made on the recommendations of the Departmental Selection Committee through the District Employment Exchange concerned, or, where in a district the office of the Employment Exchange does not exist, after advertising the posts in the leading newspapers].

(3) A candidate for initial appointment to a post must possess the educational qualification or technical qualifications and experience and except as provided in the rules framed for the purpose of relaxation of age limit, must be within the age limit as laid down for the post, provided that--

6[(1) where recruitment is to be made on the basis of written examination, then, notwithstanding anything to the contrary contained in any other rules for the time being enforce, age shall be reckoned on 1st January of the year in which the examination is proposed to be held;]

(II) in other cases as on the last date fixed for submission of applications for appointment.

7[4. Where a civil servant dies or is rendered incapacitated or invalidated permanently during service or retired on medical board, notwithstanding the procedure provided for in sub-rule (2), the appointing authority may appoint one of the children of such civil servant or if the child has not attained the age prescribed for appointment in Government service, the widow or wife as the case may be, of such civil servant, to a posts in any of the basic pay scales 3 to 11 in Provincial cadre post and basic pay scales 3 to 12 in District cadre posts.

1. Sub-rule (2) of rule 10 substituted by Notif. No. SOR(S&GAD)1-117/91(C), dated 12-10-1993.
2. Proviso added by Notification No. SOR-VI(E&AD)1-3/2003 (Vol.V), dated 03-07-2003.
3. The colon appearing at the end replaced by 'full stop' by Notification No. SOR-VI(E&AD)1-3/2008, dated 09-05-2008
4. The second proviso deleted by Notif. No. SOR-VI(E&AD)1-3/2008, dated 09-05-2008.
5. Again added by Notification No. SOR-VI(E&AD)1-3/2008 dated 03-11-2008
6. Clause (I) of sub-rule(3) of rule 10 subs. by Notification No. SOR(S&GAD)4-1/80, dated 7.5.1980
7. Substituted by Notification No. SO(R-VI&AD)1-3/2015, dated April 19, 2015.

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**Khyber Pakhtunkhwa
Government Servants (Efficiency and Discipline) Rules,
2011**

[Khyber Pakhtunkhwa Government Gazette, Extraordinary, Page No. 162-173,
16th September, 2011]

Notification No. SO(REG-VI) E&AD/2-6/2010, dated 16-09-2011.

In exercise of the powers conferred by section 25 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973), the Chief Minister of the Khyber Pakhtunkhwa is pleased to make the following rules, namely:

1. **Short title, application and commencement.**—(1) These rules may be called the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

(2) These shall apply to every person who is a member of the civil service of the Province or is the holder of a civil post in connection with the affairs of the Province and shall also apply to or in relation to a person in temporary employment in the civil service or post in connection with affairs of the Province.

(3) These shall come into force at once.

2. **Definitions.**—(1) In these rules, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say:

- (a) "accused" means a person in Government service against whom action is initiated under these rules;
- (b) "appellate authority" means the authority next above the competent authority to which an appeal lies against the orders of the competent authority;
- (c) "appointing authority" means an authority declared or notified as such by an order of Government under the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973) and the rules made thereunder or an authority as notified under the specific laws/rules of Government;
- (d) "charges" means allegations framed against the accused pertaining to acts of omission or commission cognizable under these rules;
- (e) "Chief Minister" means the Chief Minister of the Khyber Pakhtunkhwa;
- (f) "competent authority" means—
- (i) the respective appointing authority;

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- (ii) in relation to a Government servant of a tribunal or court functioning under Government, the appointing authority or the Chairman or presiding officer of such tribunal or court, as the case may be, authorized by the appointing authority to exercise the powers of the competent authority under these rules:

Provided that where two or more Government servants are to be proceeded against jointly, the competent authority in relation to the accused Government servant senior most shall be the competent authority in respect of all the accused [1].

Provided further that where Chief Minister is the Appointing Authority, the Chief Secretary shall be the competent authority for the purpose of these rules except rules 14 & 15.]

(g) "corruption" means—

- (i) accepting or obtaining or offering any gratification or valuable thing, directly or indirectly, other than legal remuneration, as a reward for doing or for bearing to do any official act; or
- (ii) dishonestly or fraudulently misappropriating, or indulging in embezzlement or misusing Government property or resources; or
- (iii) entering into [voluntary return or] plea bargain under any law for the time being in force and returning the assets or gains acquired through corruption or corrupt practices voluntarily; or
- (iv) possession of pecuniary sources or property by a Government servant or any of his dependents or any other person, through his or on his behalf, which cannot be accounted for and which are disproportionate to his known sources of income; or
- (v) maintaining a standard of living beyond known sources of income; or
- (vi) having a reputation of being corrupt;

(h) "Governor" means the Governor of the Khyber Pakhtunkhwa;

1. For the full-stop at the end of first proviso a colon was replaced and second proviso added by Notf. No. SO (Polides) E&AD/1-41/2017 dated 07.12.2017.

2. Inserted by Notf. No. SO (Polides) E & AD/2-6/2017 dated 07.12.2017.

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- (i) "inefficiency" means failure to efficiently perform functions assigned to a Government servant in the discharge of his duties;
- (j) "inquiry committee" means a committee of two or more officers, headed by a convenor, as may be appointed by the competent authority under these rules;
- (k) "inquiry officer" means an officer appointed by the competent authority under these rules;
- (l) "misconduct" includes-
 - (i) conduct prejudicial to good order or service discipline; or
 - (ii) conduct contrary to the Khyber Pakhtunkhwa Province Government Servants (Conduct) Rules, 1987, for the time being in force; or
 - (iii) conduct unbecoming of Government servant and a gentleman; or
 - (iv) involvement or participation for gains, directly or indirectly, in industry, trade, or speculative transactions by abuse or misuse of official position to gain undue advantage or assumption of such financial or other obligations in relation to private institutions or persons as may compromise the performance of official duties or functions; or
 - (v) any act to bring or attempt to bring outside influence, directly or indirectly, to bear on the Governor, the Chief Minister, a Minister or any other Government officer in respect of any matter relating to the appointment, promotion, transfer or other conditions of service; or
 - (vi) making appointment or promotion or having been appointed or promoted on extraneous grounds in violation of any law or rules; or
 - (vii) conviction for a moral offence by a court of law¹; or
 - (viii) Avoiding submission of Annual Confidential Report / Performance Evaluation Report by a Government Servant, or withholding such report by the Reporting Officer or the countersigning Officer as the case may be, within the required period as provided in the instructions issued by the Government under the Khyber

1 For the full stop appearing at the end replaced by a semicolon and the word "or" and thereafter new clause added by Notification No. 50(REG-VI) E&AD/2-6/2010 DATED 26-05-2014

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Pakhtunkhwa Civil Servants Act, 1973, from time to time.]

(7) Words and expressions used but not defined in these rules shall have the same meanings as are assigned to them in the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No XVIII of 1973) or any other statutory order or rules of Government for the time being in force.

3. Grounds for proceedings.—A Government servant shall be liable to be proceeded against under these rules, if he is-

- (a) inefficient or has ceased to be efficient for any reason; or
- (b) guilty of misconduct; or
- (c) guilty of corruption; or
- (d) guilty of habitually absenting himself from duty without prior approval of leave; or
- (e) engaged or is reasonably believed to be engaged in subversive activities, or is reasonably believed to be associated with others engaged in subversive activities, or is guilty of disclosure of official secrets to any un-authorized person, and his retention in service is prejudicial to national security; or
- (f) entered into [voluntary return or] plea bargaining under any law for the time being in force and has returned the assets or gains acquired through corruption or corrupt practices voluntarily.

4. Penalties.—(1) The following are the minor and the major penalties, namely:

- (a) Minor penalties:
 - (i) censure;
 - (ii) withholding, for a specific period, promotion or increment subject to a maximum of three years, otherwise than for unfitness for promotion or financial advancement, in accordance with the rules or orders pertaining to the service or post:

Provided that the penalty of withholding increments shall not be imposed on a Government servant who has reached the maximum of his pay scale:
 - (iii) recovery of the whole or any part of any pecuniary loss caused to Government by negligence or breach of order;

1. Inserted by Notif. No. 50 (Policies) E & AD/2-6/2017, dated 07.12.2017

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(b) Major penalties:

(i) reduction to a lower post or pay scale or to a lower stage in a time scale for a maximum period of five years:

Provided that on restoration to original pay scale or post, the penalized Government servant will be placed below his erstwhile juniors promoted to higher posts during subsistence of the period of penalty.]

(ii) compulsory retirement;

(iii) removal from service; and

(iv) dismissal from service.

(2) Dismissal from service under these rules shall disqualify a Government servant from future employment under Government.

(3) Any penalty under these rules shall not absolve a Government servant from liability to any other punishment to which he may be liable for an offence, under any other law, committed by him while in service.

5. Initiation of proceedings.—(1) If on the basis of its own knowledge or information placed before it, the competent authority is of the opinion that there are sufficient grounds for initiating proceedings against a Government servant under these rules it shall either:

(a) proceed itself against the accused by issuing a show cause notice under rule 7 and, for reasons to be recorded in writing, dispense with inquiry;

Provided that no opportunity of showing cause or personal hearing shall be given where-

(i) the competent authority is satisfied that in the interest of security of Pakistan or any part thereof, it is not expedient to give such an opportunity; or

(ii) a Government servant has entered into plea bargain under any law for the time being in force or has been convicted on the charges of corruption which have led to a sentence of fine or imprisonment; or

(iii) a Government servant is involved in subversive activities; or

1. Subs. by Notification NO. SO(REG-V)E&GAD/2-6/2010 dated 18-07-2012 for the following.

(i) reduction to a lower post or pay scale or to a lower stage in a time scale.

Government Servants (Efficiency and Discipline) Rules, 2011

(iv) it is not reasonably practicable to give such an opportunity to the accused; or

(b) get an inquiry conducted into the charge or charges against the accused, by appointing an inquiry officer or an inquiry committee, as the case may be, under rule-11:

— Provided that the competent authority shall dispense with the inquiry where-

(i) a Government servant has been convicted of any offence other than corruption by a court of law under any law for the time being in force; or

(ii) a Government servant is or has been absent from duty without prior approval of leave;

— Provided that the competent authority may dispense with the inquiry where it is in possession of sufficient documentary evidence against the accused or, for reasons to be recorded in writing, it is satisfied that there is no need to hold an inquiry.

(2) The charge sheet or statement of allegations or the show cause notice, as the case may be, shall be signed by the competent authority.

6. Suspension.—A Government servant against whom action is proposed to be initiated under rule 5 may be placed under suspension for a period of ninety days, if in the opinion of the competent authority, suspension is necessary or expedient, and if the period of suspension is not extended for a further period of ninety days within thirty days of the expiry of initial period of suspension, the Government servant shall be deemed to be reinstated:

Provided that the competent authority may, in appropriate case, for reasons to be recorded in writing, instead of placing such person under suspension, require him to proceed on such leave as may be admissible to him, from such date as may be specified by the competent authority.

7. Procedure where inquiry is dispensed with.—If the competent authority decides that it is not necessary to hold an inquiry against the accused under rule 5, it shall-

(a) inform the accused by an order in writing, of the grounds for proceeding against him, clearly specifying the charges therein, alongwith apportionment of responsibility and penalty or penalties proposed to be imposed upon him;

(b) give him a reasonable opportunity of showing cause against the proposed action, within seven days of receipt of the order or within such extended period, as the competent authority may determine;

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(c) on receipt of reply of the accused within the stipulated period or after the expiry thereof, if no reply is received, determine whether the charge or charges have been proved against the accused or not:

Provided that after receipt of reply to the show cause notice from the accused, the competent authority, except where the Chief Minister himself is the competent authority, shall decide the case within a period of ninety days, excluding the time during which the post held by the competent authority remained vacant due to certain reasons:

Provided further that if the case is not decided by the competent authority within the prescribed period of ninety days, the accused may file an application before the appellate authority for early decision of his case, which may direct the competent authority to decide the case within a specified period;

- (d) afford an opportunity of personal hearing before passing any order of penalty under clause (f), if it is determined that the charge or charges have been proved against him;
- (e) exonerate the accused by an order in writing, if it is determined that the charge or charges have not been proved against him; and
- (f) impose any one or more penalties mentioned in rule 4, by an order in writing, if the charge or charges are proved against the accused;

Provided that where charge or charges of grave corruption are proved against an accused, the penalty of dismissal from service shall be imposed, in addition to the recovery, if any.

8. **Action in case of conviction or plea bargain under any law.**—Where a Government servant is convicted by a court of law on charges of corruption or moral turpitude or has entered into plea bargain and has returned the assets or gains acquired through corruption or corrupt practices, or has been acquitted by a court of law as a result of compounding of an offence involving moral turpitude under any law for the time being in force, the competent authority, after examining facts of the case, shall:

- (a) dismiss the Government servant where he has been convicted on charges of corruption or moral turpitude or has entered into plea bargain and has returned the assets or gains acquired through corruption or corrupt practices voluntarily;

Provided that dismissal in these cases shall be with [] effect from the date of conviction by a court of law; and

1. The word "immediate" deleted by Notification NO. SO(REG-VI) E&GAD/2-6/2012 dated 18-07-2012.

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(b) proceed against the Government servant under rule 5, where he has been convicted of charges other than corruption or moral turpitude.

9. **Procedure in case of wilful absence.**—Notwithstanding anything to the contrary contained in these rules, in case of wilful absence from duty by a Government servant for seven or more days, a notice shall be issued by the competent authority through registered acknowledgement on his home address directing him to resume duty within fifteen days of issuance of the notice. If the same is received back as undelivered or no response is received from the absentee within stipulated time, a notice shall be published in at least two leading newspapers directing him to resume duty within fifteen days of the publication of that notice, failing which an *ex-parte* decision shall be taken against the absentee. On expiry of the stipulated period given in the notice, major penalty of removal from service may be imposed upon such Government servant.

10. **Procedure to be followed by competent authority where inquiry is necessary.**—(1) If the competent authority decides that it is necessary to hold an inquiry against the accused under rule 5, it shall pass an order of inquiry in writing, which shall include:

- (a) appointment of an inquiry officer or an inquiry committee, provided that the inquiry officer or the inquiry committee, as the case may be, shall be of a rank senior to the accused and where two or more accused are proceeded against jointly, the inquiry officer or the convener of the inquiry committee shall be of a rank senior to the senior most accused;
- (b) the grounds for proceeding, clearly specifying the charges along with apportionment of responsibility;
- (c) appointment of the departmental representative by designation; and
- (d) direction to the accused to submit written defense to the inquiry officer or the inquiry committee, as the case may be, within reasonable time which shall not be less than seven days and more than fifteen days of the date of receipt of orders.

(2) The record of the case and the list of witnesses, if any, shall be communicated to the inquiry officer or the inquiry committee, as the case may be, along with the orders of inquiry.

(3) In a case where preliminary or fact finding inquiry was conducted, and the competent authority decides to hold formal inquiry, the inquiry officer or the inquiry committee for the purpose of conducting formal inquiry shall be different from the inquiry officer or the inquiry committee which conducted the preliminary enquiry.

11. **Procedure to be followed by inquiry officer or inquiry committee.**—(1) On receipt of reply of the accused or on expiry of the stipulated period, if no reply is received from the accused, the inquiry officer or the inquiry

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Government Servants (Efficiency and Discipline) Rules, 2011

committee, as the case may be, shall inquire into the charges and may examine such oral or documentary evidence in support of the charges or in defense of the accused as may be considered necessary and where any witness is produced by one party, the other party shall be entitled to cross-examine such witness.

(2) If the accused fails to furnish his reply within the stipulated period, the inquiry officer or the inquiry committee, as the case may be, shall proceed with the inquiry ex-parte.

(3) The inquiry officer or the inquiry committee, as the case may be, shall hear the case on day to day and no adjournment shall be given except for reasons to be recorded in writing, in which case it shall not be of more than seven days.

(4) Statements of witnesses and departmental representative(s), if possible, will be recorded in the presence of accused and vice versa.

(5) Where the inquiry officer or the inquiry committee, as the case may be, is satisfied that the accused is hampering or attempting to hamper the progress of the inquiry, he or it shall administer a warning and if, thereafter, he or it is satisfied that the accused is acting in disregard to the warning, he or it shall record a finding to that effect and proceed to complete the inquiry in such manner as may be deemed expedient in the interest of justice.

(6) If the accused absents himself from the inquiry on medical grounds, he shall be deemed to have hampered or attempted to hamper the progress of the inquiry, unless medical leave, applied for by him, is sanctioned on the recommendations of a Medical Board; provided that the competent authority may, in its discretion, sanction medical leave up to seven days without such recommendations.

(7) The inquiry officer or the inquiry committee, as the case may be, shall submit his or its report to the competent authority within thirty days of the initiation of inquiry.

Provided that the inquiry shall not be vitiated merely on the grounds of non-observance of the time schedule for completion of the inquiry.

12. Powers of the inquiry officer or inquiry committee.—(1) For the purpose of an inquiry under these rules, the inquiry officer or the inquiry committee, as the case may be, shall have the powers of a Civil Court trying a suit under the Code of Civil Procedure, 1908 (Act No. V of 1908), in respect of the following matters, namely:

- summoning and enforcing the attendance of any person and examining him on oath;
- requiring the discovery and production of documents, and receiving evidence on affidavits; and
- issuing commissions for the examination of witnesses or documents.

Government Servants (Efficiency and Discipline) Rules, 2011

(2) The proceedings under these rules shall be deemed to be the judicial proceedings within the meaning of sections 193 and 228 of the Pakistan Penal Code, 1860 (Act No. XLV of 1860).

13. Duties of the departmental representative.—The departmental representative shall perform the following duties, namely:

- render full assistance to the inquiry officer or the inquiry committee, as the case may be, during the proceedings where he shall be personally present and fully prepared with all the relevant record relating to the case, on each date of hearing;
- cross-examine the witnesses produced by the accused, and with the permission of the inquiry officer or inquiry committee, as the case may be, may also cross-examine the prosecution witnesses; and
- rebut the grounds of defense offered by the accused before the inquiry officer or the inquiry committee, as the case may be.

14. Order to be passed on receipt of report from the inquiry officer or inquiry committee.—(1) On receipt of report from the inquiry officer or inquiry committee, as the case may be, the competent authority, shall examine the report and the relevant case material and determine whether the inquiry has been conducted in accordance with the provisions of these rules.

(2) If the competent authority is satisfied that the inquiry has been conducted in accordance with the provisions of these rules; it shall further determine whether the charge or charges have been proved against the accused or not.

(3) Where the charge or charges have not been proved, the competent authority shall exonerate the accused by an order in writing, or it shall follow the procedure as given in sub-rule (5) of this rule.

(4) Where the charge or charges have been proved against the accused, the competent authority shall issue a show cause notice to the accused by which it shall—

- inform him of the charges proved against him and the penalty or penalties proposed to be imposed upon him;
- give him reasonable opportunity of showing cause against the penalty or penalties proposed to be imposed upon him and to submit as to why one or more of the penalties as provided in rule 4 may not be imposed upon him and to submit additional defense in writing, if any, within a period which shall not be less than seven days and more than fifteen days from the day the charge or charges have been communicated to him; provided that the accused shall, in his reply to show cause notice, indicate as to whether he wants to be heard in person or not;
- provide a copy of the inquiry report to the accused; and

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P. 26

(d) direct the departmental representative to appear, with all the relevant record, on the date of hearing.

(5) After affording personal hearing to the accused, the competent authority shall, keeping in view the findings and recommendations of the inquiry officer or inquiry committee, as the case may be, facts of the case and defense offered by the accused during personal hearing, by an order in writing-

- (i) exonerate the accused if charges had not been proved; or
- (ii) impose any one or more of the penalties specified in rule 4 if charges have been proved.

(6) Where the competent authority is satisfied that the inquiry proceedings have not been conducted in accordance with the provisions of these rules or the facts and merits of the case have been ignored or there are other sufficient grounds, it may, after recording reasons in writing, either remand the inquiry to the inquiry officer or the inquiry committee, as the case may be, with such directions as the competent authority may like to give, or may order a de novo inquiry through different inquiry officer or inquiry committee (subject to sub-rule (7) of rule 11).

(7) After receipt of reply to the show cause notice and affording opportunity of personal hearing, the competent authority shall decide the case within a period of fifteen days, excluding the time during which the post held by the competent authority remained vacant due to certain reasons.

(8) If the case is not decided by the competent authority within the prescribed period of fifteen days, the accused may submit an application before the appellate authority for early decision of his case, which may direct the competent authority to decide the case within a specified period.

15. Personal hearing.—The competent authority may, by an order in writing, call the accused and the departmental representative, along with relevant record of the case, to appear before him, for personal hearing on the fixed date and time.

16. Procedure of inquiry against Government servant lent to other governments or organizations etc.—(1) Where the services of Government servant to whom these rules apply are transferred or lent to any other government department, corporation, corporate body, autonomous body, authority, statutory body or any other organization or institution, hereinafter referred to as the borrowing organization, the competent authority for the post against which such Government servant is posted in the borrowing organization may-

- (a) suspend him under rule 6; and
- (b) initiate proceedings against him/her under these rules:

1. Added by Notification NO. SO(REG-VI) E&GD/2-6/2010 dated 18-07-2012.

Provided that the borrowing organization shall forthwith inform the authority which has lent his services, (hereinafter referred to as the lending organization) of the circumstances leading to the order of his suspension or the initiation of the proceedings, as the case may be.

Provided further that the borrowing organization shall obtain prior approval of the competent authority in the lending organization before taking any action under these rules against a Government servant holding a post in basic pay scale 17 or above.

(2) If, in the light of findings of the proceedings taken against the accused in terms of sub rule (1), the borrowing organization is of the opinion that a penalty may have to be imposed on him, it shall transmit the record of the proceedings to the lending organization, and the competent authority in the lending organization shall thereupon take action against the accused under rule 14.

(3) Notwithstanding anything to the contrary contained in sub-rules (1) and (2), the Chief Minister may, in respect of certain Government servant or class of Government servants to whom these rules apply, authorize any officer or authority in the borrowing organization to exercise all the powers of the competent authority under these rules.

17. Departmental appeal and review.—(1) An accused who has been awarded any penalty under these rules may, within thirty days from the date of communication of the order, prefer departmental appeal to the appellate authority.

Provided that where the order has been passed by the Chief Minister, the accused may, within the aforesaid period, submit a review petition directly to the Chief Minister.

(2) The authority empowered under sub-rule (1) shall call for the record of the case and comments on the points raised in the appeal from the concerned department or office, and on consideration of the appeal or the review petition, as the case may be, by an order in writing-

- (a) uphold the order of penalty and reject the appeal or review petition; or
- (b) set aside the orders and exonerate the accused; or
- (c) modify the orders or reduce the penalty.

(3) An appeal or review petition preferred under these rules shall be made in the form of a petition in writing, and shall set forth concisely the grounds of objection in impugned order in a proper and temperate language.

18. Appearance of Counsel.—No party to any proceedings under these rules at any stage of the proceedings, except proceedings under rule 19, shall be represented by an advocate.

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19. **Appeal before Khyber Pakhtunkhwa Province Service Tribunal.**—(1) Notwithstanding anything contained in any other law or rules for the time being in force, any Government servant aggrieved by any final order passed under rule 17 may, within thirty days from the date of communication of the order, prefer an appeal to the Khyber Pakhtunkhwa Province Service Tribunal established under the Khyber Pakhtunkhwa Province Service Tribunals Act, 1974 (Khyber Pakhtunkhwa Act No. 1 of 1974).

(2) If a decision on a departmental appeal or review petition, as the case may be, filed under rule 17 is not communicated within period of sixty days of filing thereof, the affected Government servant may file an appeal in the Khyber Pakhtunkhwa Province Service Tribunal within a period of [ninety] days of the expiry of the aforesaid period, whereafter, the authority with whom the departmental appeal or review petition is pending, shall not take any further action.

20. **Exception.**—Notwithstanding anything to the contrary contained in these rules, in cases where Government servants collectively strike work, wilfully absent themselves from duty or abandon their official work, the competent authority in respect of senior most accused may serve upon them through newspapers or any other mean, such notice as may be deemed appropriate to resume duty and in the event of failure or refusal to comply with the directive contained in the notice, impose upon the defaulting Government servants any of the major penalties prescribed in these rules.

21. **Indemnity.**—No suit, prosecution or other legal proceedings shall lie against the competent authority or any other authority for anything done or intended to be done in good faith under these rules or the instructions or directions made or issued thereunder.

[22.]

23. **Repeal.**—(1) The Khyber Pakhtunkhwa government servants (Efficiency & Discipline) Rules, 1973 are hereby repealed.

(2) Notwithstanding the repeal of the aforesaid rules, all proceedings pending immediately before the commencement of these rules against any Government servant under repealed rules shall continue under these rules.

(3) Notwithstanding the repeal of the aforesaid rules, all proceedings pending immediately before the commencement of these rules against any employee under the said repealed rules or under the Khyber Pakhtunkhwa Civil

1. Subs. for the word "thirty" by Notification NO. SO(REG-VI) E&GAD/2-6/2010 dated 18-07-2012.

2. Rule 22 deleted by Notification NO. SO(REG-VI) E&GAD/2-6/2010 dated 18-07-2012. At the time of deletion the said rule 22 was as under:

22. **Jurisdiction barred.**—Save as provided under these rules, no order made or proceedings taken under these rules shall be called in question in any court and no injunction shall be granted by any court in respect of any decision so made or proceedings taken in pursuance of any power conferred by, or under these rules.

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Servants Act, 1973 and rules made thereunder, or any other law and rules shall continue under that law and rules, in the manner provided thereunder.

Khyber Pakhtunkhwa Civil Servants Revised Leave Rules, 1981

[Gazette of Khyber Pakhtunkhwa, Part I, Page No. 151-160, 23rd December, 1981]

No. FD: SO (SR-IV) 5-54 / 80 (Vol:12) dated 17-12-1981.—in exercise of the powers conferred by section 26 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act XVIII of 1973) and in supersession of this Department's Notification No. FD:SO(SR-IV) 1-17/78, dated the 20th November, 1979, the Governor of the Khyber Pakhtunkhwa is pleased to make the following rules namely:—

1. **Short title, commencement and application.**—(1) These rules may be called the Khyber Pakhtunkhwa Civil Servants Revised Leave Rules, 1981.

(2) They shall come into force at once.

(3) They shall apply to all Civil Servants under the rule making authority of the Governor except those who opted not to be governed by the Khyber Pakhtunkhwa Civil Servants Leave Rules, 1979.

2. **Admissibility of Leave of Civil Servant.**—Leave shall be applied for, expressed and sanctioned in terms of days and shall be admissible to a civil servant at the following rate and scale:—

(i) A civil servant shall earn leave only on full pay. It shall be calculated at the rate of four days for every calendar month of the period of duty rendered and credited to the leave account as "leave on full pay" duty period of 15 days or less in a calendar month being ignored and those of more than 15 days being treated as a full calendar month, for the purpose. If a civil servant proceeds on leave during a calendar month and returns from it during another calendar month and the period of duty in either month is more than 15 days, the leave to be credited for both the incomplete months will be restricted to that admissible for one full calendar month only.

(ii) The provisions of clause (i) will not apply to vacation departments. A civil servant of a vacation department may earn leave on full pay as under:—

(a) When he avails himself of vacation in a calendar year. At the rate of one day of every calendar month of duty rendered;

(b) When during any year he As for a civil servant in

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THE ¹KHYBER PAKHTUNKHWA CIVIL SERVANTS
(APPOINTMENT, PROMOTION & TRANSFER) RULES, 1989

PART-I

GENERAL

1. Short title and commencement: - (1) These rules may be called the ²[Khyber Pakhtunkhwa] Civil Servants (Appointment, Promotion and Transfer) Rules, 1989.

(2) They shall come into force at once.

2. Definitions:- (1) In these rules, unless the context otherwise requires:-

(a) "Appointing Authority" in relation to a post, means the persons authorized under rule 4 to make appointment to that post;

(b) "Basic Pay Scale" means the Basic Pay Scale for the time being sanctioned by Government, in which a post or a group of posts is placed;

(c) "Commission" means the ³[Khyber Pakhtunkhwa] Public Service Commission;

⁴(d) "Departmental Promotion Committee" means a committee constituted for making selection for promotion or transfer to such posts under a Department, or offices of Government, which do not fall within the purview of the Provincial Selection Board;

⁵(dd) "Departmental Selection Board" means a Board constituted for the purpose of making selection for initial recruitment /appointment to posts under a Department or office of Government in Basic Pay Scale 17 not falling within the purview of the Commission:

Provided that more than one such committees may be constituted for civil servants holding different scales of pay".

(e) "Departmental Selection Committee" means a committee constituted for the purpose of making selection for initial appointment to posts under a department, or office of Government [in Basic Pay Scale 17 and below not falling within the purview of the Commission];

(f) "Post" means a post sanctioned in connection with the affairs of the Province, but not allocated to all Pakistan Unified Grades ; and

¹ For the words "NWFP" or "North-West Frontier Province", wherever occurred, the words "Khyber Pakhtunkhwa" substituted by the Khyber Pakhtunkhwa Laws (Amendment) Act, 2011 (Khyber Pakhtunkhwa Act No. IV of 2011) published in the Khyber Pakhtunkhwa Government Gazette Extraordinary dated 2nd April, 2011

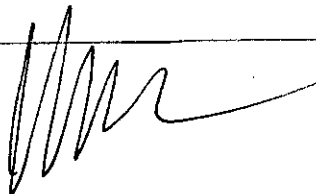
² Sub. by the Khyber Pakhtunkhwa Act No. IV of 2011.

³ Sub. by the Khyber Pakhtunkhwa Act No. IV of 2011.

⁴ Substituted by Clause (d) of sub-rule (1) of Rule 2 vide Notification No. SOR-I (S&GAD) 4-1/80 (Vol-II) dated 14-01-92.

⁵ Clause (dd) added by Notification No. SOR-III (S&GAD) 2-7/86, dated 8-12-1994

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¹⁶6. **Procedure when recommendation is not accepted:-** When an appointing authority for Basic Pay Scale 17 or below does not accept the recommendation of a Departmental Promotion or Selection Committee, or the Departmental Selection Board, as the case may be, it shall record its reasons and obtain order of the next higher authority.

PART-II

APPOINTMENT BY PROMOTION OR TRANSFER

7. **Appointment by Promotion or Transfer.** ¹⁷(1) Except as otherwise provided in any service rules for the time being in force, appointment by promotion or transfer to posts in respect whereof the appointing authority under rule 4 is the Chief Minister shall ordinarily be made on the recommendation of the Provincial Selection Board and promotion and transfer to posts other than those falling within the purview of the Provincial Selection Board shall ordinarily be made on the recommendation of appropriate Departmental Promotion Committee".

(2) Appointment by transfer shall be made from amongst the persons holding appointment on regular basis in the same basic pay scale, in which the posts to be filled, exist.

(3) Persons possessing such qualifications and fulfilling such conditions as laid down for the purpose of promotion or transfer to a post shall be considered by the Departmental Promotion Committee or the Provincial Selection Board for promotion or transfer, as the case may be.

(4) No promotion on regular basis shall be made to posts in Basic Pay Scale 18 to 21 unless the officer concerned has completed such minimum length of service as may be specified from time to time.

¹⁸(5) If on an order of promotion or before promotion any civil servant declines in writing, to accept promotion, such civil servant shall not be considered for such promotion for the next four years following order.

Provided that if he declines to avail the benefit of promotion for the second time, then he shall stand superseded permanently for such promotion.

8. **Inter-Provincial Transfer:-**(1) Persons holding appointment in BPS 1 to 15 under Federal Government and other Provincial Government may, in deserving cases, be transferred to equivalent posts under these rules:-

Provided that:-

- (i) the Federal Government or the Government of the Province concerned, as the case may be, has no objection to such a transfer;
- (ii) the person seeking transfer possesses the requisite qualification and experience and the post to which his transfer is intended can, under the rules, be filled by transfer;
- (iii) the person concerned holds appointment to the post in his parent Department on regular basis;

¹⁶ Rule-6 substituted by Notification No. SOR-III(S&GAD)2-7/86, dated 8-12-1994

¹⁷ Sub rule (1) substituted by Notification No. SOR-I(S&GAD)4-1/80/II, dated 14-01-1992.

¹⁸ Sub rule (5) inserted by Notification No. SOR-VI(E&AD)1-3/2009/Vol-VIII, dated 22-10-2011.

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P-30
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**GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(REGULATION WING)**

NOTIFICATION

Dated Peshawar the, 06/8/2020

Policy) E&A/D/1-3/2020 In exercise of the powers conferred by section 26 of the
Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No XVIII of
1973), the Chief Minister of Khyber Pakhtunkhwa is pleased to direct that in the Khyber
Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the
following further amendment shall be made, namely:

AMENDMENT

In rule 7, sub-rule (5) shall be deleted.

**CHIEF SECRETARY
GOVERNMENT OF THE KHYBER PAKHTUNKHWA**

ENDS: NO. & EVEN DATE

Copy is forwarded to:-

1. Additional Chief Secretary, Govt. of Khyber Pakhtunkhwa, Planning & Development Department.
2. The Senior Member Board of Revenue, Khyber Pakhtunkhwa.
3. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
4. The Principal Secretary to Governor, Khyber Pakhtunkhwa.
5. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
6. All Divisional Commissioners in Khyber Pakhtunkhwa.
7. All Heads of Attached Departments in Khyber Pakhtunkhwa.
8. All Autonomous/Semi Autonomous Bodies in Khyber Pakhtunkhwa.
9. All Deputy Commissioners in Khyber Pakhtunkhwa.
10. The Registrar Peshawar High Court, Peshawar.
11. The Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
12. The Secretary, Khyber Pakhtunkhwa Public Service Commission, Peshawar.
13. The Deputy Director (IT), E&A Department.
14. All Section Officers in Establishment & Administration Department.
15. The Section Officer (Admn), Administration Department with the request to arrange 20 gazette copies.
16. The Caretaker, Administration Department.

DC
10/8/20



Wardah Latif
**(WARDAH LATIF)
DEPUTY SECRETARY (POLICY)**

Attested

[Signature]



GOVERNMENT OF KHYBER PAKHTUNKHWA
 ESTABLISHMENT DEPARTMENT
 No. SO(Policy)II&AT/1-3/2020
 Dated Peshawar the June 06, 2023

Amman-D
P-31

To: The Government of Khyber Pakhtunkhwa,
 Elementary & Secondary Education Department.

Subject: GUIDANCE REGARDING DELETION OF RULE 7(S) IN THE
 KHYBER PAKHTUNKHWA CIVIL SERVANTS (APPOINTMENT,
 PROMOTION AND TRANSFER) RULES, 1989.

Dear Sir,
 I am directed to refer to your letter No. SO(Policy-MYI&SED)/2-
 2/Appointment/2023 dated 18.04.2023 on the subject noted above and to state that Sub-Rule
 (5) of Rule-7 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer)
 Rules, 1989 stands deleted vide this Department notification dated 06.08.2020; thus, no
 provision exists to decline or forgo promotion.

2. The basic rationale behind the deletion of the third rule is aimed at preventing a
 civil servant from temptation for illicit gain by sticking to a single lucrative post/position or to
 prevent those who tend to forgo promotion to evade posting/transfer or show lack of capacity
 to tackle higher responsibilities in case of promotion. Therefore, it is obligatory upon every
 civil servant to accept promotion in every condition.

3. Furthermore, those officers/officials who do not comply with promotion order
 of the competent authority or try to evade promotion through different means shall be
 proceeded against under Khyber Pakhtunkhwa Civil Servants (Efficiency & Discipline) Rules,
 2011, please.

Yours faithfully,

(Issa Muhammad Khan)
 Section Officer (Policy)

ASE
7/6

7/6

Encl. Of even No & date

Copy forwarded to the:-

1. PS to Special Secretary (Reg), Establishment Department.
2. PA to Additional Secretary (Reg-II), Establishment Department.
3. DS to Deputy Secretary (Policy), Establishment Department.

[Signature]
 Section Officer (Policy)

[Signature]

2623
 7/6/23

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OFFICE OF THE DISTRICT EDUCATION

OFFICER (FEMALE) ABBOTTABAD

PH# No. 0992-342533 Fax:0992-342314

E-mail: dcofemale_abbottabad@yahoo.com

Annex-E

P-32

NOTIFICATION:

Consequent upon the recommendation of the Departmental Promotion Committee dated 22-03-2023, the following female SPSTs BPS-14 are promoted to the post of PSHT BPS-15 @ Rs. (23920-1980-83320) plus usual allowances as admissible on regular basis are hereby adjusted in the school noted against their names with immediate effect in the best public interest.

S.No	Sen #	Name	Father name	Present School	Remarks/ Place of Posting
1	5	SHAZIA NISAR	NISAR AHMED	GGPS M/Pura No 2	GGPS HABIB ABAD
2	7	NAGINA GHAFOR	ABDUL GHAFOR	GGPS No 3 M/Pura	GGPS KANGRORA
3	11	RUBINA BIBI	ABDUL AZIZ	GGPS Dhamtour	GGPS PHELWAN
4	12	SHAZIA KOUSAR	M.BASHIR ABASSI	GGPS Bandi Phulan	GGPS BAGH DARA
5	13	NASREEN BIBI	M.RAFIQUE	GGPS Thanda Chaha	GGPS MAKRILA BOI
6	14	NAGINA BIBI	MUHAMMAD JAN	GGPS Paswal Mian	GGPS CHATTY MOHRI
7	16	SAEEDA	M.SABIR	GGPS Mahmda	GGPS SIAL
8	17	BUSHRA PERVEEN	M.URFAN	GGPS Choona Kari	GGPS TARKOT
9	18	NAZIA SADDIQUE	M.SIDDIQUE	GGPS Hav/ Village	GGPS NAGRI PAYEEN
10	19	TAHIRA SHAHEEN	ROSHAN DIN	GGPS Jhangra	GGPS PATHIAN
11	21	NADIA ANJAM	KHANI ZAMAN	GGPS M/Pura No 1	GGPS DARRA DALOLA
12	23	FARZANA BIBI	S.ALI AKHTER	GGPS(comp) Atd	GGPS PAMSER TAJWAL
13	26	MAJIDA PARVEEN	WALI SULTAN	GGCMS Barwal	GGPS CHINJA
14	28	ANSA SHAHEEN	M.NAZEER	GGPS N/Shehr No 2	GGPS HOTHLA
15	34	NAZIA MUSHTAQ	M.MUSHTAQ	GGPS AKHREELA	GGPS LAHOOR KAS
16	35	REHANA ZEB	SARDAR AURANGZEB	GGPS Sultan Pur	GGPS KASORIAN
17	39	ABIDA BATOOL	HAQ NAWAZ KHAN	GGPS Batala	GGPS MUNDRIAN
18	40	NAILA BIBI	RASHID AHMED	GGPS Comprehensive	GGPS NOSHERA TAJWAL
19	42	SHAMA MEHBOOB	MEHBOOB ELAHI	GGCMS Mirpur	GGPS BACHA SANI
20	43	JAVERIA ASHRAF	MUHAMMAD ASHRAF	GGPS B/ Jalal Khan	GGPS BAMOCHI
21	44	ABIDA BIBI	HUKAM DAD	GGPS Jhangj	GGPS UPPER TAJWAL
22	45	RUKSHANDA HAFEEZ	M HAFEEZ KHAN	GGPS Nawasher no 1	GGPS MOHRA BIROTE
23	48	SAJJIDA YASEEM	KHAWAJA MUHAMMAD	GGPS Hav/Stat	GGPS HIRLAN

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9-33

121	209	KHADIJA HAKAMDAD	HUKAM DAD	GGPS KERI REKI	GGPS MAKOL DANA
122	210	SHABANA YOUSIF	M. YOUSIF	GGPS Dhunian	GGPS DHUNIAN
123	211	SHAHEEN AKHTAR	SHERZAMAN	GGPS Salkot	GGPS KHOKHIALA
124	212	SADIA BIBI	M. SAEED	GGPS AKHREELA	GGPS KHOI SAMBLI
125	213	NAIMA TAHIR	M.TAHIR	GGPS Manu-De-Ban	GGPS HAZEERA
126	214	BIBI SAJJIDA	MUHAMMAD ADESS	GGPS City Aid	GGPS LOWER TAJWAI
127	215	ZAHIDA BIBI	MUHAMMAD SARWAR	GGPS Chankot	GGPS CHANKOT
128	216	NAILA BIBI	MUHAMMAD MUBIN	GGPS LOWER MALKOTE	GGPS HILL BIROTE
129	217	SHAMI NAZ	MUHAMMAD AZEEM	GGPS PRAN GOOT	GGPS PRAN GOOT

TERMS AND CONDITIONS.

1. They would be on probation for a period of one year.
2. They will be governed by such rules & regulations as may be issued from time to time by the Government.
3. Their service can be terminated at any time, in case their performance is found unsatisfactory during probation period. In case of misconduct she shall be proceeded under the rules framed time to time.
4. Charge report should be submitted to all concerned.
5. Their Inter- se seniority on lower post will remain intact.
6. No TA/DA is allowed for joining their duty.
7. They will give an undertaking to be recorded in their service book to the effect that if any over payment is made to them in light this order will be recovered and if she is wrongly promoted she will be reversed.
8. They should join their post within 15 days of the issuance of this notification. In case of failure to join their post within 15 days of the issuance of this notification, their promotion will expire automatically and no subsequent appeal will be entertained.
9. To all concerned for strict compliance of letter No. SO(Policy)E&AD/1-3/2020 dated June 6, 2023, that it is obligatory upon every Civil Servant to accept promotion in every condition in the one who do not comply with promotion order shall be proceeded under Khyber Pakhtunkhwa Civil Servant efficiency and discipline rule 2011.
10. Before handing over charge their documents may be checked if they have not required the relevant qualification as per rules they may not handed over the charge of posts.

**DISTRICT EDUCATION OFFICER
(FEMALE) ABBOTTABAD**

Endst: No. 7717-25 /Promotion SPSTs to PSHTs

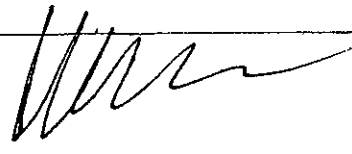
Dated: 29/08/2023

Copy for Information to the:

1. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
2. District Monitoring Officer, IMU Abbottabad.
3. District Accounts Officer Abbottabad.
4. All SDEOs (Abbottabad, Hayellan, Lower Tanawal & Lora).
5. Budget & Accounts Officer Local Office.
6. Concerned Head teachers.
7. Teachers Concerned.
8. Office File.



**DISTRICT EDUCATION OFFICER
(FEMALE) ABBOTTABAD**



بخدمت جناب ڈائریکٹر صاحب سیکنڈری ایجوکیشن پشاور۔

درخواست بواسطت: ڈسٹرکٹ ایجوکیشن آفیسر صاحبہ زنانہ مدارس ایبٹ آباد

عنوان:- درخواست بر خلاف پروموشن آرڈر کردہ 29 اگست 2023ء

نوٹیفکیشن سحرہ 8 جون 2023ء جو کہ غیر قانونی ہے اور قابل منسوخی ہے۔

جناب عالی!

مؤدبانہ گزارش ہے کہ من اپیلانٹ گورنمنٹ گرنز پرائمری سکول

SPST پوسٹ سے PSHT میں پروموشن سہرا 29 اگست 2023ء کو کر دی گئی ہے۔ اور من اپیلانٹ کو

سحرہ 29 اگست 2023ء کو کر دی گئی ہے۔ اور من اپیلانٹ کو گورنمنٹ

گرنز پرائمری سکول بانڈہ جلال خان سے گورنمنٹ گرنز پرائمری سکول

سحرہ 29 اگست 2023ء کو کر دی گئی ہے۔ جو کہ اپیلانٹ کے گھر سے سیلوں دور ہے۔

اور وہاں پر باضابطہ رہائش کا بندوبست نہ ہونے کی وجہ سے اپنی ڈیوٹی

سہرا انجام دینا ممکن نہیں ہے۔

اور یہ کہ من اپیلانٹ قبل ازیں باضابطہ طور پر ہر دفعہ پروموشن کو

Forgo کرتی رہی ہے اور اس کے باوجود اپیلانٹ کو پروموشن کے تبدیل

کرنا خلاف قانون ہے اور اسی طرح نوٹیفکیشن سحرہ 6 جون 2023ء غیر قانونی

ہے اور قابل منسوخی ہے۔ کیونکہ مذکورہ نوٹیفکیشن سول سرونٹ ایکٹ

1973ء کی سیکشن 26 کے منافی ہے۔

لہذا آپ سے استدعا ہے کہ ہر دو نوٹیفکیشن کو منسوخ کیا جائے

عین نوازش ہوگی

العارضہ

جو لیرہ اشرف گورنمنٹ گرنز پرائمری سکول بانڈہ جلال خان

Amman
14/9/2023

گاہی 1- چیف سیکرٹری صاحب خیر تختوخواہ پشاور

2- سیکرٹری ایجوکیشن صاحب

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18/9/2023

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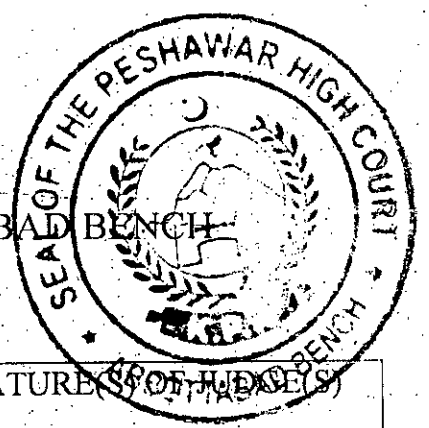
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P-35



PESHAWAR HIGH COURT, ABBOTTABAD BENCH
FORM 'A'
FORM OF ORDER SHEET

Date of Order or Proceedings	ORDER OR PROCEEDINGS WITH SIGNATURES OF JUDGE(S)
1	2
14.09.2023	<p>WP No.1101-A/2023</p> <p>Present:- Mr. Arshad Khan Tanoli, Advocate for petitioner.</p> <p>***</p> <p>Requests that instant petition be clubbed alongwith WP No.973-A/2023 already pending before this court on the premise that the identical question is involved therein. Office is directed to club this writ petition alongwith WP No.973-A/2023 and fix them before the same bench of this court. Meanwhile, comments of respondent No.6 be called so as to reach this court within a fortnight.</p> <p><u>Interim relief.</u></p> <p>Notice. Till then no adverse action shall be taken against the petitioners.</p> <p><i>(Signature)</i> JUDGE</p> <p><i>(Signature)</i> JUDGE</p> <p><i>(Signature)</i></p> <p><i>(Signature)</i></p>

Certified to be True Copy
EXAMINER
15 SEP 2023
Peshawar High Court Atd Bench
Authorized Under Sec 75 Evid Ordns

20 ESTA CODE [Establishment Code Khyber Pakhtunkhwa]

5. [Departmental Promotion and Selection Committee/Board].-- (1) In each Department or office of Government there shall be one or more Departmental Promotion Committee and Departmental Selection Committee ²[or, as the case may be, Departmental Selection Board], the composition of which shall be determined by the Services and General Administration Department or the Department in consultation with the Services and General Administration Department.

(2) Each such Committee ³[or the Board, as the case may be], shall consist of at least three members; one of whom shall be appointed as Chairman.

⁴[6. Procedure when recommendation is not accepted.]---When an appointing authority for Basic Pay Scale 17 or below does not accept the recommendation of a Departmental Promotion or Selection Committee, or the Departmental Selection Board, as the case may be, it shall record its reasons and obtain orders of the next higher authority.]

**PART-II
APPOINTMENT BY PROMOTION OR TRANSFER**

7. Appointment by Promotion or Transfer.---⁵[(1) Except as otherwise provided in any service rules for the time being in force, appointment by promotion or transfer to posts in respect whereof the appointing authority under rule 4 is the Chief Minister shall ordinarily be made on the recommendation of the Provincial Selection Board and promotion and transfer to posts other than those falling within the purview of the Provincial Selection Board shall ordinarily be made on the recommendation of appropriate Departmental Promotion Committee.]

(2) Appointment by transfer shall be made from amongst the persons holding appointment on regular basis in the same basic pay scale, in which the posts to be filled, exists.

(3) Persons possessing such qualifications and fulfilling such conditions as laid down for the purpose of promotion or transfer to a post shall be considered by the Departmental Promotion Committee or the Provincial Selection Board for promotion or transfer, as the case may be.

⁶[(4) No promotion on regular basis shall be made to posts in Basic Pay Scale 18, unless the officer concerned has completed such minimum length of service as may be specified from time to time, or, in case of posts in Basic pay Scale 19 to 21, the officer, besides having the minimum length of service for the time being required for promotion, has also attended such training and passed such departmental examination as may be prescribed from time to time.]

- The Heading substituted by Notification No. SORI(S&GAD)2-7/86, dated 08-12-1994.
- Inserted by Notification No. SORI(S&GAD)2-7/86, dated 08-12-1994.
- The words inserted by Notification No. SORIII(S&GAD)2-7/86, dated 08-12-1994.
- Rule 6 substituted by Notification No. SORIII(S&GAD)2-7/86, dated 08-12-1994.
- Sub-rule(1) of rule 7 substituted by Notif. No. SORI(S&GAD)4-1/80(Vol.II), dated 14-01-1992.
- Sub-rule 4 of Rule 7 substituted by Notif. No. SOR-I(S&GAD)4-1/80 (Vol-III) dated 30-12-1999.

ESTA CODE [Establishment Code Khyber Pakhtunkhwa]

11 ¹[(5) If on an order of promotion or before promotion an officer declines in writing, to accept promotion, such civil servant shall not be eligible for such promotion for the next four years following the order:

Provided that if he declines to avail the benefit of promotion time, then he shall stand superseded permanently for such promotion.

8. Inter-Provincial Transfer.---(1) Persons holding in BPS 1 to 15 under Federal Government and other Provincial Government deserving cases, be transferred to equivalent posts under these rules:

Provided that:-

- (i) the Federal Government or the Government of concerned, as the case may be, has no objection to transfer;
- (ii) the person seeking transfer possesses the requisite qualifications and experience and the post to which his transfer is made, under the rules, be filled by transfer;
- (iii) the person concerned holds appointment to the post in the Department on regular basis;
- (iv) the person concerned is a bonafide resident of Khyber Pakhtunkhwa;
- (v) a vacancy exists to accommodate the request of such person;
- (vi) provided further that in most deserving cases, the transfer shall be determined on case to case basis and the decision of the Competent Authority in that behalf shall be final, to allow transfer of a civil servant in BPS-16 and at and above the aforesaid conditions.

(2) A person so transferred shall be placed at the bottom of the list of members of the cadre on the basis of seniority which he joins for the purposes of determining his seniority in the cadre.

(3) It will be the sole discretion of the appointing authority to grant or refuse a request of transfer under this rule and any decision made shall be final and shall not be quoted as precedence in any other case.

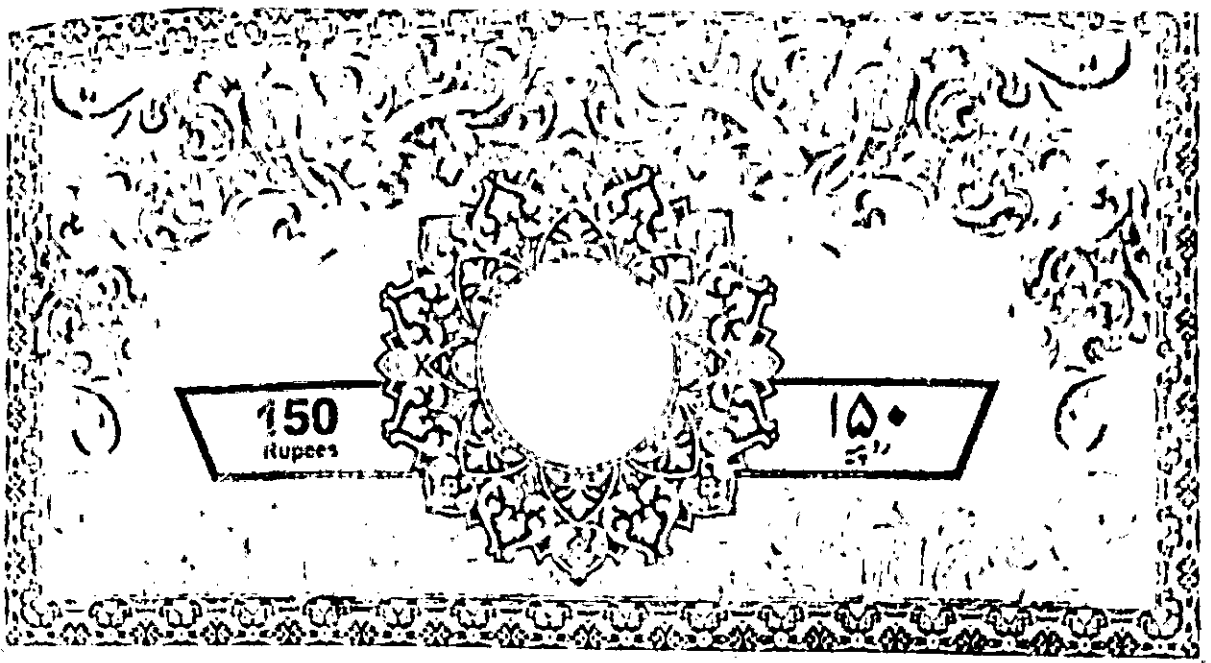
9. Appointment on Acting Charge or current Charge

(1) Where the appointing authority considered it to be in the public interest to reserve a post reserved under the rules for departmental promotion and the officer concerned, who is other than the incumbent of the post, be appointed on acting charge, the following conditions shall apply:

1. Sub-rule (5) of Rule 7 added by Notif. No. SOR-VI(E&AD)1-3/2009/22-10-2011

ANNEX-H

P-36



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بیان حلفی
 نام جوہر بہ انٹرفا دختر محمد اشرف زوہد ندیم
 سہیل نورانی روڈ لوٹر صد اپورہ مکان طسبرہ 159
 عمیر اہٹ آباد حلقہ پٹانی پول
 نمبر 15 سٹورہ فتحہ لعلیم میں بطور SPST اپنی
 خدمات PS کے ساتھ بانڈ حاصل خان میں سیکل 14
 میں اپنی خدمات سہرا بجلی دار فی سول حلقہ پٹانی پول
 نمبر 15 سٹورہ گھوڑا پلو جھوری اور کیمری لکھنوی کی وجہ
 سے سیکل 15 میں بہرہ سہیشن نہیں لیتا
 چاہتی سول بلڈ جس جگہ سول اسی جگہ سیکل 14 میں
 اپنی خدمات سہرا بجلی دار کی

لکھنا بیان حلفی درست

07
15-2013

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جوہر بہ انٹرفا



15/7/23

کورٹ فیس

وکالت نامہ

Service Tribunal KPIC Peshawar

Javera Ashraf

بنام

Appellant

نوعیت مقدمہ:

باعث تحریر آنکہ

مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی و جواب دہی کل کاروائی متعلقہ آن مقام
M. Arshad Khan Tanahi Adv Hc

~~M. Arshad Khan Tanahi Adv Hc~~

کو وکیل مقرر کر کے اقرار کرتا ہوں کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا نیز وکیل

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

کرانے اجراء وصولی چیک روپیہ و عرضی و 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 پیشی مقام دورہ پر ہو یا

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 بہراد

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۔

المقوم:

بمقام:

M. Ibrahim Khan
Adv Hc No 2

Accepted
M. Arshad Khan Tanahi Adv Hc