

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR CAMP COURT ABBOTTABAD.**

Service Appeal No. 876/2023

Arif Khan, Driver, Assistant to Commissioner Office, Abbottabad

.....APPELLANT

VERSUS

1. The Government of Khyber Pakhtunkhwa, through Secretary Law, Parliamentary Affairs & H.R Department, Peshawar.
2. The Commissioner Hazara Division.
3. The District Accounts Officer, Abbottabad.

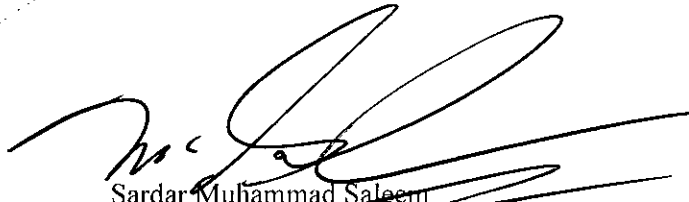
.....RESPONDENTS

PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO.3

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2	Copy of KP Pension Rule 2021	04 to 05	"A"

Dated: 08 /01/2024


Sardar Muhammad Saleem
District Accounts Officer
Abbottabad.

Respondent No.03

22-1-2024
AAbbada

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR CAMP COURT ABBOTTABAD.**

Service Appeal No. 876/2023

**Khyber Pakhtunkhwa
Service Tribunal**

Arif Khan, Driver, Assistant to Commissioner Office, Abbottabad Diary No. 10420

Dated 08-1-2024

.....**APPELLANT**

VERSUS

- 4. The Government of Khyber Pakhtunkhwa, through Secretary Law, Parliamentary Affairs & H.R Department, Peshawar.**
- 5. The Commissioner Hazara Division.**
- 6. The District Accounts Officer, Abbottabad.**

.....**RESPONDENTS**

PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO. 03

Preliminary Objections:-

1. That appellant was appointed under the provision /terms & conditions in the light of the **Sacked Employees (APPOINTMENT) Act, 2012**. Section 4 and 7 respectively, which provided for the concerned a procedure contained which is clearly fresh appointment within 30% quota reserved in the cadre for sacked employees and section 5, provided no claim of seniority or other back benefits, so accordingly the appellant appointed vide No: **CHD/Estb/1/2/1764-67 dated:21/02/2018**, a fresh and superannuated as on **02/05/2022**, comes a total service of 4 years, 2 months and 11 days, as regular service which not qualify for pension in the light of **Khyber Pakhtunkhwa Pension Rules 2021 No. 3.(a)** (copy enclosed as annexure-A).

Respectfully Sheweth:

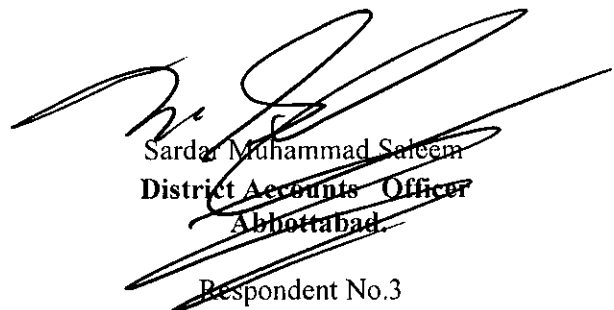
Para wise comments on above mentioned case are submitted as under:-

1. Pertain to record.
2. Pertain to record.
3. Pertain to record.
4. Pertain to record.
5. Incorrect as explained in preliminary objection No.1 above.
6. As per para 5 above.

GROUNDS

- a. Incorrect as explained at para 1 of the preliminary objections.
- b. Right of appellant is not established under the provision of law as **Sacked Employees (APPOINTMENT) Act, 2012**, explained in para 1 of preliminary objections.
- c. No comments.
- d. No comments.
- e. No comments.

It is therefore very humble prayed that petition may be dismissed with cost in limine.

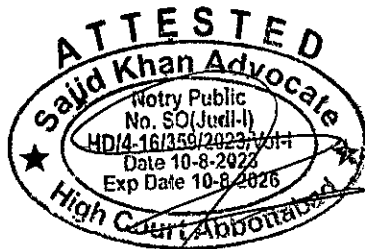

Sarda Muhammad Saleem
District Accounts Officer
Abhattabad.
Respondent No.3

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR CAMP COURT ABBOTTABAD.**

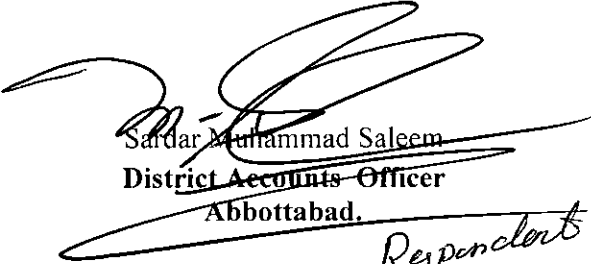
Service Appeal No. 876/2023

AFFIDAVIT

I, **Sardar Muhammad Saleem, District Accounts Officer
Abbottabad**, do hereby solemnly affirm and declare that contents of forgoing
comments are true and correct and nothing material has been suppressed from
the honorable court.



03/01/24


Sardar Muhammad Saleem
District Accounts Officer
Abbottabad.

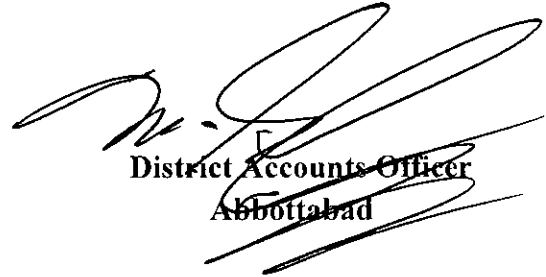
DEPONENT

Respondent No-3

AUTHORITY LETTER

It is certified that Mr. Shehzad Ahmed, CNIC No.13101-2840674-3, Senior Auditor of this office is hereby authorized to submit the parawise comments in the Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar, on behalf of this office in case of Service Appeal No.876/2023 please.

Dated: 08 /01/2024


District Accounts Officer
Abbottabad

Annexure A

(4)

EXTRAORDINARY
GOVERNMENT



REGISTERED NO. PIII
G A Z E T T E

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, MONDAY, 06th SEPTEMBER, 2021.

GOVERNMENT OF KHYBER PAKHTUNKHWA FINANCE DEPARTMENT

NOTIFICATION

Dated Peshawar, the 06th September, 2021

No. SOSR-II/FD/2-4/2021.---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 make the following rules, namely:

KHYBER PAKHTUNKHWA CIVIL SERVANTS PENSION RULES, 2021

Chapter-I

Preliminary

1. **Short title and commencement---** (1) These rules may be called the Khyber Pakhtunkhwa Civil Servants Pension Rules, 2021.

(2) These rules shall come into force at once.

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

- (a) **"Act"**, means the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973);
- (b) **"Accounts Officer"**, means an officer, who keeps the accounts of Government and includes the Accountant General, Khyber Pakhtunkhwa, District Comptrollers of Accounts and District Accounts Officers and any other officer, who keeps Government accounts;
- (c) **"competent authority"** means the authority to appoint civil servants in various basic pay scales respectively;
- (d) **"commutation"**, means the advance payment of 35% of gross pension to the pensioner for the specific period as specified under these rules, which shall be restorable when the paid amount is recovered;

Attested
[Signature]

Chapter-II
Service Qualifying for Pension

3. **Conditions of qualification.**---(1) The service of a civil servant does not qualify for pension unless it conforms to the following conditions:

- (a) the service shall not be less than ten years;
- (b) the service must be paid by Government from the Provincial Consolidated Fund;
- (c) the service of a probationer who is subsequently confirmed in a permanent post without interruption qualifies for pension;
- (d) the time spent by a civil servant in approved training shall count as service qualifying for pension; however, the period of training before actual appointment to a civil post shall not count for pension;
- (e) all leave, other than extra ordinary leave counts as qualifying service for the purpose of pension;

Explanation: The period of extraordinary leave shall not be treated as qualifying service for pension but only as a bridge between the two periods of qualifying service.

- (f) the period of suspension, followed by reinstatement, shall be deemed to have been the period as qualifying for pension, regardless of the fact whether the civil servant was or was not allowed full pay and allowances for the period of suspension;
- (g) time spent by a civil servant on deputation in another Government or autonomous body working under Government;
- (h) military pensionable service which ceases before a pension has been earned in respect of it, when followed by civil pensionable service, counts as part of such service;
- (i) if a permanent post, on which a civil servant holds a lien, is abolished, under circumstances entitling him to get a compensation pension or gratuity, his service thereafter in a temporary post, under Government, qualifies for pension; and
- (j) for the purpose of grant of pension for the service in an autonomous or semi-autonomous body, the pay drawn and the effective service, rendered by a civil servant in an autonomous or semi-autonomous body, the authorized capital of which is wholly subscribed by the Federal or Government in a post, appointment to which is by law, required to be made and salary of which is required to be fixed by the Federal Government or Government shall be treated as pay drawn and effective service, rendered in a post in Government service.

Amended
Judicial