

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA**  
**SERVICE TRIBUNAL, PESHAWAR**

SERVICE APPEAL NO.985/2024

Mst. Nizakat Begum

.....

(Appellant)

VERSUS


GOVERNMENT OF KHYBER PAKHTUNKHWA  
THROUGH CHIEF SECRETARY & OTHERS

.....

(Respondents)

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SECTION OFFICER (LITIGATION-II)  
HIGHER EDUCATION DEPARTMENT

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**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

Service Appeal # 985/2024

Mst. Nizakat Begum.....Appellant

**Versus**

Chief Secretary Govt. of Khyber Pakhtunkhwa

& others.....Respondents

**SUBJECT: PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1, 2 & 4.**

**Preliminary Objections:-**

1. That the appellant has got no locus standi/cause of action to file the instant appeal.
2. That the appellant has not come to this honourable court with clean hands hence, she is not entitled to any relief whatsoever.
3. That the appellant is estopped by her own conduct to file the instant appeal.
4. That the service appeal is not based on facts hence, unjustified.
5. That legally the appellant is bound to disclose the real facts before the court.
6. That the appeal has been filed with a mala-fide intention to entangle the department into unnecessary litigation. This move will not only waste away the precious time of this Honourable Tribunal but also of the answering respondents
7. That the appeal is bad both for miss-joinder and non-joinder of the necessary and unnecessary parties.

Khyber Pakhtunkhwa  
Service Tribunal

Duty No. 17418

Dated 30/10/24

**FACTS:-**

1. Pertains to record, hence no comments.
2. Pertains to record, hence no comments.
3. Correct. Rule-15, Sub-Rule-10 of Khyber Pakhtunkhwa Civil Servant Pension Rules-2021 (effective w.e.f 06.09.2021): states " in case a civil servant during his service against a pensionable post, becomes eligible for another pension, he shall opt for the pension which is more beneficial to him, i.e either to draw his own pension at the time of retirement or the other pension for which he becomes eligible; provided the other pension if opted shall however be admissible when he ceases to be a civil servant. The option once exercised shall be final". Therefore, the appellant in light of the ibid rules must opt for one pension of the two, whichever is more beneficial to her (**Copy of Rules are Attached as Annex-A**).
4. Correct to the extent that according to the prevailing/existing pension rules, wife, in case of male civil servant, is entitled for family pension till life or remarriage, subject to the condition that she is not in receipt of salary or pension from the Provincial Consolidated Fund.

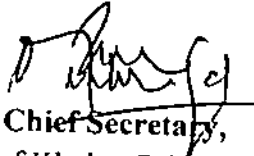
5. As explained in the preceding Para-3. The Khyber Pakhtunkhwa Civil Servant Pension Rules-2021 are effective from 06.09.2021. After commencement of the existing rules, a civil servant is not entitled to draw salary as well as pension from the Provincial Consolidated Fund simultaneously. Similarly, in case a civil servant becomes eligible for another pension, he/she will have to opt for one of them whichever is more beneficial to him/her.
6. After promulgation of 18<sup>th</sup> Amendment all the Provinces/Federating Units are autonomous in their respective spheres hence they can frame rules/policies in keeping with their resources and national priorities or public interest.
7. As explained in the preceding para.
8. Pertains to record, hence no comments.
9. Pertains to record, hence no comments.
10. Pertains to record, hence no comments.
11. Respondent No. 5 may be in a better position to explain this para.
12. No comments.
13. Respondent No. 05 will be in better position to reply.
14. As explained in Para-3.

**GROUND:-**

- A. Incorrect. The appellant has been treated in accordance with the rules/policy of the Provincial Government.
- B. As explained in Para-3 of the facts.
- C. Correct to extent that pension is the right of every civil servant strictly in accordance with the rules/policy of the court.
- D. Incorrect. As per existing rules, the appellant must opt for one of the pensions whichever is more beneficial.
- E. Incorrect. The Khyber Pakhtunkhwa Civil Servant Pension Rules-2021 have been framed in light of the Section-19 of Khyber Pakhtunkhwa Civil Servant Act-1973.
- F. As explained in Para-D.
- G. As explained in Para-D.
- H. No comments.

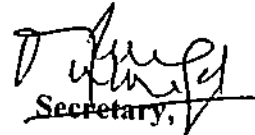
Prayer:-

In view of the above, it is prayed that the instant appeal being devoid of merit may kindly be dismissed, please.



Chief Secretary,  
Govt. of Khyber Pakhtunkhwa  
Respondent No. 01

Nadeem Aslam Chaudhary



Secretary,  
Higher Education, Archives  
& Library Department  
Govt. of Khyber Pakhtunkhwa  
Respondent No. 02

Capit(R) Kamran Ahmed Afridi



Secretary,  
Finance Department  
Govt. of Khyber Pakhtunkhwa  
Respondent No. 04

IKRAMI ULLAH



**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 985/2024

Mst. Nizakat Begum ..... (Appellant)

VERSUS

Chief Secretary,  
Govt. of Khyber Pakhtunkhwa, ..... (Respondents)  
& Others

**AFFIDAVIT**

I, Capt (R) Kamran Ahmed Afridi, Secretary Higher Education, Archives & Libraries Department, do hereby solemnly affirm and declare on oath that contents of Parawise Comments are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Court. It is further stated on oath that in this appeal the answering respondent neither has been placed ex-parte nor their defence has been struck off/cost.

*[Handwritten Signature]*  
DÉPONENT

CNIC # 7307-1268598-3

Cell # 0307-8939858

*[Circular Stamp: Gul Daraz Khan, Oath Commissioner, Advocate High Court Peshawar]*  
*[Handwritten Signature]*  
30/10/2024



# KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, MONDAY, 06<sup>th</sup> SEPTEMBER, 2021.

GOVERNMENT OF KHYBER PAKHTUNKHWA FINANCE DEPARTMENT

## NOTIFICATION

Dated Peshawar, the 06<sup>th</sup> September, 2021

No. SOSR-II/FD/2-4/2021.---In exercise of the powers conferred by section 26 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973), the Chief Minister of Khyber Pakhtunkhwa is pleased to make the following rules, namely:

### KHYBER PAKHTUNKHWA CIVIL SERVANTS PENSION RULES, 2021

#### Chapter-1

#### Preliminary

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

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

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

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

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Chapter-V  
Family Pension

15. **Family pension**--- (1) In case of death of a civil servant while in service and eligible for pension or in case of death of a pensioner, family pension shall be paid to his family.

(2) Where a civil servant or pensioner has one wife and children, the amount of pension shall be divided equally among wife and children.

Note: In case of a female civil servant or pensioner, the amount of family pension shall be divided equally among her surviving husband and eligible children;

(3) Where a civil servant or pensioner had more than one wife, the amount of pension shall be divided viz; each surviving widow shall get one fourth ( $1/4^{\text{th}}$ ) of the pension and the balance shall be divided equally among the surviving eligible children.

(4) In the case of a female civil servant leaving behind children from former marriage in addition to her husband and children by her surviving husband, the amount of pension shall be divided equally among the husband and all eligible children.

(5) In case the total number of beneficiaries exceeds four, the husband shall be allowed one fourth ( $1/4^{\text{th}}$ ) of the pension and the remaining amount distributed equally among the eligible children.

(6) In case a surviving child on attaining the age of eighteen years demands his share separately, he shall be entitled to receive his share of family pension.

Note: A child means a legitimate child or an "adopted child" if under the personal law of the civil servant concerned, adoption is legally recognized as conferring the status of a natural child. The age of the child at the time of adoption shall be less than fourteen (14) years. The civil servant concerned shall provide the adoption deed executed between the parents or guardian of the child and the civil servant duly registered with the Sub-Registrar. Adoption shall have been at least ten years before the completion of twenty five years' service qualifying for retiring pension and subject to reporting to the head of office or department concerned and recording an entry in the service book or personnel file in this behalf.

(7) Disabled child shall be entitled for family pension under these rules.

Explanation-I: Disability means that the earning capacity of the disabled child impaired due to disability and includes:

- (a). total loss of eye-sight;
- (b). total loss of functions of both the hands;

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- (e). total loss of hearing of both ears;
- (f). total loss of speech; and
- (g). any other disease impairing the earning capacity.

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**Explanation-II:** The Standing Medical Board shall be the competent forum to issue a disability certificate.

**Explanation-III:** In case the pension sanctioning authority, did not agree with the contents of the medical certificate issued by the Standing Medical Board, he may for the reasons to be recorded in writing, within one month of the receipt of said medical certificate, may request the concerned authorities of Health Department of Government for constitution of a Special Medical Board regarding invalidation of the concerned child.

**Explanation-IV:** The disabled child of a deceased civil servant or a pensioner shall have the special CNIC issued by NADRA for disabled persons.

(8) Family pension shall not be admissible to a family member or a relative of the deceased civil servant or pensioner, if he holds a pensionable post, paid from the Provincial Consolidated Fund or is in receipt of any kind of other pension from Provincial Consolidated Fund.

(9) The husband in the case of a female civil servant or pensioner shall only be entitled to receive the family pension, when he has no source of income and was wholly dependent upon his wife.

**Explanation:** In case of a female civil servant, if the wife intimates in writing to the Accounts Officer or head of the office or department that her husband shall not be included as a member of the family, then he shall no longer be considered a member of the family unless subsequently she cancels in writing her intimation excluding him.

(10) In case a civil servant during his service against a pensionable post, becomes eligible for another pension, he shall opt for the pension which is more beneficial to him, i.e. either to draw his own pension at the time of retirement or the other pension for which he becomes eligible; provided the other pension if opted shall however be admissible when he ceases to be a civil servant. The option once exercised shall be final.

(11) In case a pensioner is drawing his own pension or a family pension, becomes eligible for another pension, he shall opt for one pension which is more beneficial to him as prescribed at Pension Form-II or Pension Form-III, as the case maybe. The option once exercised shall be final.

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GOVERNMENT OF KHYBER PAKHTUNKHWA  
HIGHER EDUCATION, ARCHIVES & LIBRARY DEPARTMENT

**AUTHORITY LETTER**

Mr. Naeem Ahmed Kundi, Superintendent (BPS-17), Higher Education Department is hereby authorized to submit Para-wise Comments in the Khyber Pakhtunkhwa Service Tribunal, Peshawar in Service Appeal No. 985/2024 Titled Mst. Nizakat Begum Versus Chief Secretary Government of Khyber Pakhtunkhwa & Others on behalf of official respondents.

Secretary,  
Higher Education, Archives,  
Libraries Department  
Govt. Of Khyber Pakhtunkhwa  
Higher Education,  
Archives & Libraries  
Department