

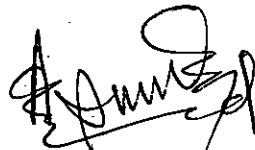
**ORDER**

04.10.2021

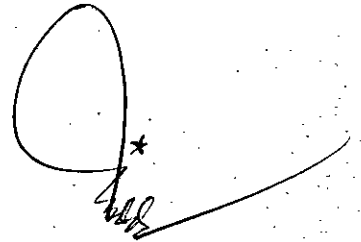
Appellant alongwith his counsel present. Mr. Abdul Rashid, DDA alongwith Mr. Waheed Gul, ADEO for respondents present. Arguments heard and record perused.

Vide our detailed judgment of today in Service Appeal No. 1068/2019 titled "Imtiaz Ali -vs- District Education Officer (Male) Kohat and three others" prayer of the appellant in the instant appeal is also partially accepted to the extent that his promotion order dated 31.01.2019 is restored for the purpose of length of service and seniority but without financial benefits as the promotion as PSHT (BS-15) had not been actualized against the post of PSHT (BS-15) at GPS Tilkin, Gumbat, District Kohat within the permissible period of joining time. Parties are left to bear their own cost. File be consigned to the record room.

Announced:  
04.10.2021



(AHMAD SULTAN TAREEN)  
CHAIRMAN



(Mian Muhammad)  
Member(E)

04.03.2021

Due to COVID-19, the case is adjourned for the same on 07.06.2021 before D.B




READER

07.06.2021

Clerk of counsel for the appellant present. Muhammad Adeel Butt learned Additional Advocate General alongwith Waheed Gul ADEO for the respondents present.

Clerk of counsel for the appellant sought adjournment on the ground that counsel for the appellant is not available today due to general strike on the call of Khyber Pakhtunkhwa Bar Council. Adjourned. To come up for arguments before the D.B on 04.10.2021.



(ATIQ UR REHMAN WAZIR)  
MEMBER (E)



(SALAH-UD-DIN)  
MEMBER(J)

19-5.2020

Due to COVID19, the case is adjourned to

10/8/2020 for the same as before.

  
Reader

10.08.2020

Due to summer vacations case to come up for the same on  
12.10.2020 before D.B.

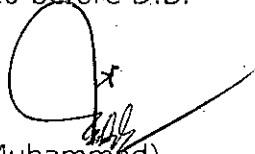
  
Reader


12.10.2020

Junior counsel present on behalf of appellant.

Mr. Usman Ghani learned District Attorney for respondents  
present.

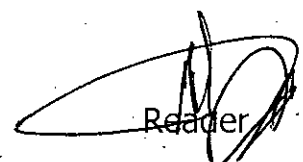
Former made a request for adjournment as senior counsel is  
not available. Adjourned. To come up for arguments on  
03.12.2020 before D.B.

  
(Mian Muhammad)  
Member (E)

  
(Rozina Rehman)  
Member (J)

03.12.2020

Due to COVID-19, the case is adjourned to 04.03.2021 for  
the same as before.

  
Reader

02.12.2019

Nemo for appellant. Addl. AG alongwith Wahid Gul, ADEO for the respondents present.

Representative of the respondents seeks time to furnish reply/comments. Adjourned to 14.01.2020 on which date the requisite reply/comments shall positively be submitted.

  
Chairman

14.01.2020

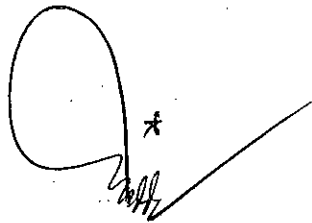
Appellant in person and Addl. AG alongwith Waheed Gul, ADEO for the respondents present.

Representative of respondents furnished parawise comments on behalf of the respondents. Placed on record. The appeal is assigned to D.B for arguments on 17.03.2020. The appellant may furnish rejoinder, within one month, if so advised.

  
Chairman

17.03.2020

None for the appellant present. Addl: AG for respondents present. Due to general strike on the call of Peshawar Bar Council, the instant case is adjourned. To come up for arguments on 19.05.2020 before D.B.

  
(MAIN MUHAMMAD)  
MEMBER


  
(M.AMIN KHAN KUNDI)  
MEMBER

01.10.2019

Counsel for the appellant present.

Contends that in pursuance to order dated 31.01.2019 by the District Education Officer (Male) Kohat the appellant was promoted as PSHT BPS-15 and was posted at GPS Khwaja Pail. The appellant belonging to Fiq-e-Jafria was constrained to submit an application to the District Education Officer (Male) Kohat for his adjustment in the Urban area of Kohat as at new place of his posting incidents of communal violence were repeated. The application of the appellant dated 12.02.2019 was misconceived by respondent No. 1 and office order dated 03.04.2019 was passed requiring the imposition of restriction from promotion upon the appellant for four years, purportedly, upon the refusal of the latter. Consequently, the appellant was posted as SPST at GPS Malang Abad, Kohat. The departmental appeal of appellant submitted on 29.04.2019 also remained un-responded, hence the present appeal.

In view of the available record and arguments learned counsel, instant appeal is admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/ comments on 02.12.2019 before S.B.

  
Appellant Deposited  
Security & Process Fee



2/10/19

  
Chairman

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No.- \_\_\_\_\_ 1069/2019 \_\_\_\_\_

S.No.	Date of order proceedings	Order or other proceedings with signature of judge		
1	2	3		
1-	20/08/2019	<p>The appeal of Syed Shah Raza presented today by Mr. Qaisar Abbas Bangash Advocate 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 20/8/19</p> <p>2-</p>	20/08/19	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>01/10/19</u></p> <p style="text-align: right;"> CHAIRMAN</p>

IN THE KHYBER PAKHTOONKHWA SERVICE TRIBUNAL PESHAWAR

IN RE: Service Appeal No. 1069 /2019

Syed Shah Raza s/o Syed Arif/Hussain Senior Primary School Teacher (SPST)  
Malangabad, Kohat. ....Appellant

VERSUS

District Education Officer (Male) Kohat& Others .....Respondents


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Appellant

Through

  
Qaisar Abbas Bangash. 20/8/2019  
Advocate, High Court,  
Peshawar.

Off: R, No.20, Khalil Plaza,  
G.T.Road, Peshawar  
Cell: 0300-5871466

IN THE KHYBER PAKHTOONKHWA SERVICE TRIBUNAL PESHAWAR

Khyber Pakhtunkhwa  
Service Tribunal

IN RE: Service Appeal No.

1069 /2019

Diary No. 1179

Dated 20/8/2019

Syed Shah Raza s/o Syed Arif Hussain Senior Primary School Teacher (SPST)  
Malangabad, Kohat. ....Appellant

VERSUS

1. District Education Officer (Male) Kohat.
2. Sub: Divisional Education Officer (Male) Kohat.
3. Director Elementary & Secondary Education, Khyber pakhtoonkhwa,  
G.T Road, Peshawar.
4. Secretary, Govt; of KP, Elementary & Secondary Education, Civil Secretariat,  
Peshawar. ....Respondents

**APPEAL U/S 4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE OFFICE  
ORDER END: NO.2841-45, DATED 03.04.2019 OF RESPONDENT NO.1,  
WHEREBY PROMOTION OF THE APPELLANT VIDE ORDER NO. 815/22, DATED,  
31.01.2019 HAS BEEN SUSPENDED AND THE APPELLANT HAS BEEN  
RESTRICTED FROM PROMOTION FOR NEXT FOUR (4) YEARS.**

Respectfully sheweth,

1. That the appellant is the permanent resident of Village Usterzai Payan, District Kohat and serving as Senior Primary School Teacher (SPST) in GPS Malangabad, Kohat.
2. That the appellant was initially appointed as PTC teacher on 15.05.1993 in BPS-07 and getting promotion from time to time presently is serving as Senior Primary School Teacher (SPST) in BPS-14 in GPS Malangabad, Kohat, to the entire satisfaction of his superiors without any complaint.
3. That the Department vide Office Order End: No.815/22, dated, 31.01.2019 of Respondent No.1 issued combined promotion Order whereby the appellant was promoted from the present post of (SPST) BPS- 14 to the post of (PSHT) Primary School Head Teacher BPS- 15 to GPS Tilkin, Gumbat, Distt: Kohat, however through Corrigendum/ partial modification in the said Order the department vide office Order End: No.1272-76, dated- 15.02.2019 transferred the appellant from GPS Tilkin to GPS Khwaja Pail, Distt: Kohat (Copy of promotion Order dated 31.01.2019 and Corrigendum dated- 15.02.2019 are attached as annexed- "A" & "A/1").

Filed to-day

Registrar

20/8/19



4. That the appellant feeling aggrieved of the said Order having serious security problems due to communal clashes, moved an application to Respondent No.1 stating therein that “ the appellant belong to Shia Community and in the present place of posting on promotion in past so many sectarian clashes have occurred which resulted in loss of precious lives, therefore, keeping in view the security risk in future, the appellant may graciously be posted/ re-adjusted on any detailed post in Kohat city or nearby Shia Territory so that the appellant may perform his duty freely and without any fear”. The appellant during this period did not take charge of the post of PSHT on promotion and waited for reply of the Respondent No.1 regarding re-adjustment on a detailed post. **(Copy of application is attached as annexed-“B”)**.
5. That it is important to mention that the same fact and plea of the appellant regarding communal clashes and security threats was recognized and endorsed by the Local MPA Zia Ullah Bangash Advisor to Chief Minister on Elementary & Secondary education K.P who was kind enough to write a letter to Respondent No.1 as well to the worthy Deputy Commissioner in this regard. **(Copy of letter dated, 20.03.2019 is attached as annexed- “C”)**.
6. That the Deptt: /office of Respondent No.1 totally ignored the said request of the appellant as well of the worthy Local MPA duly in writing rather wrongly and illegally assumed vide office Order End: No. 2841-45, dated- 03.04.2019 that “the refusal from SPST to PSHT of the following SPST Kohat are hereby accepted on their own request, so they may be restricted from promotion for next four (4) years”. **(Copy of Order Dated 03.04.2019 is attached as annexed- “D”)**.
7. That feeling aggrieved of the said impugned order dated- 03.04.2019 of Respondent No.1, the appellant filed Departmental Appeal before the competent authority (Respondent No.3) on 29.04 2019, which is still pending adjudication and not decided as yet. **(Copy of Departmental appeal is attached as annexed- “E”)**.
8. That it is pertinent to point out that the statutory period of 90 days regarding deciding of appeal has already been lapsed, hence feeling further aggrieved of the impugned order dated- 03.04.2019 the appellant approaches this Hon’ble Tribunal for relief inter- alia on the following other grounds:-

**GROUND:**

- a. That the impugned order dated 03.04.2019 of Respondent No.1 is based on malafide, illegal, arbitrary, without lawful authority, discriminatory and against the law, rules and regulations, hence untenable and liable to be set aside.
- b. That the appellant has never refused the promotion from SPST to the post of PSHT but has only requested the Respondent No.1 through application for re-adjustment on a detailed post in Kohat City or nearby Shia locality for

the reason that the place of posting/transfer on promotion i.e GPS Khwaia Pail, Distt: Kohat was a far flung area where the appellant belonging to Shia community was not feeling secured as in past so many communal clashes have taken place, which fact has duly been recognized and endorsed by the worthy local MPA of the appellant in writing, hence the office of Respondent No.1 giving no weight to the genuine request of the appellant, wrongly and illegally has issued the impugned Order suspending the promotion of the appellant and imposing restriction from promotion for next four (4) years.


- c. That the appellant has never given any undertaking to the department waiving his right of promotion, therefore, the department has wrongly and illegally deprived the appellant from the right of promotion having ~~26/27~~ years' service to his credit.
- d. That the relevant statute, rules and regulations also do not provide restriction from promotion for next four (4) years in such like circumstances, hence, respondents have committed gross illegality and acted in excess of the authority vested with them under the law.
- e. That the department after the said promotion Order of the appellant has issued another promotion Order from BPS-12 to BPS-14 of other Teachers whereby the Teachers belonging to Shia Community have been posted in their own nearest areas or Kohat city area.
- f. That the appellant seeks leave of this Hon'ble Tribunal to raise additional grounds at the time of arguments.

**PRAYER:**

It is therefore, very humbly prayed, that on acceptance of this appeal the impugned Order dated- 03.04.2019 being illegal, arbitrary, discriminatory, without lawful authority, against the law, facts, rules and regulations may very graciously be set aside and the appellant be ordered to be posted/ re-adjusted in the nearest Shia locality or Kohat city in light of the Promotion Order dated- 31.01.2019 and Corrigendum dated- 15.02.2019.

  
Appellant

Through

  
Qaisar Abbas Bangash 20/8/19  
Advocate Supreme Court

Of Pakistan

Off: R. No.20, Khalil Plaza,  
G.T.Road  
Peshawar.

Cell: 0300-5871466

4

**IN THE KHYBER PAKHTOONKHWA SERVICE TRIBUNAL PESHAWAR**

IN RE: Service Appeal No. /2019

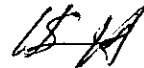
Syed Shah Raza s/o Syed Arif Hussain Senior Primary School Teacher (SPST)  
Malangabad, Kohat. ....Appellant

**VERSUS**

District Education Officer (Male) Kohat & Others .....Respondents

**AFFIDAVIT**

1, Syed Shah Raza s/o Syed Arif Hussain r/o Village Usterzai Payan, Distt:  
Kohat, do hereby affirm and declare on oath that contents of the accompanying  
Service Appeal are true and correct to the best of my knowledge and belief and  
that nothing has been concealed from this Hon'ble Tribunal.



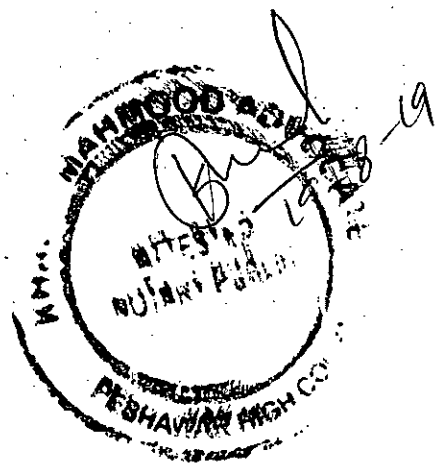
**DEPONENT**

CNIC NO. 14301- 3896528-1

**IDENTIFIED BY:**



Qaisar Abbas Bangash  
Advocate Supreme Court of  
Pakistan.



5

**IN THE KHYBER PAKHTOONKHWA SERVICE TRIBUNAL PESHAWAR**

IN RE: **Service Appeal No.** /2019

Syed Shah Raza s/o Syed Arif Hussain Senior Primary School Teacher (SPST)  
Malangabad, Kohat. ....Appellant

**VERSUS**

District Education Officer (Male) Kohat & Others .....Respondents

**MEMO OF ADDRESSES**

**APPELLANTS:**


Syed Shah Raza s/o Syed Arif Hussain Senior Primary School Teacher (SPST)  
Malangabad, Kohat

**RESPONDENTS:**

1. District Education Officer (Male) Kohat.
2. Sub: Divisional Education Officer (Male) Kohat.
3. Director Elementary & Secondary Education, Khyber Pakhtoonkhwa,  
G.T Road, Peshawar.
4. Secretary, Govt; of KP, Elementary & Secondary Education, Civil Secretariat,  
Peshawar.

  
Appellant

Through

  
Qaisar Abbas Bangash  
Advocate Supreme Court  
Of Pakistan

## OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) KOHAT

## ORDER

Consequent upon recommendation of the Departmental Promotion Committee & In pursuance of the Government of Khyber Pakhtunkhwa E&SE Department Notification No. SO(PE)4-5/SSRC/Meeting/2012/Teaching Cadre/2017 dated 30/01/2018, the following SPSTs BPS-14 are hereby promoted/ posted to the Post of PSHT BPS-15 (16120-1330-56020) plus usual allowances as admissible under the Rules on Regular Basis on the terms & conditions given below. Their promotion will be effective w.e.f January 01, 2019 however their salary will be drawn w.e.f date of taking overcharge as PSHT.

S#	Sen: No	Name of Teacher	Present School	Name of School where posted	Remarks
1.	267	Safdar Iqbal	GPS Behzadi	GPS No.2 Malgin	AVP
2.	271	Rafi Ud Din	GPS Karigaran Togh Bala	GPS Dhok Ghulam Farooq	AVP
3.	273	Iqtidar Ahmad	GPS PAF Bazar	GPS Shahi Banda Darmalaka	AVP
4.	285	Zahid Khan	GPS Dhoke Riaz	GPS Dhoke Riaz	AVP
5.	287	Muhammad Altafuddin	GPS Tanda Banda	GPS Tanda Banda	AVP
6.	288	Faqir Afzal	GPS Muhammad Zai	GPS Sulman Talab	AVP
7.	290	Israfil Khan	GPS Lokhari	GPS Lukhari	AVP
8.	291	Zameer Hussain	GPS Chashma Miha Khan	GPS Chashma Miha Khan	AVP
9.	292	Mushtaq Ahmed	GPS Togh Bala No.2	GPS Togh Bala No.2	AVP
10.	294	Nareesh Chand	GPS Dhall Behzadi	GPS Dhok Akbar Shah	AVP
11.	295	Fazal Akbar	GPS Jangle Khel No.1	GPS No.2 Sumari Payan	AVP
12.	296	Zafar Iqbal	GPS Lachi Payan	GPS Shiekhanol Banda	AVP
13.	299	Adnan Abbas	GPS Kohi Killa	GPS Ali Zai	AVP
14.	299	Bakht Munir	GPS Miangan Colony	GPS Sher Ali Banda	AVP
15.	300	Muhammad Qaisar	GPS KTM Area	GPS Sarwan Banda	AVP
16.	301	Aliq Ur Rehman	GPS Muhammad Zai	GPS Darshah Khel	AVP
17.	303	Salceem Rashid	GPS Dhoke Akbar Khan	GPS Haji Abad:Kharmatoo	AVP
18.	307	Shamroz Khan	GPS Dhoke Bukhari	GPS Dhok Lal Badshah	AVP
19.	310	Sharif Ullah	GPS Chashmi Saghri	GPS Singol	AVP
20.	314	Khalid Mehmood	GPS MC Area No.3	GPS Jalal Abad Mandoori	AVP
21.	316	Muhammad Israfil	GPS Gandiali Toolang	GPS Dhok Munir	AVP
22.	318	Tahir Jamil	GPS Sangerh	GPS No.2 Surgul	AVP
23.	319	Muhammad Javaid	GPS Togh Payan	GPS Hakim Abad	AVP
24.	323	Races Shah	GPS Miangan Colony	GPS No.2 Muslim Abad	AVP
25.	324	Syed Ibrar Hussain Shah	GPS Sher Pao Colony	GPS No.2 Nakband	AVP
26.	325	Muhammad Azam Khan	GPS Chechana	GPS Khan Colony	AVP
27.	320	Ajmal Hussain	GPS Mir Banda	GPS Salim Abad	AVP
28.	330	Muhammad Afzal	GPS Lab Elementary	GPS Lab Elementary	AVP
29.	331	Altafuddin	GPS MC Area No.1	GPS Barh	AVP
30.	332	Hussain Asghar	GPS Sadiq Abad	GPS Sadiq Abad	AVP
31.	333	M. Aleem	GPS #2 Shakardara	GPS Polosi Banda	AVP
32.	336	M. Afzal	GPS Terawal Banda	GPS Alwara	AVP
33.	342	Syed Shah Raza	GPS Malang Abad	GPS Tilkin	AVP
34.	343	Khalid Khan	GPS Hoti	GPS Hoti	AVP
35.	344	Jalil Khan	GPS Jerma	GPS Borakka	AVP
36.	346	Ghulam Yaseen	GPS Noor Ellahi Colony	GPS No.2 Shadi Khel	AVP
37.	348	Shafiq Ur Rehman	GPS No.2 Shakardara	GPS Dhok Amir Shah	AVP
38.	349	Sifat Ali	GPS Tora Warai	GPS Dhok Mashal	AVP
39.	350	Mehmood Iqbal	GPS Shah Pur	GPS Qasaba	AVP
40.	352	Khuban Ali	GPS Haji Abad Marai	GPS No.2 Marai Bala	AVP
41.	353	Nazeer Hussain	GPS Banda Mosam Khan	GPS Diioda	AVP
42.	355	Said Umar	GPS Jabbar	GPS Banda Zamir Gul	AVP
43.	357	Bashir Ahmad Shah	GPS #3 Lachi Payan	GPS Mohsin Khel	AVP
44.	358	Amin Sultan	GPS Lachi Payan	GPS Ali Kach	AVP
45.	360	Muhammad Sohail	GPS Noor Abad	GPS Dhok Khijab Gul	AVP

*Muhammad Ali*  
*Muhammad Ali*

S#	Sen: No	Name of Teacher	Present School	Name of School where posted	Remarks
46.	351	M.Nawaz	GPS Chapri Saghri	GPS Chapri Saghri	AVP
47	352	Muhammad Sadiq	GPS PAF Base	GPS Viso Sam	AVP
48.	353	Amjid Saeed	GPS Tolang Jadeed	GPS Tolang Jadeed	AVP
49	366	Abdul Basit	GPS Behzadi	GPS Sumari Bala	AVP
50.	369	Zahir Mehmood	GPS Sher Pao Colony	GPS Teen Talab	AVP
51	370	Liaqat Nawaz	GPS Alfalah Colony	GPS Alfalah Colony	AVP
52	371	Abdul Shaheed Khan	GPS Jangle Khel No.3	GPS Resi Banda	AVP
53	374	Safullah	GPS Dhoke Sanjab	GPS No.3 Gumbat	AVP
54	375	Sajjad Ahmad	GPS Dhoke Noor Alam	GPS Kohati Dhok	AVP
55	377	Muhammad Wasif	GPS Billitang No.2	GPS Terwa Bera	AVP
56	380	Zahid Mehmood	GPS Khalifa Abad	GPS Nai Abadi Nakband	AVP
57.	388	Nadeem Shah	GPS West Muhammad Zai	GPS No.2 Z.S.Allah Dad	AVP
58	387	Masood Ur Rehman	GPS Kagh Zai	GPS Jabbi	AVP
59	388	Ikram Ullah	GPS Karigar Togh	GPS Karigar Togh	AVP
60	394	Tariq Rasool	GPS Ashiq Colony	GPS Dhok Gulab Din	AVP
61.	395	Muhammad Shoab	GPS Ahmad Nager	GPS Khwaja Khel	AVP
62.	399	Muhammad Yousaf	GPS Gul Kana	GPS No.2 Dhok Raza Khan	AVP
63	401	Muhammad Sohail	GPS Jangle Khel No.2	GPS Dhok Nalla	AVP
64.	403	Taj Mohsin Khan	GPS No.2 Shakardara	GPS Baddu	AVP
65	404	Muhammad Asif	GPS Billitang No.1	GPS No.1 Tora Stana	AVP
66	407	Abdur Rehman	GPS Sangerh	GPS No.1 Z.S.Allah Dad	AVP
67.	409	Shahi Rohman	GPS Mehmandi	GPS Mehmandi	AVP
68.	411	Sajjad Khan	GPS Lachi Payan	GPS No.1 Mandoor	AVP
69.	412	Mustafa Kamal	GPS TC Lachi	GPS No.1 Ghurzandi	AVP
70.	414	Ibrar Hussain	GPS #1 Shakardara	GPS Janak	AVP
71	415	Muhammad Hanif	GPS Bahader Kot	GPS Bahader Kot	AVP
72.	416	Noor Muhammad	GPS Sultan Abad	GPS Nai Abadi Shadi Khel	AVP
73.	419	Muhammad Arshed	GPS Latif Abad	GPS No.2 Doli Banda	AVP
74.	422	Khalid Raza	GPS Nasrat Khel	GPS No.1 Terwa Bera	AVP
75	427	Gul Farid Khan	GPS Sumari Payan No.1	GPS Sumari Payan No.1	AVP
76	429	Gul Zamin	GPS Dhoke Eid Gul	GPS Mir Aslam	AVP
77	431	Muhammad Tahir Shah	GPS Kharmaloo	GPS Kharmaloo	AVP
78.	432	Rehmat Ali Khan	GPS Tappi	GPS Gulshah Khel	AVP
79.	433	Shabir Khan	GPS Ambar Banda No.2	GPS Walai	AVP
80.	439	Ghani Gul	GPS Kala Kani	GPS Kala Kani	AVP
81.	440	Irshad Ahmad Ansari	GPS Tanda Banda	GPS Khader Khel	AVP
82.	441	M. Badshah	GPS No.1 Doli Banda	GPS No.1 Doli Banda	AVP
83.	443	Niaz Khan	GPS Ghurzai Payan No.1	GPS Warshand	AVP
84.	445	Syed Rasool	GPS Tappi	GPS Inzar Wala Banda	AVP
85.	446	Amir Hussain	GPS Mastan Abad	GPS Mastan Abad	AVP
86.	447	Hasnain Shah	GPS Malang Abad	GPS Jalal Abad Malgin	AVP
87.	448	Imtiaz Ali	GPS KDA No.1	GPS Dartappi	AVP
88.	449	Muhammad Nawaz	GPS Manda Khel	GPS Terawal Banda	AVP
89	450	Hamid Hussain	GPS Haji Abad Marai	GPS Marai Bala	AVP
90	454	Ghazanfar Ali	GPS Jabgabroo	GPS Lado Mela	AVP
91.	457	Amir Muhammad Khan	GPS Dagar Banda	GPS Dagar Banda	AVP
92	458	Sardar Khan	GPS Ghurzai Payan No.1	GPS Drabo Kach	AVP
93.	459	Said-Ur-Rehman	GPS Dhand Saghri	GPS Dhand Saghri	AVP
94.	460	Shad Akbar	GPS Hassan Banda	GPS Hassan Banda	AVP
95.	464	Zafar Ali	GPS Gul Kana	GPS Takht Old	AVP
96.	468	Hayat Muhammad Khan	GPS Nari Kak	GPS Chishana Ghunda	AVP
97.	469	Said Badshah	GPS Pakka Sharki	GPS Pakka Sharki	AVP
98.	470	Muhammad Saeed	GPS Zara Mela	GPS Dervezi Banda Lachi	AVP
99.	471	Muhammad Tahir	GPS Spin Mari	GPS New Takht	AVP
100.	472	Malang Shah	GPS Hawasi Banda	GPS Hawasi Banda	AVP
101.	474	Sadiq Ullah	GPS Nari Shakardara	GPS Dhok Umer Badshah	AVP
102.	475	Nadir Pervez	GPS #2 Shakardara	GPS Sharqi	AVP
103			GPS Musal	GPS Dhand Bahlawara	AVP

*Handwritten signatures and notes at the bottom of the page.*

8

S#	Sen: No	Name of Teacher	Present School	Name of School where posted	Remarks
104	477	Rahim Ullah	GPS No.3 Shakardara	GPS Mulla Wali	AVP

**CONSEQUENTIAL TRANSFER**

Sr.No	Name of Teacher	Transfer From	Transfer To	Remarks
1	Muhammad Shafiq, PSHT	GPS Sarwan Banda	GPS KTM	AVP

**Note:**

- Sr.No.44 will relinquish charge at GPS Ali Kach and will assume charge at GPS No.1 Lachi Payan as & when the post of PSHT is vacated due to Promotion to the Post of CT of the sitting incumbent.
- Sr.No.104 will relinquish charge at GPS Mulla Wali and will assume charge at GPS No.3 Shakardara as & when the post of PSHT is vacated due to Promotion to the Post of SST of the sitting incumbent.
- No separate/further transfer/ adjustment order to the above effect will be issued.

**Terms & Conditions**

- They would be probation for a period of one year extendable for another one year.
- They will be governed by such rules and regulations as may be issued from time to time by the Govt.
- Their services can be terminated at any time, in case their performance is found unsatisfactory during their probationary period. In case of misconduct, they shall be proceeded under the rules framed from time to time by the Government.
- NO TADA etc is allowed.
- They will given an undertaken to be recorded in their Service Books to the effect, that if any over payment is made to them in light this order will be recorded, if they are wrongly promoted they will reversed.
- Before handing over charge once again their documents may be checked if they have not the required relevant qualifications as per rules, they may not be handed over charge of the post.
- Their Inter-So-Seniority on lower post will remain intact.

District Education Officer  
(Male) Kohat

Endst: No.815-22/ File PST Promotion Dated Kohat the 31/01/2019.

Copy forwarded for information and necessary action to the:-

- Director E&SE Khyber Pakhtunkhwa, Peshawar.
- Deputy Commissioner Kohat.
- District Accounts Officer Kohat.
- District Monitoring Officer (IMU) Kohat.
- SDEO (Male) Kohat & Lachi.
- Official Concerned.
- M/File

*[Signature]*  
Dy: District Education Officer  
(Male) Kohat

*[Handwritten signatures]*

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9

Annexed- A/1



**OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) KOHAT**

**CORRIGENDUM**

In partial modification in respect of Order vide No. 815-22 dated 31/01/2019 and consequential transfer in respect of the following is hereby ordered.

Sr.No	Name	From	To	Remarks
1	Bashir Ahmed Shah PSHT	GPS Mohsin Khel	GPS No.1 Mandoori	VSN.2
2	Muhammad Sajjad PSHT	GPS No.1 Mandoori	GPS Mohsin Khel	VSN.1
3	Muhammad Saeed PSHT	GPS Dervezi Banda Lachi	GPS Banda Fateh Khan	AVP
4	Said Umer PSHT	GPS Banda Zamir Gul	GPS Sheen Dhand	AVP
5	Gul Zamin PSHT	GPS Mir Aslam	GPS Gario Par	AVP
6	Sardar Khan PSHT	GPS Drabo Kach	GPS Dhok Raza Khan K/Garh	AVP
7	Niaz Khan PSHT	GPS Warshand	GPS Band Banda	AVP
8	Muhammad Yousaf PSHT	GPS Dhok Raza Khan Billitang	GPS Ghulam Farooq	AVP
9	Muhammad Wasif PSHT	GPS Terwa Bera	GPS Mir Aslam	VSN.5
10	Syed Shah Raza PSHT	GPS Tilkin	GPS Khwaja Pail	AVP
11	Abdus Shaheed Khan PSHT	GPS Resi Banda	GPS Poi Banda	AVP
12	Muhammad Sohail PSHT	GPS Dhok Nalla	GPS Khwaja Khel	AVP
13	Muhammad Afzal PSHT	GPS Dhok Alwara	GPS Sain	AVP
14	Ameer Muhammad PSHT	GPS Dagar Banda	GPS Banda Zaman Shah	AVP
15	Muhammad Asif PSHT	GPS No.1 Tora Stana	GPS Tolanj	AVP

**CONSEQUENTIAL TRANSFER**

Sr.No	Name	From	To	Remarks
1	Gulzar Hussain PSHT	GPS No.2 ZSA Dad	GPS Dhok Suhbat Khan	AVP
2	Nisar PSHT	GPS Tolanj	GPS Barati Banda	AVP

**DISTRICT EDUCATION OFFICER (MALE) KOHAT**

Endst: No. 1272-76 Date 15-2-2019

Copy to the:

1. Director E&SE, Khyber Pakhtunkhwa Peshawar.
2. District Nazim Kohat.
3. Deputy Commissioner Kohat.
4. District Account Officer Kohat.
5. SDEO (Male) Kohat & Lachi.

دستی - 11-10  
کارڈی افسر

دستی - 11-10  
ڈی. ای. افسر

نوٹ: مندرجہ ذیل کے ناموں کے لئے

کارڈی افسر

DY: DISTRICT EDUCATION OFFICER (MALE) KOHAT

15/2/19

سندھ  
D. M. K. Kohat



خدمت جناب D.E.O. صاحب (مردانہ) ضلع کوہاٹ

عنوان :- درخواست برائے Re. adjustment آرڈر

جناب عالی

مؤدبانہ التماس ہے کہ بحکم ڈسٹرکٹ ایجوکیشن آفیسر آرڈر نمبر 815-22  
ہمارا تبادلوہ بحیثیت P.S.H.T کوہاٹ کے حساس علاقوں میں ہوا ہے  
چونکہ ہمارا تعلق فقہ جمعریہ سے ہے۔ اس سے پہلے ان علاقوں میں فرقہ واریت  
کے کئی واقعات رونما ہو چکے ہیں۔ جن میں کئی قیمتی جانوں خصوصاً اساتذہ کا ضیاع  
ہوا ہے۔ چونکہ اساتذہ کے پاس سیکورٹی کا کوئی خاص انتظام نہیں ہوتا جس  
کے باعث اس قسم کے واقعات کا خطرہ مزید بڑھ جاتا ہے۔  
لہذا آپ صاحبان کی خدمت میں عرض ہے کہ ہماری گزارش کو سامنے رکھ کر ہمارے  
تبادلے کوہاٹ کے شہری علاقوں یا اہل تشیع کے علاقوں میں کیا جائے تاکہ  
ہم بغیر کسی خوف و خطر کے اپنے فرائض بخوبی انجام دے سکیں۔

عین نوازش ہوگی

تاریخ :- 12-2-19

کاپی برائے اطلاع :-  
1- مشیر اعلیٰ تعلیم ضلع کوہاٹ  
2- ڈسٹرکٹ ناظم کوہاٹ  
3- کلا صاحب ضلع کوہاٹ

الحارضان

دستخط

بر شمار نام استاد

Asaf

1 - سید شاہ رضا

Subscribed  
@ Muhammad



(11)

*Annexed - C*

**ADVISOR TO CHIEF MINISTER ON ELEMENTARY  
AND SECONDARY EDUCATION,  
KHYBER PAKHTUNKHWA**

Ministers Block, Civil Secretariat, Peshawar  
Telephone No. 091-9210968, Fax No. 091-9212211

No. Adv:/E&SE/KPK/1-2/2018  
Dated, Peshawar the, 20<sup>th</sup> March 2019

Subject: **RE-ADJUSTMENT ON DETAILMENT BASIS.**

My Dear,

I am enclosing herewith a self-explanatory application in respect of the following PSHT teachers who are recently transferred and posted in their promotion to an area where communal clashes erupt frequently and they feel insecure to perform duty there;

- i. Mr. Imtiaz Ali,
- ii. Syed Shah Raza
- iii. Siffat Ali
- iv. Zafar Ali
- v. Muhammad Yousaf

They are requested to be posted/re-adjusted at Kohat city in order to enable them to perform duty with utmost dedication.

I shall be grateful if request of the above-named teachers is considered on priority basis.

With profound regards.

Sincerely yours

  
(Zia Ullah Khan Bangash)

The Deputy Commissioner  
Kohat.

*Sheela*  
*Ullah Khan Bangash*

12

Annexed - D

**OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) KOHAT**

**OFFICE ORDER**

In the light of SDEO (M) Kohat letter No.2133 dated 16-03-2019 and approved by the competent authority, refusal from SPST to PSHT in respect of Mr. following SPST Kohat are hereby accepted on own their own request, So that they may be restricted from promotion for next four years.

S#	Name of SPST
✓1	Nadeem Shah SPST GPS West Muharnmadzai Kohat
✓2	Syed Shah Raza SPST GPS Malang Abad
✓3	Muhammad Yousaf, SPST GPS Gul Kana
✓4	Imtiaz Ali SPST GPS No.1 KDA Kohat
✓5	Zafar Ali SPST GPS Gul Kana Kohat
✓6	Sifat Ali SPST GPS Gul Kana Kohat

Note:-Mr. Muhammad Shoab SPST GPS Ahmad Nager at Promotion order No.61 is hereby adjusted in GPS

Dh: Ghulam Farooq Kohat

Necessary entries to this effect should be made in their service books accordingly.

DISTRICT EDUCATION OFFICER

Endst.No. 2861-4

dated 3 / 4 / 2019

Copy to the:-

1. Director E&SE Khyber Pakhtunkhwa Peshawar.
2. District Accounts Officer Kohat
3. DMO IMU Kohat
4. SDEO (M) Kohat
5. Official concerned

2/4/19  
DISTRICT EDUCATION OFFICER  
(MALE) KOHAT

Amir  
Muhammad  
Scha

بخدمت جناب ڈائریکٹر صاحب ایجنٹری اینڈ سیکٹری ایجوکیشن خیبر پختونخوا

عنوان : Re-adjustment on Detachment basis

Annexed - E

جناب عالی!

نوڈ ریمانڈ التماس ہے کہ ہمارا پرویشن مطابق آرڈر نمبر — Endst No 815/22 مورخہ 31/01/2019 تک PSHT کو ریٹ کے حساب سے تین علاقوں میں واقع ہوا تھا۔ جو کہ ہمارے تعلق فقہ جعفریہ سے ہے۔ اس سے پہلے بھی ان علاقوں میں دہشت گردی کے کئی واقعات رونما ہوئے ہیں۔ اور ان واقعات میں خصوصاً اساتذہ کرام اپنی قیمتی جانوں سے ہاتھ دھو بیٹھے ہیں۔ علاوہ ازیں مسائل میں بھی اساتذہ ہیں کہ جبکہ اپنے ہی گھرانے میں ایسی دہشت گردی کیوجہ سے کئی سرکاری افسران شہید ہو چکے ہیں۔ اسی نقصان سے بچنے کے لیے ہم نے اپنے ڈسٹرکٹ ایجوکیشن افسران سے رابطہ کیا۔ جس کے لیے افسران نے ہمیں ڈی سی کو ہاٹ کو involve کرنے کا کہا لہذا اس سلسلے میں ہم نے ڈی سی کو ہاٹ کو ایک درخواست دی۔ ڈی سی کو ریٹ بنام ڈسٹرکٹ ایجوکیشن افسر کو ریٹ کو باقاعدہ Letter no 186 مورخہ 01/04/2019 کو جاری کیا۔ کہ ان اساتذہ کو کو ہاٹ شہر یا اہل تشیع کے اپنے علاقوں میں ڈسٹریکٹ پولیس اسٹیشن پر ایڈجسٹ کیا جائے۔ جس پر ڈسٹرکٹ ایجوکیشن افسر نے کوئی عملی درکار نہیں کیا۔ اور ہمارے پرویشن کے معطلی کے احکامات جاری کر دیئے۔ حالانکہ پچھلے سال بھی جن SPST اساتذہ کو PSHT میں ترقی دی گئی تھی انکو بھی اپنے علاقوں میں ڈسٹریکٹ پولیس اسٹیشن پر ایڈجسٹ کرنے کے لئے کہا گیا۔

لہذا اب صاحبان کی طرف سے عرض کی جاتی ہے کہ ہماری درخواست پر ہمارے نوڈ ریمانڈ کے بارے میں پرویشن آرڈر کو قرار دیا گیا ہے۔ لہذا اساتذہ کو یا اہل تشیع کے اپنے علاقوں میں ڈسٹریکٹ پولیس اسٹیشن پر ایڈجسٹ کرنے کے احکامات صادر فرمائیں۔ تاکہ درخواست گزاران کو ایسی صورت حال سے محفوظ رکھ سکیں۔

علین نواز شہزاد  
29/04/2019

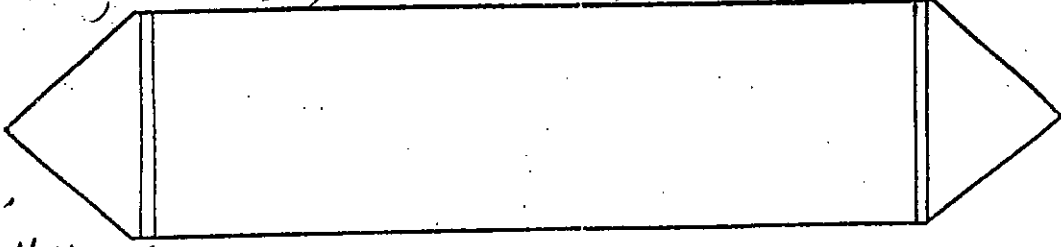
1- اطلاع برائے شہر قائم KPK  
2- سیکٹری ایجوکیشن KPK

العارضان

1- سید شاہ رضا SPST جی پی ایس ملک آباد کوہاٹ۔

Signature  
@llment@ads

## بعدالت سروس ٹریبونل چیئر مین فوراہ سید اور



موزخہ  
مقدمہ  
دعویٰ  
جرم

سید شاہ رضا ولد سید عارف حسین بنام DEO (M) کوٹاہ  
2 جناب اسپلٹ

### باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کی کارروائی متعلقہ  
آن مقام سید اور کیلئے مختصر مباحث میں بتائیں اور اس کے سید سیم کو ریٹ  
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ (03005871466)  
دیکل صاحب کو راضی نامہ کرنے و تقرر ثنالت ہ فیصلہ بر حلف دیئے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور صولی چیک در و پیدار عرضی دعویٰ اور درخواست ہر قسم کی تصدیق  
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی  
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور  
کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ لیا اپنے بجائے تقرر کا اختیار  
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ  
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جانہ التوائے مقدمہ کے سبب سے وہ ہوگا۔  
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی  
مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

المرقوم 19 \_\_\_\_\_ ماہ اگست 2019

Accepted  
Acceptance

Qullmus Sh  
Adm  
19/8/2019

کے لئے منظور ہے۔

بمقام سید اور

دستخط اسپلٹ سید شاہ رضا ولد سید عارف حسین

NIC No. 14301-3896528-1



(1)

**BEFORE THE HONOURABLE SERVICE TRIBUNAL PESHAWAR**  
**SERVICE APPEAL NO. 1069/2019**

Syed Shah Raza ..... APPELLANT

**V/S**

DISTT EDUCATION OFFICER (MALE) KOHAT & OTHER..... RESPONDENTS

Parawise comments on behalf of Respondent No: 1 to 3

Respectfully Sheweth

**Preliminary objections:**

1. That the appellant has got no cause of action locus standi.
2. That the instant Service appeal is badly time barred.
3. That the appellant has concealed material facts from the Hon'able Tribunal in the instant service appeal.
4. That the instant service appeal is against the relevant provisions of law.
5. That the appellant has not come to this Hon'able Tribunal with clean hands.
6. That the instant appeal is liable to be dismissed for mis-joinder & non-joinder of the necessary parties to the present appeal.
7. That the appellant is estopped by his own conduct to file the instant appeal.
8. That the instant service appeal is not maintainable in the present form & circumstances of the case.

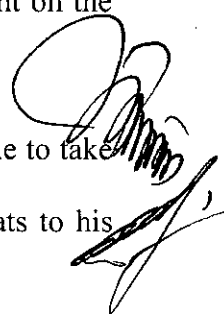
**FACTS**

1. No comments, pertain to the record.
2. Partially agreed to the extent that the appellant was initially appointed as PTC(PST) teacher in BPS-09 on 15.05.1993 and was promoted to SPST (BPS-14) at GHS No: 1 KDA Kohat. However, due to the non compliant of his promotion order issued vide Endst No: 815-22/File PST Promotion Dated Kohat the 31.01.2019, the superiors of the appellant are not satisfied with his performance.
3. Pertain to the record.
4. Denied. Not a single communal/sectarian clash has ever been reported at the station where the appellant has neither quoted any specific case on the basis of sectarian clash nor has elaborated the so called future security risks at his new place of posting. Furthermore, as adjustment on detailment is contrary to the rules presently in vogue. Therefore his request for adjustment on detailment cannot be entertained.

5. The appellant is liable to be charge sheeted as per provision of Efficiency & Disciplinary Rules 2011, for exerting political pressure through the Hon'able Advisor to Chief Minister for Elementary & Secondary Khyber Pakhtunkhwa Peshawar. **(Annexture A)**.
6. Denied, The respondent in the instant case proceeded as per rules and regulations, presently in vogue, The non compliance by not taking over charge as per promotion order by the appellant and his insistence on his adjustment on "detailment" was deemed as a refusal, hence the office order vide Endst No: 2841-45 dated 03.04.2019 was issued accordingly.
7. Misleading. As the request for detailment is derailment from the rules. Therefore the respondent No: 1 and 3 returned "un action" the application and departmental appeal respectively.
8. No comments.

**GROUND:-**

- A. Denied. That the impugned order dated 03.04.2019 of the Respondent No: 1 is bonafide, legal and with lawful authority and the same is neither arbitrary nor discriminatory. The instant order is issued as per law, rules and regulations and is perfectly tenable and is not liable to be set-aside.
- B. Denied. The appellant was reluctant to take over charge within the stipulated time. The appellant tried to exert political pressure through Advisor to Chief Minister for Elementary & Secondary Education Khyber Pakhtunkhwa for illegal favour for his adjustment on "detailment". The appellant has failed to cite any specific incident on the basis of sectarian issues in his new place of adjustment.
- C. Denied, the appellant has categorically stated in "black in white" that he is unable to take over charge at GPS Dar Tappi Tehsil Lachi due to sectarian" imaginary" threats to his life.
- D. Denied, the relevant statute rules and regulations do provide restriction from promotion for next 04 years if the civil servant refuses promotion **(Annexture B)**. The respondents took legal actions and perfectly acted as per authority vested with them under the law.
- E. Denied, Contrary to the facts.
- F. The Respondents also seek permission to this Honorable Tribunal to raise additional grounds at the time of arguments.

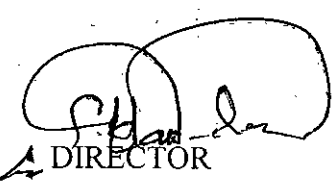


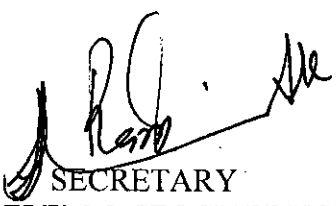


3

It is therefore humble prayed that on acceptance of this reply instant appeal may very kindly be dismissed with cost.

  
DISTRICT EDUCATION OFFICER  
(MALE) KOHAT

  
DIRECTOR  
ELEMENTARY & SECONDARY EDUCATION  
KHYBER PAKHTUNKHWA PESHAWAR

  
SECRETARY  
TO GOVT ELEM & SEOCY EDUCATION  
DEPARMENT KHYBER PKAHTUNKHWA  
PESHAWAR

(4)

**BEFORE THE HONOURABLE SERVICE TRIBUNAL PESHAWAR**  
**SERVICE APPEAL NO. 1069/2019**

SYED SHAH RAZA..... APPELLANT

**V/S**


DISTT EDUCATION OFFICER (MALE) KOHAT & OTHER..... RESPONDENTS

Parawise comments on behalf of Respondent No: 1 to 3

**Affidavit**

I, Haziq ur Rehman District Education Officer (Male) Kohat do hereby solemnly affirm and declare on oath that the contends of the accompanying Parawise comments are true and correct to the best of my knowledge and belief and nothing has been concealed withheld from this Honourable court.

Deponent

  
HAZIQ UR REHMAN  
DISTRICT EDUCATION OFFICER  
(MALE) KOHAT

**GOVERNMENT OF THE KHYBER PAKHTUNKHWA ESTABLISHMENT AND ADMINISTRATION DEPARTMENT.**

**NOTIFICATION**

*Peshawar dated the 16th September, 2011.*

NO.SO(REG-VI) E&AD/2-6/2010.-In exercise of the powers conferred by section 26, of the Khyber Pakhtunkhwa Civil Servants Act. 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973), the Chief Minister of the Khyber Pakhtunkhwa is pleased to make the following rules, namely:

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

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

(3) These shall come into force at once.

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

(a) "accused" means a person in Government service against whom action is initiated under these rules;

(b) "appellate authority" means the authority next above the competent authority to which an appeal lies against the orders of the competent authority;

(c) "appointing authority" means an authority declared or notified as such by an order of Government under the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973) and the rules made thereunder or an authority as notified under the specific laws/rules of Government;

(d) "charges" means allegations framed against the accused pertaining to acts of omission or commission cognizable under these rules;

(e) "Chief Minister" means the Chief Minister of the Khyber Pakhtunkhwa;

(f) "competent authority" means-

(i) the respective appointing authority;

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

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

(g) "corruption" means-

(i) accepting or obtaining or offering any gratification or valuable thing, directly or indirectly, other than legal remuneration, as a reward for doing or for bearing to do any official act; or

(ii) dishonestly or fraudulently misappropriating, or indulging in embezzlement or misusing Government property or resources; or

(iii) entering into plea bargain under any law for the time being in force and returning the assets or gains acquired through corruption or corrupt practices voluntarily; or

(iv) possession of pecuniary sources or property by a Government servant or any of his dependents or any other person, through his or on his behalf,

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which cannot be accounted for and which are disproportionate to his known sources of income; or

- (v) maintaining a standard of living beyond known sources of income; or
- (vi) having a reputation of being corrupt;
- (h) "Governor" means the Governor of the Khyber Pakhtunkhwa;
- (i) "inefficiency" means failure to efficiently perform functions assigned to a Government servant in the discharge of his duties;
- (j) "inquiry committee" means a committee of two or more officers, headed by a convener, as may be appointed by the competent authority under these rules;
- (k) "inquiry officer" means an officer appointed by the competent authority under these rules;
- (l) "misconduct" includes-
  - (i) conduct prejudicial to good order or service discipline; or
  - (ii) conduct contrary to the Khyber Pakhtunkhwa Province Government Servants (Conduct) Rules, 1987, for the time being in force; or
  - (iii) conduct unbecoming of Government servant and a gentleman; or
  - (iv) involvement or participation for gains, directly or indirectly, in industry, trade, or speculative transactions by abuse or misuse of official position to gain undue advantage or assumption of such financial or other obligations in relation to private institutions or persons as may compromise the performance of official duties or functions; or
  - (v) any act to bring or attempt to bring outside influence, directly or indirectly, to bear on the Governor, the Chief Minister, a Minister or any other Government officer in respect of any matter relating to the appointment, promotion, transfer or other conditions of service; or
  - (vi) making appointment or having been appointed or promoted on extraneous grounds in violation of any law or rules; or
  - (vii) conviction for a moral offence by a court of law.
- (2) Words and expressions used but not defined in these rules shall have the same meanings as are assigned to them in the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No XVIII of 1973) or any other statutory order or rules of Government for the time being in force.

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

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

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

- (a) Minor penalties:
  - (i) censure;
  - (ii) withholding, for a specific period, promotion or increment subject to a maximum of three years, otherwise than for unfitness for

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promotion or financial advancement, in accordance with the rules or orders pertaining to the service or post:

Provided that the penalty of withholding increments shall not be imposed on a Government servant who has reached the maximum of his pay scale:

- (iii) recovery of the whole or any part of any pecuniary loss caused to Government by negligence or breach of order;

(b) Major penalties:

- <sup>1</sup>[(i) reduction to a lower post or pay scale or to a lower stage in a time scale for a maximum period of five years:

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

- (ii) compulsory retirement;
- (iii) removal from service; and
- (iv) dismissal from service.

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

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

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

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

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

- (i) the competent authority is satisfied that in the interest of security of Pakistan or any part thereof, it is not expedient to give such an opportunity; or
- (ii) a Government servant has entered into plea bargain under any law for the time being in force or has been convicted on the charges of corruption which have led to a sentence of fine or imprisonment; or
- (iii) a Government servant is involved in subversive activities; or
- (iv) it is not reasonably practicable to give such an opportunity to the accused; or

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

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

- (i) a Government servant has been convicted of any offence other than corruption by a court of law under any law for the time being in force; or
- (ii) a Government servant is or has been absent from duty without prior approval of leave:

Provided that the competent authority may dispense with the inquiry where it is in possession of sufficient documentary

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evidence against the accused or, for reasons to be recorded in writing, it is satisfied that there is no need to hold an inquiry.

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

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

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

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

- (a) inform the accused by an order in writing, of the grounds for proceeding against him, clearly specifying the charges therein, alongwith apportionment of responsibility and penalty or penalties proposed to be imposed upon him;
- (b) give him a reasonable opportunity of showing cause against the proposed action, within seven days of receipt of the order or within such extended period, as the competent authority may determine;
- (c) on receipt of reply of the accused within the stipulated period or after the expiry thereof, if no reply is received, determine whether the charge or charges have been proved against the accused or not:

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

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

(d) afford an opportunity of personal hearing before passing any order of penalty under clause (f), if it is determined that the charge or charges have been proved against him;

exonerate the accused by an order in writing, if it is determined that the charge or charges have not been proved against him; and

(f) impose any one or more penalties mentioned in rule 4, by an order in writing, if the charge or charges are proved against the accused:

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

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

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

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Provided that dismissal in these cases shall be with <sup>2</sup>[.....] effect from the date of conviction by a court of law; and

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

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

10. **Procedure to be followed by competent authority where inquiry is necessary.**—

(1) If the competent authority decides that it is necessary to hold an inquiry against the accused under rule 5, it shall pass an order of inquiry in writing, which shall include-

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

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

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

11. **Procedure to be followed by inquiry officer or inquiry committee.**—(1) On receipt of reply of the accused or on expiry of the stipulated period, if no reply is received from the accused, the inquiry officer or the inquiry committee, as the case may be, shall inquire into the charges and may examine such oral or documentary evidence in support of the charges or in defense of the accused as may be considered necessary and where any witness is produced by one party, the other party shall be entitled to cross-examine such witness.

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

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

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

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

(6) If the accused absents himself from the inquiry on medical grounds, he shall be

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*Superintendent*  
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<sup>2</sup> Deleted by Notification No. SO(REG-VI)E&AD/2-6/2010. Dated 18<sup>th</sup> July, 2012.

seemed to have hampered or attempted to hamper the progress of the inquiry, unless medical leave, applied for by him, is sanctioned on the recommendations of a Medical Board; provided that the competent authority may, in its discretion, sanction medical leave up to seven days without such recommendations.

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

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

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

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

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

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

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

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

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

(3) Where the charge or charges have not been proved, the competent authority shall exonerate the accused by an order in writing, or it shall follow the procedure as given in sub-rule (6) of this rule.

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

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



wants to be heard in person or not;

- (c) provide a copy of the inquiry report to the accused; and
- (d) direct the departmental representative to appear, with all the relevant record, on the date of hearing.

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

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

(6) Where the competent authority is satisfied that the inquiry proceedings have not been conducted in accordance with the provisions of these rules or the facts and merits of the case have been ignored or there are other sufficient grounds, it may, after recording reasons in writing, either remand the inquiry to the inquiry officer or the inquiry committee, as the case may be, with such directions as the competent authority may like to give, or may order a de novo inquiry through different inquiry officer or inquiry committee<sup>3</sup>[subject of sub-rule (7) of rule 11].

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

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

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

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

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

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

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

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

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

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D.E.O (M) Rohat

<sup>3</sup> Added by Notification No. SO(REG-VI)E&AD/2-6/2010. Dated 18<sup>th</sup> July, 2012.

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

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

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

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

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

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


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

(2) If a decision on a departmental appeal or review petition, as the case may be, filed under rule 17 is not communicated within period of sixty days of filing thereof, the affected Government servant may file an appeal in the Khyber Pakhtunkhwa Province Service Tribunal within a period of <sup>4</sup>[ninety] days of the expiry of the aforesaid period, whereafter, the authority with whom the departmental appeal or review petition is pending, shall not take any further action.

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

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

<sup>5</sup>[.....]

*Attested*  
  
 Superintendent  
 D.E.O (A) Kohat

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

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

(3) Notwithstanding the repeal of the aforesaid rules, all proceedings pending immediately before the commencement of these rules against any employee under the said repealed rules or under the Khyber Pakhtunkhwa Civil Servants Act, 1973 and rules made thereunder, or any other law and rules shall continue under that law and rules, in the manner provided thereunder.

<sup>4</sup> Subs. by Notification No. SO(REG-VI)E&AD/2-6/2010. Dated 18<sup>th</sup> July, 2012.

<sup>5</sup> Deleted by Notification No. SO(REG-VI)E&AD/2-6/2010. Dated 18<sup>th</sup> July, 2012.

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*Attended*

SECRETARY TO  
GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT.

*[Signature]*  
Superintendent  
D.E.O (A) Kohat

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GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
(REGULATION WING)  
Dated Peshawar, the 22<sup>nd</sup> October, 2011

NOTIFICATION.

No. SOR-VI (E&AD) 3/2009/Vol-VIII: - In exercise of the powers conferred by Section 26 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973), read with this Department's Notification No. SOR-I(S&GAD) 1-206/74/Vol-V, dated: 18<sup>th</sup> April 1989, the Chief Minister of the Khyber Pakhtunkhwa is pleased to direct that in the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the following further amendments shall be made, namely:

AMENDMENTS

1. In Rule-7, after sub-rule (4), the following new sub-rule shall be added, namely:

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

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

2. In rule 9: sub-rule (2) shall be deleted.

CHIEF SECRETARY  
GOVERNMENT OF THE KHYBER  
PAKHTUNKHWA

Endst: No. and dated even:

Copy forwarded to:

1. Additional Chief Secretary, Govt of Khyber Pakhtunkhwa, Planning & Development Department.
2. Additional Chief Secretary (FATA), FATA Secretariat Peshawar.
3. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
4. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
5. The Secretary to Governor, Khyber Pakhtunkhwa.
6. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
7. The Registrar, Peshawar High Court, Peshawar.
8. The Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
9. The Director General, Provincial Disaster Management Authority.
10. All Additional Secretaries, Deputy Secretaries and Section Officers in Establishment & Administration Department.
11. Private Secretaries to all Provincial Ministers in Khyber Pakhtunkhwa.
12. Private Secretary to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
13. Private Secretary to Secretary Establishment Department.
14. Private Secretary to Secretary Administration Department.
15. The Incharge Resource Centre, Estt. & Admn. Department.
16. The Manager, Government Printing and Stationery Department for Publication in the official Gazette and supply of 20 copies thereof at an early date.

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Superintendent  
D.E.O (A) Kohat

(ASFAQ KHAN)  
SECTION OFFICER (REG: VI)

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