

**BEFORE THE HONORABLE KHYBER PAKHATUNKHWA**  
**SERVICE TRIBUNAL PESHAWAR.**

**Service Appeal No: 1634/2023**


**Rooh Ullah, Senior Clerk District Peshawar..... Appellant**

**VERSUS**

**The Secretary E&SED Khyber Pakhtunkhwa & others..... Respondents**

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**Samina Altaf**  
**DIRECTOR**

E&SE Department Khyber  
Pakhtunkhwa, Peshawar.

04-07-24

①

**BEFORE THE HONORABLE KHYBER PAKHATUNKHWA  
SERVICE TRIBUNAL PESHAWAR.**

**Service Appeal No: 1634/2023**

**Rooh Ullah, Senior Clerk District Peshawar..... Appellant**

**VERSUS**

**The Secretary E&SED Khyber Pakhtunkhwa & others.....Respondents**

**JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS No: 1 to 3.**

**Respectfully Sheweth,**

The Respondents as under.

**PRELIMINARY OBJECTIONS.**

- 1 **That** the Appellant has got no cause of action and locus standi to file instant appeal before this Honorable Tribunal.
- 2 **That** the appellant is not an aggrieved person within the meaning of Section-4 Khyber Pakhtunkhwa Service Tribunal Act 1974 read with Article-212 of the constitution of Islamic Republic of Pakistan 1973.
- 3 **That** the appeal is not maintainable and even incompetent under the relevant provision of law & rules in vogue.
- 4 **That** the appellant is estopped due to his own conduct to file the instant appeal against the Respondent Department.
- 5 **That** the appellant has not come to this Learned Tribunal with clean hands and has also concealed material facts from the ambit of this Learned Tribunal.
- 6 **That** the appeal is bad for mis-joinder and non-joinder of necessary parties to the titled appeal.
- 7 **That** the appeal in hand is pre mature, hence, liable to be dismissed on the sole ground of maintainability under the rules.
- 8 **That** the impugned Notification dated 01-03-2023, whereby, the appellant has been placed at proper seniority against the Senior Clerk post in terms of Section-8 of Civil Servant Act, 1973 read with Rule-17 of APT Rules 1989.
- 9 **That** the appeal has been mis-oriented, mis-constructed and mistakenly drawn and is incompetent in its present frame and context.
- 10 **That** the Departmental appeal against the afore-mentioned Notification dated 01-03-2023 has correctly been rejected vide order dated 30-05-2023 by the Respondent Department.

- 11 That the appellant has correctly been placed in the final seniority list of the senior clerk's cadre by the Respondent Department.
- 12 That the act of the Department with regard to the Notification dated 01-03-2023 is in accordance with the Notification No. SO(Policies) E&AD/2-6/2022 dated 16-01-2023 of the Establishment Department Govt: of KP.
- 13 That the appellant has been treated under the provision of Section-26 of KP Civil Servant Act, 1973, whereby amendment in Rule-4 (D)(b)(i) of E&D Rules, 2011 which says that penalized Govt: Servant shall be placed below the erstwhile juniors promoted to higher post during the substance period of penalty.
- 14 That the act of the Department with regard to the afore-mentioned Notification & order dated 01-03-2023 & 30-05-2023 is in accordance with the provision of E&D Rules, 2011.

**ON FACTS.**

- 1 That Para-1 pertain to the appointment of appellant as junior clerk in the Respondent Department vide Notification dated 09-12-1986 with his promotion to the post of Senior Clerk on dated 07-12-2009 attached as ***Annex-A & B.***
- 2 That Para-2 is correct that major penalty of reduction to lower post vide Notification dated 01-03-2018 from senior clerk to junior clerk was imposed upon the appellant after due process of law on account of fraudulent drawl of funds on Medical re imbursement resulted in the Departmental inquiry including a show cause notice replied by the appellant along with an opportunity of personal hearing on dated 09-12-2017 as well as material available on record resulted in the Notification dated 01-03-2018 against the appellant, ***attached as Annex-C.***
- 3 That para-3 is correct that aggrieved from the Notification dated 01-02-2018 of the Respondent No. 3, the appellant has approached this learned Tribunal in Service Appeal No. 640/2018 under case titled Rooh Ullah VS Govt: on dated 08-05-2018 which was decided vide Judgment dated 03-10-2018 by this Honorable Tribunal by modifying the penalty of reduction of the appellant to the post of junior clerk for the period of (5) years. ***Copy of the Judgment is Annex-D.***
- 4 That Para-4 is correct that the appellant has filed an application for his adjustment against the post of senior clerk w.e.f 01-03-2023 in the light of the Judgment under reference after completion of penalty of reduction to lower post for the specified period of (5) years, the appellant was adjusted against the S/Clerk in BPS-14 post with his adjustment in at GHSS Budhni Peshawar with immediate effect by placing him in the bottom of final seniority list dated 31-12-2022 pertaining to the Senior Clerks in the Respondent Department under the provision of Section-26 of KP Civil Servant Act, 1973, whereby amendment in Rule-4 (D)(b)(i) of E&D Rules, 2011 which says that **Penalized Govt: Servant shall be placed below the erstwhile juniors promoted to higher post during the substance period of penalty.**

*Attached as Annex-E & F.* under the relevant provision of law & rules of the subject.

- 5 That Para-5 is correct as Departmental appeal against the Notification No. 5157-62 dated 01-03-2023 of the Respondent No. 3 has been filed by the appellant to the appellate authority which was disposed of vide order dated 30-05-2023 by maintain the said Notification, hence, got final under the law against the appellant, hence, the appeal in hand is time barred deserves dismissal.
- 6 That Para-6 is also incorrect & mis leading in terms of the reply of Para-5 on behalf of the Respondents No. 1 to 3.
- 7 That Para-7 is correct that the Departmental appeal against the Notification dated 01 -03 2023 has been rejected by the Department dated 30-05 2023 *attached as Annex-G.*
- 8 That Para-8 is incorrect as the appellant is not an aggrieved person under the above cited provision of law, therefore, the appeal in hand is liable to the dismissed on the following ground inter alia: -

**ON GROUNDS.**

- A. **Incorrect & not admitted,** the appellant has been treated as per law vide Notification dated 01-03-2023 & order dated 30-05-2023, hence, not entitled for the relief he is seeking from this learned Tribunal in the tiled appeal.
- B. **Incorrect & not admitted.** The plea of the appellant is illegal & liable to be rejected.
- C. **Incorrect & not admitted.** The act of the Department with regard to the Notification dated 01-03-2023 is legal & liable to be maintained.
- D. **Incorrect & not admitted.** The plea of the appellant is illegal & liable to be rejected.
- E. **Incorrect & not admitted,** the stand of the appellant is illegal & liable to be rejected on the grounds that he is not entitled for the seniority as prayed for in terms of the afore-mentioned law & rules against the senior clerk post in the Department.
- F. **Incorrect & not admitted,** the stand of the appellant is illegal & liable to be rejected in terms of the amended rules notified on dated 16-01-2023 which is equally applicable upon the case of the appellant.
- G. **Incorrect & not admitted,** the stand of the appellant is illegal & liable to be rejected as he has been treated as per law with no discrimination on the part of the Department towards the appellant in the titled case.
- H. **Legal.** However, the Respondent also seek leave of this Honorable bench to submit additional grounds record & case law at the time of arguments on the date fixed in the titled case.



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**PRAYER**

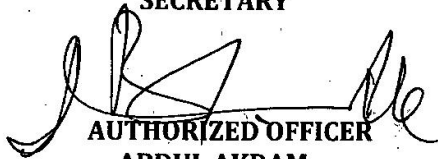
In view of the above made submission it is requested that this Tribunal may very graciously be pleased to dismiss the instant service appeal with cost in favor of the Respondent Department by maintaining the Notification dated 01-03-2023, appellate order dated 30-05-2023 & amended rules dated 16-01-2023 in favor of the Respondent Department in the interest of justice please.

Dated \_\_\_/\_\_\_/2024

  
Samina Altaf  
DIRECTOR

E&SE Department Khyber  
Pakhtunkhwa, Peshawar.  
(Respondent No: 3)

MASOOD AHMAD  
SECRETARY



AUTHORIZED OFFICER  
ABDUL AKRAM  
ADDITIONAL SECRETARY (G)  
E&SE Department Khyber  
Pakhtunkhwa, Peshawar.  
(Respondent No: 1 & 2)

**BEFORE THE HONORABLE KHYBER PAKHATUNKHWA  
SERVICE TRIBUNAL PESHAWAR.**

**Service Appeal No: 1634/2023**

**Rooh Ullah, Senior Clerk District Peshawar..... Appellant**

**VERSUS**

**The Secretary E&SED Khyber Pakhtunkhwa & others.....Respondents**

**AFFIDAVIT**

**I, Samina Altaf Director E&SE Khyber Pakhtunkhwa,** do hereby solemnly affirm & declare on oath that the contents of the instant para wise Comments are true & correct to the best of my knowledge & belief. It is further stated on oath that in this appeal the answering Respondents have neither been placed Ex-Parte nor their defense has been struck off/cost.

*Samina Altaf*  
**(Samina Altaf)**  
**DIRECTOR**

E&SE Department Khyber  
Pakhtunkhwa, Peshawar

**ATTESTED**



*rukh*



26

**DIRECTORATE ELEMENTARY & SECONDARY EDUCATION  
KHYBER PAKHTUNKHWA, PESHAWAR.**

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**AUTHORITY LETTER**

I, Samina Altaf, Director (E&SE) Khyber Pakhtunkhwa Peshawar do hereby authorized Mr. Muhammad Rizwan, Assistant Director Litigation-II of this Directorate for submission of Joint Parawise Comments in Service Appeal No. 1634/2023 case titled **Rooh Ullah, Senior Clerk, District Peshawar Vs Government of Khyber Pakhtunkhwa & others,** hence, an authority letter is hereby issued in favor of the above-named officer.

  
(Samina Altaf)  
DIRECTOR

E&SE Department Khyber  
Pakhtunkhwa, Peshawar

(6)

Annex  
"A" (6)

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) PESHAWAR.  
APPOINTMENT.

Mr. Roohul-Ullah son of S/O Saifullah A/c. Chohanani  
candidate is hereby appointed as J/Clerk on Rs 520 /P.M.  
in the BPS No. 5 of Rs. 520-13-080 plus usual allowances as  
admissible under the Rules with effect from the date of his taking  
over charge at G.H.S. Teru Jabba against vacant vice of  
Ibrahim J/C promoted to SV  
under the following terms and conditions:-

CONDITIONS:

1. Charge reports in duplicate should be submitted to all concerned.
2. No TA/DA is allowed being first appointment.
3. No joining time is allowed what is absolutely necessary for/ transit.
4. The appointment is purely on temporary basis and subject to termination at any time without assigning any reasons or prior notice. In case he wishes to leave the post he shall have to submit one month's pay prior notice or in lieu thereof forfeit one month pay and allowances to Govt. His Educational Qualification should be checked before the handing over the charge of the post.
5. He should produce his Health and age certificate from the civil Surgeon concerned within Seven days of reporting arrival for duty as required under the Rules (F.R. 10 S.R. 4).
6. In case the candidate fails to take over charge within 10 days from the date of issue of his letter his appointment will stand cancelled automatically.
7. The verification roll of character and antecedent should be obtained from the candidate concerned on the prescribed form and submit to this office for further verification and record.
8. The candidate should not be handed over charge if his age exceed 25 years OR below 18 years.
9. He should execute necessary security bond in case he is required to handle Govt. Money OR Property.
10. The pay scale and service Rules would be subject to revision in accordance with orders to be passed by the Govt. of N.W.F.P. from time to time.

**ATTESTED**

*A*

(NAZROOF SALAM)  
DISTRICT EDUCATION OFFICER  
(MALE) PESHAWAR

Endst: No. 4009-11 Dated Peshawar the 9/12/1986

Copy forwarded for information to the:-

1. Head Master Govt. High School Teru Jabba.
2. Mr. Ghulam Sarwar Khan Dy. D.O. Peshawar.
3. candidate concerned.

Almes/

306  
17/12/86

*Mazroof Salam*  
District Education Officer  
(Male) Peshawar.  
8/12/86

*attested*  
*A*

Govt. High School

8

OFFICE OF THE EXECUTIVE DISTRICT OFFICER (E&S) EDUCATION  
PESHAWAR.

Annex  
A/1 7

OFFICE ORDER

Consequent upon the approval of the District Selection Committee in their meeting held on 07/12/2009, the following J/Clerks are hereby promoted as a Senior Clerks in BPS-09 with effect from 07/12/2009 and adjusted the post noted to each in the interest of public service.

S.No.	Name of Official	Posted at	Remarks
1	Mr. Shafiqur-Rehman J/Clerk	GHSS No.1 Pesh: Cantt:	Against the post of S/C already occupied.
2.	Mr. S. Kamal Shah J/Clerk	GHSS Wadpaga Pesh:	-do-
3.	Mr. Ijaz Akhtar J/C	GGHS Jogiwara Pesh:	-do-
4.	Mr. Roohullah J/Clerk	GHSS Urmer Payan Peshawar.	-do-
5.	Mr. Yamincha J/C	GHSS No.1 Peshawar Cantt:	-do-
6	Mr. Fakhre Alam J/C	GHSS Dagg Peshawar.	-do-

Note:-1. Charge report should be submitted to all concerned.

2. An undertaking to this effect that if any Over payment made to them as a result of incorrect award of Promotion deducted later on will be made from their pay/pension/commutation Should be obtained from the officials concerned and pasted in their S/Books.

ATTESTED

A

(Mr. Iftikhar Ahmad)  
Executive District Officer (E&S)  
Education Peshawar.

Endst: No: 6912-22 /Prom: Min: Staff/III AE dated 22/12/09.

Copy of the above is forwarded for information & necessary action to the:-

1. Senior district Accounts Officer Peshawar.
2. PA to Director (E&S) Education NWFP, Peshawar.
3. PS to district coordination Officer City District Govt: Peshawar.
4. District Officer (M&F) E&S Education Peshawar local Office.
5. Supdt./ADCO (I): local Office.
6. Principals concerned.
7. Officials Concerned.

*Iftikhar*  
Executive District Officer (E&S)  
Education Peshawar.

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**OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) PESHAWAR**

**NOTIFICATION**

WHEREAS, the Principal GGHSS Chamkani, Peshawar has reported involvement of Mr. Rooh Ullah Senior Clerk (BS-14) her school in malpractices and misconduct, Vide her letter NO.3739 dated 3/7/2017.

AND WHEREAS, inquiry committee was constituted comprising of the following officers to conduct formal inquiry against the accused official for the charges leveled against him in accordance with the rules:-

- i. Mr. Abdus Saeed Principal GHS NO.3 Cantt Peshawar.
- ii. Mst. Bilqees Qayyum Principal GGHSS Surizai Bala Peshawar.

AND WHEREAS, the inquiry committee after having examined the charges, evidence on record and explanation of the accused official has submitted report:


AND WHEREAS, a show cause Notice was served upon Mr. Rooh Ullah Senior Clerk GGHSS Chamkani Peshawar Vide letter NO.8297 dated 9/12/2017, which was conveyed to him through the Principal concerned.

AND WHEREAS, the competent authority after having considered the charges and evidence on record, inquiry report explanation of the accused official in response to the show cause notice and personal hearing granted to him on 9/12/2017 is of the view that the charges against the accused official have been proved:

NOW, THEREFORE, in exercise of the powers conferred under Section-4 b (i) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011, the Competent Authority is pleased to impose major penalty of "reduction to a lower post" upon Mr. Rooh Ullah

Senior Clerk (BS-14) GGHSS Chamkani Peshawar besides recovery of Rs.846936/-under rules 4 (a) (iii)

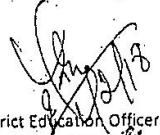
And his services are placed at the disposal of Director (E&SE) Khyber Pakhtunkhwa Peshawar for further adjustment against lower post of J/Clerk on male side with immediate effect.

  
District Education Officer,  
(Female) Peshawar

Endst NO.1989-95 Dated Peshawar the 21/02/2018.

Copy of the above is forwarded for information and n/action to the:-

1. Director (E&SE) Khyber Pakhtunkhwa Peshawar
2. Accountant General Khyber Pakhtunkhwa Peshawar
3. Principal GGHSS Chamkani Peshawar
4. Official concerned with the remarks to report to the Director (E&SE) Khyber Pakhtunkhwa Peshawar for further posting/adjustment.
5. P/File
6. M/File.

  
District Education Officer,  
(Female) Peshawar

**ATTESTED**



Sr. No	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
<p align="center"><b><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u></b></p> <p align="center">Appeal No. 640/2018</p> <p align="center">Date of Institution ... 08.05.2018</p> <p align="center">Date of Decision ... 03.10.2018</p> <p align="center">Roohullah Senior Clerk Government Girls High Secondary School Chamkani Peshawar.</p> <p align="right">-----Appellant</p> <p>1. Secretary Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar.</p> <p>2. Director Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar.</p> <p>3. District Education Officer (Female) Mardan.</p> <p align="right">-----Respondent</p> <p><b>Mr. Hussain Shah.....Member</b></p> <p><b>Mr. Munammad Hamid Mughal.....Member</b></p> <p>03.10.2018</p> <p><b><u>JUDGMENT</u></b></p> <p><b><u>HUSSAIN SHAH:-</u></b> Appellant, learned counsel for the appellant and Mr. Muhammad Jan, Learned Deputy District Attorney on behalf of the respondents present.</p> <p>2. The appellant Roohullah while working as senior clerk (BPS-14) in Elementary and Secondary Education Department and during his posting in GHSS Chamkani Peshawar he was found guilty of fraudulent drawl of funds on medical reimbursement. After a departmental inquiry the show cause notice was issued to him. After his reply to the show cause he was given the opportunity of personal hearing on 09.12.2017. The competent authority imposed the major penalty of reduction to a lower post on 01.02.2018. Moreover it was also decided to recover</p>		

Rs. 846936/- from the appellant. The appellant preferred the departmental appeal on 07.02.2018. As the departmental appeal, being pending hence, the appellant preferred the instant service appeal.

3. The learned counsel for the appellant argued that the impugned order is unlawful because the appellant was not issued any charge sheet/statement of allegation. The show cause notice was issued without conducting regular inquiry proceedings hence the show cause is against the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011. He further argued that the impugned order is against the constitution as the appellant has been subjected to double jeopardy. The learned counsel also pointed out that the impugned order is in violation of F.R 29 as the penalty of reduction to lower post, without specifying the period, has been awarded.

4. The learned counsel for the appellant also argued that the fact findings inquiry is not equalent to formal inquiry and as such the appellant was deprived of the opportunity to defend himself. It was also pointed out that the copy of inquiry report was not provided to the appellant alongwith show cause so that he could not, properly, defend himself.

5. The responding authorities in the para wise comments contested the facts and grounds of the appellant through the Deputy District Attorney wherein the non issuance of charge sheet/statements of allegation and opting of the issuance of direct show cause notice on the basis of facts finding inquiry has been



depended on the ground that the appellant was given due opportunity of depending himself at the fact finding inquiry level and the show cause notice level. The learned Deputy District Attorney argued that the inquiry committee found the appellant in fraudulent drawl the medical charges. He further argued that the inquiry committee gave to the appellant the opportunity of depending himself but he failed as he could not provide a single piece of paper in his defense. While on the other side statement of DDO and the record provided by the office of Accountant General testified the fraudulent act of the appellant. About the plea of the appellant and his learned counsel regarding the double jeopardy the learned Deputy District Attorney argued that over and above to the penalty of reduction to lower post the recovery of funds, fraudulently drawn can be recovered. He further argued that the inquiry committee recommended the imposition of the penalty of dismissal from service but the competent authority has taken lenient view and award the penalty of reduction to lower post.

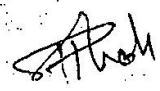
6. Arguments heard. File perused.

7. As regarding the non issuance of the charge sheet/statement of allegations and dispensing with the formal inquiry under E&D rules this tribunal is of the view that if the competent authority feels that the allegation is so obvious and self speaking then the competent authority can opt issuance of show cause notice directly without issuing charge sheet/Statement of allegation and formal inquiry particularly when the ensuing punishment is neither dismissal nor removal from service. It is further came in to the

notice of tribunal that in his departmental appeal the appellant has admitted the drawl of funds on medical ground though he stated that all the documents were approved by DEO (Female) but he failed to provide any documentary evidence to this effect. Moreover the DDO Mst. Farzana lal sher in her statement stated that she could not find any entries nor any medical bill/claims approved either by her or the incharge DDO, in the intervening period or processed in the concern registered. She has also stated that when she asked the appellant to provide the complete office record of the said transaction the appellant failed to do so. In the stated facts and circumstance, this tribunal reached to the conclusion that the appellant could not make out the case that he was wrongly punished.

8. However this tribunal has taken notice of the fact that penalty of reduction to the lower post without specifying period is against FR 29 and rules (4) (1) (b) (i) Khyber Pakhtunkhwa Government servant (Efficiency and discipline) rules 2011. In view thereof while considering the facts and circumstances of the case the present service appeal is accepted to the extent that the punishment of reduction to lower post, as mentioned in the impugned order, shall remain effective for a period of five (05) years. Parties are left to bear their own costs. File be consigned to the record room.

  
(MUHAMMAD HAMID MUGHAL)  
MEMBER

  
(HUSSAIN SHAH)  
MEMBER

ANNOUNCED



Annex

D 13

**NOTIFICATION**

20

1. **WHEREAS**, the Principal GGSS Chamkani, Peshawar has reported involvement of Roohullah S/C BS-14 in malpractice and misconduct vide her letter No.3739 dated 11/07/2017.
2. **WHEREAS**, inquiry committee was constituted to conduct inquiry in the light of the charges levelled against him in accordance with rules.
3. **WHEREAS**, the inquiry committee conducted the inquiry and submitted the inquiry report.
4. **WHEREAS**, Showcase notice was served upon Mr. Rooh Ullah S/Clerk GGSS Chamkani Peshawar vide letter No.8297 which was conveyed to him through Principal concerned.
5. **WHEREAS**, the competent authority after having considered the charges and evidence on record, inquiry report explanation of the accused official in response to the show cause notice and personal hearing granted to him on 09/12/2017 of the view that the charges against the accused official have been proved.
6. **AND WHEREAS**, In the exercise of the powers conferred under Section 4(b)(1) of the Khyber Pakhtunkhwa P & D rules 2011, major penalty of reduction to lower post was imposed upon Mr .Rooh Ullah Senior Clerk GGSS Chamkani Peshawar vide DEO female Peshawar Notification issued under Endst: No 1989-95 dated 01/02/2018.
7. **AND WHEREAS**, the applicant filled an appeal No 640/2018 in the Khyber Pakhtunkhwa Service tribunal Peshawar against the order of DEO Female Peshawar issued under Endst: No 1989-95 dated 01/02/2018.
8. **AND WHEREAS** , the Honourable Service Tribunal has announced the judgment on 3/10/2018 that the punishment of reduction to lower post as mentioned in the impugned order shall remain effective for 5 years.
9. **AND WHEREAS**, the government of Khyber Pakhtunkhwa Law Department, after threadbare discussion it was decided with the consensus by the scrutiny committee held on 28/11/2018 that the subject case was not fit for filing CPLA in the supreme Court Of Pakistan.
10. **AND WHEREAS**, Mr. Rooh Ullah Junior Clerk GHSS Chamkani Peshawar has submitted an appeal for adjustment against the post of Senior Clerk w.e.f 1/02/2023 in the light of Court decision due to completion of 5 years punishment.
11. **NOW, THEREFORE**, in exercise of the powers conferred under Section-17 rule (2) (b) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules-2011, the Director E&SE/Appellate Authority (Director) has accepted appeal in respect of Mr. Rooh Ullah for his adjustment and adjust him as Senior Clerk BS-14 at GHSS Budhni Peshawar with immediate effect in the light of decision of the Khyber Pakhtunkhwa Service Tribunal Peshawar dated 01/02/2018. However his Seniority will be placed at the bottom of the Seniority list of Senior Clerks issued on 31/12/2022.

(DIRECTOR)  
Elementary & Secondary Education  
Khyber Pakhtunkhwa

Endst: No. 5157-62 /F.No. /A-23/MS/Mr. Rooh Ullah Dated 01/03/2023

Copy of the above is forwarded for information and n/action to the:-

- 1- Accountant General Khyber Pakhtunkhwa Peshawar
- 2- District Education Officer (M) Peshawar.
- 3- Principal GHSS Budhni Peshawar with the remarks that necessary entry should be made in his S/Book.
- 4- Appellant concerned.
- 5- PA to the Director E&SE Khyber Pakhtunkhwa Peshawar.
- 6- Master File.

TESTED

Assistant Director (Admn)  
Directorate E& Secondary Education  
Khyber Pakhtunkhwa, Peshawar

01/03/2023



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT & ADMINISTRATION  
DEPARTMENT  
(REGULATION WING)

(14)

NOTIFICATION

Dated Peshawar the 16<sup>th</sup> January, 2023

No.SO(Polices)E&AD/2-6/2022, in exercise of the powers conferred by Section 26 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No.XVIII of 1973), the Chief Minister of Khyber Pakhtunkhwa is pleased to direct that in the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011, the following further amendment shall be made, namely:

AMENDMENTS

1. In rule 4, in sub rule (1), in clause (b), in sub-clause (i),

(i) for the first proviso, the following shall be substituted, namely:

✓ "Provided that on restoration to original pay scale or post, the penalized Government servant shall be placed below the erstwhile juniors promoted to higher post during subsistence of the period of penalty"; and

(ii) in the second proviso, the semi-colon, appearing at the end, shall be replaced by a colon and thereafter the following new proviso shall be added, namely:

"Provided also that this penalty shall not be imposed upon the Government servant, who has been appointed against the post by initial recruitment."

2. In rule 6, after sub-rule (1), the following proviso, shall be added, namely:

"Provided that in cases where the Chief Minister or Chief Secretary is the competent authority, the Administrative Secretary may suspend the Government servant and submit charge sheet and statement of allegations, forthwith, to the competent authority for signature and initiation of disciplinary proceedings, in accordance with these rules."

For rule-9, the following shall be substituted, namely:

"9. Procedure in case of willful absence-- Notwithstanding anything to the contrary contained in these rules, in case of willful absence from duty by a Government servant for seven or more days, a notice shall be issued by the Administrative Secretary in case the competent authority is Chief Minister or Chief Secretary and in all other cases by the competent authority concerned, through registered acknowledgement on his home address directing him to resume duty within fifteen (15) days of issuance of the notice. If the same is received back as undelivered or no response is received from such Government servant, within stipulated time, a notice shall be published in at least two leading newspapers, directing him to resume duty within fifteen (15) days of the publication of the notice, failing which an ex-parte decision shall be taken by the competent authority against him. On expiry of the stipulated period given in the notice, major penalty of removal from service may be imposed upon such Government servant by the competent authority";

"Provided that upon publication of the notice in the newspaper, pay of such Government servant shall be stopped".

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4. In rule-11, in sub-rule (7),-

- (i) the full stop, appearing at the end, shall be replaced by a colon and thereafter the following proviso shall be added, namely:

"Provided that the Inquiry Officer, Inquiry Committee or hearing officer, as the case may be, shall record cogent reasons for recommending exoneration of the accused."; and

- (ii) after sub-rule (7), as so amended, the following new sub-rule (8) shall be added, namely:

"(8) On receipt of the Inquiry report from the Inquiry Officer or Inquiry Committee, as the case may be, the Administrative Department concerned shall submit the case to the Chief Minister or Chief Secretary, if so required, within fifteen (15) days for orders."

5. In rule 14, in sub-rule (4), in clause (b), for the word "seven", the word "ten" shall be substituted.

6. In rule 15, the full stop, appearing at the end, shall be replaced by a colon and thereafter the following proviso shall be added, namely:

"Provided that the hearing officer shall submit the report to the competent authority within twenty one (21) days of affording opportunity of personal hearing to the accused;"

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CHIEF SECRETARY,  
KHYBER PAKHTUNKHWA.

ENDST: NO & EVEN DATE  
Copy is forwarded to the:-

1. Additional Chief Secretary, Govt. of Khyber Pakhtunkhwa, Planning & Development Department.
2. Senior Member Board of Revenue, Khyber Pakhtunkhwa.
3. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
4. Principal Secretary to Governor, Khyber Pakhtunkhwa.
5. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
6. All Divisional Commissioners in Khyber Pakhtunkhwa.
7. All Heads of Attached Departments in Khyber Pakhtunkhwa.
8. All Autonomous/Semi Autonomous Bodies in Khyber Pakhtunkhwa.
9. All Deputy Commissioners in Khyber Pakhtunkhwa.
10. Registrar Peshawar High Court, Peshawar.
11. Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
12. Secretary, Khyber Pakhtunkhwa Public Service Commission, Peshawar.
13. All Additional Secretaries, Deputy Secretaries and Section Officers in Establishment & Administration Department.
14. Manager, Printing and Stationery Department, Peshawar with the request to publish the same in the official gazette.

(M) (SOURUL HAQ)  
Deputy Secretary (Policy)

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16

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

**NOTIFICATION**

*Peshawar dated the 16th September, 2011.*

NO.SO(REG-VI) E&A/D/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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*[Handwritten Signature]*

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:
  - (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

<sup>1</sup> Subs. by Notification No. SO(REG-V)E&AD/2-6/2010. Dated 18<sup>th</sup> July, 2012.

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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;
- (e) exonerate the accused by an order in writing, if it is determined that the charge or charges have not been proved against him; and
- (f) impose any one or more penalties mentioned in rule 4, by an order in writing, if the charge or charges are proved against the accused:

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

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

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

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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.

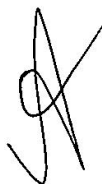
(4) Statements of witnesses and departmental representative(s), if possible, will be recorded in the presence of accused and vice versa.

(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

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

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

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

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

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

- (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.

**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.

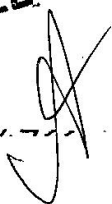
(2) If the competent authority is satisfied that the inquiry has been conducted in accordance with the provisions of these rules, it shall further determine whether the charge or charges have been proved against the accused or not.

(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

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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 during personal hearing, by an order in writing-

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

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

<sup>3</sup> Added by Notification No. SO(R&O-VI)P&AD/2-6/2010. Dated 17<sup>th</sup> July, 2012.

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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. 1 of 1974).

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

20. **Exception.**—Notwithstanding anything to the contrary contained in these rules, in cases where Government servants collectively strike work, wilfully absent themselves from duty or abandon their official work, the competent authority in respect of senior most accused may serve upon them through newspapers or any other means, 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.

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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>1</sup> Subs. by Notification No. SO(REG-VI)E&A/2-6/2010. Dated 18<sup>th</sup> July, 2012.

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

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DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION  
KHYBER PAKHTUNKHWA PESHAWAR.  
F.No.A-23/MS/Rooh Ullah Dated Peshawar the 30/1/2023

No 8393

To

Mr. Rooh Ullah  
S/Clerk GHSS  
Budhni, Peshawar.

Subject: APPEAL

Memo:

I am directed to refer to your appeal for seniority list of 07/12/2009 on the subject cited above and to inform you that according to the amended rules dated 16/01/2023, the penalized government servant shall be placed below the erstwhile juniors promoted to higher post during subsistence of the period of penalty.

28/5/23

Assistant Director (Admin)  
Directorate E& Secondary Education  
Khyber Pakhtunkhwa, Peshawar

Endst; No. \_\_\_\_\_/

Copy forwarded to the:-

1. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
2. Master File.

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Assistant Director (Admin)  
Directorate E& Secondary Education  
Khyber Pakhtunkhwa, Peshawar