

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 683/2016

Date of Institution 24.06.2016

Date of Decision ... 02.11.2017

Mr. Muhammad Arshad, Additional Secretary, Housing Department, Peshawar.
... (Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through its Chief Secretary, Peshawar
and another. ... (Respondents)

APPELLANT ... *Pro se*

MR. ZIAULLAH,
Deputy District Attorney ... For respondents.

MR. NIAZ MUHAMMAD KHAN, ... CHAIRMAN
MR. GUL ZEB KHAN, ... MEMBER

JUDGMENT

NIAZ MUIHAMMAD KHAN, CHAIRMAN.- Arguments of the
learned counsel for the parties heard and record perused.

FACTS

2. The appellant was given average overall grading in his P.E.R for the period
from 11.05.2011 to 31.12.2011. The same was not communicated to him. The
appellant came to know about the average report on his own. He filed a

representation under Section 22 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 on 09.07.2015 which was rejected on 14.09.2015. Thereafter he filed the present service appeal on 24.06.2016.

ARGUMENTS.

3. The appellant *Pro se* argued that no limitation shall be attracted in this appeal for the reason that his departmental appeal was rejected not on the basis of limitation. Secondly that no communication of average report was ever made to him officially. That he on his own made efforts to get copy of the report. That on merits, the entries are liable to be expunged and his overall grading is also liable to be upgraded for the reason that the Reporting Officer inked the P.E.R in violation of the instructions on the subject. He argued that the overall grading is not reflective of his performance as given in parts II and III of the P.E.R. That the Countersigning Officer has also blindly endorsed the report of the Reporting Officer. He further argued that the very order of rejecting his representation is void being decided by an incompetent authority and limitation is not attracted on this score as well. He added that the Reporting Officer has not supplemented his assessment on plausible reasons or any data. In this regard he replied on many judgments of the august Superior Courts. Some of which are 2007-SCMR-73 (On limitation), PLD 2002-Supreme Court-630 (void order attracts no limitation).

4. On the other hand, the learned Deputy District Attorney argued that the present appeal is not maintainable for the reason that the departmental appeal was also not maintainable as average entries are not communicated and there is no right of filing of departmental appeal/representation against such entries and hence no service appeal shall lie. He further argued that if at all the departmental appeal/

representation is permissible then that is time barred for the reason that the appellant came to know about average report in the year, 2014 and he represented against the same in the year, 2016. Secondly that after the rejection of the representation on 14.09.2015 communicated to him on 16.09.2015, he filed the present appeal on 24.06.2016 which is time barred. The learned Deputy District Attorney relied upon certain judgments on limitation including 2006-SCMR-453, 2009-SMR-1435. He further added that when the service appeal is time barred then merits cannot be touched by this Tribunal.

CONCLUSION.

5. This Tribunal is first to decide the issue of limitation and if the appeal is time barred then, of course, merits are not be touched. Admittedly the average reports are not communicated under the existing instructions and no representation can be filed against the average reports under the Instructions on P.E.Rs of the Government of Khyber Pakhtunkhwa. Now the question would be that if the instructions on P.E.Rs have got no provision for representation against average reports then whether the aggrieved person can file any appeal/representation under other available rules or law? In this regard Section 22 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 is very much relevant which says that if any law or rules has no provision for appeal or review in respect of any order or class of orders a civil servant aggrieved by any such order may, within 30 days of the communication to him of such order, make a representation against it to the authority next above the authority which made the order. This section protects a civil servant by providing one right of approaching the higher authority regardless of non provision of such remedy by relevant special rules. This section in fact fulfills the principles of natural justice coupled with right

to fair trial in which one right of appeal/representation must be provided to the aggrieved civil servant. The present appellant did file a representation under Section 22 of the Act because under the Instructions on P.E.Rs no provision existed for representation.

6. The next question would be that what is *terminus a quo* for such order. Sub section 2 of Section 22 of the Act says that *terminus a quo* is the day when the order is communicated to him. This communication undoubtedly is a formal communication and not informal communication. But since the Instructions on P.E.Rs clearly lay down that average reports are not to be communicated to the civil servant then how *terminus a quo* under sub section 2 of Section 22 of the Act shall be determined. There is no mention of knowledge of the aggrieved person. So in such situation the jurisprudential principles of interpretation is that the beneficial construction should be placed which should be in favour of the advancement of remedy and not the extinction of the remedy. Being no *terminus a quo* the appellant was at liberty to challenge the same when he felt aggrieved from the average entry. This Tribunal is of the view that the representation of the appellant was therefore, within time. The decision was also not taken on the representation by the competent authority who was the Chief Minister of the Khyber Pakhtunkhwa and it was decided by an authority not competent to decide the same on the ground that representation of the appellant could not be processed under para-3.7 of the Instructions on P.E.Rs. for the period from 11.05.2011 to 31.12.2011 being average and not adverse. Firstly this decision was made by an authority who was not competent to make it and secondly this very opinion of this incompetent authority is also not correct because the representation was made by the appellant not under the Instructions on P.E.Rs but under Section 22 of the Khyber Pakhtunkhwa Civil

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Servants Act, 1973. As observed above that this sub section 2 of Section 22 of the Act provides remedy to civil servants in all those cases where rules and instructions have not provided for such remedy. This decision on his representation made by incompetent authority is void in the eyes of law and no limitation at all attracts for approaching this Tribunal as has been held in many judgments that void order does not attract limitation.

7. Now this Tribunal shall discuss the merits of the appeal. The learned Deputy District Attorney argued that in so many judgments of the superior courts, it has been held that the Tribunal has no jurisdiction to decide on the average reports as they are not communicated to the concerned civil servant. Though this Tribunal on the last date through a detailed order referred to a judgment of the august Supreme Court of Pakistan entitled "*S.T Rehman Vs. Government of Pakistan and 3 others*" reported as 1998-SCMR 103 in which the august Supreme Court of Pakistan framed four propositions as follows (i) *whether or not representation of an aggrieved person against supersession includes challenge to quantification, propriety of Annual Confidential Reports and criteria for selection?* (ii) *Whether or not Annual Confidential Reports which are obviously concealed from incumbent, though may not be adverse, yet directly affect the future career and his right of further promotion, can be challenged by way of appeal before Federal Service Tribunal?* (iii) *Whether writ petition challenging propriety of undisclosed Annual Confidential Reports, can, constitute notice to competent Authority and be substituted for representation to approach Federal Service Tribunal?* and (iv) *Whether or not question of limitation for challenging Annual Confidential Reports would be relatable to period when aggrieved person becomes aware about it?* After framing

these propositions the august Supreme Court of Pakistan granted leave to appeal but despite adjournments, neither the appellant nor the learned Deputy District Attorney have been able to trace the final decision of the august Supreme Court of Pakistan on these propositions. These issues need detailed discussion but this Tribunal restrains itself from commenting and elaborating those propositions lest the august Supreme Court would have delivered the final judgment.

8. The case of the appellant can be disposed of without touching those propositions. It is true that the average reports cannot be challenged before the departmental authority or this Tribunal under the existing instructions but in the present case we are to see whether the disputed P.E.R is average and if it is so then, of course, we do not have the jurisdiction. If we go through all parts of the concerned P.E.R we would see that overall grading does not co-relate or consistent with other parts of the PER. In part-II the appellant has mentioned the job description and then brief account of his achievements. The learned Reporting Officer while commenting upon part-II has opined that "*I partially agree*" but has not given any data with reason for not agreeing fully with the performance of the appellant. Then in para-3 of part-III, he rated the appellant "*An honest officer*" and then in part-III para-4 "*May be posted in the Law Department, in view of his inclination towards legal matters*" and then in para-5 of the same part "*Does not require any training*". It means that the appellant was an efficient officer. Then in para 7 of the same part the appellant was considered "*Fit for promotion*"; whereas para-3.7 of the Instructions of 2006 dealing with the average report says that an officer who is superseded or whose promotion is deferred comes to know about it automatically when his juniors are promoted to higher scales/posts. It means that under these Instructions an average officer cannot be promoted but declaring the

appellant fit for promotion itself proved that the overall grading has been erroneously written as average. The instruction on the subject is 0.7(iii) which clearly says that in some cases the assessment of an officer in part II and Part III of the PER are not co-related. It has been further mentioned that to remove this inconsistency, the assessment of an officer in part-III should, as far as possible be based on the assessment made about his personal traits and on the job performance in part-II. If the major number of entries in Part-II are 'good' and in Part-III the officer is classified 'average' the Reporting Officer should give detailed reasons for his average assessment. The reporting officer has given no reasons for this. It means that the PER of the appellant is not average but is good. No Reporting Officer/Countersigning Officer is allowed to deviate from the instructions and give grading of his choice which does not co-relate with the overall impact of the PER. The reason for such report can be a mistake even as in the present case. So this Tribunal is of the view that the overall grading of the report of the appellant is not average and the jurisdiction of this Tribunal is not hit.

9. Under the instructions it is not the report of the Reporting Officer but of the final authority who is the Countersigning Officer. The instructions on the PERs enjoin upon the Countersigning Officer to correct the mistakes of the Reporting Officer but in the present case, the Countersigning Officer had mechanically endorsed the PER written by the Reporting Officer. However, he has added at S. No. 1 of Part-IV that he has seen the work of officer rarely and in para-2 of Part IV the Countersigning Officer agreed to the assessment of the Reporting Officer. But at least the Countersigning Officer was required to have looked into this matter whether the overall grading of the appellant given by the Reporting Officer co-

related with the overall impact of assessment but the Countersigning Officer has failed to do that.

10. In view of the above this appeal is accepted and his overall grading is corrected as "good". Parties are left to bear their own costs. File be consigned to the record room.


(GUL ZEB KHAN)
MEMBER


(NIAZ MUHAMMAD KHAN)
CHAIRMAN

ANNOUNCED
02:11.2017

683/2016

24.10.2017

Appellant in person and Mr. Kabeerullah Khattak, AAG for the respondents present. The learned AAG for the respondents present. The learned AAG seeks adjournment. Granted. To come up for arguments before the D.B on 02.11.2017.


Member



Chairman

02.11.2017

Appellant *Pro se* and Mr. Ziaullah, Deputy District Attorney for the respondents present. Arguments heard and record perused.

This appeal is accepted as per our detailed judgment. Parties are left to bear their own costs. File be consigned to the record room.



Member


Chairman
Camp Court, Swat.

ANNOUNCED
02.11.2017

SCMR-103 and the august Supreme Court of Pakistan while granting leave to appeal framed 4 propositions for decision. All those 4 propositions are almost common as agitated in the present appeal. But the final decision of the said appeal by the august Supreme Court of Pakistan has not been produced before the Tribunal. This Tribunal deems it appropriate to adjourn the case to 12.10.2017 for further arguments before this D.B in view of the above mentioned reported judgment of the august Supreme Court of Pakistan.



Member


Chairman

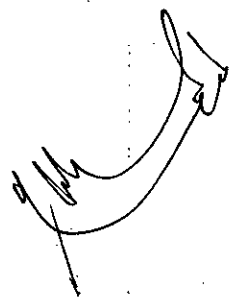
12.10.2017

Appellant in person and Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Since Mr. Ahmad Hassan, learned Member is sitting in this D.B, who has been impleaded as respondent, therefore, arguments could not be heard. To come up for arguments on 24.10.2017 before the D.B in which Mr. Ahmad Hassan is not sitting.


Member


Chairman

On the other hand the learned Addl. Advocate General argued that the departmental appeal as well as the present appeal are time barred. That no departmental appeal lies against the average P.E.R nor was it incumbent on the department to have communicated the average report to the appellant.



After hearing the arguments of appellant as well as learned AAG for the respondents and perusing the record, this Tribunal reaches the conclusion that though under the settled rules the average report is not communicated nor any representation can be filed to the higher authority. But it is also now acknowledged phenomenon with the development of jurisprudence and fundamental rights that every person must be apprised of any report regarding his performance especially when it affects his career. Secondly, the issue of limitation is also one which needs further elaboration as the limitation under different rules including Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, Instructions on P.E.R and Section 22 of the Khyber Pakhtunkhwa Civil Servants Act, 1973, starts from communication and not from knowledge. It is to be seen as to whether in case of non communication of any such order, the limitation would be counted from the date of knowledge or no limitation would run at all. It may be added that a similar issue came up before the august Supreme Court of Pakistan in a reported case entitled "*S.T. Rehman Vs. Government of Pakistan and 3 others*" reported as 1998-

15.09.2017

Appellant *pro se* and Mr. Muhammad Adeel Butt, Addl. AG alongwith Sultan Shah, Assistant for the respondents present.

The appellant has challenged the entry in P.E.R for the period from 11.05.2011 to 31.12.2011 through this appeal. The overall grading given to the appellant is average which was not communicated to the appellant under the rules on the subject.

The appellant argued that though average gradings under the rules are not communicated but the said entry has serious effects over his career. The reason shown by the appellant is that his career progression is link with quantification promotion policy and average report puts him below his other colleagues. That the compulsory training requires for promotion is also linked with the earning of better rating in the P.E.R. That due to average report he was not selected for one of such training. He further argued that he did not approach this Tribunal well within time because he was never communicated with the average grading. He further argued that even his departmental appeal against the average grading was not decided by the competent authority but by the staff of Secretariat. He further argued on merit that the Reporting Officer was biased and that average grading was not consistent with the picture etc.

27.07.2017

Appellant in person and Mr. Muhammad Jan, Deputy District Attorney for respondents present. Appellant seeks adjournment. Adjourned. To come up for arguments on 15.08.2017 before D.B.

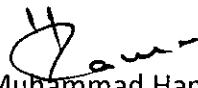

(Ahmad Hassan)
Member


(M. Hamid Mughal)
Member

15.08.2017

Appellant in person present. Mr. Ziaullah, Deputy District Attorney for the respondents present. Partially arguments heard. To come up for further arguments on 29.08.2017 before D.B.



(Muhammad Amin Khan Kundi)
Member (J)


(Muhammad Hamid Mughal)
Member (J)

0-----13 29.08.2017

Appellant in person present. Mr. Kabir Ullah Khattak, Assistant Advocate General. During the course of arguments appellant contended that the impugned order dated 14.09.2015 has not been issued by the competent authority i.e. The Chief Minister. On the other hand learned Assistant Advocate General refuted the plea taken by the appellant and sought adjourned to produce approved summary of the competent authority/Chief Minister whereupon the impugned order was issued. Adjourned. To come up for further arguments on ~~14.9.17~~ 14.9.17 before D.B.


(Gul Zeb Khan)
Member (E)


(Muhammad Hamid Mughal)
Member (J)

14.09.2017

Appellant pro se and Addl. AG alongwith Sultan Shah, Assistant for the respondents present. Arguments partly heard. To come up for further arguments tomorrow on 15.09.2017 before this D.B.

Member

Chairman

06.03.2017

Mr. Shah Zaman on behalf of the appellant and Mr. Ziaullah, GP for respondents present. Application for adjournment on behalf of the appellant submitted. To come up for arguments on 24.07.2017 before D.B.

(MUHAMMAD AAMIR NAZIR)
MEMBER

(ASHFAQUE TAJ)
MEMBER

09. 24.07.2017

Appellant in person present. Mr. Muhammad Jan, Deputy District Attorney for the respondent present. Learned member executive has been arrayed as respondent, hence the present file be sent to learned Chairman for appropriate orders regarding the constitution of proper D.B. Appellant to appear before the Court of Learned Chairman on 27.07.2017.

(Ahmad Hassan)
Member

(Muhammad Hamid Mughal)
Member

26.07.2017

Order sheet dated 24.07.2017 perused. This appeal be fixed before the D.B in which Mr. Ahmad Hassan, learned Member (Executive) is not sitting.

Chairman

29.09.2016

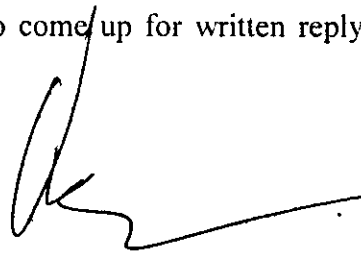
Appellant in person and Addl. AG alongwith Sultan Shah, Assistant for respondent No. 1 present. Requested adjournment. Fresh notice be issued to respondent No. 2 on his fresh address which will be submitted by appellant within 3 days. To come up for written reply/comments on 3.11.2016 before S.B.




Chairman

03.11.2016

Clerk to counsel for the appellant and Sultan Shah, Assistant alongwith Addl. AG for respondents present. Written reply submitted on behalf of respondent No. 1. Respondent No. 2 not submitted. To come up for written reply/comments on 28.12.2016 before S.B.



Member

28.12.2016

Appellant in person and Mr. Sultan Shah, Assistant alongwith Assistant AG for the respondents present. Written statement by respondent No. 1 has already been submitted. On query of the Tribunal as to whether the respondent No. 2 was a proper and necessary party to appeal, appellant conceded before the Tribunal that private respondent No. 2 is not a necessary party. He therefore prayed for deletion of his name from the panel of the respondents. The name of respondent No. 2 therefore deleted from the panel of respondents. Rejoinder submitted by appellant. The appeal is assigned to D.B for final hearing for 6.3.2017.


Chairman

28.07.2016

Appellant in person and Addl. AG for the respondents present. Preliminary arguments heard and record perused.

Appellant argued that he was serving as Addl. Secretary Auzaf Department when average remarks were given to him in the Performance Evaluation Report for the period commencing from 11.5.2011 to 31.12.2011 where against he preferred departmental appeal which was rejected vide impugned order dated 14.09.2015 and hence the instant service appeal. That relevant documents were not provided to the appellant constraining him to procure the same through different forum and hence the instant service appeal on 24.06.2016.

That the impugned order has been passed by an incompetent authority and that according to para-3.7 of the instructions regarding Performance Evaluation report such entries are not treated adverse for officers serving in BPS-17 & 18. That the said entries, average in nature, become adverse for civil servant serving in BPS-19 and above as the same debarred them from further promotion.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 29.09.2016 before S.B.

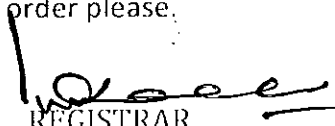





Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 683/2016

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	24/06/2016	<p style="text-align: center;">The appeal of Mr. Muhammad Arshad presented today by him, may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	27-6-2016	<p style="text-align: center;">This case is entrusted to S. Bench for preliminary hearing to be put up there on. <u>28-06-2016</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	28.6.2016.	<p>Appellant in person present. Argued that representation of the appellant should have been decided by the competent authority i.e. Chief Minister but the same was not processed accordingly and rejected by incompetent authority vide impugned order dated 14.09.2015 and hence the instant service appeal.</p> <p>Pre-admission notice be issued to learned Addl. AG for preliminary on 28.07.2016 before S.B.</p> <p style="text-align: right;"> Chairman</p>

Original

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL, PESHAWAR.**

Service Appeal No. 683 of 2016.

Mr. Mohammad Arshad, Additional Secretary, Housing Department -----
----- Appellant.

Versus

1. The Government of Khyber Pakhtunkhwa through its Chief Secretary, Establishment & Administration Department, Peshawar.
2. Mr. Ahmad Hasan, Ex-Secretary Auqaf (Reporting Officer)-now Member Khyber Pakhtunkhwa Services Tribunal, Peshawar -----
----- Respondents.

**APPEAL UNDER SECTION-4 OF THE KHYBER
PAKHTUNKHWA SERVICES TRIBUNAL ACT, 1974
(KHYBER PAKHTUNKHWA ACT NO. I OF 1974) AGAINST
THE ORDER VIDE LETTER NO. SOS(ED)CR/1(16)/2015,
DATED 14.09.2015 OF DISSMISSAL/REJECTION OF
REPRESENTATION AGAINST THE IMPUGNED
RECORDING OF OVERALL GRADING AS "AVERAGE" IN
THE APPELLANT'S PER FOR THE PERIOD FROM
11.05.2011 TO 31.12.2011 COMMUNICATED VIDE
ESTABLISHMENT DEPARTMENT LETTER NO. SO(HRD-
IDED/1-10/2014 DATED 01.04.2015.**

Prayer: Both the orders vide letters mentioned above may be set aside and the categorization of overall grading in the appellant's PER for the period from 11.05.2011 to 31.12.2011 as "Average" may be converted into "Outstanding" or at least "Very Good".

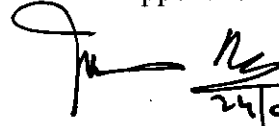
INDEX

S. No.	Name of Document	Annex No.	Page No.
1	Text of the Appeal		1-7
2	Appellant's letter/complaint dated 07.11.2014 to the Right to Information Commission (RTIC).	Annex-I	8-9
3	RTIC letter dated 09.01.2015 regarding direction to the Public Body for provision of requisite record.	Annex-II	10
4	Public Body/Est. Dept. letter dated 09.02.2015 regarding provision of incomplete and unattested record i.e. synopsis of PERs only.	Annex-III	11
5	Appellant's letter dated 13.02.2015 regarding provision of complete and attested record.	Annex-IV	12
6	Est. Dept. letter dated 01.04.2015 regarding provision of again incomplete and unattested record.	Annex-V	13
7	Appellant's letter dated 08.04.2015 regarding provision of complete and attested record.	Annex-VI	14
8	Attested and stamped copy of PER for the impugned period from 11.05.2011 to 31.12.2011.	Annex-VII	15-22
9	Attested and stamped copy of PER for the impugned period from 01.01.2012 to 31.12.2012.	Annex-VIII	23-30
10	Attested and stamped copy of synopsis of PERs from 26.05.1997 to 31.12.2013.	Annex-IX	31-40
11	Est. Dept. letter dated 09.06.2015 regarding provision of copy of summary.	Annex-X	41
12	Appellant's letter dated 11.06.2015 regarding provision of copy of PER for 2014.	Annex-XI	42

13	RTIC advisory letter dated 19.06.2015 for depositing fresh request.	Annex-XII	43
14	Appellant's fresh request letter dated 23.06.2015.	Annex-XIII	44
15	Public Body letter dated 30.06.2015 regarding provision of copy of PER for 11.09.2014 to 31.12.2014.	Annex-XIV	45-54
16	Appellant's reminder dated 02.07.2015 for provision of copy of PER for remaining portion of 2014.	Annex-XV	55
17	Appellant's representation dated 09.07.2015 against average grading in PER from 11.05.2011 to 31.12.2011.	Annex-XVI	56-62
18	Establishment Department acknowledgment letter dated 27.07.2015.	Annex-XVII	63
19	Establishment Department decision letter dated 14.09.2015 in Representation.	Annex-XVIII	64
20	Appellant's request letter dated 17.09.2015 for provision of copy of summary/office note sheet.	Annex-XIX	65
21	Appellant's Complaint dated 07.10.2015 filed with RTIC for the purpose.	Annex-XX	66
22	RTIC letter dated 13.10.2015 to the Public Body for provision of record.	Annex-XXI	67
23	Public Body letter dated 17.12.2015 regarding provision of unattested/unstamped copy of office note sheet.	Annex-XXII	68-69
24	Appellant's reply letter dated 22.12.2015 regarding provision of attested/stamped copy of office note sheet.	Annex-XXIII	70
25	Appellant's last reminder dated 26.04.2016 regarding provision of attested/stamped copy of office note sheet.	Annex-XXIV	71
26	Public Body letter dated 31.05.2016 regarding provision of attested/stamped copy of office note sheet.	Annex-XXV	72-77
27	Appellant's letter dated 01.06.2016 regarding denial of receipt of previous letter of public body.	Annex-XXVI	78
28	Judicial Authority titled-Khalid Siddique, Excise and Taxation Officer Training Cell, Lahore versus Secretary to Govt. of the Punjab, Excise and Taxation Department and 2 others, 2005 P L C (C.S) 498.	Annex-XXVII	79-80
29	Judicial Authority titled-Govt. of the Punjab through ACS, Services General Administration & Information Department-versus-Abdul Matloob Khan, EAC/Magistrate 1 st Class Gujranwala-1990 SCMR 1431.	Annex-XXVIII	81-82

Dated 24.06.2016

Appellant


 24/06/2016
 (MOHAMMAD ARSHAD)
 ADDITIONAL SECRETARY
 In Person

1

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL, PESHAWAR.**

Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No. 683 of 2016.

Diary No. 668

Mr. Mohammad Arshad, Additional Secretary, Housing Department-----24-6-2016
-----^{Dated} Appellant.

Versus

1. The Government of Khyber Pakhtunkhwa through its Chief Secretary, Establishment & Administration Department, Peshawar.
2. Mr. Ahmad Hasan, Ex-Secretary Auqaf (Reporting Officer)-now Member Khyber Pakhtunkhwa Services Tribunal, Peshawar ----- Respondents.

Respondent
no 2 is
deleted
28/12/16

**APPEAL UNDER SECTION-4 OF THE KHYBER
PAKHTUNKHWA SERVICES TRIBUNAL ACT, 1974
(KHYBER PAKHTUNKHWA ACT NO. I OF 1974) AGAINST
THE ORDER VIDE LETTER NO. SOS(ED)CR/1(16)/2015,
DATED 14/09/2015 OF DISSMISSAL/REJECTION OF
REPRESENTATION AGAINST THE IMPUGNED
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THE APPELLANT'S PER FOR THE PERIOD FROM
11.05.2011 TO 31.12.2011 COMMUNICATED VIDE
ESTABLISHMENT DEPARTMENT LETTER NO. SO(HRD-
II)ED/1-10/2014 DATED 01.04.2015.**

Prayer: Both the orders vide letters mentioned above may be set aside and the categorization of overall grading in the appellant's PER for the period from 11.05.2011 to 31.12.2011 as "Average" may be converted into "Outstanding" or at least "Very Good".

Facts of the Case:-

Respectfully sheweth that:-

The appellant had requested the Establishment Department / Public Body vide letter dated 22.04.2014, in a case of representation against the adverse remarks recorded in appellant's PER for the period from 01.01.2012 to 01.07.2012, followed by several reminders, lodging of formal request under RTI law vide letter date 13.06.2014 and finally complaint to the Right to Information Commission (RTIC) vide letter No.SO(Admn)AHR&MAD/1-96/2011/4051 dated 07.11.2014, to provide him a copy of his overall grading in the PERs for the period from 26/05/1997 till date (**Annex-I**). The RTI Commission accepted the appellant's complaint and directed the Public Body vide letter No. RTIC/AR/1-310/15 dated 09.01.2015 that a Civil Servant is entitled to receive copies of all those PERs which stand finalized as entries in these reports form basis for his future career development, therefore, the public body is directed to provide the requisite information to the appellant within ten days (**Annex-II**).

2. The Establishment Department provided the information vide their letter No. SO(HRD-II)/ED/1-10/2014(RTI) dated 09.02.2015, which was received by the appellant on 12/02/2015 but it was unattested copy of synopsis of PERs and not copy of the original PER forms (**Annex-III**). The appellant replied vide letter No. SOE/Housing/1-84/PF/M.Arshad/2015/597-98 dated 13.02.2015 that the record provided is not the immediate copy of the original PER forms but its tertiary reproduction on plain paper. Moreover, even the provided record is not limp and legible. Needless to emphasize, the appellant's request to the Establishment Department and complaint to the Right to Information Commission was that copy of original PERs may be provided and not its tertiary copy re-produced on plain paper. It is a fact that there may be unintentional and clerical mistakes in the reproduction of the record of PERs on plain paper. Moreover, the record is not

Filed to-day

W. P. Khan
Registrar
24/6/16

1982

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attested and stamped as required under the provisions of the RTI Act. It was further clarified that it has been mentioned in the provided record that the PER for the period from 01.06.2009 to 31.12.2009 is missing. Why are these missing and on whom the responsibility lies and what will be the effect of the missing PER on appellant's service career. The Establishment Department has never before informed the appellant that the requisite PER is missing. The public body was, therefore, requested to provide an immediate copy of the original PER forms of the appellant for the period from 26.05.1997 till date duly attested and stamped (**Annex-IV**).

3. The copies of the requisite PERs were at last provided vide Establishment Department letter No. SO(HRD-II)/ED/1-10/2014/(RTI) dated 01.04.2015 but unattested and unstamped (**Annex-V**). The appellant requested vide letter No. SOE/Housing/1-84/PF/M.Arshad/2015/1520-21 dated 08.04.2015 that the copies of the record may be attested and stamped which have been handed over to the Section Officer (Secret) by hand and also provide copy of the summary along with annexes, being integral part of the PER for the period from 01.01.2012 to 01.07.2012 (**Annex-VI**). The attested copies of PERs which includes copy of PER for the impugned period from 11.05.2011 to 31.12.2011 (**Annex-VII**), 01.01.2012 to 01.07.2012 (**Annex-VIII**) along with synopsis of PERs for the period from 26.05.1997 to 31.12.2013 (**Annex-IX**) without summary were received by hand by my PA from the Section Officer (Secret) on 16.04.2015. **The case lingered on** and despite repeated directions of the Commission, the Public Body didn't come to the conclusion to provide copy of the summary to the appellant or not. At last, copy of the summary was provided vide Establishment Department letter No. SO(HRD-II)/ED/1-10/2014/(RTI)/M. Arshad dated 09.06.2015 (**Annex-X**). The appellant replied vide letter No. SOE/Housing/1-84/M.Arshad/2015/2359-60 dated 11.06.2015 that the copy of PER for the calendar year 2014 is still awaited which may please be expedited as according to the rules/instructions the reports are to be finalized up to the end of January of the following year while now the month of June is in progress. Further added that the appellant needs copy of the requisite report for analyzing his overall service career in order to effectively defend his interest (**Annex-XI**).

4. The RTI Commission advised vide its letter No. RTIC/AR/1-310/15 dated 19.06.2015 to lodge a fresh request for the PER of calendar year 2014 as the original request filed on 13.06.2014 covered PERs from 1997 till request dated 26/06/2014. Since the original request did not cover the PER for 2014, hence, the same can't be provided during the present proceedings (**Annex-XII**). Alas! The Commission is referring to technicalities to defeat appellant's substantive right but never resort to the punitive provisions against the Public Body under provisions of Section 26 of the RTI Act, 2013 to support the appellant's interest that why the Public Body is delaying the disclosure of information. Anyhow, the appellant requested the Public Body vide letter No. SOE/Housing/1-84/PF/M.Arshad/2015/2484-85 dated 23.06.2015 to provide him his PER for the calendar year 2014 (**Annex-XIII**). The Public Body did provide copy of the PER vide its letter No. SO(HRD-II)/ED/1-10/2014(RTI)/M.Arshad dated 30.06.2015 but only for the split-up period from 11.09.2014 to 31.12.2014 wherein the same Reporting Officer has judged the appellant as "Good" in the overall grading. The Public Body conveniently ignored to provide copy of the PER for the remaining period from 01.01.2014 to 10.09.2014 (**Annex-XIV**). The Public Body didn't bother to explain the reason that why record for the remaining period is not being provided. The appellant reminded the Public Body vide letter No. SOE/Housing/1-84/PF/M.Arshad/2015/2608-09 dated 02.07.2015 to provide him copy of the remaining portion of the PER for the period from 01.01.2014 to 10.09.2014 which was not provided till submitting representation in the case on 09.07.2015 (**Annex-XV**).

5. By seeing the record of his PERs for the period from 26.05.1997 to 31.12.2014 and a copy of the summary through which the adverse remarks in his PER for the period from 01/01/2012 to 01/07/2012 had been expunged, **the appellant feeling aggrieved regarding the recording of overall grading as "Average" in his PER for the period from 11/05/2011 to 31/12/2011, and therefore, had submitted representation in the case to the competent authority** through proper channel vide letter No. SOE/Housing/1-84/PF/M.Arshad/2015/2689 dated 09.07.2015 (**Annex-XVI**). The Establishment Department acknowledged the receipt of the letter along with representation vide their letter No. SOS(ED)CR/1(16)/2015 dated 27.07.2015 (**Annex-XVII**). The department subsequently, by disposing of the representation, communicated vide their letter No. SOS(ED)CR/1(16)/2015 dated 14.09.2015 that "under Para. 3.7 of the Instructions on Performance Evaluation Report 2006, the PER for the period from 11.05.2011 to 31.12.2011 is average and not adverse, therefore, the same cannot be treated/processed for conversion of average entry into outstanding or very good" (**Annex-XVIII**).

6. The appellant replied vide letter No. SOE/Housing/1-84/PF/M.Arshad/2015/3575 dated 17.09.2015 that he doesn't agree with the above decision because the cited Para. of the Instructions itself talks of the fact that when an officer is superseded or whose promotion is deferred comes to know about it automatically when his juniors are promoted to higher scale posts. He need not, therefore, be informed of average reports, unless the countersigning officer decides otherwise. The plain reading and interpretation of the Para. is that an officer can be superseded or his promotion may be deferred on the basis of average report besides ignoring other convincing and fundamental questions of law and fact mentioned in the representation. So, what else is the definition of adverse report in the eyes of the public body and where else it has been defined and why the countersigning officer has not decided to inform me about the same in time? According to the judgments of superior courts, discretionary powers are always to be exercised in a structured and judicious manner. Anyhow, it was requested under the provisions of the RTI law **to inform the requester that through which mode i.e. through summary or through office note in the department above decision has been taken and accordingly, provide an attested and duly stamped copy of the same.** It was further requested to provide the requisite information/record within the prescribed period of ten (10) days as the appellant wishes to go to the next higher forum for relief and for which limitation period is short and also acknowledge the request as per provisions of Section 7 (6) of the RTI Act (**Annex-XIX**). When didn't receive the requisite information, the appellant filed a complaint with the Right to Information Commission (RTIC) vide letter No. SOE/Housing/1-84/PF/M.Arshad/2015/3840 dated 07.10.2015 (**Annex-XX**). The Commission registered the Complaint as S. No. 1108 and directed the public body to provide the requisite information to the Complainant/Appellant within ten working days vide its letter No. RTIC/AR/1-1108/15/6841 dated 13.10.2015 (**Annex-XXI**). The Public Body vide its letter No. SO(HRD-II)/ED/1-10/2014(RTI)/M.Arshad dated 17.12.2015 provided a copy of office note sheet through which the representation has been disposed of but unattested and unstamped (**Annex-XXII**). The appellant replied that the record provided is not attested and stamped as required under the provisions of law and hence, demanded duly attested and stamped record from the public body with copy to the commission vide letter SOE/Housing/1-84/PF/M.Arshad/4825-26 dated 22.12.2015 (**Annex-XXIII**). The commission as well as the appellant reminded the public body many times afterwards to provide duly attested and stamped record - out of which last of the reminder is vide letter SOE/Housing/1-84/PF/M.Arshad/2015/1843-44 dated 26.04.2016 (**Annex-XXIV**). At last after a lapse of more than eight months the public body vide its letter No. SO(HRD-II)/ED/1-10/2014(RTI)/M.Arshad/Vol-II dated 31.05.2016 provided a duly attested and stamped copy of the office note sheet through which the appellant's representation had been decided and claimed that the requisite attested

record had previously also been provided vide their letter dated 31.01.2016 (**Annex-XXV**). The appellant replied vide letter No. SOE/Housing/1-84/PF/M.Arshad/2015/2519-20 dated 01.06.2016 that their previous reference had not been received nor the commission had provided the letter of the public body which they normally do (**Annex-XXVI**).

Grounds of the Case:-

7. By analyzing the record of the case, the appellant submits the instant appeal in the matter on the following grounds amongst others:-

- i. The Establishment Department by not providing the record of PERs for a long period of time, has debarred the appellant to properly defend his interest, therefore, the fundamental right of every citizen for access to information as guaranteed under Article 19(A) of the Constitution of Islamic Republic of Pakistan, 1973 and Khyber Pakhtunkhwa Right to Information Act, 2013 has been violated.
- ii. The Public Body (Establishment Department) repeatedly denied the provision of copy of the PERs for the period from 26-05-1997 till date including copy of the summary. At last, after a lapse of about an year since 13.06.2014, the public body did provide duly attested and stamped copies of PERs along with synopsis for the period from 26.05.1997 to 31.12.2013 on 16.04.2015, copy of the summary on 09.06.2015 and copy of PER for the period from 11.09.2014 to 31.12.2014 on 30.06.2015 which vindicated petitioner's right to access to the requisite record. A duly attested and stamped copy of the office note sheet, through which the appellant's representation against average report for 11.05.2011 to 31.12.2011 had been decided, was provided on 31.05.2016. If the employer tortures its employees in this way, how can an employee devote his energies towards achievement of organizational goals, impossible?
- iii. No aggrieved person can properly defend his interest unless and until he is provided with the material record which he relies upon in his favour. This principle of law has been given protection as one of the fundamental right of citizens under Article 10A of the Constitution of the Islamic Republic of Pakistan, 1973 which proclaims that, "for the determination of his civil rights and obligations or in any criminal charge against him a person shall be entitled to a fair trial and due process". It is not a fair trial and due process that the appellant is denied the relevant record, then how he will plead or argue his case. Therefore, the non-provision of material record duly attested and stamped by the public body in time may be considered as the cause of delay for preferring the instant service appeal in the prescribed period of limitation of 30 days after 14.09.2015 (the day the decision on the representation received) **and by condoning the delay, the period of limitation may be allowed to be reckoned from 31.05.2016, the day when the public body provided the duly attested and stamped copy of the record/office note sheet.**
- iv. The denial of information i.e. by not providing the record of appellant's service record by the Establishment Department, the right of every individual to be dealt with in accordance with law under provisions of Article-4 of the Constitution has been violated. The appellant has continuously been placed under mental torture and agony by denying the access to the requisite record of his PER and office note sheet for about one year and more than eight months respectively. Therefore, the delay in preferring the instant appeal is condonable under section 9 of the Tribunal Act, 1974.

- v. The contention of the respondents that under Para. 3.7 of the Instructions on PER 2006, the PER for the period from 11.05.2011 to 31.12.2011 is average and not adverse hence, can't be treated/processed for conversion of average entry into outstanding or very good category, is not correct on the basis of general principle of law expressed in legal maxim, "Enumeratio unius est exclusio alterius" i.e. "specification of one thing is the exclusion of the other" because the Para. is applicable to posts in BPS-17/18 and not to other scales. Moreover, the word "adverse" has not been defined anywhere in the service law in clear terms hence, for interpretation, dictionary meaning is to be consulted. According to the Concise Oxford Dictionary, the word "adverse" means i. preventing success or development and ii. unfavourable. According to Black's Law Dictionary, the word "adverse" means against; opposed to. According to the Promotion Policy, promotion to BPS-20 is impossible without an iota of doubt with average report because an average report doesn't carry 70% marks and hence, average report can be termed as preventing success or development of the appellant to next higher grade and is against or opposed to appellant's interest both in light of Para. 3.7 of the Instructions on PER 2006 and Promotion Policy 2009.
- vi. The decision on the representation through office note sheet is ultra-vires or beyond the jurisdiction of departmental officers and therefore, illegal and void. Under the law the decision making authority for the representation is the Chief Minister and not anyone else. Hence, needs to be set aside. Moreover, in the process the chance of personal hearing has also been denied which is in violation of Articles 4 and 10A of the Constitution which protects rights of individuals to be dealt with in accordance with law and right to fair trial and due process respectively. Any action/decision in violation of constitution and law is void and of no legal effect.
- vii. By analyzing and comparing the reports for the periods from 11.05.2011 to 31.12.2011 (average), "Below Average" for the period from 01.01.2012 to 01.07.2012 (later expunged on representation by the competent authority) and 11.09.2014 to 31.12.2014 (good), authored by the same Reporting Officer, it transpires that the reports have not been compiled with careful consideration and objective assessment as required by the guidelines for filling up the PER form but rather these are the result of whims and fancies of the reporting officer. Why an officer is average in 2011, below average in 2012 and good in 2014? Is there any solid reason for it or otherwise? Individual human nature doesn't change so rapidly. Why the appellant was average in 2011, below average in 2012 and good in 2014 - has the appellant obtained a Ph.D. degree in 2014 that his performance on the job has improved or he was less experienced on the post in 2012 as compared to 2011-no. In S. No. 1 of Part III of the PER relating to 2011 the RO states that he partially agrees, for 2012 he can't make any assessment while for 2014 he fully agrees? Sound judgment demands that when one partially agrees, he may specify the reasons and percentage for it. Partially may mean 99% or 1 % etc. which is vague. Against the portion, "Area and level of professional expertise with suggestion for future posting", the RO comments in 2011 that "May be posted in the Law Department in view of his inclination towards legal matters" while in 2014 he writes, "Not known". It is astonishing that how can an officer be average if he is inclined towards legal matters. Governance is nothing else but the administration of state affairs according to law.

No administrator can be good and efficient one if he doesn't know the laws and rules on the subject matter which is his field of activity. Hence, it can be safely concluded that the overall grading in 2011 is in self contradiction with the comments on individual performance indicators. Against Integrity (Morality, uprightness and honesty" the RO writes in 2011, "An honest officer" and in 2014, "Above board". Integrity doesn't only mean financial integrity but also intellectual and moral integrity. Intellectual integrity is justice with the performance on the job. Why should a man of integrity not perform his duties with responsibility, carefulness and utmost devotion? If a person is honest, he would consider it Haram to take salary and don't deliver. Overall average grading of 2011 is in self contradiction with this individual performance indicator also and hence, not tenable in the eyes of law i.e. guidelines on PER which enjoins upon that, "Reports should be consistent with the pen picture, overall grading and comparative grading".

- viii. In Khalid Siddique, Excise and Taxation Officer Training Cell, Lahore versus Secretary to Govt. of the Punjab, Excise and Taxation Department and 2 others, 2005 P L C (C.S) 498 (Annex-XXVII), "the Punjab Service Tribunal has expunged adverse remarks of the Reporting Officer for the reason that for period 02.11.1991 to 30.06.1992, the subordinate was adversely reported while the same Reporting Officer has rated as good for the period from 01.07.1992 to 28.01.1993. The tribunal has expressed its views that this prompt change from below average to good, I am not prepared to believe, was due to any metamorphoses in the habits of the appellant taking place so suddenly, rather it clearly reflects that the Reporting Officer played a game of pick and choose as evident from the perusal of the ratings given for personal qualities in Part-II of the impugned Annual Confidential Report". Similar is the appellant's case, the same Reporting Officer has rated him as "Average" for the impugned period from 11.05.2011 to 31.12.2011, "Below Average" for the period from 01.01.2012 to 01.07.2012 (later expunged on representation by the competent authority) while subsequently "Good" for the period from 11.09.2014 to 31.12.2014. This sudden change from average to below average and then good is not due to any metamorphoses in the habits of the appellant taking place so suddenly, rather it clearly reflects that the Reporting Officer plays the game of pick and choose. His opinion is not the result of careful consideration and objective assessment as required by the Guidelines for Filling-up of the PER forms, printed on its back side but the game of pick and choose as rightly pointed out by the learned tribunal.
- ix. In Govt. of the Punjab through ACS, Services General Administration & Information Department-versus-Abdul Matloob Khan, EAC/Magistrate 1st Class Gujranwala-1990 SCMR 1431 (Annex-XXVIII)-it was held by the august Supreme Court of Pakistan that the remarks of the Commissioner against the EAC should be based on facts and when in contest, as in this case the concerned officer should have plausible explanation to justify his conclusions which was not adequately done hence, decision of Tribunal not interfered with and leave to appeal refused to the Govt. Similar is the appellant's case, what is the plausible reason for giving "Average" for the impugned period from 11.05.2011 to 31.12.2011, "Below Average" for the period from 01.01.2012 to 01.07.2012 (later expunged on representation by the competent authority) while subsequently "Good" for the period from 11.09.2014 to 31.12.2014.

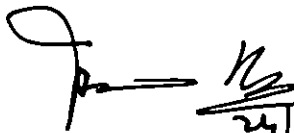
- x. According to the Promotion Policy circulated by the Establishment Department vide its letter No. SO(E-1)/E&AD/9-133/09 dated 03/11/2009 and incorporated in the Esta Code, 2011 vide page 52 thereof, the minimum of aggregate marks on the Comprehensive Efficiency Index (CEI) for promotion from Basic Scale 19 to 20 is 70 out of 100 while individual score for average report is 5 out of total of 10 which means 50% score. The gaining of average report means that an employee can't be promoted to BPS-20 with average report. The average report is an adverse report in the way of promotion to BPS-20 as per provisions of Promotion Policy. It may be said that one average report may not disturb the aggregate marks on the CEI but it is based on presumption and not actual calculation. There is another aspect of the case, if an officer gets more average reports, and the repository of PERs/Public Body never disclose/convey such reports to the officers reported upon because they don't consider these as adverse, while in effect officers getting such reports can never be promoted to BPS-20 and above because they will not be able to get 70% marks on the CEI. The Establishment Department may consider such an anomaly in the Instructions vis-a-vis the Promotion Policy. On the basis of above explanation also, the appellant has approached for reviewing and reconsideration of his overall grading in the PER for the impugned period from 11.05.2011 to 31.12.2011.
- xi. The synopsis of the PERs provided by the Public Body indicates that there are a total of one "excellent or outstanding" and ten each of "very good" and "good" categories of overall grading in the PERs of the appellant's from 26.05.1997 to 31.12.2013 and no average report except the one received from the Reporting Officer for the impugned period from 11.05.2011 to 31.12.2011. According to the provisions of Article 67 of the Qanun-e-Shahadat Order, 1984 (P.O. Order X of 1984), previous good character is relevant. Then, why not the appellant's previous good record, having attained majority of outstanding and very good reports before the impugned period, be considered while fixing his overall grading.

8. Keeping in view the above submissions, it is therefore, respectfully prayed that the decision contained in letter dated 14.09.2015 at Annex-XVIII and overall grading as average in PER for the impugned period 11.05.2011 to 31.12.2011 at Annex-VII may be set aside and the overall grading of "average" in the Performance Evaluation Report of the appellant for the period from 11.05.2011 to 31.12.2011 may be converted into "outstanding" or at least "very good" category as per demands of law, justice and fair play.

9. It is certified on oath that all the narrations in the appeal are true to the best of my knowledge and belief. No other appeal has been filed on the subject-matter in the tribunal or any other forum. Book references are the Constitution of the Islamic Republic of Pakistan, 1973 and other laws/rules which may be produced on need basis.

Dated 24.06.2016

Appellant


24/06/2016
(MOHAMMAD ARSHAD)
ADDITIONAL SECRETARY
In Person



Government of Khyber Pakhtunkhwa
Auqaf, Hajj, Religious & Minority Affairs Department
 SDU Building, Attached Department's Complex, Khyber Road Peshawar
 Auqaf@kp.gov.pk

Annex-I
PR-8-9

MOST IMMEDIATE REGISTERED

No. SO (Admn) AHR&MAD/1-96/2011/4051
 Dated Peshawar the 07-11-2014

To

The Chief Information Commissioner,
 Right to Information Commission,
 7th Floor, Tasneem Plaza,
 Near Benevolent Fund Building,
 6th Saddar Road, Peshawar.

Subject:

COMPLAINT IN NON-PROVISION OF INFORMATION/ DOCUMENTS PERTAINING TO EXPUNCTION OF ADVERSE REMARKS AS PER PROVISIONS OF SECTION: 23 OF THE RIGHT TO INFORMATION ACT, 2013 (ACT NO. XXVII OF 2013).

I am to refer to the subject noted above and to state that the Competent Authority was pleased to expunge the adverse remarks recorded in my PERs for the period commencing from 01-01-2012 to 01-07-2012 vide Govt. of Khyber Pakhtunkhwa, Establishment Department letter No. SOS(ED)CR/1(16)/2014 dated 04-03-2014 (**Annex-I**). The Establishment Department was requested vide this Department letter No. SO(Admn) AHR&MAD/1-96/2011/7053-54 dated 10-03-2014 to inform that what has been decided about over all grading of the officer in his PER because the letter under reference did not show any such thing in black and white (**Annex-II**).

2. The Establishment Department informed vide its letter No. SOS(ED)CR/1(16)/2014 dated 16-04-2014 that the requisite PERs will be shown to the undersigned in the office of Special Secretary (Estb.), Establishment Department on 22-04-2014 at 10:30 A.M (**Annex-III**). The undersigned visited the above mentioned office and the copy of the requisite PER, alongwith the summary was shown to the undersigned. By seeing the requisite PER, it transpired that over all grading in the PER has been changed from "below average" to "average". The undersigned, therefore, immediately requested vide letter No. SO(Admn) AHR&MAD/1-196/2011/8073-75 dated 22-04-2014 to provide me a copy of my over all grading in the PERs for the period from 26-05-1997 till date (**Annex-IV**). The request was followed vide reminders No. SO(Admn) AHR&MAD/1-96/2011/9319-20 dated 11-06-2014 (**Annex-V**), No. SO(Admn) AHR&MAD/1-96/2011/9315 dated 13-06-2014 (**Annex-VI**), No. SO(Admn) AHR&MAD/1-96/2011/9651 dated 26-06-2014 (**Annex-VII**) and No. SO(Admn) AHR&MAD/1-96/2011/2865 dated 20-08-2014 (**Annex-VIII**). It was only after a lapse of four months that the Establishment Department informed vide its letter No. SOS(ED)CR/1(16)/2014 dated 29-08-2014 that the Performance Evaluation Report is a restricted/classified document and your request regarding provision of over all grading cannot be acceded to under Rule 1.4 (b) (vii) of the "Instructions on Performance Evaluation Report, 2006" (**Annex-IX**).

In Talked with Hq, Asst. C.I.C on 28/11/2014 at 10:45 AM.
 Letters. 2014
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3. The undersigned replied vide Letter No. SO(Admn) AHR&MAD/1-96/2011/3096 dated 03-09-2014 which has yet to be replied/entertained despite a lapse of more than two months (**Annex-X**) that "I am entitled for showing me the reports under Para. 5.3 of the booklet titled "A guide to Performance Evaluation (2004 Edition)" reproduced as follows, **"5.3-Performance Evaluation Report of the officer reported upon shall be shown to him/her on his/her request"**, through amendment in the Instructions issued vide Establishment Department letter No. SOS(ED)CR./2(1) Inst-2008 dated November 06, 2008 (**Annex-XI**). The letter further explains the procedure for showing PERs to the requesters in the words "The procedure for showing PERs to officer reported upon would be that on receiving a written request, the Administrative Secretary of the Department concerned, or officer authorized by him/her shall approve such request and the custodian of PERs shall show them to the officer reported upon in the office of the Secretary/Authorized Officer. In no circumstances would a copy of the PERs be given to the officer reported upon".

4. Similarly, the undersigned has clarified vide Para-3 of the letter at **Annex-X** that "under which provisions of the Khyber Pakhtunkhwa Right to Information Act, 2013 (Khyber Pakhtunkhwa Act No. XXVII of 2013), the copy of the reports are prohibited to be provided to me. Furnishing copy of the reports to the requester doesn't fall within the scope of the exceptions provided for in sections 15 to 21 of the Act as cited above". The undersigned has further clarified that "the public body is required to provide the requisite information to the undersigned within 10 days or maximum of 20 days as provided under section 11 of the Act ibid. The Establishment Department has not followed this provision of the Act because the reply has been received after lapse of 2 months and 20 days. Justice delayed is justice denied".

5. Keeping in view the above mentioned facts, it is, therefore, requested that the concerned public body may be directed to provide me the copy of my Performance Evaluation Reports for the period from 26-05-1997 till date as per provisions of Right to Information Act, 2013. The undersigned is also, without any ambiguity, entitled to peruse my PERs as per instructions issued vide Establishment Department letter, dated 06-11-2008 as cited at **Annex-XI** above. The public body has denied the requisite facility to the undersigned repeatedly, first by remaining silent on my request and finally, through wrong application of the law/rules/instructions on the subject matter.

Yours faithfully,

Encls: As Above:

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9/11/2014

(MOHAMMAD ARSHAD)
Additional Secretary
Complainant/Petitioner

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GOVERNMENT OF KHYBER PAKHTUNKHWA
RIGHT TO INFORMATION COMMISSION
7th Floor, Tasneem Plaza, Near Benevolent Fund Building,
6th Saddar Road, Peshawar
Email: complaints@kprti.gov.pk
Ph: +92-91-9212643
Fax: +92-91-9211163

Amex-II
10

No. RTIC/AR/1-310/15
Dated: 09th Jan., 2015

To

The Public Information Officer,
Establishment Department, Civil Secretariat,
Peshawar.

Ref: Mr. Muhammad Arshad vs. Establishment Department, Peshawar.

Subject: **Complaint in Non-Provision of Information/Documents
Pertaining to Expunction of Adverse Remarks as per
Provisions of Section: 23 of the Right to Information Act,
2013 (Act No. XXVII of 2013) (Complaint No. 00310)**

Dear Sir,

Enclosed please find a copy of complaint file by Mr. Muhammad Arshad, Additional Secretary, Auqaf Department, Peshawar. The complainant had filed application under the Right to Information Act, 2013, for providing copy of his PERs for period of 26/05/1997 till date but he did not receive any response from the Public Body.

This Commission is of the view that a Civil Servant is entitled to receive copies of all those PERs which stand finalized as entries in these reports form basis for his future career development.

You are, therefore, directed to provide him the requested information within ten days of the receipt of this letter under intimation to this Commission.

Assistant Registrar
Right to Information Commission,
KPK, Peshawar.

Copy to:-
Mr. Muhammad Arshad (Complainant)

Received on 14/01/2015.

14/01/2015

Assistant Registrar
Right to Information Commission, KPK.

Assistant Registrar
Right to Information Commission,
KPK, Peshawar.

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GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(HRD WING)

Amex-III

11

No. SO (HRD-II)/ED/1-10/2014 (RTI)
Dated Peshawar the 09 February, 2015

To,


Muhammad Arshad,
Additional Secretary, Auqaf Department,
Khyber Pakhtunkhwa.

Subject:-

COMPLAINT IN NON-PROVISION OF INFORMATION /DOCUMENTS
PERTAINING TO EXPUNCTION OF ADVERSE REMARKS AS PER
PROVISIONS OF SECTION: 23 OF THE RTI ACT, 2013 (ACT NO. XXVII
OF 2013) (COMPLAINT NO. 00310).

Reference to your application on the subject received from Assistant Registrar
RTI vide No. RTIC/AR/1-310/15 dated 9th January, 2015 & to forward herewith requisite
information under right to information act 2013.

Encl: As above:

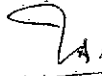

Additional Secretary (HRD) /
Public Information Officer (P.I.O)

Copy of the above is forwarded to:-

1. The Chief Information Commissioner, Government of Khyber
Pakhtunkhwa, Right to Information Commission, 7th Floor, Tasneem
Plaza, Near Benevolent Fund Building, 6th Saddar Road, Peshawar.
2. PA to Additional Secretary (HRD), Establishment Department.

SECTION OFFICER (HRD-II)

Received today on
14/02/2015.


14/02/2015

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Annex - 11
12

**GOVT. OF KHYBER PAKHTUNKHWA
HOUSING DEPARTMENT**
Ministers' B-Block, Civil Secretariat, Peshawar.

No. SOE/Housing/1-84/PF/M.Arshad/2015 / 597-98
Dated Peshawar, the 13th February, 2015

To,

The Addl. Secretary (HRD)/Public Information Officer (PIO),
Government of Khyber Pakhtunkhwa, Establishment Department,
Civil Secretariat, Peshawar.

Subject: -

**COMPLAINT IN NON-PROVISION OF INFORMATION/
DOCUMENTS PERTAINING TO EXPUNCTION OF ADVERSE
REMARKS AS PER PROVISIONS OF SECTION: 23 OF THE RTI
ACT, 2013. (ACT NO. XXVII OF 2013) (COMPLAINT NO.
00310).**

I am to refer to your letter No. SO(HRD-II/ED/1-10/2014 (RTI), dated 09/02/2015, which was received by the undersigned on 12/02/2015, on the subject noted above and to state that the record provided is not the immediate copy of the original PER forms but its tertiary reproduction on plain paper. Moreover, even the provided record is not limpid and legible.

2. Needless to emphasize, my request to the Establishment Department and complaint to the Right to Information Commission was that copy of original PERs may be provided and not the tertiary copy re-produced on plain paper. It is a fact that there may be an unintentional and clerical mistake in the reproduction of the record of my PERs on plain paper. Moreover, the record is not attested and stamped as required under the provisions of the RTI Act.

3. It has been mentioned in the record provided that the PER for the period from 01/06/2009 to 31/12/2009 is missing. Why are these missing and on whom the responsibility lies and what will be the effect of the missing PER on my service career. The Establishment Department has never before informed me that the requisite PER is missing.

It is, therefore, requested to provide an immediate copy of the original PER forms of the undersigned for the period from 26/05/1997 till date duly attested and stamped on my new address/place of posting as below:-

"Mohammad Arshad, Addl. Secretary, Housing Department,
Ministers' B-Block, Civil Secretariat, Khyber Pakhtunkhwa, Peshawar".

13/02/2015
(MOHAMMAD ARSHAD)
ADDITIONAL SECRETARY

Ph# 091-9223443 and Fax# 091- 9212432

Endst of even No. and date.

Copy is forwarded to the Chief Information Commissioner, Right to Information Commission, 7th Floor, Tasneem Plaza, Near Benevolent Fund Building, 6th Saddar Road, Peshawar with reference to letter referred to above for favour of information and further necessary action as per provisions of law/rules. It is further requested that in future correspondence may be made with the undersigned on my new address/place of posting as mentioned above.

13/02/2015
(MOHAMMAD ARSHAD)
ADDITIONAL SECRETARY

12782



GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(HRD WING)

Annex - V
13

No. SO (HRD-II)/ED/1-10/2014 (RTI)

Dated Peshawar the 1st April, 2015

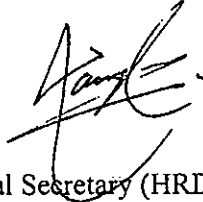
To

Mr. Muhammad Arshad,
Additional Secretary,
Housing Department, Khyber Pakhtunkhwa.

Subject: - COMPLAINT IN NON-PROVISION OF INFORMATION /DOCUMENTS
PERTAINING TO EXPUNCTION OF ADVERSE REMARKS AS PER
PROVISIONS OF SECTION: 23 OF THE RTI ACT, 2013 (ACT NO. XXVII
OF 2013).(COMPLAINT NO. 00310).

Reference to your letter No. SOE/Housing/1-84/PF/M.Arshad/2015/1304-05
dated 26-03-2015 on the subject and to forward herewith the information as requested under
Right to Information Act, 2013.

Encls: As above.


Additional Secretary (HRD) /
Public Information Officer (P.I.O)

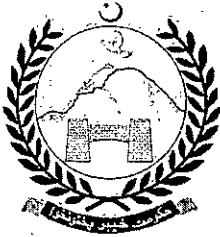
Endst: No. & date even.

Copy forwarded to:

1. The Chief Information Commissioner, Government of Khyber Pakhtunkhwa, Right to Information Commission, 7th Floor, Tasneem Plaza, Near Benevolent Fund Building, 6th Saddar Road, Peshawar for information please.
2. PA to Additional Secretary (HRD) / Public Information Officer (P.I.O), Establishment Department.


SECTION OFFICER (HRD-II)

13 982



Annex-VI
14

X9

**GOVT. OF KHYBER PAKHTUNKHWA
HOUSING DEPARTMENT**

Ministers'/B-Block, Civil Secretariat, Peshawar.

No. SOE/Housing/1-84/PF/M.Arshad/2015/1520-21

Dated Peshawar, the 08th April, 2015

To,

The Secretary,
Establishment Department,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: - **COMPLAINT IN NON-PROVISION OF INFORMATION/
DOCUMENTS PERTAINING TO EXPUNCTION OF ADVERSE
REMARKS AS PER PROVISIONS OF SECTION: 23 OF THE RTI
ACT, 2013 (ACT NO. XXVII OF 2013) (COMPLAINT NO. 00310).**

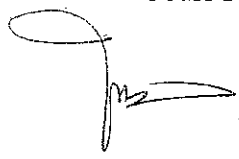
Dear Sir,

I am to refer to Establishment Department letter No. SO(HRD-II)ED/1-10/2014(RTI), dated 01/04/2015, on the subject noted above and to state that the following deficiencies have been found in the record provided :-

- i. The copies are not attested and duly stamped as required under the provisions of RTI law.
- ii. The copy of the summary along with annexes, being the integral part of the PER for the impugned period from 01/01/2012 to 01/07/2012, was neither found attached nor any grounds/reasons have been given for its non-provision.
- iii. Similarly, no comments have been added regarding the missing PER for the period from 01/06/2009 to 31/12/2009.
- iv. Needless to emphasize the copies of the record have been handed over by-hand to the Section Officer (Secret), Establishment & Admn. Department as per discussion with the Addl. Secretary (HRD)/PIO for attestation but the same have not been returned despite a lapse of a week in the case.

An early action in the matter is desirable as the case is being delayed on one account or the other by the Establishment Department for the last so many months.

Yours Faithfully,


08/04/2015

(MOHAMMAD ARSHAD)
ADDITIONAL SECRETARY

Ph# 091-9223443 and Fax# 091- 9212432

Endst of even No. & date

Copy is forwarded to :-

The Chief Information Commissioner, Right to Information
Commission, 7th Floor, Tasneem Plaza, Near Benevolent Fund
Building, 6th Saddar Road, Peshawar.


08/04/2015

(MOHAMMAD ARSHAD)
ADDITIONAL SECRETARY

14782

For Officers in BPS 19 & 20

اسکیل ۱۹ اور ۲۰ کے افسران کے لیے

RESTRICTED

مستند محدود

GOVERNMENT OF N.-W.F.P.

حکومت صوبہ سرحد

Aug. S, Hajj, Religious & Minority

Department/Office Assizins Department

عہدہ افسر

Service/Group

سروی گروپ

PCS(GG)

PERFORMANCE EVALUATION REPORT

کارکردگی رپورٹ

FOR THE PERIOD 11.05. 2011 TO 31.12. 2011

۲۰

۲۰

برائے ۲۰

PART I

حصہ اول

(TO BE FILLED IN BY THE OFFICER REPORTED UPON)

(متعلقہ افسر خود پُر کریں)

1. Name (in block letters) MOHAMMAD ARSHAD
نام (دائیں حروف میں)
2. Personnel number 044152
انفرادی نمبر
3. Date of birth 15.02.1966
تاریخ پیدائش
4. Date of entry in service 08.01.1992
ملازمت اختیار کرنے کی تاریخ
5. Post held during the period (with BPS) Additional Secretary (BPS-19)
پیش نظر عہدہ میں عہدہ (مع اسکیل)
M.A. (Pol.Sc.), LLB
6. Academic qualifications
7. Knowledge of languages (Please indicate proficiency in speaking (S), reading (R) and writing (W)) (ابولئے (ب)، پڑھنے (پ)، اور لکھنے (ل) کی صلاحیت)
- زبانوں کا علم
- Pashto (SRW) ii. Urdu (SRW) iii. English (SRW),
Arabic (RW)

As directed
issued from
Secretary
Establishment & Staff
Department Khyber Pakhtunkhwa

8. Training received during the evaluation period [Training courses attended earlier, NIL
If any, may please be listed separately on the back page of the report

(اس سے پہلے ترقی کورسوں میں شرکت اور پورٹ کے صفحہ کی پشت پر درج کریں) متعلقہ عرصہ کے دوران تربیت کی تفصیل

Name of course attended کورس کا نام	Duration with dates تاریخوں کے ساتھ دورانیہ	Name of institution and country ادارے اور ملک کا نام

9. Period served
عرصہ ملازمت

(i) In present post 07 months & 21 days (ii) Under the reporting officer 07 months & 21 days.
موجودہ عہدے پر رپورٹنگ افسر کے ماتحت

PART II

حصہ دوم

(TO BE FILLED IN BY THE OFFICER REPORTED UPON)

(متعلقہ افسر خود پر کریں)

10. Job description
ذمہ داریوں کی تفصیل

As Additional Secretary, I am supervising the whole of the job of the department, being dealt with by various officers and sections & submit cases for orders of the Secretary. The nomenclature of the department indicates job nature and functions assigned to it under the Rules of Business. The assigned job is the administration of Augas properties, mosques and other institutions, Hajj, religious and minority affairs, so far as the functions fall under the jurisdiction of the Provincial Government.

Attested

As directed, copied from record

16782

Section Officer (Secret)
Establishment & Administration
Department, Khyber Pakhtunkhwa

2. Brief account of achievements during the period supported by statistical data where possible. Targets given and actual performance against such targets should be highlighted. Reasons for shortfall, if any, may also be stated.

پیش نظر حصہ میں نمایاں کام کو اعداد و شمار کے ساتھ مختصر بیان کریں۔ اہداف اور کارکردگی کو نمایاں طور پر لکھیں۔ اہداف تکمیل نہ جانے کی وجہ بھی بیان کریں

I have performed well, to the best of my knowledge and ability, on the post during the period under report.

PART III

حصہ سوم

(REPORTING OFFICER'S EVALUATION)

(رپورٹنگ افسر کا جائزہ)

1. Please comment on the officer's performance on the job as given in Part II (2) with special reference to his knowledge of work, ability to plan, organize and supervise, analytical skills, competence to take decisions and quality and quantity of output. How far was the officer able to achieve the targets? Comment on the officer's contribution, with the help of statistical data, if any, in the overall performance of the organization. Do you agree with what has been stated in Part II (2)?

حصہ دوم (۲) میں بیان کی گئی کارکردگی کا جائزہ لیں۔ افسر کے علم، تنظیم اور نگرانی کرنے کی صلاحیت، تجزیاتی مہارت اور فیصلہ کرنے کی صلاحیت کے متعلق رائے دیں۔ کارکردگی کے معیار و مقدار کے حوالے سے بھی رائے دیں۔ اہداف کو پورا کرنے میں افسر کس حد تک کامیاب رہا اور اسے ادارے کی مجموعی کارکردگی میں افسر کے کردار کی اہمیت اور شمار کے حوالے سے نشاندہی کریں۔ کیا آپ حصہ دوم (۲) میں دی گئی معلومات سے متفق ہیں؟

کریں۔ کیا آپ حصہ دوم (۲) میں دی گئی معلومات سے متفق ہیں؟

agree.

As directed, issued & recorded.

Attested.

Section Officer (Secret)
Establishment & Administration
Department Khayser Pakhtunkhwa

2. Integrity (Morality, uprightness and honesty)

(دست بازی، ایمانداری) دیانت

An honest officer.

3. Pen picture including the officer's strengths and weaknesses with focus on emotional stability, ability to work under pressure, communication skills and interpersonal effectiveness (Weakness will not be considered as adverse entry unless intended to be treated as adverse).

تکنی خاک: افسر کی خوبیوں اور کمزوریوں کا جائزہ لیں، خصوصاً جذباتی ٹھہراؤ اور باؤ کی حالت میں کام کرنے کی صلاحیت، رابطہ اور باہمی انجام دہ تقسیم پیدا کرنے کی صلاحیت بیان کریں (کوٹاہی کو اس وقت تک منفی تصور نہ کیا جائے جب تک رپورٹنگ افسر ضروری نہ سمجھے)

An average officer.

4. Area and level of professional expertise with suggestions for future posting

پیشہ وارانہ مہارت اور آئندہ تعیناتی کی نشاندہی

May be posted in the Law Department, in view of his inclination towards legal matters.

Attested.

As directed, copied from record.



Section Officer (secret)
Establishment & Administration
Department Khyber Pakhtunkhwa

5. Training and development needs

مزید تربیت کے لئے تجاویز

Does not require.

6. Overall grading

مجموعی درجہ

Very Good
اعلیٰGood
اچھاAverage
اوسطBelow Average
اوسط سے کم

7. Fitness for promotion

ترقی کے لیے مناسبت

Comment on the officer's potential for holding a higher position and additional responsibilities

آفسر کی اعلیٰ عہدے پر کام کرنے اور اضافی ذمہ داریاں سنبھالنے کی صلاحیت کے بارے میں رائے دیں

Fit. not fit for assigning additional responsibilities.

Name of the reporting officer

(Capital letters)

رپورٹنگ آفسر کا نام (دائیں حروف میں)

AHMAD HASAN

Signature

دستخط

Designation

عہدہ

Secy. Punjab

Date

تاریخ

5-3-2012

Attached
As directed issued from recordSection Officer (Secret)
Establishment & Administration
Department, Feroze Paktunkhwa

20
PART IV

حصہ چہارم

(REMARKS OF THE COUNTERSIGNING OFFICER)

(کاؤنٹرسائنگ افسر کی رائے)

1. How often have you seen the work of the officer reported upon?
افسر کا کام کس حد تک آپ کی نظر سے گزرتا رہا؟

Very Frequent اکثر و بیشتر	Frequently اکثر	Rarely شاذ و نادر	Never کبھی نہیں
-------------------------------	--------------------	----------------------	--------------------

2. How well do you know the officer? If you disagree with the assessment of the reporting officer, please give reasons.
آپ افسر کو کس حد تک جانتے ہیں؟ اگر آپ رپورٹنگ افسر کی رائے سے متفق نہیں تو اس کی وجہ بیان کریں

Agree

3. Overall grading
مجموعی درجہ

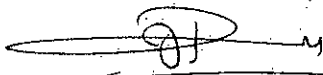
Very Good اعلیٰ	Good اچھا	Average متوسط	Below Average اوسط سے کم
--------------------	--------------	------------------	-----------------------------

4. Recommendation for promotion (Comment on the officer's potential for holding a higher position and additional responsibilities)
ترقی کے لیے سفارش

(افسر کی اعلیٰ عہدے پر کام کرنے اور اضافی ذمہ داریاں سنبھالنے کی صلاحیت کے بارے میں رائے دیں)

Attested

As directed, copied from record.



Section Officer (Secret)
Establishment & Administration
Department Khyber Pakhtunkhwa

20 of 82

5. Evaluation of the quality of assessment made by the reporting officer

Exaggerated

مبالغاً آمیز

Fair

معاہدہ

Biased

جانب دار

Name of the countersigning officer

(Capital letters) GHULAM DASTGIR AKHTAR

گولام دستگیر اختر کا نام (دستخط حروف میں)

Signature

دستخط

[Handwritten Signature]

Designation: Chief Secretary,

عہدہ

Khyber Pakhtunkhwa.

Date

تاریخ

7.3.13

PART V

حصہ پنجم

(REMARKS OF THE SECOND COUNTERSIGNING OFFICER (IF ANY))

دوسرے کاؤنٹرسائگنگ افسر (بشرط موجودگی) کی رائے

Name

نام

Signature

دستخط

Designation

عہدہ

Date

تاریخ

As directed, Issued from Record.

[Handwritten Signature]
Section Officer (Secret)
Establishment & Administration
Department Khyber Pakhtunkhwa

GUIDELINES FOR FILLING UP THE PER

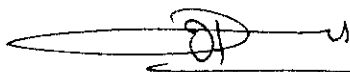
1. • After initiation of their PER, the officers under report should immediately fill up the detachable 'Certificate' giving names of the RO/CO and forward the same to the Officer Incharge of their respective confidential records. This exercise will ensure proper follow-up of the pending performance evaluation reports by the concerned Ministry/Division/Provincial Government etc.
2. • Forms should be filled in duplicate. Parts I and II are to be filled by the officer under report and should be typed. Part III will be filled by the Reporting Officer while the Countersigning/Second Countersigning Officers will fill Parts IV and V respectively.
3. • Each Division, Department, autonomous body and office etc. is required to prepare specific job descriptions giving main duties of each job to be mentioned in Part-II (1). The job descriptions may be finalized with the approval of the Head of the Organization or any person authorized by him.
4. • The officer under report should fill Part II (2) of the form as objectively as possible and short term and long term targets should be determined/assigned with utmost care. The targets for each job may be formulated at the beginning of the year wherever possible. In other cases, the work performed during the year needs to be specifically mentioned.
5. • Assessment by the Reporting Officers should be job-specific and confined to the work done by the officer during the period under report. They should avoid giving a biased or evasive assessment of the officer under report, as the Countersigning Officers would be required to comment on the quality of the assessment made by them.
6. • The Reporting Officers should carryout their assessment in Part III through comments against each characteristic. Their opinions should represent the result of careful consideration and objective assessment so that, if called upon, they could justify the remarks/comments. They may maintain a record of the work done by the subordinates in this regard.
7. • The Reporting Officers should be careful in giving the overall and comparative gradings. Special care should be taken so that no officer is placed at an undue disadvantage.
8. • The Countersigning Officers should weigh the remarks of the RO against their personal knowledge of the officer under report, compare him with other officers of the same grade working under different Reporting Officers, but under the same Countersigning Officer, and then give their overall assessment of the officer. In case of disagreement with the assessment done by the Reporting Officer, specific reasons should be recorded by the Countersigning Officers in Part IV (2).
9. • The Countersigning Officers should make an unbiased evaluation of the quality of performance evaluation made by the RO by categorizing the reports as exaggerated, fair or biased. This would evoke a greater sense of responsibility from the reporting officers.
10. • The Countersigning Officers should underline, in red ink, remarks which in their opinion are adverse and should be communicated to the officer reported upon. All adverse remarks whether remediable or irreparable should be communicated to the officer under report, with a copy of communication placed in the CR dossier. Reporting Officers should ensure that they properly counsel the officer under report before adverse remarks are recorded.
11. • The Reporting and Countersigning Officers should be clear, direct, objective and unambiguous in their remarks. Vague impressions based on inadequate knowledge or isolated incidents should be avoided.
12. • Reports should be consistent with the pen picture, overall grading and comparative grading.

IMPORTANT

13. • Part I and II of the PER should be duly filled and dispatched to the Reporting Officer not later than the 15th of January. The Ros should forward the report to the Countersigning Officer within two weeks of receipt after giving their views in Parts III. The COs should then finalize their comments in Part IV within two weeks of receipt of PER. The Second Countersigning Officers, if any, should also complete their assessment within a period of two weeks.
14. • Name and designation of Reporting/Countersigning Officers should be clearly written. Comments should be legible and in the prescribed format and which can be easily scanned.
15. • Personnel Number is to be filled in by the officer under report, if allotted.
16. • Proforma has been devised in English/Urdu to provide flexibility to RO/CO in the choice of language.
17. • Comparative grading only applies to officers falling in very good, good and average categories. This grading would not apply to anyone falling in below average category in Part III (6).

Attested.

As directed, copied from record.



Section Officer (secret)
Establishment & Administration
Department Khyber Pakhtunkhwa

22982

150

Annex-VIII
23-30

For Officers in BPS 19 & 20

اسکیل ۱۹ اور ۲۰ کے افسران کے لیے

RESTRICTED

مستند محدود

GOVERNMENT OF N.-W.F.P.

حکومت صوبہ سرحد

Department/Office Amul, Hingol Service/Group PCS(SG)
Religion & Minority Affairs Department سرحدی گروپ

PERFORMANCE EVALUATION REPORT

کارکردگی رپورٹ

FOR THE PERIOD 01-01-2012 TO 01-7-2012
۲۰ تا ۲۰

PART I

حصہ اول

(TO BE FILLED IN BY THE OFFICER REPORTED UPON)

(متعلقہ افسر خود پُر کریں)

- Name (in block letters) MOHAMMAD ARSHAD
(نام (واضح حروف میں)
- Personnel number 044152
انفرادی نمبر
- Date of birth 15.02.1966
تاریخ پیدائش
- Date of entry in service 08.01.1992
ملازمت اختیار کرنے کی تاریخ
- Post held during the period (with BPS) Additional Secretary (BPS-19)
(بیش نظر عرصہ میں عہدہ (مع اسکیل)
MA(Ad.S), LLR
- Academic qualifications MA(Ad.S), LLR
تعلیم
- Knowledge of languages (Please indicate proficiency in speaking (S), reading (R) and Writing (W)) (پڑھنے (پ)، اور لکھنے (ل) کی صلاحیت)
زبانوں کا علم
i. Pashto (SRW), ii. Urdu (SRW),
iii. English (SRW) & iv. Arabic (RW)

As directed, issued from record.

Section Officer (Secretariat)
Establishment & Administration
Department, Khyber Pakhtunkhwa

1504189

23 782

(15/1)

21

Nil

8. Training received during the evaluation period (Training courses attended earlier, if any, may please be listed separately on the back page of the report)

(اس سے پہلے ترقی کو رسوں میں شرکت اور پورٹ کے سفر کی پشت پر درج کریں)

متعلقہ حصہ کے دوران تربیت کی تفصیل

Name of course attended کورس کا نام	Duration with dates تاریخوں کے ساتھ دورانیہ	Name of institution and country ادارے اور ملک کا نام

9. Period served

عرصہ ملازمت

(i) in present post

موجودہ عہدے پر

Y M D
1-1-22

(ii) Under the reporting officer

رپورٹنگ افسر کے ماتحت

Y M D
1-1-22

PART II

حصہ دوم

(TO BE FILLED IN BY THE OFFICER REPORTED UPON)

(متعلقہ افسر خود پُر کریں)

10. Job description

مرداروں کی تفصیل

There is only one Additional Secretary post in the Augap, Hajj, Religious & Minority Affairs Department. As the name of the Department shows, I supervise the entire business assigned to the department of submit cases for approval of the Secretary.

Attested

As directed, copied from record.

Section Officer (secret)
Establishment & Administration
Department (Hajj) Pakistankhwa

(15/1/189)

24 782

2. Brief account of achievements during the period supported by statistical data where possible. Targets given and actual performance against such targets should be highlighted. Reasons for shortfall, if any, may also be stated.

پیش نظر عرصہ میں نمایاں کام کو اعداد و شمار کے ساتھ مختصر بیان کریں۔ اہداف اور کارکردگی کو نمایاں طور پر لکھیں۔ اہداف نامکمل رہ جانے کی وجہ بھی بیان کریں

I have performed the job to the best of my knowledge & ability.

PART III

حصہ سوم

(REPORTING OFFICER'S EVALUATION)

(رپورٹنگ افسر کا جائزہ)

1. Please comment on the officer's performance on the job as given in Part II (2) with special reference to his knowledge of work, ability to plan, organize and supervise, analytical skills, competence to take decisions and quality and quantity of output. How far was the officer able to achieve the targets? Comment on the officer's contribution, with the help of statistical data, if any, in the overall performance of the organization. Do you agree with what has been stated in Part II (2)?

حصہ دوم (۲) میں بیان کی گئی کارکردگی کا جائزہ لیں۔ افسر کے علم، تنظیمی اور نگرانی کرنے کی صلاحیت، تجرباتی مہارت اور فیصلہ کرنے کی صلاحیت کے حلقہ رائے میں کارکردگی کے معیار و مقدار کے حوالے سے بھی رائے دیں۔ اہداف کو پورا کرنے میں افسر کی مددگاری کا کیا سبب رہا اور اس ادارے کی مجموعی کارکردگی میں افسر کے کردار کی اہم اعداد و شمار کے حوالے سے تبصرہ کریں۔ کیا آپ حصہ دوم (۲) میں دی گئی معلومات سے متفق ہیں؟

The officer has given a generalised statement. It is really difficult to infer/ quantify something specific.

As directed issued from records

[Signature]

Section Officer (General)
Establishment & Administration
Department, Khyber Pakhtunkhwa

2. Integrity (Morality, uprightness and honesty)
(راست بازی، ایمانداری) دیانت

Above board.

3. Pen picture including the officer's strengths and weaknesses with focus on emotional stability, ability to work under pressure, communication skills and interpersonal effectiveness (Weakness will not be considered as adverse entry unless intended to be treated as adverse).
قلمی خاک، انٹری کی خوبیوں اور کمزوریوں کا جائزہ لیں، خصوصاً جذباتی ٹھہراؤ، دباؤ کی حالت میں کام کرنے کی صلاحیت، رابطہ اور باہمی التفہیم پیدا کرنے کی صلاحیت بیان کریں (کوئی اس وقت تک مٹی تصور نہ کیا جائے جب تک رپورٹنگ افسر ضروری نہ سمجھے)

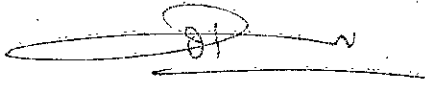
The officer exhibits strange behaviour towards official business. It leads me to conclude that he has some Psychological problem, which he vividly displays in official work. Extremely negative and always shirks responsibility. Does not have the capacity to work in a team.

4. Area and level of professional expertise with suggestions for future posting
پیشہ وارانہ مہارت اور آئندہ تعیناتی کی نشاندہی

Should never be posted on any responsible post, especially independent posting. Fit for research work.

Attested.

As directed. Copied from record.



4 Section Officer (secret)
Establishment & Administration
Department Khyber Pakistunkhwa

153/189

~~1547/189~~

5. Training and development needs
ترید تربیت کے لئے تجاویز

Not required

6. Overall grading
مجموعی درجہ

Very Good
اعلیٰ

Good
اچھا

Average
اوسط

~~Below Average~~
اوسط سے نیچے

7. Fitness for promotion
ترقی کے لیے مناسبت

Comment on the officer's potential for holding a higher position and additional responsibilities

آفسر کی اعلیٰ عہدے پر کام کرنے اور اضافی ذمہ داریاں سنبھالنے کی صلاحیت کے بارے میں رائے دیں

Not fit for promotion and additional assignment.

Name of the reporting officer AHMAD HASAN
(Capital letters)
رپورٹنگ افسر کا نام (دائیں حروف میں)

Signature
دستخط

Designation Secy. Punjab
عہدہ

Date
تاریخ

As directed, issued from record

Secretary (Secretariat)
Establishment & Administration
Department of Public Administration
Punjab, Pakistan

~~1547/189~~

155

28

PART IV

حصہ چہارم

(REMARKS OF THE COUNTERSIGNING OFFICER)

(کاؤنٹرسائنگ افسر کی رائے)

1. How often have you seen the work of the officer reported upon?
افسر کا کام کس حد تک آپ کی نظر سے گزرتا رہا؟

Very Frequent اکثر و بیشتر	Frequently اکثر	Rarely شاذ و نادر	Never کبھی نہیں
-------------------------------	--------------------	----------------------	--------------------

2. How well do you know the officer? If you disagree with the assessment of the reporting officer, please give reasons.

آپ افسر کو کس حد تک جانتے ہیں؟ اگر آپ رپورٹنگ افسر کی رائے سے متفق نہیں تو اس کی وجہ بیان کریں

I agree with Re.

3. Overall grading

مجموعی درجہ

Very Good اعلیٰ	Good اچھا	Average اوسط	Below Average اوسط سے کم
--------------------	--------------	-----------------	-----------------------------

4. Recommendation for promotion (Comment on the officer's potential for holding a higher position and additional responsibilities)

ترقی کے لیے سفارش

(افسر کی اعلیٰ عہدے پر کام کرنے اور اضافی ذمہ داریاں سنبھالنے کی صلاحیت کے بارے میں رائے دیں)

Not yet

Attached

As directed, Copied from record.

[Signature]

Section Officer (Secret)
Establishment & Administration
Department, Ghyver Pakhtunkhwa

155/189

28782

5. Evaluation of the quality of assessment made by the reporting officer

رپورٹنگ افسر کے جائزہ کے معیار کے بارے میں کاؤنٹرسائٹنگ افسر کی رائے

Exaggerated
مبالغہ آمیز

Fair
معاشرہ

Biased
جانب دار

[Handwritten Signature]

Name of the countersigning officer
(Capital letters) GHULAM DASTGIR AKHUNAR
کاؤنٹرسائٹنگ افسر کا نام (دائیں طرف میں)

Signature _____
دستخط

Designation Chief Secretary,
Khyber Pakhtunkhwa.
عہدہ

Date 8.3.13
تاریخ

PART V

[Handwritten Note]

(REMARKS OF THE SECOND COUNTERSIGNING OFFICER (IF ANY))

دوسرے کاؤنٹرسائٹنگ افسر (بشرط موجودگی) کی رائے

Name _____ Signature _____
نام دستخط

Designation _____ Date _____
عہدہ تاریخ

As directed, issued from record.
Attested
[Handwritten Signature]

Section Officer (Secrety)
Establishment & Administration
Department of P.W.D. Khyber Pakhtunkhwa

158/7/189

30

GUIDELINES FOR FILLING UP THE PER

1. • After initiation of their PER, the officers under report should immediately fill up the detachable 'Certificate' giving names of the RO/CO and forward the same to the Officer-Incharge of their respective confidential records. This exercise will ensure proper follow-up of the pending performance evaluation reports by the concerned Ministry/Division/Provincial Government etc.
2. • Forms should be filled in duplicate. Parts I and II are to be filled by the officer under report and should be typed. Part III will be filled by the Reporting Officer while the Countersigning/Second Countersigning Officers will fill Parts IV and V respectively.
3. • Each Division, Department, autonomous body and office etc. is required to prepare specific job descriptions giving main duties of each job to be mentioned in Part-II (1). The job descriptions may be finalized with the approval of the Head of the Organization or any person authorized by him.
4. • The officer under report should fill Part II (2) of the form as objectively as possible and short term and long term targets should be determined/assigned with utmost care. The targets for each job may be formulated at the beginning of the year wherever possible. In other cases, the work performed during the year needs to be specifically mentioned.
5. • Assessment by the Reporting Officers should be job-specific and confined to the work done by the officer during the period under report. They should avoid giving a biased or evasive assessment of the officer under report, as the Countersigning Officers would be required to comment on the quality of the assessment made by them.
6. • The Reporting Officers should carryout their assessment in Part III through comments against each characteristic. Their opinions should represent the result of careful consideration and objective assessment so that, if called upon, they could justify the remarks/comments. They may maintain a record of the work done by the subordinates in this regard.
7. • The Reporting Officers should be careful in giving the overall and comparative gradings. Special care should be taken so that no officer is placed at an undue disadvantage.
8. • The Countersigning Officers should weigh the remarks of the RO against their personal knowledge of the officer under report, compare him with other officers of the same grade working under different Reporting Officers, but under the same Countersigning Officer, and then give their overall assessment of the officer. In case of disagreement with the assessment done by the Reporting Officer, specific reasons should be recorded by the Countersigning Officers in Part IV (2).
9. • The Countersigning Officers should make an unbiased evaluation of the quality of performance evaluation made by the RO by categorizing the reports as exaggerated, fair or biased. This would evoke a greater sense of responsibility from the reporting officers.
10. • The Countersigning Officers should underline, in red ink, remarks which in their opinion are adverse and should be communicated to the officer reported upon. All adverse remarks whether remediable or irreparable should be communicated to the officer under report, with a copy of communication placed in the CR dossier. Reporting Officers should ensure that they properly counsel the officer under report before adverse remarks are recorded.
11. • The Reporting and Countersigning Officers should be clear, direct, objective and unambiguous in their remarks. Vague impressions based on inadequate knowledge or isolated incidents should be avoided.
12. • Reports should be consistent with the per picture, overall grading and comparative grading.

IMPORTANT

13. • Part I and II of the PER should be duly filled and dispatched to the Reporting Officer not later than the 15th of January. The Ros should forward the report to the Countersigning Officer within two weeks of receipt after giving their views in Parts III. The COs should then finalize their comments in Part IV within two weeks of receipt of PER. The Second Countersigning Officers, if any, should also complete their assessment within a period of two weeks.
14. • Name and designation of Reporting/Countersigning Officers should be clearly written. Comments should be legible and in the prescribed format and which can be easily scanned.
15. • Personnel Number is to be filled in by the officer under report, if allotted.
16. • Proforma has been devised in English/Urdu to provide flexibility to RO/CO in the choice of language.
17. • Comparative grading only applies to officers falling in very good, good and average categories. This grading would not apply to officers falling in below average category in Part III (6).

As directed, ^{Miss. Fed.} Copied from record.



Section Officer (Secret)
Establishment & Administration
Department Khyber Pakhtunkhwa.

30482

31782

As directed
As directed, copied from record
 14/1/89

Section Officer (Secret)
 Establishment & Administration
 Department of Revenue

Placed by - 16/04/2015
 by my D.A. for 50(S)
 today on 16/04/2015

any official duty related to his field.
 He is very competent officer and can perform
 his duties with great zeal.
 The officer is more hardworking. He carries out
 The officer is morally good and is honest.
 Fit for promotion.

He needs further training for improvement
 A competent officer.
 Special aptitude:- Study.
 He is good in performance of his job.
 Satisfactory.
 Performing his duty well. His performance
 was good during the period under report.
 Fit for promotion on his own turn.
 I agree with the Reporting Officer.
 He does not need any further training.
 Cooperative with other department.
 He is prompt in disposing of cases.
 Hard worker, obedient. I would like to
 be posted with me.
 Fit for promotion.

25.07.2000 V/Good
 to
 31.12.2000
 01.01.2000 Good
 to
 24.07.2000

03.04.99 Good
 to
 31.12.99

01.01.99
 to
 02.04.99

The views of Reporting Officer are endorsed.
 budgeting and accounts during the period.
 in late hours. He has learnt a lot about
 disposed off the cases even by sitting
 performance of his duties. Worked and
 He always took keen interest in the
 field job.
 to be assigned any administrative or
 background of N/Teahidar. He is fit
 performing officer. Having the
 and accounts work of P.O. He is a
 period. He assisted in budget planning
 The Officer performed well during the
 Fit for promotion in his turn.

1998. Good

academy was excellent.
 performance during his stay in the
 training programmes and his over-all
 He actively participated in the
 A balanced and polite officer.
 Training period Assessment.

26.05.97
 to
 27.07.97

ADVERSE REMARKS

GOOD REMARKS

GRAND

TOTAL

PROBATIONER OFFICER IN CHARGE
 OR MR. MURARI CHAND, SENIOR OFFICER

Annex-IX
 31-40

AT

[Handwritten signature]

32982

142/189

Attached copy from word

The officer was very intelligent, he knew how to
I was with the assessment of the reporting
officer with an expectation that the officer is
a little bit aggressive and needs more
politeness with the public, his subordinates
colleagues & superiors.
He was a good writer.
He should be given training in the field of
planning and development to improve his
writing in terms. He was a good writer.
The officer was very intelligent, he knew how to
I was with the assessment of the reporting
officer with an expectation that the officer is
a little bit aggressive and needs more
politeness with the public, his subordinates
colleagues & superiors.
He was a good writer.
He should be given training in the field of
planning and development to improve his
writing in terms. He was a good writer.

The officer was very honest and devoted
to his work, he has performed his work
with great zeal and enthusiasm.
The officer had good knowledge relating
to his field. In addition, he was quick
in planning and development.
Moreover, he needs further
encouragement to further enhance his capabilities.
I was with the assessment of the reporting
officer with an expectation that the officer is
a little bit aggressive and needs more
politeness with the public, his subordinates
colleagues & superiors.
He was a good writer.
He should be given training in the field of
planning and development to improve his
writing in terms. He was a good writer.

The officer needs training in the
field of planning and development.
I agree with the assessment of the
reporting officer. He has performed his
job very well. He has performed his job very
honestly, honest and
devoted. He has performed his job very
well. I was with the assessment of the reporting
officer with an expectation that the officer is
a little bit aggressive and needs more
politeness with the public, his subordinates
colleagues & superiors.
He was a good writer.
He should be given training in the field of
planning and development to improve his
writing in terms. He was a good writer.

ADVERSE REMARKS
GOOD REMARKS

32
142/189

ADVERSE REMARKS

YEAR

GRADE

GOOD REMARKS

2003. V/Good.

Fit for promotion.
A polished and decent officer, who has worked diligently to produce the desired results. A fine officer who has shown due enthusiasm in achievement of his assignment.

Integrity :- Nothing adverse has come to light against him as Section Officer.

A sober officer who remained deeply absorbed in his duties. A dutiful officer who willingly accepts responsibilities.

Special aptitude :- Quite good at inter personal relations.

Recommendations for future training :- Further training and courses will definitely optimize his professional abilities.

I know the officer well. I agree with the Reporting Officer.

2004. V/Good.

Fit for promotion.
The officer has performed the responsibilities assigned to him to the utmost devotion. He has an excellent knowledge of his work and has achieved all targets. I am satisfied with his work.

Integrity :- An honest young officer nothing adverse has ever reported against him.

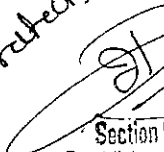
A bright intelligent hard working young officer. Know his job well and is seemed to move. He is strict and quite tough with his subordinates.

Special aptitude :- Takes keen interest in his work. Examines all the files with care of his heart and honestly gives advices.

Recommendations for future training :- He is recommended for training.

I know the officer well. I agree with the Reporting Officer.

33 782

As directed, CD


Section Officer (control)
Establishment & Administration
Department Kurba, Chitral

34

SYNOPSIS FROM PERS IN RESPECT OF MUHAMMAD MUHAMMAD ARSHAD, PCS(SG).

<u>YEAR</u>	<u>GRADE</u>	<u>GOOD REMARKS</u>	<u>ADVERSE REMARKS</u>
1.1.2005 To 31.7.2005	V/Good	Fit for promotion. The officer did very well during the period under report. I agree with the statement in Part-II(2). An honest and upright officer. The officer is efficient, hardworking and honest. He has seen improving his work during the period under report all the time. I know the officer well. I agree with the R.O.	
1.8.2005 To 31.12.2005	Good	Fit for promotion. His performance in disposal of official business was satisfactory. We found him an honest & upright officer. Task oriented officer. A hardworking and efficient officer.	

34

As directed, copied from record.

[Signature]

Section Officer (General)
Establishment & Administration
Department of Revenue

SYNOPSIS OF CHARACTER ROLL IN RESPECT OF
MR. MUHAMMAD ARSHAD

YEAR	GRADE	GOOD REMRKS	ADVERSE REMARKS
1	2	3	4

01.01.2006 Good
to
15.09.2006

Fit for promotion.
The officer performed the duties as mentioned in part-II (2). Satisfactorily.
Good.
An officer of inquisitive mind having deep sense of right and detail learning about the assigned job.
Legal studies.
Training at PARD/NIPA about project implement planning and evaluation could further improve his posted able.
I agree with the R.O.

16.09.2006 V:Good
to
27.12.2006

Fit for promotion.
He tried his level best achieving targets.
Honest.
Hardworking and cooperative.
A devoted colleges.
Recommended it will enhance his knowledge.
He is a good officer. Views of the R.O are supported.

01.01.2007 V:Good
to
31.07.2007

Fit for promotion.
He is competent and diligent officer. He discharged his official responsibilities in a be fitting manner. He almost accomplished the tasks which fell in his am bit.
An honest officer.
He was meticulous and dutiful to perform his official duties. Lision logical in dealing the cases with confidence. He is indeed a good and decent officer. Irrigation cases including other administrative matters.
Recommended for further training.
Being Dy/Secy in S&L Deptt, was working in subordination to the under signed. The assessment of the reporting officer is supported.

As directed, copied from record.

ALM

Section Officer (General)
Establishment & Administration
Department of Water Resources

**SYNOPSIS OF CHARACTER ROLL IN RESPECT OF
MR. MUHAMMAD ARSHAD PCS (SG).**

36

YEAR	GRADE	GOOD REMRKS	ADVERSE REMARKS
	2	3	4

01.01.2008

to

25.02.2008

Period less than three months.

26.02.2008

to

07.08.2008

Good

Fit for promotion.
Takes keen interest in his official duties. An honest but difficult as he follows rules and laws strictly. Appreciate his duties in the earthquake effected area.
Upright
Very strong strict in following relevant laws.
Secretariat posting.
Requires training on public administration.
I agree with the R.O.
A good officer.

08.08.2008

to

31.12.2008

As reported by the officer, he had worked under different reporting officers and in each case the period comes less than three months, hence no PER is required..

As directed, Attached, copied/issued from the record

[Signature]

Section Officer
Establishment & Administration
Department of Public Administration

36 282

SYNOPSIS OF CHARACTER ROLL IN RESPECT OF
MR. MUHAMMAD ARSHAD

37

26.02.2008 Good
to
07.08.2008

Fit for promotion.
Takes keen interest in his official duties. An honest but difficult as he follows rules and laws strictly. Appreciate his duties in the earthquake affected area. Upright. Very strong strict in following relevant laws. Secretariat posting. Requires training on public administration.
I agree with the R.O.
A good officer.
PER not due.

08.08.2008
to
31.12.2008
01.01.2009

PER not due.

to
16.09.2009
17.09.2009

Missing/ Not Received

to
31.12.2009
01.01.2010 Good
to
31.05.2010

Fit for promotion on his turn.
His on the job performance, knowledge and output of work both qualitatively and quantitatively was upto the mark. I agree with what he has stated in part-II (2). Sound. He was found hard working and going deep into every file. He had also through knowledge of laws, rules ad instructions ad performed well during the period under report. He has gathered sufficient knowledge and experience about secretariat work and will do well at Secretariat level against any suitable post-position. Any training suitable for his future professional improvement.
Endorsed.

01.06.2010
to

Posting period remained less than three months hence PER not required.

16.08.2010 V Good
17.08.2010
to
31.12.2010

Fit for promotion.
The officer achieved all assigned targets satisfactorily. Having the knowledge and experience in administration and Law, he performed his duties to the best of his abilities. An honest officer, a hardworking and efficient officer, who can be trusted with any responsibility. In the field of budgeting and finance.

M. Waheed
SO (Secret) 12 July.

Attested, Copied from record.

Section Officer (Secret)
Establishment & Administration
Department Cyber Pakhtunkhwa.

Section Officer
Establishment & Administration
Department Cyber Pakhtunkhwa.

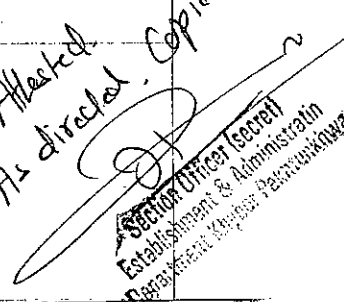
37 982

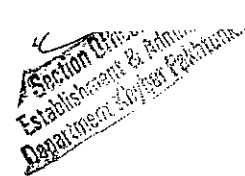
28

**SYNOPSIS OF CHARACTER ROLL IN RESPECT OF
MR. MUHAMMAD ARSHAD (BS-19)**

YEAR	GRADE	GOOD REMARKS	ADVERSE REMARKS
1	2	3	4
01.01.2009 to 16.09.2009	-	Broken period. Hence not PER is required.	-
17.09.2009 to 31.12.2009	-	Missing/ Not Received.	-
01.01.2010 to 31.05.2010	Good	Fit for promotion in his turn. He can shoulder responsibilities of higher position. His on the job performance, knowledge and output of work both qualitatively and quantitatively was upto the mark. I agree with what he has stated in part-II (2). Sound. He was found hard working and going deep into every file. He had also through knowledge of laws, rules and instructions and performed well during the period under report. He has gathered sufficient knowledge and experience about secretariat work and will do well at Secretariat level against any suitable post/position. Any training suitable for future professional improvement. Endorsed.	-
01.06.2010 to 10.08.2010	-	Period less than three months, hence PER is not required.	-
11.08.2010 to 31.12.2010	V/Good	Fit for promotion. He has ability for holding higher position. The officer achieved all assigned targets satisfactorily. Having the knowledge and experience in administration and law, he performed his duties to the best of his abilities. An honest officer. Hardworking and efficient officer, who can be trusted with any responsibility. In the field of budgeting and finance. In the field of public relation. I agree with the assessment the R.O.	-
01.01.2011 to 10.05.2011	V/Good	Fit for promotion, having ability to hold higher position. The officer was successful in achieving given targets. He took keen interest in stream lining the affairs of the financial matters of PHA. An upright and honest officer. A competent and hardworking Officer who produces definite results. In the field of Human Resources. In the field of Administration. I agree with the assessment the R.O.	-
11.05.2011 to 31.12.2011	Average	Fit. Not fit for assigning additional responsibilities. I partially agree. An honest officer. An average officer. May be posted in the Law Department, in view of his inclination towards legal matters. Does not require. Agree.	-
01.01.2012 to 01.07.2012	Average	Not fit for promotion and additional assignment. The officer has given a generalized statement. It is really difficult to infer/quantity something specific. Above board. The officer exhibits strange behavior towards official business. It leads me to conclude that he has some psychological probes, which he vividly displays in official work. Extremely negative and always shirks responsibility. Does not have the capacity.	-

As directed. Copied from record.


 Section Officer (Secretariat & Administration)
 Department of Higher Education


 Section Officer (Secretariat & Administration)
 Department of Higher Education

		to work in a team. Should never be posted on any responsible post, especially independent posting. Fit for research work. Not required. I agree with R.O. (Adverse remarks expunged)
02.07.2012 to 31.12.2012	Good	Fit for promotion or any additional responsibility. The assignment given to the officer stand completed. An honest person. Responsibilities assigned to the officer are always disposed in accordance with the spirit of the rules and regulations. He is a good officer and can be relied upon while assigning additional responsibilities. He is most helpful in exposing the corruptions mode by anyone in the nation building departments. He has full command over the law, rules and regulations covering constitutions, finance, accounts, land revenue etc. His future posting in the provincial Inspection team, finance or service regulation department would be suitable. Any training programme relating to HRM and development projects/implementation strategies would be beneficial for the officer. Agreed.
01.01.2013 to 03.07.2013	Good	Fit for promotion and higher/additional responsibility. The officer remained successful in achieving the targets. He bears an honest and good moral character. A well read officer in the fields of finance land revenue laws services statutes and always stressing/desires for its implementation in letter and spirit. Any responsibility assigned to him by the competent authority is always assessed and disposed off by him accordingly. His performance during the period and report remained satisfactory. Maintaining financial discipline and upright officer decorum is his flagship. His future services can best be utilized by posting him against relevant posts in the department/organizations where corruption and corrupt practices are rampant. His exposure to the training modules in the fields of human resource management, participatory development approaches and multi dimensional development projects would be helpful for future skills development of the officer.
04.07.2013 to 31.12.2013	Good	Fit for promotion in light of his clean service record and honesty/efficiently He can be proved very useful in assisting his seniors but may not be very effective in holding additional responsibilities. A very honest officer. Mr. Arshad, no doubt is an efficient and upright officer but in times declines to follow the directions of the Head of the Department. The officer has full knowledge of Rules and Secretariat Instructions but may not be able to deliver perfectly in heading an independent organization at present. Trainings are always beneficial and improve capacity of every officer. It is useful in his case, as well. I agree with the R.O. On his turn.

As directed, issued / copied from the

AD

Section Officer (Admin)
 Establishment & Administration
 Department of Agriculture
 Government of Karnataka

40

RESTRICTED



**Government of Khyber Pakhtunkhwa
Establishment Department
(SECRET SECTION)**

No.SOS(ED)CR/1(16)/2014
Dated Peshawar the March 4th, 2014

To

Mr. Muhammad Arshad,
Additional Secretary,
Auqaf, Hajj, Religious and
Minority Affairs Department.

Subject: - EXPUNCTION OF ADVERSE REMARKS.

Dear Sir,

I am directed to refer to your representation addressed to Chief Minister, Khyber Pakhtunkhwa for expunction of adverse remarks recorded in your PERs for the period commencing from 01.01.2012 to 01.07.2012.

I am further directed to inform you that the Competent Authority has been pleased to expunge the adverse remarks recorded in your PER for the period mentioned above.

Yours faithfully,

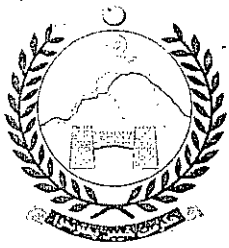
Faryal Kazim
9C (FARYAL KAZIM)
Section Officer (Secret)

5/3/2014
ame

As discussed copied from the record
Attested.

[Signature]
Section Officer (Secret)
Establishment & Administration
Department, Khyber Pakhtunkhwa

40782



GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(HRD WING)

Annex-x
41

No. SO (HRD-II)/ED/1-10/2014 (RTI)/M.Arshad
Dated Peshawar the 9th June, 2015


To

Mr. Muhammad Arshad,
Additional Secretary,
Housing Department, Khyber Pakhtunkhwa.

Subject: - PROVISION OF SUMMARY (COMPLAINT NO. 00310).

Reference to your letter No. SOE/Housing/1-84/PF/M.Arshad/2015/1520-21 dated 08-04-2015 on the subject and to forward herewith the information as requested under Right to Information Act, 2013.

Encls: As above.


Additional Secretary (HRD) /
Public Information Officer (P.I.O)

Endst: No & date even.


Copy forwarded to:

1. The Chief Information Commissioner, Government of Khyber Pakhtunkhwa, Right to Information Commission, 7th Floor, Tasneem Plaza, Near Benevolent Fund Building, 6th Saddar Road, Peshawar for information please.
2. PA to Additional Secretary (HRD) / Public Information Officer (P.I.O), Establishment Department.

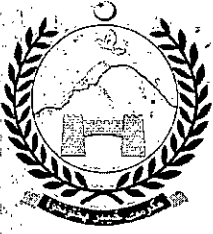
(MUHAMMAD ALI KHAN)
SECTION OFFICER (HRD-II)

Received on
09/06/2015.


09/06/2015


10/06/2015

41 982



Annex XI
42

H/O

**GOVT. OF KHYBER PAKHTUNKHWA
HOUSING DEPARTMENT**

Ministers' Block, Civil Secretariat, Peshawar.

No. SOE/Housing/1-84/PF/M.Arshad/2015

Dated Peshawar, the 11th June, 2015

/2359-60

To,

The Additional Secretary (HRD) / Public Information Officer (PIO),
Govt. of Khyber Pakhtunkhwa, Establishment Department,
Civil Secretariat, Peshawar.

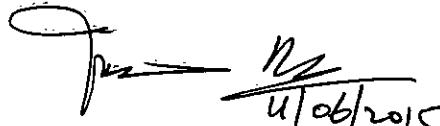
107, 112, 113, 121

Subject: **PROVISION OF SUMMARY (COMPLAINT NO. 00310)**

I am to refer to your letter No. SO(HRD-II)/ED/1-10/2014(RTI)/M. Arshad, dated 09.06.2015 on the subject noted above and to state that the **copy of PER for the calendar year 2014** is still awaited which may please be expedited as according to the rules/instructions the reports are to be finalized up to the end of January of the following year while now the month of June is in progress.

Needless to emphasize the undersigned needs copy of the requisite report for analyzing my overall service career in order to effectively defend my interest.

Complainant


4/06/2015

(MOHAMMAD ARSHAD)
ADDITIONAL SECRETARY

Ph# 091-9223443 and Fax# 091- 9212432

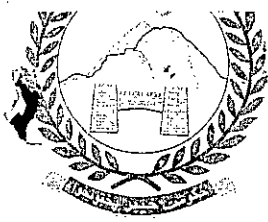
Endst. No. & date even.

Copy to:-

The Chief Information Commissioner, Govt. of Khyber Pakhtunkhwa, Right to Information Commission, 7th Floor, Tasneem Plaza, Near Benevolent Fund Building, 6th Saddar Road, Peshawar.


11/06/2015
ADDITIONAL SECRETARY

42 782



GOVERNMENT OF KHYBER PAKHTUNKHWA
RIGHT TO INFORMATION COMMISSION
7th Floor, Tasneem Plaza, Near Benevolent Fund Building,
6th Saddar Road, Peshawar
Email: complaints@kprti.gov.pk
Ph: +92-91-9212643
Fax: +92-91-9211163

Annex-XII
43

No. RTIC/AR/1-310/15
Dated: 19th June, 2015

To

Mr. Muhammad Arshad,
Additional Secretary,
Housing Department
Ministers/B-Block, Civil Secretariat, Peshawar.

Ref:

Mr. Muhammad Arshad vs. Establishment Department, Peshawar.

Subject:

Supply of Information under RTI Act, 2013 (Complaint No. 00310)

Memo,

Please refer to your letter No. SOE/Housing/1-84/PF/M.Arshad/2015, dated: 11th June, 2015.

You will appreciate that your original request, filed on 13/06/2014 covered your PERs from 1997 till request dated (26/06/2014). We presume that you have received your PERs upto 31/12/2013. Since your original request did not cover the PERs for the calendar year 2014, therefore, the same cannot be supplied to you during the present proceedings. If you require a copy of your PER for the calendar year 2014, for that, a fresh request would be needed under the Right to Information act, 2013. In view of the above, your case has been closed.

Assistant Registrar
Right to Information Commission,
KPK, Peshawar.

Copy to:-

Syed Muhammad Farrukh Saqlain, PIO/Additional Secretary (HRD), Establishment Department, Peshawar.

Received on
22/06/2015.

Assistant Registrar
Right to Information Commission,
KPK, Peshawar.

22/06/2015

43982

Annex-XIII.
44

7/2



**GOVT. OF KHYBER PAKHTUNKHWA
HOUSING DEPARTMENT**

Ministers' Block, Civil Secretariat, Peshawar.

No. SOE/Housing/1-84/PF/M.Arshad/2015 / 2484-85

Dated Peshawar, the 23rd June, 2015

To,

The Additional Secretary (HRD) / Public Information Officer (PIO),
Govt. of Khyber Pakhtunkhwa, Establishment Department,
Civil Secretariat, Peshawar.


Subject:

**PROVISION OF COPY OF PER FOR THE YEAR, 2014 UNDER RTI
ACT, 2013.**

I am to refer to the subject noted above and to state that the undersigned requires his copy of Performance Evaluation Report (PER) for the year 2014.

It is, therefore, requested to provide me a copy of the above-mentioned document / information under provisions of Section 7 of the Khyber Pakhtunkhwa Right to Information Act, 2013 (Khyber Pakhtunkhwa Act No. XXVII of 2013).

Requester


23/06/2015

(MOHAMMAD ARSHAD)
ADDITIONAL SECRETARY

Ph# 091-9223443 and Fax# 091- 9212432

Endst. No. & date even.

Copy to:-

The Chief Information Commissioner, Govt. of Khyber Pakhtunkhwa, Right to Information Commission, 7th Floor, Tasneem Plaza, Near Benevolent Fund Building, 6th Saddar Road, Peshawar with reference to their letter No. RTIC/AR/1-310/15 dated 19.06.2015 which was received by the undersigned on 22.06.2015.


23/06/2015

ADDITIONAL SECRETARY

44 482



GOVERNMENT OF ~~XS~~
 KHYBER PAKHTUNKHWA
 ESTABLISHMENT DEPARTMENT
 (HRD WING)

~~XS~~
Annex - XIV
45-54

No. SO (HRD-II)/ED/1-10/2014 (RTI)/M.Arshad
 Dated Peshawar the 30th June, 2015

To

Mr. Muhammad Arshad,
 Additional Secretary,
 Housing Department, Khyber Pakhtunkhwa.

Subject: - PROVISION OF SUMMARY (COMPLAINT NO. 00310).

Reference to your letter No. SOE/Housing/1-84/PF/M.Arshad/2015/2484-85 dated 23rd June, 2015 on the subject and to forward herewith the information as requested under Right to Information Act, 2013.

Encls: As above.

Additional Secretary (HRD) /
 Public Information Officer (P.I.O)

Endst: No & date even.

Housing Department
 Khyber Pakhtunkhwa
 Diary No 1116 (we)
 Date 01.7.15

Copy forwarded to:

1. The Chief Information Commissioner, Government of Khyber Pakhtunkhwa, Right to Information Commission, 7th Floor, Tasneem Plaza, Near Benevolent Fund Building, 6th Saddar Road, Peshawar for information please.
2. PA to Additional Secretary (HRD) / Public Information Officer (P.I.O). Establishment Department.

SECTION OFFICER (HRD-II)

Received on 02/07/2015.

02/07/2015

158/7189

45982

RESTRICTED

~~SECRET~~

46



**Government of Khyber Pakhtunkhwa
Establishment Department
(SECRET SECTION)**

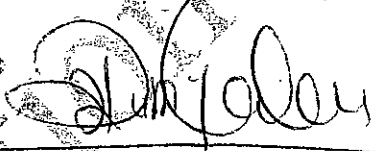
**No.SOS(ED)CR/1(16)/2015
Dated Peshawar the June 29, 2015**

To

The Section Officer (HRD-II),
Establishment Department,
Govt. of Khyber Pakhtunkhwa.

Subject: - **PROVISION OF SUMMARY (COMPLAINT NO.00310)**

I am directed to refer to your letter No.^{P-119/c}SO(HRD-II)ED/1-10/2014
(RTI)/Muhammad Arshad, dated 12.06.2015 on the subject noted above and
to enclose herewith the requisite information for further necessary action
please.


Section Officer (Secret)
Section (HRD-II)
Establishment & Administration
Department Khyber Pakhtunkhwa

Encl. As above

SECRET

~~152/4/189~~

46 782

GOVERNMENT OF KHYBER PAKHTUNKHWA

حکومت خیبر پختونخواہ

Augas, (Hizj), Religious & Minority

Department/Office ASGains Department Service/Group PCS(SC)
عمر اڈن برڈی اگروپ

PERFORMANCE EVALUATION REPORT

کارکردگی رپورٹ

FOR THE PERIOD 11.09. 2014 TO 31.12. 2014
۲۰۱۴ء تا ۲۰۱۴ء برائے عرصہ

PART I

حصہ اول

(TO BE FILLED IN BY THE OFFICER REPORTED UPON)

(متعلقہ افسر خود پُر کریں)

1. Name (in block letters) MOHAMMAD ARSHAD
نام (دائیں حروف میں)
 2. Personnel number 00044152
الترکیدی نمبر
 3. Date of birth 15.02.1966
تاریخ پیدائش
 4. Date of entry in service 08.01.1992
تاریخ اقتدار کرنے کی تاریخ
 5. Post held during the period (with BPS) Additional Secretary (BPS-19)
پیش نظر عرصہ میں عہدہ (مع اسکیل)
M.A. (Pol. Sc.), LLB
 6. Academic qualifications
تعلیم
 7. Knowledge of languages (Please indicate proficiency in speaking (S), reading (R) and writing (W)) (پورے (ب)، پڑھنے (پ)، اور لکھنے (ل) کی صلاحیت)
زبانوں کا علم
- i. Pashto (SRW), ii. Urdu (SRW), iii. English (SRW) and
iv. Arabic (PW)

Section Officer
Establishment & Administration
Government of Khyber PakhtunkhwaAttested
As copied from
D. can

3. Training received during the evaluation period (Training courses attended earlier, if any, may please be listed separately on the back page of the report)

(اس سے پہلے ترقی کورسوں میں شرکت، رپورٹ کے مندرجہ ذیل پر درج کریں)

معلقہ عرصے کے دوران تربیت کی تفصیل

Name of course attended کورس کا نام	Duration with dates تاریخوں کے ساتھ دورانیہ	Name of institution and country ادارے اور ملک کا نام

9. Period served

عمر ملازمت

Y M D

(i) In present post

03-07-14

(ii) Under the reporting officer

Y M D

01-05-06

موجودہ عہدے پر

رپورٹنگ افسر کے ماتحت

PART II

حصہ دوم

(TO BE FILLED IN BY THE OFFICER REPORTED UPON)

(معلقہ افسر خود پر کریں)

1. Job description

دستور کار کی تفصیل

I am serving as Additional Secretary, Augaf, Hajj, Religious & Minority Affairs Department. There is only one post of Additional Secretary in the department and as nomenclature of the department indicates, I supervise the entire work of the department, being initiated by its four sections namely, SO (Admin), SO (Augaf), SO (HR & MA), SO (Dev) and processed through Deputy Secretary of the department. The job description of the post, therefore, is to supervise the establishment and budgetary matters, cases of management of work properties and developmental schemes of the department.

Attested
Copied

Pam [Signature]

Section Officer (Admin)
Establishment & Administration
Department of Hajj, Religious & Minority Affairs

Brief account of achievements during the period supported by statistical data where possible. Targets given and actual performance against such targets should be highlighted. Reasons for shortfall, if any, may also be stated.

پیش نظر عرصہ میں نمایاں کام کا اعداد و شمار کے ساتھ مختصر بیان کریں۔ اہداف اور کارکردگی کو نمایاں طور پر لکھیں۔ اہداف یا مکمل رہ جانے کی وجوہات بھی بیان کریں۔

No targets have been given and therefore, performance can't be measured against any pre-determined targets. I have performed well on the post to the best of my knowledge and ability and with utmost sincerity, dedication and hard work. The achievements/performance can't be supported by statistical data because the activities can't be quantified. The secretarial work is not a nature of job where performance be quantified in the form of statistical data and more specifically, where no targets have been given/pre-determined.

PART III

حصہ سوم

(REPORTING OFFICER'S EVALUATION)

(رپورٹنگ افسر کا جائزہ)

Please comment on the officer's performance on the job as given in Part II (2) with special reference to his knowledge of work, ability to plan, organize and supervise, analytical skills, competence to take decisions and quality and quantity of output. How far was the officer able to achieve the targets? Comment on the Officer's contribution, with the help of statistical data, if any, in the overall performance of the organization. Do you agree with what has been stated in Part II (2)?

حصہ دوم (۲) میں بیان کی گئی کارکردگی کا جائزہ لیں۔ افسر کے علم، تنظیمی اور نگرانی کرنے کی صلاحیت، تجزیاتی مہارت اور نیکل کرنے کی صلاحیت کے تعلق رائے دیں۔ کارکردگی کے معیار، مقدار کے حوالے سے بھی رائے دیں۔ اہداف کو پورا کرنے میں افسر کی مدد کا ماساب رہا اور نہیں۔ ادارے کی جموں کارکردگی میں افسر کے کردار کی اعداد و شمار کے حوالے سے تبصرہ کریں۔ کیا آپ حصہ دوم (۲) میں دی گئی معلومات سے متفق ہیں؟

I agree.

Section Officer (Secret)
Establishment & Administration
Department of Public Administration

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[Signature]

50
176

2. Integrity (Morality, uprightness and honesty)
(انصاف اور ایمانگاہی)

Above board.

3. Pen picture including the officer's strengths and weaknesses with focus on emotional stability, ability to work under pressure, communication skills and interpersonal effectiveness (Weakness will not be considered as adverse entry unless intended to be treated as adverse).

قلمی خاکہ: افسر کی خوبیوں اور کمزوریوں کا جائزہ لیں، خصوصاً جذباتی ٹھہراؤ، دباؤ کی حالت میں کام کرنے کی صلاحیت، رابطہ اور باہمی التفہیم پیدا کرنے کی صلاحیت بیان کریں (کوٹاہی کو اس وقت تک نقلی تصور نہ کیا جائے جب تک رپورٹنگ افسر ضروری نہ سمجھے)

A good officer.

4. Role of the officer in vaccination/immunization campaign (applicable to district officers like DCOs, Political Agents, EDOs Health and other dealing Officers).

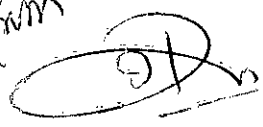
پولیویم کے دوران افسر کا کردار (ضلعی افسران جیسا کہ ڈی۔سی۔ او، پولیٹیکل ایجنٹ، ای۔ ڈی۔ او، ہیلتھ اور دوسرے متعلقہ افسران کے لیے)

N.A

5. Area and level of professional expertise with suggestions for future posting

پیشہ وارانہ مہارت اور آئندہ تعیناتی کی نشاندہی

Not known.

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Section Officer (Secretariat)
Establishment & Administration
Department of Health & Family Welfare

50482

Training and development needs

Not required

SI

not required

7. Overall grading

2005

Very Good

~~Good~~

Average
best

Below Average
best

8. Fitness for promotion

2005

Comment on the officer's potential for holding a higher position and additional responsibilities

آفسر کی اعلیٰ عہدے پر کام کرنے اور اضافی ذمہ داریاں سنبھالنے کی صلاحیت کے بارے میں رائے دیں

Fit, but should not be given additional responsibilities

[Signature]

Name of the Reporting Officer

(Capital letters) ATMAS HASAN

(Arabic/Urdu/English)

Designation

Secy. Punjab

Date

2-1-2005

5
[Stamp]

Attest

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(REMARKS OF THE COUNTERSIGNING OFFICER)
(کاؤنٹر سائننگ افسر کی رائے)

1. How often have you seen the work of the officer reported upon?
افسر کا کام کس حد تک آپ کی نظر سے گزرتا رہا؟

Very Frequent اکثر و بیشتر	Frequently اکثر	Rarely شاذ و نادر ✓	Never کبھی نہیں
-------------------------------	--------------------	------------------------	--------------------

2. How well do you know the officer? If you disagree with the assessment of the reporting officer, please give reasons.

آپ افسر کو کس حد تک جانتے ہیں؟ اگر آپ رپورٹنگ افسر کی رائے سے متفق نہیں تو اس کی وجوہات بیان کریں

Casually

3. Overall grading
مجموعی درجہ

Very Good اعلیٰ	Good اچھا	Average اوسط	Below Average اوسط سے کم
--------------------	--------------	-----------------	-----------------------------

4. Recommendation for promotion
ترقی کے لیے سفارش

(Comment on the officer's potential for holding a higher position and additional responsibilities)

(افسر کی اعلیٰ عہدے پر کام کرنے اور اضافی ذمہ داریاں سنبھالنے کی صلاحیت کے بارے میں رائے دیں)

Fit

Section Officer
Establishment Section
Department of Public Administration

6

Attested
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For record
[Signature]

165/189

5. Evaluation of the quality of assessment made by the Reporting Officer

رپورٹنگ افسر کے جائزہ کے معیار کے بارے میں کاؤنٹر سائننگ افسر کی رائے

53

Exaggerated
مبالغہ آمیز

Fair
مناسب

Biased
جانب دار

Name of the countersigning officer

Signature

(Capital letters)

دستخط

رپورٹنگ افسر کا نام (دائری حروف میں)

Designation

Date

مہرہ

تاریخ

PART V

حصہ پنجم

(REMARKS OF THE SECOND COUNTERSIGNING OFFICER (IF ANY))

دوسرے کاؤنٹر سائننگ افسر کی رائے اگر کوئی ہو

Name

Signature

نام

دستخط

Designation

Date

مہرہ

تاریخ

Secretary
Ministry of Administration
Government of West Bengal

Attached.

Copied from record

16/4/89

53 982

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Xse

GUIDELINES FOR FILLING UP THE PER

1. After initiation of their PER, the officers under report should immediately fill up the detachable 'Certificate' giving names of the RO/CO and forward the same to the Officer Incharge of their respective confidential records. This exercise will ensure proper follow-up of the pending performance evaluation reports by the concerned Ministry/Division/Provincial Government etc.
2. Forms should be filled in duplicate. Parts I and II are to be filled by the officer under report & should be typed. Part III will be filled by the Reporting Officer while the Countersigning/Second Countersigning Officers will fill Parts IV and V respectively.
3. Each Division, Department, autonomous body and office etc. is required to prepare specific job descriptions giving main duties of each job to be mentioned in Part-II (1). The job descriptions may be finalized with the approval of the Head of the Organization or any person authorized by him.
4. The officer under report should fill Part II (2) of the form as objectively as possible and short term and long term targets should be determined/assigned with utmost care. The targets for each job may be formulated at the beginning of the year wherever possible. In other cases, the work performed during the year needs to be specifically mentioned.
5. Assessment by the Reporting Officers should be job-specific and confined to the work done by the officer during the period under report. They should avoid giving a biased or evasive assessment of the officer under report, as the Countersigning Officers would be required to comment on the quality of the assessment made by them.
6. The Reporting Officers should carryout their assessment in Part III through comments against each characteristic. Their opinions should represent the result of careful consideration and objective assessment so that, if called upon, they could justify the remarks/comments. They may maintain a record of the work done by the subordinates in this regard.
7. The Reporting Officers should be careful in giving the overall and comparative gradings. Special care should be taken so that no officer is placed at an undue disadvantage.
8. The Countersigning Officers should weigh the remarks of the RO against their personal knowledge of the officer under report, compare him with other officers of the same grade working under different Reporting Officers, but under the same Countersigning Officer, and then give their overall assessment of the officer. In case of disagreement with the assessment done by the Reporting Officer, specific reasons should be recorded by the Countersigning Officers in Part IV (2).
9. The Countersigning Officers should make an unbiased evaluation of the quality of performance evaluation made by the RO by categorizing the reports as exaggerated, fair or biased. This would evoke a greater sense of responsibility from the reporting officers.
10. The Countersigning Officers should underline, in red ink, remarks which in their opinion are adverse and should be communicated to the officer reported upon. All adverse remarks whether remediable or irremediable should be communicated to the officer under report, with a copy of communication placed in the CR dossier. Reporting Officers should ensure that they properly counsel the officer under report before adverse remarks are recorded.
11. The Reporting and Countersigning Officers should be clear, direct, objective and unambiguous in their remarks. Vague impressions based on inadequate knowledge or isolated incidents should be avoided.
12. Reports should be consistent with the pen picture, overall grading and comparative grading.

IMPORTANT

13. Part I and II of the PER should be duly filled and dispatched to the Reporting Officer not later than the 15th of January. The Ros should forward the report to the Countersigning Officer within two weeks of receipt after giving their views in Parts III. The COs should then finalize their comments in Part IV within two weeks of receipt of PER. The Second Countersigning Officers, if any, should also complete their assessment within a period of two weeks.
14. Name and designation of Reporting/Countersigning Officers should be clearly written. Comments should be legible and in the prescribed format and which can be easily scanned.
15. Personnel Number is to be filled in by the officer under report, if allotted.
16. Proforma has been devised in English/Urdu to provide flexibility to RO/CO in the choice of language.
17. Comparative grading only applies to officers falling in very good, good and average categories. This grading would not apply to anyone falling in below average category in Part III (7).

54 782



**GOVT. OF KHYBER PAKHTUNKHWA
HOUSING DEPARTMENT**

Ministers' Block, Civil Secretariat, Peshawar.

No. SOE/Housing/1-84/PF/M.Arshad/2015

Dated Peshawar, the 2nd July, 2015

Annex - XV

SS

To,

The Additional Secretary (HRD) / Public Information Officer (PIO),
Govt. of Khyber Pakhtunkhwa, Establishment Department,
Civil Secretariat, Peshawar.

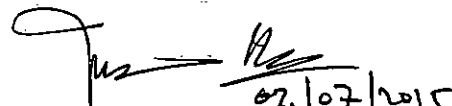
Subject:

**PROVISION OF COPY OF PER FOR THE YEAR, 2014 UNDER RTI
ACT, 2013.**

I am to refer to your letter No. SO(HRD-II)/ED/1-10/2014(RTI)/M. Arshad dated 30.06.2015, which was received by the undersigned on 02.07.2015, on the subject noted above and to state that there are two reports of the undersigned with two different ROs in the calendar year 2014 i.e. one for the period from 01.01.2014 to 10.09.2014 and the second from 11.09.2014 to 31.12.2014. The Public Body has provided copy of the report for the latter period only.

It is, therefore, requested to also provide a copy of the report for the period from 01.01.2014 to 10.09.2014 under provisions of Section 7 of the Khyber Pakhtunkhwa Right to Information Act, 2013 (Khyber Pakhtunkhwa Act No. XXVII of 2013).

Requester


(MOHAMMAD ARSHAD)
ADDITIONAL SECRETARY

Ph# 091-9223443 and Fax# 091- 9212432

Endst. No. & date even.

Copy to:-

The Chief Information Commissioner, Govt. of Khyber Pakhtunkhwa, Right to Information Commission, 7th Floor, Tasneem Plaza, Near Benevolent Fund Building, 6th Saddar Road, Peshawar.


ADDITIONAL SECRETARY

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Annex-

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**GOVT. OF KHYBER PAKHTUNKHWA
HOUSING DEPARTMENT**

Ministers' Block, Civil Secretariat, Peshawar.

No. SOE/Housing/1-84/PF/M.Arshad/2015 / 2689
Dated Peshawar, the 9th July, 2015

To,

The Secretary, Establishment Department,
Govt. of Khyber Pakhtunkhwa, Civil Secretariat,
Peshawar.

Subject: -

**REPRESENTATION UNDER SECTION 22 (2) OF THE KHYBER
PAKHTUNKHWA PROVINCE CIVIL SERVANTS ACT, 1973 (Act No.
XVIII of 1973) AGAINST THE RECORDING OF OVERALL GRADING
AS "AVERAGE" IN THE PETITIONER'S PER FOR THE PERIOD FROM
11.05.2011 TO 31.12.2011 COMMUNICATED VIDE ESTABLISHMENT
DEPARTMENT LETTER No. SO(HRD-II)/ED/1-10/2014/(RTI) dated
01/04/2015.**

Prayer:

The categorization of overall grading in petitioner's PER for the period from 11/05/2011 to 31/12/2011 as "Average" may be converted into "Outstanding" or at least "Very Good".

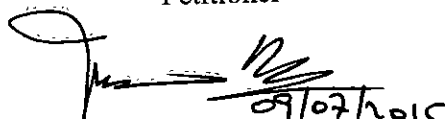
Dear Sir,

Enclosed please find herewith the representation addressed to the competent authority for information and further necessary action. The representation consists of total forty-one (41) pages with detail as follows:-

- i. Text of the Representation: 06 pages.
- ii. Annexes: XXVIII (spread over 61 pages).
- iii. Total pages of i + ii: 67 pages.

It is requested to acknowledge the receipt of the representation through back reference.

Yours faithfully,
Petitioner


(MOHAMMAD ARSHAD)
ADDITIONAL SECRETARY

Ph# 091-9223443 and Fax# 091- 9212432

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GOVT. OF KHYBER PAKHTUNKHWA
HOUSING DEPARTMENT

Ministers' Block, Civil Secretariat, Peshawar.

No. SOE/Housing/1-84/PF/M.Arshad/2015
Dated Peshawar, the 9th July, 2015

To,
The Chief Minister,
Khyber Pakhtunkhwa, Peshawar.
Through Proper Channel.

Subject: - REPRESENTATION UNDER SECTION 22 (2) OF THE KHYBER PAKHTUNKHWA PROVINCE CIVIL SERVANTS ACT, 1973 (Act No. XVIII of 1973) AGAINST THE RECORDING OF OVERALL GRADING AS "AVERAGE" IN THE PETITIONER'S PER FOR THE PERIOD FROM 11.05.2011 TO 31.12.2011 COMMUNICATED VIDE ESTABLISHMENT DEPARTMENT LETTER No. SO(HRD-II)/ED/1-10/2014/(RTI) dated 01/04/2015.

Prayer: The categorization of overall grading in petitioner's PER for the period from 11/05/2011 to 31/12/2011 as "Average" may be converted into "Outstanding" or at least "Very Good".

Sir,
Respectfully submitted that:-

The Government of Khyber Pakhtunkhwa, Establishment Department vide its letter No. SOS(ED)CR/1(16)/2014, dated 04/03/2014 has communicated that "reference to petitioner's representation addressed to the Chief Minister for expunction of adverse remarks recorded in his PER from 01/01/2012 to 01/07/2012, the competent authority has been pleased to expunge the adverse remarks recorded in his PER for the above mentioned period" (Annex-I).

2. The order of expunction of adverse remarks did not specify that what has been decided about overall grading of the petitioner. Therefore, the petitioner requested the Establishment Department vide letter No. SO(Admn.)AHR&MAD/1-96/7053-53, dated 10/03/2014 to inform that what has been decided about over all grading in his PER because the letter under reference did not show any such thing in black and white (Annex-II).

3. The Establishment Department replied vide its letter No. SOS(ED)CR/1(16)/2014, dated 16/04/2014 that the requisite PER will be shown to the petitioner in the office of Special Secretary (Estab.), Establishment Department on 22/04/2014 at 10.30 A.M (Annex-III). The petitioner visited the above mentioned office and it transpired that the overall grading in the PER has been changed from "below average" to "average". The petitioner, therefore, immediately requested vide letter No. SO(Admn)AHR&MAD/1-196/2011/8073-75 dated 22/04/2014 to provide him a copy of his overall grading in the PERs for the period from 26/05/1997 till date (Annex-IV). The request was followed vide reminders No. SO(Admn)AHR&MAD/1-96/2011/9319-20, dated 11/06/2014 (Annex-V), No. SO(Admn)AHR&MAD/1-96/2011/9315 dated 13/6/2014 (Annex-VI), No. SO(Admn)AHR&MAD/1-96/2011/9651 dated 26/6/2014 (Annex-VII) and No. SO(Admn)AHR&MAD/1-96/2011/2865 dated 20/08/2014 (Annex-VIII). It was only after lapse of four months that the Establishment Department communicated vide its letter No. SOS(ED)CR/1(16)/2014 dated 29/08/2014 that the Performance Evaluation Report is a restricted/classified document and the petitioner's request regarding provision of overall grading cannot be acceded to under Rule 1.4 (b) (vii) of the "Instructions on Performance Evaluation Report, 2006" (Annex-IX).

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4. The petitioner replied vide letter No. SO(Admn) AHR&MAD/1-96/ 2001/3096 dated 03/09/2014 (**Annex-X**), which was never replied/entertained that, the petitioner is entitled for showing him the reports under Para. 5.3 of the booklet titled "A Guide to Performance Evaluation (2004 Edition)" as amended vide Establishment Department letter No. SOS(ED)CR./2(1)Inst. 2008 dated November 06, 2008 (**Annex-XI**). Similarly, the petitioner had clarified vide Para-3 of the letter that "under which provisions of the Khyber Pakhtunkhwa Right to Information Act, 2013 (Khyber Pakhtunkhwa Act No. XXVII of 2013), the copies of the reports are prohibited to be provided to the petitioner. Furnishing copy of the reports to the requester doesn't fall within the scope of the exceptions provided for in sections 15 to 21 of the Act as cited above". The petitioner had further clarified that "the public body is required to provide the requisite information to the petitioner within 10 days or maximum of 20 days as provided under section 11 of the Act *ibid*. The Establishment Department did not follow this provision of the Act because the reply has been received after lapse of 2 months and 20 days and that also in violation of the RTI law".

5. Feeling aggrieved, the petitioner approached the Right to Information Commission vide letter No. SO(Admn) AHR& MAD/1-96/2011/4051, dated 07/11/2014 with the request that the Establishment Department/concerned public body may be directed to provide to the petitioner copy of his PERs for the period from 26/05/1997 till date as per provisions of the RTI Act, 2013. It was explained in the complaint that the public body has denied the requisite facility to the petitioner repeatedly, first by remaining silent and finally, through wrong application of the law/rules/instructions on the subject matter (**Annex-XII**). The RTI Commission accepted the petitioner's complaint and directed the Public Information Officer (PIO), Establishment Department vide letter No. RTIC/AR/1-310/15 dated 09/01/2015 that a Civil Servant is entitled to receive copies of all those PERs which stand finalized as entries in these reports form basis for his future career development, therefore, the public body is directed to provide the requisite information to the petitioner within ten days (**Annex-XIII**).

6. The petitioner reminded the PIO, Establishment Department vide letter No.SOE/Housing/1-84/PF/M.Arshad/2015/488-89 dated 02/02/2015 with a copy to the RTI Commission that the requisite information is awaited despite a lapse of the target date (**Annex-XIV**). The RTI Commission also reminded the public body vide letter No.RTIC/AR/1-310/15 dated 06-02-2015 to provide the requisite information to the complainant within five days of the receipt of their letter under intimation to the commission or show cause for refusal. In case of failure to comply, the Commission would make resort to the punitive provisions of the RTI Act, 2013 (**Annex-XV**). At last, the Establishment Department provided the information vide their letter No. SO(HRD-II)/ED/1-10/2014(RTI) dated 09/02/2015, which was received by the petitioner on 12/02/2015 (**Annex-XVI**). The petitioner replied vide letter No. SOE/Housing/1-84/PF/M.Arshad/2015/597-98 dated 13/02/2015 that the record provided is not the immediate copy of the original PER forms but its tertiary reproduction on plain paper. Moreover, even the provided record is not limpid and legible. Needless to emphasize, the petitioner's request to the Establishment Department and complaint to the Right to Information Commission was that copy of original PERs may be provided and not its tertiary copy re-produced on plain paper. It is a fact that there may be unintentional and clerical mistakes in the reproduction of the record of PERs on plain paper. Moreover, the record is not attested and stamped as required under the provisions of the RTI Act. It was further clarified that it has been mentioned in the provided record that the PER for the period from 01/06/2009 to 31/12/2009 is missing. Why are these missing and on whom the responsibility lies and what will be the effect of the missing PER on petitioner's service career. The Establishment Department has never before informed the petitioner that the requisite PER is missing. The public body was, therefore, requested to provide an immediate copy of the original PER forms of the petitioner for the period from 26-05-1997 till date duly attested and stamped (**Annex-XVII**).

7. The copies of the requisite PERs were at last provided vide Establishment Department letter No. SO(HRD-II)/ED/1-10/2014/(RTI) dated 01/04/2015 but unattested and unstamped which includes copy of the PER for the impugned period from 11.05.2011 to

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31.12.2011 (Annex-XVIII). The petitioner requested vide letter No. SOE/Housing/1-84/PF/M.Arshad/2015/1520-21 dated 08/04/2015 that the copies of the record may be attested and stamped which have been handed over to the Section Officer (Secret) by hand and also provide copy of the summary along with annexes, being integral part of the PER for the period from 01/01/2012 to 01/07/2012 (Annex-XIX). The attested copies of PERs without summary were received by hand by my PA from the Section Officer (Secret) on 16/04/2015. The case lingered on since 10/03/2014 and despite repeated directions of the Commission, the Public Body didn't come to the conclusion to provide copy of the summary to the petitioner or not. At last, the copy of the summary was provided vide Establishment Department letter No. SO(HRD-II)/ED/1-10/2014/(RTI)/M. Arshad dated 09/06/2015 (Annex-XX). The petitioner replied vide letter No. SOE/Housing/1-84/M.Arshad/2015/2359-60 dated 11/06/2015 that the copy of PER for the calendar year 2014 is still awaited which may please be expedited as according to the rules/instructions the reports are to be finalized up to the end of January of the following year while now the month of June is in progress. Further added that the appellant/petitioner needs copy of the requisite report for analyzing his overall service career in order to effectively defend his interest (Annex-XXI). The Section Officer (HRD-II), a subordinate of Additional Secretary (HRD)/Public Information Officer (PIO), Establishment Department vide his letter No. SO(HRD-II)/ED/1-10/2014(RTI)/M.Arshad dated 12/06/2015 requested the Section Officer (Secret) of the same department to provide the requisite information within 03 days (Annex-XXII).

8. The RTI Commission advised vide its letter No. RTIC/AR/1-310/15 dated 19/06/2015 to lodge a fresh request for the PER of calendar year 2014 as the original request filed on 13/06/2014 covered PERs from 1997 till request dated 26/06/2014. Since the original request did not cover the PER for 2014, hence, the same can't be provided during the present proceedings (Annex-XXIII). Alas! The Commission is referring to technicalities to defeat petitioner's interest but never resort to the punitive provisions against the Public Body under provisions of Section 26 of the RTI Act, 2013 to support the petitioner's interest that why the Public Body is delaying the disclosure of information. Anyhow, the petitioner requested the PIO of the Public Body vide letter No. SOE/Housing/1-84/PF/M.Arshad/2015/2484-85 dated 23/06/2015 to provide him his PER for the calendar year 2014 (Annex-XXIV). The Public Body did provide the copy of PER vide its letter No. SO(HRD-II)/ED/1-10/2014(RTI)/M.Arshad dated 30/06/2015 but only for the split-up period from 11/09/2014 to 31/12/2014 wherein the same Reporting Officer has judged the petitioner as "Good" in the overall grading. The Public Body conveniently ignored to provide copy of the PER for the remaining period from 01/01/2014 to 10/09/2014 (Annex-XXV). The Public Body didn't bother to explain the reason that why record for the remaining period is not being provided. The petitioner reminded the Public Body vide letter No. SOE/Housing/1-84/PF/M.Arshad/2015/2608-09 dated 02/07/2015 to provide him copy of the remaining portion of the PER for the period from 01/01/2014 to 10/09/2014 which is still awaited (Annex-XXVI).

9. By seeing the record of his PERs for the period from 26.05.1997 to 31.12.2014 except the PER for the period from 01/01/2014 to 10/09/2014 and a copy of the summary through which his representation regarding the adverse remarks in his PER for the period from 01/01/2012 to 01/07/2012 has been decided, the petitioner feels aggrieved regarding the recording of overall grading as "Average" in his PER for the period from 11/05/2011 to 31/12/2011, and therefore, submits the instant representation in the case on the following grounds amongst others:-

- i. The Establishment Department by not the providing the record of PERs for a long period of time, has debarred the petitioner to properly defend his interest, therefore, the fundamental right of every citizen for access to information as guaranteed under Article 19(A) of the Constitution of Islamic Republic of Pakistan, 1973 and Khyber Pakhtunkhwa Right to Information Act, 2013 has been violated.
- ii. The Public Body (Establishment Department) repeatedly denied the provision of copy of the PERs for the period from 26-05-1997 till date including copy of the

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summary. At last, after a lapse of about one year and three months since 10/03/2014, the public body did provide the copies of PERs for the period from 26/05/1997 to 31/12/2013 on 01/04/2015, copy of the summary on 09/06/2015 and copy of PER for the period from 11/09/2014 to 31/12/2014 on 30/06/2015 which vindicated petitioner's right to access to the requisite record. If the employer tortures its employees in this way, how can employee devote his energies towards achievement of organizational goals, impossible?

- iii. No aggrieved person can properly defend his interest unless and until he is provided with the material record which he relies upon in his favour. This principle of law has been given protection as one of the fundamental right of citizens under Article 10A of the Constitution of the Islamic Republic of Pakistan, 1973 which proclaims that, "for the determination of his civil rights and obligations or in any criminal charge against him a person shall be entitled to a fair trial and due process". It is not a fair trial and due process that the petitioner is denied the relevant record, then how he will plead or argue his case. Therefore, the period of limitation of 30 days prescribed for preferring the representation under Section 22 (2) of the Civil Servants, 1973, should start from 30/06/2015, the day the petitioner received copy of the PER for the period from 11/09/2014 to 31/12/2014.
- iv. The denial of information i.e. by not providing the record of petitioner's PERs by the Establishment Department, the right of every individual to be dealt with in accordance with law under provisions of Article-4 of the Constitution has been violated. Right of access to the information is the fundamental right of every citizen under provisions of Article 19 (A) of the Constitution and provisions of the Right to Information Act, 2013. The petitioner has been continuously placed under mental torture and agony by denying the access to the requisite record of his PER for about one year and three months. Therefore, the delay in preferring the instant representation is condonable.
- v. Although, the period of limitation starts from 01/04/2014 or rather 16/04/2014, the day the petitioner has received attested copy of the PER for the impugned period from 11/05/2011 to 31/12/2011 but as explained in previous paragraphs, the petitioner cannot properly defend his interest unless and until he is provided with all the material record which he relies upon in his favour. Since, the last piece of the material record was provided on 30/06/2015, therefore, as per provisions of Rule 3 of the Khyber Pakhtunkhwa Province Civil Servants (Appeal) Rules, 1986 as well as Section 5 of the Limitation Act, 1908 (Act No. IX of 1908), the delay of approximately one month and few days in preferring the instant representation is condonable.
- vi. By analyzing and comparing the reports for the periods from 11/05/2011 to 31/12/2011 (average) and 11/09/2014 to 31/12/2014 (good), authored by the same Reporting Officer, it transpires that the reports have not been compiled with careful consideration and objective assessment as required by the guidelines for filling up the PER but rather these are the result of whims and fancies of the Reporting Officer. Why an officer is average in 2011 and good in 2014? Is there any solid reason for it or otherwise? Individual human nature doesn't change so rapidly. Why the petitioner was average in 2011 and good in 2014, has the petitioner obtained a Ph.D. degree during this period that his performance on the job has improved as also in S. No. 1 of Part III of the PER relating to 2011 the RO states that he partially agrees while for 2014 he fully agrees? Sound judgment demands that when one partially agrees, he may specify the reasons and percentage for it. Partially may mean 99% or 1 % etc. which is vague. Against the portion, "Area and level of professional expertise with suggestion for future posting", the RO comments in 2011 that "May be posted in the Law Department in view of his inclination towards legal matters" while in 2014 he writes, "Not known". It is astonishing that how can an officer be average if he is inclined towards legal matters. Governance is nothing else but the administration of state affairs according to law. No administrator can be good and efficient one if he

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doesn't know the laws and rules on the subject matter which is his field of activity. Hence, it can be safely concluded that the overall grading in 2011 is in self contradiction with the comments on individual performance indicators. Against Integrity (Morality, uprightness and honesty" the RO writes in 2011, "An honest officer" and in 2014, "Above board". Integrity doesn't only mean financial integrity but also intellectual and moral integrity. Intellectual integrity is justice with the performance on the job. Why should not a man of integrity perform his duties with responsibility, carefulness and utmost devotion? If a person is honest, he would consider it Haram to take salary and don't deliver. Overall grading of 2011 is in self contradiction with this individual performance indicator also and hence, not tenable in the eyes of law i.e. guidelines on PER which enjoins upon that, "Reports should be consistent with the pen picture, overall grading and comparative grading".

- vii. In Khalid Siddique, Excise and Taxation Officer Training Cell, Lahore versus Secretary to Govt. of the Punjab, Excise and Taxation Department and 2 others, 2005 P L C (C.S) 498(Annex-XXVII), "the Punjab Service Tribunal has expunged adverse remarks of the Reporting Officer for the reason that for period 02.11.1991 to 30.06.1992, the subordinate was adversely reported while the same Reporting Officer has rated as good for the period from 01.07.1992 to 28.01.1993. The tribunal has expressed its views that this prompt change from below average to good, I am not prepared to believe, was due to any metamorphoses in the habits of the appellant taking place so suddenly, rather it clearly reflects that the Reporting Officer played a game of pick and choose as evident from the perusal of the ratings given for personal qualities in Part-II of the impugned Annual Confidential Report". Similar is the petitioner's case, the same Reporting Officer has rated him as "Average" for the impugned period from 11/05/2011 to 31/12/2011, "Below Average" for the period from 01/01/2012 to 01/07/2012 while subsequently "Good" for the period from 11/09/2014 to 31/12/2014. This sudden change from average to below average and then good is not due to any sudden metamorphoses in the habits of the petitioner taking place so suddenly, rather it clearly reflects that the Reporting Officer plays the game of pick and choose. His opinion is not the result of careful consideration and objective assessment as required by the Guidelines for Filling-up of the PER forms, printed on its back side but the game of pick and choose as rightly pointed out by the learned tribunal.
- viii. According to the Promotion Policy circulated by the Establishment Department vide its letter No. SO(E-I)/E&AD/9-133/09 dated 03/11/2009 and incorporated in the Esta Code, 2011 vide page 52 thereof, the minimum of aggregate marks on the Comprehensive Efficiency Index (CEI) for promotion from Basic Scale 19 to 20 is 70 out of 100 while individual score for average report is 5 out of total of 10 which means 50 % score. The gaining of average report means that an employee can't be promoted to BPS-20 with average report. The Instructions on PER doesn't categorize the average report as adverse but in effect it is an adverse report in the way of promotion to BPS-20 as per provisions of Promotion Policy. It may be said that one average report may not disturb the aggregate marks on the CEI but it is based on presumption and not actual calculation. There is another aspect of the case, if an officer gets more average reports, and as the prevalent law/practice is, the repository of PERs/Public Body never disclose/convey such reports to the officers reported upon because they don't consider these as adverse, while in effect officers getting such reports can never be promoted to BPS-20 and above. The Establishment Department may consider such an anomaly in the Instructions vis-a-vis the Promotion Policy. On the basis of above explanation also, the petitioner has approached for reviewing and reconsideration of his overall grading in the PER for the impugned period from 11/05/2011 to 31/12/2011.
- ix. The synopsis of the PERs provided by the Public Body indicates that there are a total of one "excellent or outstanding" and ten each of "very good" and "good"

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categories of overall grading in the PERs of the petitioner from 26/05/1997 to 31/12/2014 and no average report except the one received from the RO for the impugned period from 11/05/2011 to 31/12/2011 (Annex-XXVIII). According to the provisions of Article 67 of the Qanun-e-Shahadat Order, 1984 (P.O. Order X of 1984), previous good character is relevant. Then, why not the petitioner's previous good record, having attained majority of outstanding and very good reports before the impugned period, be considered while fixing his overall grading.

x. The petitioner wishes to be heard in person also.

Keeping in view the above submissions, it is therefore, respectfully prayed that the overall grading of "Average" in the petitioner's PER for the period from 11/05/2011 to 31/12/2011 communicated vide letter dated 01/04/2015 at Annex-XVIII may be reconsidered / reviewed and converted into "outstanding" or at least "very good" category as per demands of law, justice and fair play.

Yours faithfully,
Petitioner


(MOHAMMAD ARSHAD)
ADDITIONAL SECRETARY

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Ph# 091-9223443 and Fax# 091-9212432

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Government of Khyber Pakhtunkhwa
Establishment Department
(SECRET SECTION)

Annex 1
63

No.SOS(ED)CR/1(16)/2015
Dated Peshawar the July 27, 2015

To

Mr. Mohammad Arshad,
Additional Secretary,
Housing Department,
Govt. of Khyber Pakhtunkhwa.

Subject: - REPRESENTATION UNDER SECTION 22 (2) OF THE KHYBER PAKHTUNKHWA PROVINCE CIVIL SERVANTS ACT, 1973 (Act No.XVIII of 1973) AGAINST THE RECORDING OF OVERALL GRADING AS 'AVERAGE' IN THE PETITIONER'S PER FOR THE PERIOD FROM 11.05.2011 TO 31.12.2011 COMMUNICATED VIDE ESTABLISHMENT DEPARTMENT LETTER NO.SO(HRD-II)ED/1-10/2014 (RTI) dated 01.04.2015.

Dear Sir,

Reference your letter No.SOE/Housing/1-84/PF/M.Arshad/2015/2689, dated 9th July, 2015 on the above subject, the receipt of your letter alongwith representation is hereby acknowledged.

Yours faithfully,

Section Officer (Secret)

SECRET SECTION

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Annex - XVIII

64



Government of Khyber Pakhtunkhwa
Establishment Department
(SECRET SECTION)

No.SOS(ED)CR/1(16)/2015
Dated Peshawar the September 14, 2015

To

Mr. Mohammad Arshad,
Additional Secretary,
Housing Department,
Govt. of Khyber Pakhtunkhwa.

Subject: - REPRESENTATION UNDER SECTION 22 (2) OF THE KHYBER PAKHTUNKHWA PROVINCE CIVIL SERVANTS ACT, 1973 (ACT NO.XVIII OF 1973) AGAINST THE RECORDING OF OVERALL GRADING AS "AVERAGE" IN THE PETITIONERS PER FOR THE PERIOD FROM 11.05.2011 TO 31.12.2011 COMMUNICATED VIDE ESTABLISHMENT DEPARTMENT LETTER No.SO(HRD-II)ED/1-10/2014(RTI) DATED 1.4.2015

Dear Sir,

I am directed to refer to your letter No.SOE/Housing/1-84/PF/M.Arshad/2015/2689, dated 09.07.2015 on the subject noted above and to state that under para-3.7 of the Insutrctions on Performance Evaluation Report 2006, the Performance Evaluation Report for the period from 11.05.2011 to 31.12.2011 is average and not adverse, therefore the same cannot be treated/processed for conversion of average entry into outstanding or very good.

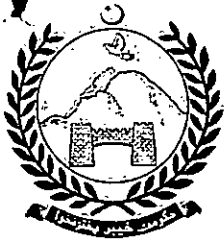
Yours faithfully,

Section Officer (Secret)

Received on 16/09/2015 at 3.00 PM.

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16/09/2015

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GOVT. OF KHYBER PAKHTUNKHWA
HOUSING DEPARTMENT

Ministers' Block, Civil Secretariat, Peshawar.

No. SOE/Housing/1-84/PF/M.Arshad/2015 / 3575
Dated Peshawar, the 17th September, 2015

Annex-
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To,

The Public Information Officer,
Govt. of Khyber Pakhtunkhwa,
Establishment Department,
Civil Secretariat, Peshawar.

Subject: -

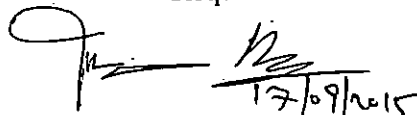
**REQUEST FOR INFORMATION/RECORD UNDER SECTION 7 OF THE
KHYBER PAKHTUNKHWA RIGHT TO INFORMATION ACT, 2013
(KHYBER PAKHTUNKHWA ACT NO. XXVII OF 2013).**

I am to refer to the subject noted above and to state that the undersigned has submitted representation under section 22 (2) of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Act No. XVIII of 1973) to the competent authority through proper channel (Establishment Department), praying to convert the overall grading of "average" to "outstanding" or at least "very good" in the requester's PER for the period from 11.05.2011 to 31.12.2011 vide my letter No. SOE/Housing/1-84/PF/M. Arshad/2015/2689 dated 09.07.2015.

2. The Establishment Department (Public Body) replied vide their letter No. SOS(ED)CR/1(16)/2015 dated 14.09.2015, which was received by the undersigned on 16.09.2015 at 3.00 PM, stating therein that under Para. 3.7 of the Instructions on PER, 2006, the PER for the period from 11.05.2011 to 31.12.2015 is average and not adverse, therefore, the same cannot be treated/processed for conversion of average entry into outstanding or very good. The undersigned doesn't agree with the above decision because the cited Para. of the Instructions itself talks of the fact that when an officer is superseded or whose promotion is deferred comes to know about it automatically when his juniors are promoted to higher scale posts. He need not, therefore, be informed of average reports, unless the countersigning officer decides otherwise. The plain reading and interpretation of the Para. is that an officer can be superseded or his promotion may be deferred on the basis of average report besides ignoring my other convincing and fundamental questions of law and fact mentioned in the representation. So, what else is the definition of adverse report in the eyes of the public body and where else it has been defined and why the countersigning officer has not decided to inform me about the same in time? According to the judgments of superior courts, discretionary powers are always to be exercised in a structured and judicious manner.

Anyhow, it is requested under the provisions of the RTI law to inform the requester that through which mode i.e. through summary or through office note in the department above decision has been taken and accordingly provide an attested and duly stamped copy of the same. It is further requested to provide the requisite information/record within the prescribed period of ten (10) days as the undersigned is going to the next higher forum for relief and for which limitation period is short and also acknowledge the request as per provisions of Section 7 (6) of the Act *ibid*.

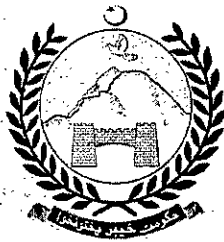
Requester


17/09/2015
(MOHAMMAD ARSHAD)
ADDITIONAL SECRETARY

Ph# 091-9223443 and Fax# 091- 9212432

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**GOVT. OF KHYBER PAKHTUNKHWA
HOUSING DEPARTMENT**

Ministers' Block, Civil Secretariat, Peshawar.

No. SOE/Housing/1-84/PF/M.Arshad/2015/3840
Dated Peshawar, the 7th October, 2015

Annex-
66

To,

The Chief Information Commissioner,
Right to Information Commission,
Govt. of Khyber Pakhtunkhwa, 7th Floor, Tasneem Plaza,
Near Benevolent Fund Building, 6th Saddar Road,
Peshawar.

Reply of 10/10/2015
- instant No. 1108

Subject: -

**COMPLAINT UNDER SECTION 23 OF THE KHYBER PAKHTUNKHWA
RIGHT TO INFORMATION ACT, 2013 (KHYBER PAKHTUNKHWA
ACT NO. XXVII OF 2013) REGARDING REFUSAL OF INFORMATION /
RECORD IN PER CASE FOR 11.05.2011 TO 31.12.2011.**

Dear Sir,

I am to refer to the subject noted above and to state that the complainant has requested for provision of certain information/record of note sheet/summary, regarding decision on complainant's representation for upgradation of overall grading in PER for 11.05.2011 to 31.12.2011, to the Public Information Officer, Establishment Department vide his letter No. SOE/Housing/1-84/PF/M. Arshad/2015/3575 dated 17.09.2015 (copy enclosed) but till filing of instant complaint the same has not been provided.

It is, therefore, requested to order the public body to provide the requisite information/record as per provisions of the Act cited at subject.

Complainant

Encl. As Above.


02/10/2015
(MOHAMMAD ARSHAD)
ADDITIONAL SECRETARY

Ph# 091-9223443 and Fax# 091- 9212432

66782



Annex-XXI
67

GOVERNMENT OF KHYBER PAKHTUNKHWA
RIGHT TO INFORMATION COMMISSION
7th Floor, Tasneem Plaza, Near Benevolent Fund Building,
6th Saddar Road, Peshawar
Email: complaints@kprti.gov.pk
Ph: 92-91-9212643
Fax: +92-91-9211163

No: RTIC/AR/1-1108/15 /6841
Dated: 13th Oct., 2015

To

The Additional Secretary (HRD)/PIO,
Establishment department,
Peshawar.

Ref:

MOHAMMAD ARSHAD VS. ESTABLISHMENT DEPARTMENT, PESHAWAR

Subject:

COMPLAINT AGAINST NON-SUPPLY OF INFORMATION BY ESTABLISHMENT DEPARTMENT, PESHAWAR. (COMPLAINT NO: 1108)

Memo:

Complainant Mr. Mohammad Arshad had filed a request with your Department dated: 17/09/2015. You have failed to respond to the request within the timeline fixed by the Right to Information Act, 2013, and hence he has approached this Commission with the subject complaint under the Law. (copy attached)

2. You are directed to provide complete and relevant information to the complainant within ten working days of the receipt of this letter, under intimation to RTI Commission.
3. In case, you need any clarification/guidance in the matter, you are required to contact this Commission within five working days of the receipt of this letter on phone No. 091-9212643, e-mail: complaints@kprti.gov.pk or fax No. 091-9211163, so that the provision of information within fifteen working days is ensured.
4. In case the information is not supplied, you are directed to attend this Commission on 03/11/2015 to give reasons for the failure on your part.
5. Failure to comply with the above would compel this Commission to make resort to the punitive clauses of the Law.

Copy to:

Mr. Mohammad Arshad (Complainant)

Assistant Registrar
Right to Information Commission,
KPK, Peshawar.

Assistant Registrar
Right to Information Commission, KPK

Assistant Registrar
Right to Information Commission,
KPK, Peshawar.

Received on 16/10/2015.

24,
16/10/2015

67482



GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(HRD WING)

Annex - X
68-69

No. SO (HRD-II)/ED/1-10/2014 (RTI)/M.Arshad
Dated Peshawar the 17th December, 2015

To


Mr. Muhammad Arshad,
Additional Secretary,
Housing Department, Khyber Pakhtunkhwa.

Subject: -

REQUEST FOR INFORMATION UNDER SECTION 7 OF THE RTI
ACT, 2013 (KHYBER PAKHTUNKHWA ACT NO. XXVII OF 2013)
(COMPLAINT NO. 01108)

Kindly refer to your letter No. SOE/Housing/1-84/PF/M.Arshad/2015/3575 dated
17th September, 2015 on the subject and to forward herewith the information as requested under
Right to Information Act, 2013.

Encls: As above.


Additional Secretary (HRD) /
Public Information Officer (P.I.O)

Endst: No & date even.

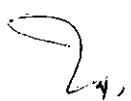
Copy forwarded to:

Housing Department
Khyber Pakhtunkhwa
Distry No. 2018 (we)
Date: 22-12-15

1. The Chief Information Commissioner, Government of Khyber Pakhtunkhwa, Right to Information Commission, 7th Floor, Tasneem Plaza, Near Benevolent Fund Building, 6th Saddar Road, Peshawar w/r to his letter No. RTIC/AR/1-1108/15/7884 dated 25th November, 2015 for information please.
2. PA to Additional Secretary (HRD) / Public Information Officer (P.I.O), Establishment Department.

SECTION OFFICER (HRD-II)

Received on 22/12/2015.


22/12/2015

68782

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RESTRICTED



**Government of Khyber Pakhtunkhwa
Establishment Department
(SECRET SECTION)**

No.SOS(ED)CR/1(16)/2015
Dated Peshawar the December 07, 2015

To

✓ The Section Officer (HRD-II),
Establishment Department,
Govt. of Khyber Pakhtunkhwa.

Subject: - **REQUEST FOR INFORMATION UNDER SECTION 7 OF THE RTI
ACT, 2013 (KHYBER PAKHTUNKHWA ACT NO.XXVII OF 2013)
(COMPLAINT NO.01108)**

I am directed to refer to your letter No.SO(HRD-II)ED/1-10/2014
(RTI)/M.Arshad, dated 26.11.2015 on the subject noted above and to enclose
herewith the requisite information for further necessary action, please.

Section Officer (Secret)

Encl: As above

Handwritten mark

69 782



GOVT. OF KHYBER PAKHTUNKHWA
HOUSING DEPARTMENT

Ministers' Block, Civil Secretariat, Peshawar.

No. SOE/Housing/1-84/PF/M.Arshad/2015 / 4825-26
Dated Peshawar, the 22nd December, 2015

Annex - XX

70

To,

The Public Information Officer/AS(HRD),
Govt. of Khyber Pakhtunkhwa, Establishment Department,
Civil Secretariat, Peshawar.

Subject: -

REQUEST FOR INFORMATION/RECORD UNDER SECTION 7 OF THE
KHYBER PAKHTUNKHWA RIGHT TO INFORMATION ACT, 2013
(KHYBER PAKHTUNKHWA ACT NO. XXVII OF 2013) (COMPLAINT
NO. 01108).

I am to refer to your letter No. SO(HRD)/ED/1-10/2014(RTI)/M.Arshad dated 17.12.2015, which was received by the undersigned on 22.12.2015, on the subject noted above and to state that the record provided is not duly attested and stamped as per provisions of Section 10 of the RTI law. It is pointed out that in dealing with the undersigned it is not the first time that this lapse has been pointed out to the public body but still the requirement of law is not fulfilled and hence, the cases are inordinately being delayed to the detriment of the interest of the requester. Moreover, the copies of the record are very dim and more often than not the courts don't accept such dim copies of record.

Keeping in view the above-mentioned facts, it is, therefore, requested to provide duly attested and stamped copy of the requisite record under RTI law.

Requester


(MOHAMMAD ARSHAD)
ADDITIONAL SECRETARY

Ph# 091-9223443 and Fax# 091-9212432

Copy to:-

The Chief Information Commissioner, Right to Information Commission, Govt. of Khyber Pakhtunkhwa, 7th Floor, Tasneem Plaza, Near Benevolent Fund Building, 6th Saddar Road, Peshawar.


(MOHAMMAD ARSHAD)
ADDITIONAL SECRETARY

70 782



Reminder-V

GOVT. OF KHYBER PAKHTUNKHWA
HOUSING DEPARTMENT

Ministers' Block, Civil Secretariat, Peshawar.

No. SOE/Housing/1-84/PF/M.Arshad/2015/1843-44.
Dated Peshawar, the 26th April, 2016

To,

The Chief Information Commissioner,
Right to Information Commission,
Govt. of Khyber Pakhtunkhwa, 7th Floor, Tasneem Plaza,
Near Benevolent Fund Building, 6th Saddar Road,
Peshawar.

Subject: -

1. COMPLAINT UNDER SECTION 23 OF THE KHYBER PAKHTUNKHWA RIGHT TO INFORMATION ACT, 2013 (KHYBER PAKHTUNKHWA ACT NO. XXVII OF 2013) REGARDING REFUSAL OF INFORMATION / RECORD IN PER CASE FOR 11.05.2011 TO 31.12.2011.
2. COMPLAINT AGAINST NON SUPPLY OF INFORMATION BY ESTABLISHMENT DEPARTMENT, PESHAWAR (COMPLAINT NO. 1108).

Dear Sir,

I am to refer to my complaint vide letter No. SOE/Housing/1-84/M. Arshad/2015/3840 dated 07.10.2015 on the subject noted at S. No. 1 above, the Commission letters No. RTIC/AR/1-1108/15/6841 dated 13.10.2015 and No. RTIC/AR/1-1108/15/3051-52 dated 10.03.2016 on the subject noted at S. No. 2 above, my reminder letters dated 22.12.2015, 12.01.2016, 27.01.2016 and 25.02.2016 and several phone calls to the Commission in this regard and to state that **the requisite information duly attested and stamped** has not been provided by the public body concerned till date.

It is, therefore, reminded to order the public body to provide the requisite information/record as per provisions of the Act by invoking its punitive provisions.

Complainant

[Signature]
26/04/2016

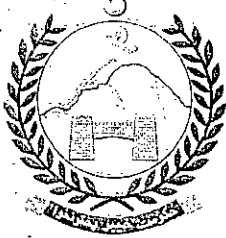
(MOHAMMAD ARSHAD)
ADDITIONAL SECRETARY

Ph# 091-9223443 and Fax# 091- 9212432

Copy to:-

The Public Information Officer, Establishment Department.

[Signature]
26/04/2016
ADDITIONAL SECRETARY



GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(HRD WING)

Annex-1
72-77

No. SO (HRD-II)/ED/1-10/2014 (RTI)/M.Arshad/Vol-II
Dated Peshawar the 31st May, 2016.

To

Mr. Muhammad Arshad,
Additional Secretary,
Housing Department, Khyber Pakhtunkhwa.

Subject: - COMPLAINT UNDER SECTION 23 OF THE KP RTI ACT, 2013 (KHYBER PAKHTUNKHWA ACT NO. XXVII OF 2013) REGARDING REFUSAL OF INFORMATION /RECORD IN PER CASE FOR 11-05-2011 TO 31-12-2011.

COMPLAINT AGAINST NON-SUPPLY OF INFORMATION BY ESTABLISHMENT DEPARTMENT PESHAWAR (COMPLAINT NO. 1108).

Kindly refer to this Department letter of even No. dated 13th Januray, 2016 (copy enclosed) on the subject & your letter No. SOE/Housing/1-84/PF/M.Arshad/2015/1843-44 dated 26th April, 2016 and RTI Commission Summon's direction dated 31st May, 2016 and to forward herewith once again the information as requested under **Right to Information Act, 2013.**

Encls: As above.

Additional Secretary (HRD) /
Public Information Officer (P.I.O)

Endst: No & date even.

Copy forwarded to:

Housing Department
Khyber Pakhtunkhwa
Dialy No. 9576
Date 31-5-16

1. The Chief Information Commissioner, Government of Khyber Pakhtunkhwa, Right to Information Commission, 7th Floor, Tasneem Plaza, Near Benevolent Fund Building, 6th Saddar Road, Peshawar w/r to **RTI Commission Summon dated 31st May, 2016** for information please.
2. PA to Additional Secretary (HRD) / Public Information Officer (P.I.O), Establishment Department.

SECTION OFFICER (HRD-II)

72 782



73

A

GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(HRD WING)

No. SO (HRD-II)/ED/1-10/2014 (RTI)/M.Arshad
Dated Peshawar the 13th January, 2016.

To:

Mr. Muhammad Arshad,
Additional Secretary,
Housing Department, Khyber Pakhtunkhwa.

Opus
15/1/16

Subject: REQUEST FOR INFORMATION UNDER SECTION 7 OF THE RTI ACT, 2013 (KHYBER PAKHTUNKHWA ACT NO. XXVII OF 2013) (COMPLAINT NO. 01108).

Kindly refer to your letter No. SOI Housing 1-84/PF M.Arshad 2015/4825-26 dated 22nd December, 2015 on the subject and to forward herewith the information as requested under Right to Information Act, 2013.

Encls: As above.

Additional Secretary (HRD) /
Public Information Officer (P.I.O)

Endst: No. & date even.

Copy forwarded to:

1. The Chief Information Commissioner, Government of Khyber Pakhtunkhwa, Right to Information Commission, 7th Floor, Tasneem Plaza, Near Benevolent Fund Building, 6th Saddar Road, Peshawar w/r to RTI Commission letter No. RTIC/AR/1-1108/15/9019 dated 5th January, 2016 for information please.
2. FA to Additional Secretary (HRD) Public Information Officer (P.I.O), Establishment Department.

kkh
SECTION OFFICER (HRD-II)

CI
15/1/16

cc

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76

Subject: - REPRESENTATION UNDER SECTION 22 (2) OF THE KHYBER PAKHTUNKHWA PROVINCE CIVIL SERVANTS ACT, 1973 (ACT NO. XVIII OF 1973) AGAINST THE RECORDING OF OVERALL GRADING AS "AVERAGE" IN THE PETITIONERS PER FOR THE PERIOD FROM 11.05.2011 TO 31.12.2011 COMMUNICATED VIDE ESTABLISHMENT DEPARTMENT LETTER No.SO(HRD-II)ED/1-10/2014(RTI) DATED 1.4.2015

335

PUC is a case/representation furnished by Mr. Muhammad Arshad (PCS SG/BS-19), Additional Secretary, Housing Department on the above mentioned subject with the request to convert the "Average" grading as given to him by the Reporting Officer in his PER for the period from 11.5.2011 to 31.12.2011 into "Outstanding" or at least "Very good".

336

It is submitted that according to para 3.7 (ii) of the Instructions on PERs, 2006:-

It is clarified that if any or all entries in Part-III of the existing PER form of BPS-17/18 are initialed in the column headed C, i.e. Average, the assessment does not become adverse in nature and is, therefore, not be treated and processed as an adverse report.

337

While addressing his Representation to the Chief Minister, the applicant has also requested to be heard in person.

338

In view of the above, the case is submitted for further instructions please.


25-8-15
Section Officer (Secret)

Special Secretary (Estb)

*Summary on the subject has already submitted to CM. is it correct?
SO (Secret)*

340

No Sir, the case on which Summary was prepared was related to another subject (para 319-326/N ante) for the PER period 01-01-2011 to

Section Officer (Secret)
Establishment Department
Government of Khyber Pakhtunkhwa

RECEIVED
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31708/10/15

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SMK

8S/Establishment

26-5-18
80(S)

80(S)

Submitted please

In view of the above, the case is submitted
Please for instructions and further directions.

adverse in nature

According to the PER instructions, Book, "with
"Average", the assessment does not become

"v. good" or "outstanding"

Convert his "Average" grading into

officer. Now the officer has requested to

"Average" by the reporting officer/counselors/gm

to 31-12-2011 in which he was given

the officer's PER period of 11-05-2011

This instant subject case is related with

competent authority.

and which were later expunged by the

given adverse remarks by the reporting officer

Mr. Muhammad Nisad (Pos. 50/BPS-17) was

01-07-2012 in which a letter concerned

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT

75

REGISTERED
Diary No. 2656
Date: 10/09/2018

PC/SS/E/8AD

Diary No. 2139

Date: 26/08/2015

34

34

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~~76~~

345

For comments

~~DSR-II~~

[Signature]
26-8-2018

346

pls examine

SOCR-IV)

[Signature]
27/8

347

Ref: Para-345/N.

~~F/A~~

Under para 6.2 of the PERs Instructions 2006, the right of representation has been given in the case of adverse remarks only, whereas the officer has earned average report. According to para 3.7 (ii) of the above instruction, average report may not be treated and processed as an adverse report. Therefore, the officer has no right to prefer representation against his average report.

585
SACAD, Diary No. ~~27/8/18~~
Date ~~27/8/18~~

348

~~DSR-II~~

The explanation rendered in the above para is endorsed for further orders as may deemed appropriate.

Section Officer (R-IV)

[Signature]
28/8

As proposed.

Sr. Secretary (Right to Life)
Establishment Department
Diary No. 2750
Date 02/9/15

349

~~DSR-II~~
SO (R-IV)

[Signature]
04/9/15
DSR-II

So Secret

350

As directed please

BA I

[Signature]

[Signature]
08/9

[Signature]
9-9-15

Officer (R-IV)
Establishment & Adm. Dept.
Department, Khyber Pakht.

76782

72 482

Section Officer (Secret)
Administration & Accounts
Muziris

14-9-15
BT

BTM

8# I

ok. please keep handy and on record

354

14/9/15
BT

(S/S)

Assist Vika of Page No-862/c

353

14-9-15
BT

8# I

Signed. please issue

352

80/51

8# I

15-9-15
BT

Please pickup for signatures

351

Account

Special Secretary (Establishment)

10-9
BT

9-9-15
BT

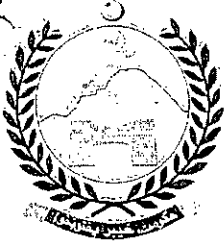
and approval before issuance please
Sir, Draft letter is submitted for perusal

Reference para 344-349/W 10/15

351

77

77



**GOVT. OF KHYBER PAKHTUNKHWA
HOUSING DEPARTMENT**

Ministers' Block, Civil Secretariat, Peshawar.

No. SOE/Housing/1-84/PF/M.Arshad/2015/2519-20,
Dated Peshawar, the 01st June, 2016

To,

The Public Information Officer, Government of Khyber Pakhtunkhwa,
Establishment Department, Civil Secretariat, Peshawar.

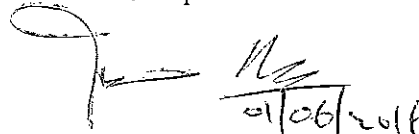
Subject: -

**COMPLAINT UNDER SECTION 23 OF THE KHYBER PAKHTUNKHWA
RIGHT TO INFORMATION ACT, 2013 (KHYBER PAKHTUNKHWA
ACT NO. XXVII OF 2013) REGARDING REFUSAL OF INFORMATION /
RECORD IN PER CASE FOR 11.05.2011 TO 31.12.2011.**

**COMPLAINT AGAINST NON SUPPLY OF INFORMATION BY
ESTABLISHMENT DEPARTMENT, PESHAWAR (COMPLAINT NO.
1108).**

I am to refer to your letter No. SO(HRD-II)/ED/1-10/2014(RTI)/M.Arshad/Vol-II dated 31.05.2016 on the subject noted above and to state that I have not received your previous letter dated 13.01.2016. Moreover, why the public body has failed to respond to my several reminders in writing and also during hearing on summons in the Commission's office after 13.01.2016 that the undersigned has not received duly attested and stamped record from the public body. This statement is also corroborated from the fact that the Commission more often than not provides the public body letters/documents to the undersigned to confirm or otherwise the receipt of relevant and complete record but in the instant case they have also not done so.

Complainant

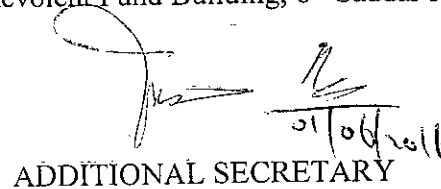

01/06/2016

(MOHAMMAD ARSHAD)
ADDITIONAL SECRETARY

Ph# 091-9223443 and Fax# 091- 9212432

Copy to:-

The Chief Information Commissioner, Right to Information Commission, Govt. of Khyber Pakhtunkhwa, 7th Floor, Tasneem Plaza, Near Benevolent Fund Building, 6th Saddar Road, Peshawar.


01/06/2016

ADDITIONAL SECRETARY

- II. It is clarified that if any or all entries in Part III of the existing PER form of BPS-17/18 are initialed in the column headed C, i.e. Average, the assessment does not become adverse in nature and is, therefore, not be treated and processed as an adverse report. PERs with average entries in part III of the PER Form would continue to be treated in accordance with the instructions contained in Estt: Division O.M. No. 32/4/76- A. IV, dated 7th July, 1976.

(Parts of the PER may be read with the revised format of PERs)

3.8 Advisory remarks: Advisory remarks are not to be treated as adverse for the purpose of promotion unless it has been established that the officer concerned has not paid any heed to the piece of advice given to him and has failed to show any improvement. Advisory remarks communicated, can not be represented.

3.9 Evaluation Reports which are not in accordance with the instructions should be returned by the higher authority to the Reporting Officer, for revision in compliance with these instructions.

4.0 General Gradation of the PERs i.e. satisfactory: The Provincial Selection Board while examining promotion/ move over cases, has observed that the PERs/ synopsis of PERs do not reflect exact picture of the conduct/ service record of the civil servant concerned. Besides, nothing is oftenly mentioned in the PERs/synopsis about the communication or otherwise of the adverse remarks recorded by the Reporting Officers/ Countersigning Officers. It is also not indicated whether or not the same have been represented against and if so with what result. Moreover, the board has also observed that despite clear instructions about the general gradation of the evaluation reports, some of the Reporting Officers assess the conduct of the officers reported upon as "satisfactory" which does not convey a clear picture and is in deviation of the laid down instructions on the subject.

Efficiency and Discipline Rules/RSO 2000 should also be placed in the Character Roll. Similarly, the result of an appeal, if filed, should also be reflected in the report.

(b) In partial modification of the instructions contained in the Establishment Division's O.M.No 9(4)/54- SE, dated 17.9.1954 it has been decided that:

- i. On initiation of disciplinary proceeding against an officer, a copy of original order/show cause notice should be placed on his CR Dossier.
- ii. If an officer is exonerated or some punishment is awarded, a copy of the final order should be placed on the dossier as per instructions 5.1(a)(b) and (c).

3.6 Warning/Counseling: It has been noted that the requirements of warning/counseling are not being fulfilled before recording adverse remarks in the PERs of the Government Servants. Resultantly, these are expunged under the orders of the NWFP Service Tribunal.

In order to minimize litigations, the Provincial Government have reviewed the position and have decided that:

- a. Counseling may be ensured in all cases before initiation an adverse report or grading the PERS;
- b. The officers who give adverse remarks without any solid grounds shall be personally held responsible for deviation from rules;
- c. Non-observance of the Government instructions amounts to misconduct under clause (e) of sub-rule (1) of rule 2 of the NWFP Civil Servants (Efficiency and Discipline) Rules, 1973 and can attract disciplinary action;

3.7 Officers with average Reports: (1) An officer who is superseded or whose promotion is deferred comes to know about it automatically when his juniors are promoted to higher scale posts. He need not, therefore, be informed of average reports, unless the Countersigning Officer decides otherwise. The cases of officers whose promotion is deferred may be reconsidered on the basis of their PERs for the next year.

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL, PESHAWAR.**

Diary No. 100

Dated 30-9-16

Service Appeal No. 683 of 2016.

Mr. Mohammad Arshad, Additional Secretary, Housing Department-----
----- Appellant.

Versus

1. The Government of Khyber Pakhtunkhwa through its Chief Secretary, Establishment & Administration Department, Peshawar.
2. Mr. Ahmad Hasan, Ex-Secretary Auqaf (Reporting Officer)-now Member Khyber Pakhtunkhwa Services Tribunal, Peshawar -----
----- Respondents.

**APPEAL UNDER SECTION-4 OF THE KHYBER
PAKHTUNKHWA SERVICES TRIBUNAL ACT, 1974
(KHYBER PAKHTUNKHWA ACT NO. I OF 1974) AGAINST
THE ORDER VIDE LETTER NO. SOS(ED)CR/1(16)/2015,
DATED 14/09/2015 OF DISSMISSAL/REJECTION OF
REPRESENTATION AGAINST THE IMPUGNED
RECORDING OF OVERALL GRADING AS "AVERAGE" IN
THE APPELLANT'S PER FOR THE PERIOD FROM
11.05.2011 TO 31.12.2011 COMMUNICATED VIDE
ESTABLISHMENT DEPARTMENT LETTER NO. SO(HRD-
I)ED/1-10/2014 DATED 01.04.2015.**

Prayer: Both the orders vide letters mentioned above may be set aside and the categorization of overall grading in the appellant's PER for the period from 11.05.2011 to 31.12.2011 as "Average" may be converted into "Outstanding" or at least "Very Good".

Respectfully sheweth that:-

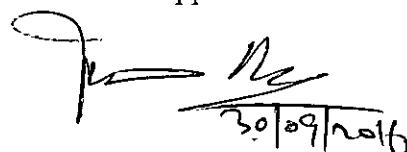
The above mentioned appeal is fixed for hearing before this honourable tribunal on 03.11.2016.

2. It has been informed on previous hearing on 29.09.2016 that the respondent No. 2 is on training, therefore, service of notice is not possible on him at his present address. The alternative address of the respondent is as follows:-

"Mr. Ahmad Hassan, House No. 11,
Colony: Sahibzada Abdul Qayyum
Road (New), Peshawar Cantt."

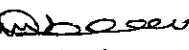
Appellant

Dated 30.09.2016


30/09/2016
(MOHAMMAD ARSHAD)
In Person.

Put up to the court
with relevant appeal.

Read


30/9/16.

Mr. Muhammad Arshad,Appellant.

Versus

The Government of Khyber Pakhtunkhwa through Chief Secretary, Respondent.

Parawise comments on behalf of the Respondent No.1.

Respectfully sheweth,

Preliminary Objections:


1. That the appellant has got no cause of action/locus standi to file the instant appeal against the respondents.
2. That the appeal is not maintainable in its present form.
3. That the appellant has presented the facts in manipulated form which disentitles him for any relief whatsoever.
4. That the appeal is barred by law.
5. That the appellant has concealed material facts from the tribunal.
6. That the appellant has not come to the court with clean hands.
7. That the appeal is bad for non-joinder necessary party.

On Facts.

1. Pertains to record of PER for the period 01.01.2012 to 01.07.2012. The appellant has deliberately concealed the fact that no representation could be made against average grading for the period 11.05.2011 to 31.12.2011 as per para 3.7 of the instruction of PER average grading carry 05 marks cannot be treated as adverse.
2. Pertains to record needs no comments.
3. Incorrect. Relevant attested information/record pertaining to the period of adverse entries i.e 01.01.2012 to 01.07.2012 has already been provided to the appellant as per request. It is worth to add that the appellant is trying to ignore the facts for the period from 11.05.2011 to 31.12.2011 he has obtained average grading and not adverse. Therefore it may not be linked with the period of adverse entries 01.01.2012 to 01.07.2012.
4. Incorrect. Record has already been provided. No comments.
5. Pertain to record. However representation could only be preferred against adverse entries/grading.
6. No comments, however information as per record has already been provided to the appellant.
7. Grounds.
 - i. Incorrect. As stated in the proceeding paras relevant record has already been provided.

- ii. No comments. However, position in regard to period 01.01.2012 to 01.07.2012 has already been explained and relevant information provided as per request.
- iii. As far as provision of record/relevant information is concerned, the appellant has acknowledged in this particular para that the same was provided to him. However, the appellant instant request is regarding condonation of delay and not the record, therefore, it is the tribunal to decide the period of limitation in the case.
- iv. The request in the para pertains to condonations of delay therefor no comments.
- v. The Provincial Government has issued instruction on PER and the average report as per para 3.7 has been defied as "Average assessment does not become adverse in nature and is, therefore, not be treated and processed as an adverse report". Likewise Promotion Policy in regard to overall grading i.e Outstanding, Very Good, Good, Average and below average is very clear. As such the government is not obligated to change, alter, vary its Instructions, policy, regulation, law and rules on the sweet well of an individual.
- vi. The case has been treated as per existing instructions which are covered under Rule-15 of the E&D Rules 2011.
- vii. The appellant is trying to confuse the case as the only issue is the adverse entries for period 01.01.2012 to 01.07.2012 and as far as the period of 11.05.2011 to 31.12.2011 is concerned these are not concerned with adverse entries being average.
- viii. No comments.
- ix. No comments.
- x. The procedure explained by the appellant for quantification of PER in connection with promotion to BS-20 is not based on criteria and formula fixed for CEI (Comprehensive Efficiency Index) in the Promotion Policy 2009. Aggregate score against a uniform scale by 100% marks is quantified/calculated as per procedure spell out at Annex-1 of the Promotion Policy.
- xi. No Comments.

It is, therefore, most humbly prayed that the instant Appeal being devoid of any merit may please be dismissed with cost.


Govt. of Khyber Pakhtunkhwa
(Respondent No. 1)

First Step

Arithmetic mean will be calculated for each calendar year containing 2 or more PERs to derive the PER score for that year as follow:

$$M = \frac{\sum M_y}{N_y}$$

Where

M_y = marks for each PER recorded in calendar year 'y',

N_y = Number of PERs recorded in year 'y',

and Σ stands for summation.

Second Step

Average marks for each level will be calculated according to the following formula:

$$\text{Average marks} = \frac{\sum M}{T}$$

Where

M = Marks for PERs; and

T = Total number of PERs in posts at that level.

Third Step

Weightage for posts held at each level will be given as follows in computing the aggregate score against a uniform scale of 100 marks for promotion:

- | | | |
|-------|-------------------------------------|--|
| (i) | to post carrying basic pay scale 18 | $10 \times A$ |
| (ii) | to post carrying basic pay scale 19 | $(6 \times B) + (4 \times A)$ |
| (iii) | to post carrying basic pay scale 20 | $(5 \times C) + (3 \times B) + (2 \times A)$ |
| (iv) | to post carrying basic pay scale 21 | $(5 \times D) + (3 \times C) + (A + B)$ |

Section Officer E-3
Establishment Dept. Where

- A = Average marks for reports in posts carrying basic pay scale 17
 B = Average marks for reports in posts carrying basic pay scale 18
 C = Average marks for reports in posts carrying basic pay scale 19
 D = Average marks for reports in posts carrying basic pay scale 20

S. S. S. S.

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR.

Appeal No. 683/2016

Mr. Mohammad Arshad, ----- Appellant.

Versus

The Government of Khyber Pakhtunkhwa through Chief Secretary,
Khyber Pakhtunkhwa, Peshawar & other ----- Respondents.

Rejoinder by the appellant to parawise comments of the Respondent No. 1.

Respectfully sheweth that:-

Rejoinder to Preliminary Objections

1. That, the respondent has not explained how the appellant has got no cause of action / locus standi to file the appeal against the respondents. Hence, it is impossible to tackle the objection and denied. However, the appellant has a good cause of action / locus standi as explained in the Memo. of appeal.
2. That, the respondent has not explained how the appeal is not maintainable. Hence, it is impossible to tackle the objection and denied. However, the appellant has got a good cause for maintainability as explained in the Memo. of appeal.
3. That, the respondent has not explained how the appellant has presented the facts in manipulated form which disentitles him for any relief whatsoever. Hence, it is impossible to tackle the objection and denied. However, the appellant has presented the facts clearly and honestly, describing with detail the view-point of the respondent also and not merely presenting his own point of view.
4. That, the respondent has not explained how the appeal is barred by law. Hence, it is impossible to tackle the objection and denied. However, the appeal is good in each and every aspect of the subject-matter as explained in the Memo. of appeal.
5. That, the respondent has not explained how the appellant has concealed the material facts from the tribunal. Hence, it is impossible to tackle the objection and denied. However, the appellant is of the view that he has brought all the material facts before the tribunal in detail for a just and informed decision in the case.

Original

6. That, the respondent has not explained how the appellant has not come to the (court) with clean hands. Hence, it is impossible to tackle the objection and denied. However, the appellant would say that he has come to the tribunal with clean hands as explained in the Memo. of appeal.
7. That the respondent has not explained how the appeal is bad for non-joinder of necessary party. Hence, it is impossible to tackle the objection and refuted. However, the appellant is of the view that the necessary party has been joined as respondent in the appeal.

Rejoinder On Facts

1. The respondent has misquoted and misinterpreted the corresponding Para. 1 of the appeal. Hence, denied. The appellant has never discussed Para. 3.7 of the Instructions on PER in this particular Para. of the appeal. Record of PER from 01.01.2011 to 01.07.2012 has been discussed in the context of how the appellant came to know about his PER for the impugned period from 11.05.2011 to 31.12.2011.
2. The respondent has offered no comments on corresponding Para. 2 of the appeal, which amounts to admission of the facts presented. Hence, needs no further rebuttal.
3. Incorrect as stated. The attested information/record was provided but delayed and only after intervention of the RTI Commission. The respondent has misquoted and misinterpreted the corresponding Para. 3 of the appeal. Record of PER from 01.01.2012 to 01.07.2012 has been discussed in the context of how the appellant came to know about his PER for the impugned period from 11.05.2011 to 31.12.2011. However, the average grading from 11.05.2011 to 31.12.2011 is adverse for promotion to BPS-20 and above as explained in the grounds of appeal.
4. Incorrect as stated. The respondent continuously delayed the provision of information / record of appellant's PERs. These were provided only after complaint to the RTI Commission and till filing of the representation in the case, even PER for the period from 01.01.2014 to 10.09.2014 was not provided.
5. No comments have been offered on facts described in the corresponding Para. 5 of the appeal which amounts to admission of the relevant facts. It is denied that representation can't be preferred in average grading in case

of officers of BPS-19 and above. The respondent has deliberately misinterpreted the law on the subject-matter. It is clear from Para. 3.7 of the Instructions on PER that average assessment doesn't become adverse for BPS-17/18 only and not for BPS-19 and above. Rather average report is adverse for BPS-19 and above officers.

6. No comments have been offered on facts described in the corresponding Para. 6 of the appeal which amounts to admission of the relevant facts. The information/record was provided but delayed and only after intervention of the RTI Commission which was a deliberate attempt on the part of the respondent to delay appellant's right of access to justice and thus defeat his interest.

7. **Rejoinder On Grounds.**

- i. Incorrect as stated. The record was provided but delayed and only after intervention of the RTI Commission which was a deliberate attempt on the part of the respondent to delay appellant's right of access to justice and thus defeat his interest.
- ii. No comments have been offered by the respondent on ground (ii) of the appeal which amounts to admission of the relevant ground. However, as stated above, the record was provided but delayed and only after intervention of the RTI Commission which was a deliberate attempt on the part of the respondent to delay appellant's right of access to justice and thus defeat his interest.
- iii. Yes, the appellant acknowledges what is just and right. However, as stated above, the record was provided but delayed and only after intervention of the RTI Commission which was a deliberate attempt on the part of the respondent to delay appellant's right of access to justice and thus defeat his interest. The delay in provision of record is justification for condonation of delay in preferring the appeal which will no doubt be decided by the tribunal.
- iv. Since no comments have been offered by the respondent on ground (iv) of the appeal regarding request for condonation of delay which amounts to admission of the relevant ground.
- v. The respondent has misinterpreted Para. 3.7 of the Instructions on PER and as explained in the corresponding ground (v) of the appeal, average

assessment is adverse for BPS-19 and above. So far as change in policy, instructions, rules etc. is concerned, it is always desirable with the changed circumstances. Man made law is never static.

- vi. The respondent has wrongly applied Rule-15 of the E & D Rules, 2011 which has no concern with the case. However, the respondent has not complied with the relevant provisions of law as explained in the corresponding ground (vi) of the appeal and hence, a valid ground for acceptance of the appeal.
- vii. Incorrect as stated in comments. The correct position is as explained in the corresponding ground of appeal. The appellant is not confusing the things but explaining that the report for the impugned period of 11.05.2011 to 31.12.2011 has been written in violation of PER Instructions. Moreover, it is wrong to state that average entry is not adverse in case of BPS-19 and above officers as explained in S. No. (v) above but rather it is adverse.
- viii. Since no comments have been offered by the respondent on ground (viii) of the appeal regarding the relevant judicial authority which amounts to admission of the relevant ground.
- ix. Since no comments have been offered by the respondent on ground (ix) of the appeal regarding the relevant judicial authority which amounts to admission of the relevant ground.
- x. Incorrect as stated in comments. The correct position is that total score on Comprehensive Efficiency Index (CEI) for promotion is 100% out of which marks for Quantification of PERs for promotion to BPS-20 and 21 is 70% while 15% each has been earmarked for Training Evaluation Period and Evaluation by PSB respectively. Average report carrying 5 marks out of 10 means 50% marks for Quantification of PERs which is not the required obtained threshold of 70% for quantification of PER for promotion of the appellant to BPS-20. Copy of Para. III of the Promotion Policy is at (Annex-I). Moreover, the qualifying threshold of quantification of PER for nomination to Senior Management Course (SMC) is 70. Recently, during the pendency of the appeal, on request under RTI Act, the Establishment Department vide letter dated 05.09.2016 has informed that the appellant was not eligible for nomination for 20th SMC because his score was 69 while the required is

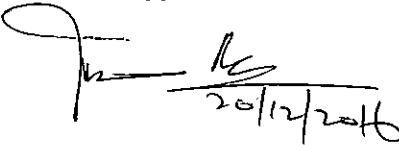
70 (Annex-II). So, the average report is adverse both for promotion and nomination for training and needs revision.

- xi. Since no comments have been offered by the respondent on ground (xi) of the appeal which amounts to admission of the relevant ground.

Keeping in view the above submissions, it is therefore, respectfully prayed that the decision contained in letter dated 14.09.2015 at Annex-XVIII and overall grading as average in PER for the impugned period from 11.05.2011 to 31.12.2011 at Annex-VII of the appeal may be set aside with cost and the overall grading of "average" in the Performance Evaluation Report of the appellant for the period from 11.05.2011 to 31.12.2011 may be converted into "outstanding" or at least "very good" category as per demands of law, justice and fair play.

Dated 20.12.2016

Appellant



(MOHAMMAD ARSHAD)

In Person

technical posts for promotion within their own line of specialization as envisaged in the existing Promotion Policy.

(c) The qualifying thresholds of quantification of PERs for nomination to these trainings are as under:

MCMC	60
SMC	70
NMC	75

(d) There will be no exemptions from mandatory trainings. An officer may, however, request for temporary exemption in a particular moment in time but grant of such exemption would be at the discretion of the competent authority. No such request with regard to an officer would be made by the Government Departments concerned.

(e) Three officers shall be nominated for each slot of promotion on the basis of their seniority. Those unwilling to attend will be dropped at their own expense without prejudice to the rights of others and without thwarting or minimizing the chance of improving the quality of service.

(f) Officers failing to undergo mandatory training in spite of two time nominations for a training shall stand superseded if such failure was not for the reasons beyond the control of the officers concerned.

III. Development of Comprehensive Efficiency Index (CEI) for promotion:

(a) The Comprehensive Efficiency Index to be maintained for the purpose of promotion is clarified as under:

(i) The minimum of aggregate marks for promotion to various grades shall be as follows:

Basic Scale	Aggregate marks of Efficiency Index
18	50
19	60
20	70
21	75

(ii) A panel of two senior most officers shall be placed before the Provincial Selection Board for each vacancy in respect of promotion to BS-18 & 19. Similarly, a panel of three senior most officers shall be submitted to the Provincial Selection Board for each position in respect of promotion to BS-20 and 21 and the officer with the requisite score on the Efficiency Index shall be recommended for promotion.

(iii) The senior most officer(s) on the panel securing the requisite threshold of the Efficiency Index shall be recommended by the Provincial Selection Board for promotion unless otherwise deferred. In case of failure to attain the requisite threshold, he (she)/they shall be superseded and the next officer on the panel shall be considered for promotion.

(b) Marks for quantification of PERs, Training Evaluation Reports and Provincial Selection Board evaluation shall be assigned as under:-

S.No.	Factor	Marks for promotion to BS-18 & 19	Marks for promotion to BS-20 & 21
1.	Quantification of PERs relating to present grade and previous grade(s) @ 60% : 40%	100%	70%
2.	Training Evaluation Reports as explained hereafter.	--	15%
3.	Evaluation by PSB	--	15%
	Total	100%	100%

(c) A total of fifteen (15) marks shall be allocated to the Training Evaluation Reports (Nine marks @ 60% for the training in the existing BPS and Six marks @ 40% in the preceding BS). Evaluation of the reports from the Training Institutions shall be worked out as under:-

- (i) It shall be on the basis of Grade Percentage already awarded by the National School of Public Policy (National Management College and Senior Management Wing) and its allied Training Institutions as provided in their reports.
- (ii) Previous reports of old Pakistan Administrative Staff College and old NIPAs where no such percentage has been awarded, points shall be worked out on the basis of weighted average of the percentage range of grades followed by these Institutions as reflected in table-A below:

TABLE-A

Old PASC & NIPAs

Category	Range	Weighted Average	Points of PASC @ 60%=9	Points of NIPAs @ 40%=6
A. Outstanding	91-100%	95.5%	8.60	5.73
B. Very Good	80-90%	85%	7.65	5.10
C. Good	66-79%	72.5%	6.52	4.35
D. Average	50-65%	57.5%	5.17	3.45
E. Below Average	35-49%	42%	3.78	2.52



(2)

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(HRD WING)

Annex - II

No. SO (HRD-II)/ED/1-10/2014 (RTI)/M.Arshad
Dated Peshawar the 5th September, 2016

To

Mr. Muhammad Arshad, Director (Admn/Finance),
Provincial Services Academy, Khyber Pakhtunkhwa,
Local Governance School Building Plot No. 33, Street No. 3,
Sector E-8, Phase-VII, Hayatabad, Peshawar.

Subject: - REQUEST FOR PROVISION OF INFORMATION/RECORD UNDER RTI ACT, 2013
REGARDING NOMINATION FOR SMC.

Kindly refer to your application No. D(A&F)1-1/PF/M.Arshad/2016/378 dated 17th August, 2013 on the subject noted above and to enclose herewith a copy of letter No. SO(HRD-I)ED/3-8/2015/SMC dated 5th September, 2016 alongwith its enclosures received from Section Officer (HRD-I), Establishment Department, Khyber Pakhtunkhwa for your information as requested under **Right to Information Act 2013**.

Encl: As above:


Public Information Officer (PIO)
Establishment Department


Endst: No & date even.

Copy forwarded for information to:

1. The Chief Information Commissioner, Government of Khyber Pakhtunkhwa, Right to Information Commission, 7th Floor, Tasneem Plaza, Near Benevolent Fund Building, 6th Saddar Road, Peshawar
2. PS to Secretary Establishment Department.

SECTION OFFICER (HRD-II)

Received on 05/09/2016.


05/09/2016



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(HRD WING)

88

No. SO (HRD-1)/ED/3-8/2015/SMC
Dated Peshawar, the 5th September, 2016.

To
The Section officer (HRDII),
Establishment Department

SUBJECT: - REQUEST FOR PROVISION OF INFORMATION/RECORD UNDER RTI
ACT2013 REGARDING NOMINATION FOR SMC

I am directed to refer to your letter No. SO(RADII)/ED/1-10/2014(RITA/
M.ARSHAD dated 22/08/2016 on the subject noted above and to state that according to
policy the qualifying thresholds of quantification of PERs for nomination for Senior
Management Course (SMC) is 70 (copy enclosed). However the quantification score of
Mr. Muhammad Arshad the than Additional Secretary Housing department was 69 (copy
enclosed) due to which he was not eligible for nomination for 20th SMC

Encl. As above

SECTION OFFICER

(HRD-I)
Endst No. & Date Even.
Copy forwarded to:-

1. PS to Secretary Establishment Department.
2. PS to Additional Secretary (HRD) Establishment Department.

SECTION OFFICER (HRD-I)

PERS CALCULATION SHEET IN RESPECT OF
MR. MUHAMMAD ARSHAD-II

YEAR	Period of PER		PER Assessment	Fitness for Promotion	Score
	From	To			
2011	01.01.2011	10.05.2011	Very Good	Fit	6.5
	11.05.2011	31.12.2011	Average	Fit	
2012	01.01.2012	01.07.2012	Average	Fit	6
	02.07.2012	31.12.2012	Good	Fit	
2013	01.01.2013	03.07.2013	Good	Fit	7
	04.07.2013	31.12.2013	Good	Fit	
2014	01.01.2014	10.09.2014	Very Good	Fit	7.5
	11.09.2014	31.12.2014	Good	Fit	
2015	27.01.2015	31.12.2015	Good	Fit	7

CALCULATION

100%	Aggregate Score	Weightage Factor	Points Obtained
	6.80 X 10	100%	68.00
	Total		68.00


Section Officer (Secret)

Section Officer (secret)
Establishment & Administration
Department Khyber Pakhtunkhwa

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No 2496 /ST

Dated 20 /11/2017

To


The Secretary Establishment,
Khyber Pakhtunkhwa,
Peshawar.

Subject: **JUDGEMENT IN APPEAL NO. 683/16 MR.MUHAMMAD ARSHAD.**

I am directed to forward herewith a certified copy of Order dated 02/11/2017 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

D/c


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 765 /ST

Dated 03/05 /2021

To,

The Registrar,
Supreme Court of Pakistan,
Islamabad.

Subject:- CIVIL APPEAL NO. 980 OF 2020

Dear Sir,

I am directed to acknowledge the receipt of your letter No. C.A.
980/2020-SCJ dated 23/4/2021 alongwith its enclosure


REGISTRAR

KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR.

Ph: 9214461
Fax: 9220406

REGISTERED
No. C.A.980/2020 - SCJ
SUPREME COURT OF PAKISTAN

Islamabad, dated 23.04, 2021

From The Registrar,
Supreme Court of Pakistan,
Islamabad.

To The Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.



Subject: **CIVIL APPEAL NO. 980 OF 2020**

Govt of Khyber Pakhtunkhwa thr. Chief Secretary Establishment &
Administration Department Peshawar
Versus
Mohammad Arshad

On appeal from the Judgment/Order of the K.P.K. Service Tribunal,
Peshawar dated 02/11/2017 in A. 683/2016.

Dear Sir,

In continuation of this Court's letter of even number dated 24-11-2020,
I am directed to enclose herewith a certified copy of the Order of this Court dated
12/04/2021 allowing the above cited case in the terms stated therein for information
and further necessary action.

I am further directed to return herewith the original record of the Service
Tribunal, received under the cover of your letter No.3987 dated 03/12/2020.

Please acknowledge receipt of this letter along with its enclosure
immediately.

Encl: Order:
2. O/Record:

Yours faithfully,

(MUHAMMAD MUJAHID MEHMOOD)
ASSISTANT REGISTRAR (IMP)
FOR REGISTRAR

38/21

SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Gulzar Ahmed, CJ.
Mr. Justice Ijaz ul Ahsan

CIVIL APPEAL NO.980 OF 2020

[Against the judgment dated 2.11.2017, passed by the Khyber Pakhtunkhwa Service Tribunal, Peshawar, in Appcal No.683 of 2016]

**Government of Khyber Pakhtunkhwa
through Chief Secretary, Establishment &
Administration Department, Peshawar** ...Appellant

Versus

Mohammad Arshad ...Respondent

For the Appellant : Mr. Zahid Yousaf Qureshi,
Additional Advocate General,
Khyber Pakhtunkhwa
Sultan Shah, SO (Lit.I)

Respondent : In person

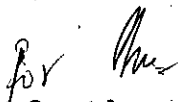
Date of Hearing : 12.04.2021

ORDER

GULZAR AHMED, CJ.- We have heard the learned Additional Advocate General, Khyber Pakhtunkhwa (AAG) and the respondent, who appeared in person.

2. The respondent was given "average" remarks in the Performance Evaluation Report (PER) for the period from 11.5.2011 to 31.12.2011. The respondent seems to have filed representation against such entry in his PER and the representation having been rejected on 14.09.2015, he filed Service Appeal on 24.06.2016 before the Khyber Pakhtunkhwa Service Tribunal, Peshawar (the Tribunal). The Tribunal vide impugned judgment dated 02.11.2017, allowed the Service Appeal

WITNESSED



Court Associate
Supreme Court of Pakistan
Islamabad

and substituted its own gradation in PER of the respondent from "average" to "good".

3. The learned AAG at the outset has relied upon a 3-Member Bench judgment of this Court in the case of Province of the Punjab through Chief Secretary, Punjab, Lahore and another v. Sardar Noor Ilahi Khan Leghari and another (1992 SCMR 1427) to contend that the very Service Appeal filed by the respondent before the Tribunal was not maintainable. The respondent, however, states that his appeal was maintainable as he had filed the representation under Section 22(2) of the Khyber Pakhtunkhwa Civil Servants Act, 1973.


4. We have considered the submissions made by the parties before us. Paras 6 and 7 of the cited judgment are as follows:

"6. The instructions which have the force of rule applied by the Punjab Government with regard to the recording of Annual Confidential reports prescribe under instructions Nos.32, 35 and 39 as hereunder:--

"32. Communication of adverse remarks.--- The heads of Attached Departments, secretaries to Government and other authorities dealing finally with the reports should see that the Government Servants reported upon are made aware of any defects pointed out in the confidential Reports/Evaluation Reports recorded by Heads of Training Institutes.

35. When a report consists of opinions of different departmental superiors in gradation, it is only the opinion as accepted by the highest reporting officer which need be considered from the point of view of communication.

W
ATTESTED


Court Associate
Supreme Court of Pakistan
Islamabad

39. If a person's integrity is adjudged as "average", it shall not be construed to be an adverse remark and shall not communicated."

7. The Instructions of the Federal Government also provide that adverse remarks should be communicated to the Officer concerned. It is clear from these instructions that under the Rules, a right of representation and consequently a right of appeal before the Tribunal is available only where a remark is adverse. As the remarks 'average' in respect of overall performance have not been considered and are not considered to be adverse, no representation or appeal lay before the Tribunal and the Service Tribunal went beyond its jurisdiction in expunging the remarks average from the Annual Confidential Report."

The very reading of the above paras shows that average remarks in the PER are not to be communicated and they are not considered to be adverse remarks and further, the respondent has no right of appeal before the Tribunal against the average entry in his PER as it was not adverse remarks against him. This Court has held that the appeal will lie before the Tribunal only when there is an adverse remark in the PER.

5. This being the position of law, we note that the Tribunal exceeded its jurisdiction in passing the impugned judgment, which is not sustainable in law. Consequently, the impugned judgment is set aside and the appeal is allowed.

Bench-I
Islamabad
12.04.2021
Mahtab/



S of S — HCT
S of S — J

Certified to be True Copy

for the
Court Associate
Supreme Court of Pakistan
Islamabad