


FORM OF ORDER SHEET

Court of _____

Appeal No. 2466 /2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	15/11/2024	<p>The appeal of Mr. Gohar Ali Khan presented today by Mr. M.Asif Yousafzai Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 21.11.2024. Parcha Peshi given to counsel for the appellant.</p> <p>By order of the Chairman  REGISTRAR</p>

BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR

APPEAL NO. 2466 /2024

Gohar Ali Khan

V/S

Education Deptt. etc

INDEX

S.NO.	Documents	Annexure	Page No.
1.	Memo of Appeal	-----	01-05
2.	Certificate	-----	06
3.	Affidavit	----	07
4.	Stay application+affidavit	---	08-09
5.	Copy of seniority list	---A---	10
6.	Copy of the Rules	---B---	11-16
7.	Copy of order dt: 17.08.2023	---C---	17.
8.	Copy of order	---D---	18
9.	Copy of notification dt: 19.9.2024	---E---	19
10.	Departmental appeal	---F---	20-21
11	Reminder	---G---	22-23
12.	Copy of Esta Code	---H---	24-29
13.	Copy of Instruction	---I---	30-31
14	Vakalat Nama	-----	32

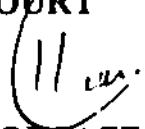
APPELLANT


Gohar Ali Khan

THROUGH:


(M. ASIF YOUSAFZAD)
ASC


(SYED NOMAN ALI BUKHARI),
ADVOCATE HIGH COURT

&

(HILAL ZUBAIR YOUSAFZAD)
ADVOCATE PESHAWAR.

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO. 2466 /2024

Gohar Ali Khan (MC BPS-20),
Presently OSD, E&SE Khyber Pakhtunkhwa
Peshawar.

(APPELLANT)

VERSUS

1. The Govt. of Khyber Pakhtunkhwa through the Chief Secretary, Civil Secretariat, Peshawar.
2. The Secretary to Govt: of Khyber Pakhtunkhwa, Elementary & Secondary Education Department, Civil Secretariat, Peshawar.
3. Mr. Jaffar Mansoor Abbasi (MC BS-19), Director Curriculum and Teacher Education, Abbottabad.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KP SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED PREMATURE TRANSFER ORDER DATED 12.08.2024 & AGAINST NOT DECIDING THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN STATUTORY PERIOD OF 90-DAYS.

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL THE ORDER DATED 12.08.2024 MAY PLEASE KINDLY BE SET ASIDE AND THE APPELLANT MAY BE ALLOWED TO CONTINUE HIS DUTIES AS DIRECTOR BS-20, DIRECTORATE OF CURRICULUM AND TEACHER EDUCATION KHYBER PAKHTUNKHWA AT ABBOTTABAD BEING THE ONLY BPS-20 MANAGEMENT CADRE OFFICIAL OF THE EDUCATION DEPTT: AND FURTHER THE RESPONDENT MAY BE DIRECTED NOT TO

TRANSFER THE APPELLANT PREMATURELY IN SHAPE OF OSD AND IN VIOLATION OF POSTING/TRANSFER POLICY. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF THE APPELLANT.

RESPECTFULLY SHEWETH:

FACTS:

1. That the appellant is the law abiding Citizen of Pakistan and has every legal and Constitutional right duly protected under the law of the Land. The appellant is a regular BPS-20 officer, and belongs to Management Cadre of Education Department. **Copy of Seniority list showing the name of appellant is attached as Annex-A.**
2. That there are two BPS-20 posts in the Education Department which under the law is required to be filled in as "By promotion on the basis of seniority cum fitness from amongst the holder of the posts of DEO (BS-19), and Additional Director (Male & Female) with at least five years service in BPS-19 as such and such officers who have successfully completed mandatory training from the Directorate of Professional Development in the modules; Financial Management, HR Management, Project Management & Office Management. **Copy of the Rules is attached as Annex-B.**
3. That the appellant was transferred vide order dated 17.08.2023 as Director, Directorate of Curriculum & Teachers Education, Khyber Pakhtunkhwa Abbottabad with immediate effect. **Copy of order dated 17.08.2023 is attached as Annex-C.**
4. That the appellant is recently made an OSD by the Govt: vide order dated 12.08.2024 for adjusting a junior most BS-19 officer (Respondent No. 03) as a Director, Curriculum & Teacher Education (C&TR), Abbottabad in his own pay and scale on political basis vide order dated 19.09.2024. **Copies of orders dated 12.08.2024 & 19.09.2024 are attached as Annex-D & E.**
5. That the feeling aggrieved from the above mentioned order dated 12.08.2024 against which the appellant filed departmental appeal on

15.08.2024 and reminder application on 20.08.2024 but the same was not responded within statutory period of 90-days. Copies of departmental appeal and reminder are attached as Annex-F & G

6. That now the appellant comes to this august Tribunal for the redressal of his grievances on the following grounds amongst others.

GROUND:

- A) That the impugned order dated 12.08.2024 and 19.09.2024 are against the law, Appointment Promotion Rules of the Department, various Judgments of Supreme Court of Pakistan as well as Spirit of Civil Servant Act and Constitution and also amounts to accelerated promotion of blue eyed junior persons on the basis of nepotism, favouritism, political whims. Therefore, the same liable to be set aside.
- B) That the august Supreme Court of Pakistan in case of Qazi Abdul Karim has deprecated the practice of posting/transfer on OPS basis of Junior officers over the senior scale officers. On the basis of that judgment the provincial government has already issued Instruction contained in the ESTA Code.
- C) That it is also contained in the Esta Code that the appointment of Junior Scale officers against higher posts should be made as per prescribed manner and the practice of posting of junior grade officer against higher post should be stopped forthwith. Copy of relevant pages of Instruction contain in the ESTA Code area attached as Annex-H.
- D) That in another Instruction, the Government categorically instructed that junior officer to a higher post cannot be made except in the given three circumstance and the private respondents No. 3 do not even fulfill the same requirements as holding the post of higher grade in an illegal manner duly favored on the basis of favoritism, nepotism. Copy of the Instruction is attached as Annex-I.
- E) That the august Supreme Court of Pakistan in case reported as 2018-SCMR-1411, 2015 PLC (CS)-151 has held that posting transfer of all civil servant on own pay and scale basis is not legally permissible and also causes heart burning amongst the Senior Staff.

F) That since the Superior Courts has already laid down the law through judgments that posting of Junior grade officers against the higher grade posts and making actual grade holders of the posts as OSDs are not permissible under the law. Therefore as per Spirit of Article-189 of the Constitution the same have binding effects and the Govt: is under legal obligations to respect the same and not to violate such rulings of the Superior Court.

G) That the impugned orders of the respondent department by posting of junior grade officers on OPS basis against higher grade are against the Article-2A, 4,9, 25 & 38 of the Constitution.

H) That the transfer of the appellant is also violation of circular based on the Anita Turab's case dated 27.2.2013 in which it was clearly mentioned that when the ordinary tenure for a posting has been specified in the law or rules made thereunder, such tenure must be respected and cannot be varied, except for compelling reasons, which should be recorded in writing and are judicially reviewable, but in the case of the appellant the tenure was not respected and was posted/ transferred without completing his normal tenure at Abbottabad and without giving compelling reason for such transfer of the appellant by the authority.

I) That the impugned order has been passed by an incompetent authority and that too without the approval of the worthy Chief Minister who is the competent authority in case of appellant.

J) That Para 3 of the posting / transfer policy further provides that the normal tenure of posting shall be two years , which has not been observed in the case of the appellant.

K) That the respondent Department acted in arbitrary and malafide manner by transferring the appellant and as such the same is against the transfer/posting policy of the Provincial Government.

L) That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is, therefore, most humbly prayed that the appeal of the appellant may be accepted as prayed for.

H. L. 11/11
APPELLANT

THROUGH:

Gohar Ali Khan

Asif Yousafzai
(M. ASIF YOUSAFZAI)

ASC

Noman Ali Bukhari
(SYED NOMAN ALI BUKHARI),
ADVOCATE HIGH COURT

&

Hilal Zubair Yousafzai
(HILAL ZUBAIR YOUSAFZAI)

ADVOCATE PESHAWAR.

BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR

APPEAL NO. _____/2024

Gohar Ali Khan

V/S

Education Deptt. etc

CERTIFICATE:

It is certified that no other service appeal earlier has been filed between the present parties in this Tribunal, except the present one.

DEPONENT

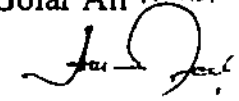
LIT OF BOOKS:

1. Constitution of the Islamic Republic of Pakistan, 1973.
2. The ESTA CODE
3. Any other case law as per need.


APPELLANT

Gohar Ali Khan

THROUGH:


(M. ASIF YOUSAFZAI)
ASC


(SYED NOMAN ALI BUKHARI),
ADVOCATE HIGH COURT

&

(HILAL ZUBAIR YOUSAFZAI)
ADVOCATE PESHAWAR.

BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR

APPEAL NO. _____/2024

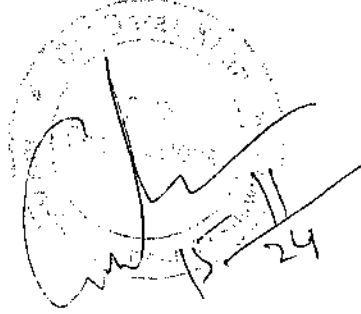
Gohar Ali

V/S

Education Deptt. etc

AFFIDAVIT

I, Gohar Ali Khan (MC BPS-20), presently OSD, E&SE Khyber Pakhtunkhwa Peshawar (Appellant) do hereby affirm that the contents of this service appeal are true and correct, and nothing has been concealed from this honorable Tribunal.



Gohar Ali Khan
DEPONENT

Gohar Ali Khan

81

BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR

APPEAL NO. _____/2024

Gohar Ali Khan

V/S

Education Deptt. etc.

.....

**APPLICATION FOR SUSPENDING THE
OPERATION OF IMPUGNED ORDER DATED
12.08.2024 TILL THE DECISION OF MAIN
APPEAL.**

RESPECTFULLY SHEWETH:

1. That the applicant has filed service appeal along-with this application in which no date has been fixed so far.
2. That the appellant has a good prime facie case and balance of convenience and also lays in favour of applicant.
3. That the grounds of main appeal may also be considered an integral part of this application.
4. That if the impugned order has not been suspended then the main appeal of the appellant will become infructuous.
5. That the impugned order has been passed in violation of Superior Court's Judgments, posting transfer policy and notification of the government dated.

It is, therefore, most humbly prayed that the operation of the impugned order dated 12.08.2024 may be suspended till the disposal of main appeal. Any other remedy, which this august Tribunal deems fit and appropriate that may also be awarded in favour of the appellant.


APPELLANT

Gohar Ali Khan

THROUGH:


(M. ASIF YOUSAFZAI)
ASC


(SYED NOMAN ALI BUKHARI),
ADVOCATE HIGH COURT

&
(HILAL ZUBAIR YOUSAFZAI)
ADVOCATE PESHAWAR.

91

AFFIDAVIT

I, Gohar Ali Khan (MC BPS-20), presently OSD, E&SE Khyber Pakhtunkhwa Peshawar (Appellant) do hereby affirm that the contents of this application are true and correct, and nothing has been concealed from this honorable Tribunal.


DEPONENT

Gohar Ali Khan



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Dated Peshawar the June 17, 2019

10

A/B

NOTIFICATION

NO.SO(SME&SED/7-4/2019/Final Seniority list Directors (BS-20) MC: In exercise of the powers conferred under Sub-Section (1) of Section-8 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No.XVIII of 1973), the Final Seniority List of the following Directors (BS-20) Management Cadre Elementary & Secondary Education Khyber Pakhtunkhwa as it stood on 15-05-2019 is hereby notified for information of all concerned.

Sr	Name & Designation of the Officer	Date of birth	Domicile	Date of 1 st appointment in Edu Dept	Date of Appt. promotion as a Director	Method of recruitment
1	Muhammad Ibrahim Director E&SE KP, Peshawar	16-03-1963	Dir Lower	10-02-1988	23-05-2018	By Promotion
2	Mr. Gohar Ali Khan, Director Curriculum & Teacher Education KP Abbottabad	01-01-1967	Peshawar	22-04-1990	23-05-2018	By Promotion

Chief Secretary
Khyber Pakhtunkhwa

Endst: of even No. & Date:

Copy forwarded to the:

1. Director, Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar
2. Director, Curriculum & Teachers Education Khyber Pakhtunkhwa, Peshawar
3. Director, Education (Merged area) Khyber Pakhtunkhwa, Peshawar.
4. All District Education Officers (Male) in Khyber Pakhtunkhwa.
5. Manager, Printing Press Peshawar.
6. PS to Secretary E&SE Department, Khyber Pakhtunkhwa.
7. Incharge FMIS E&SE Department.
8. Officers concerned.
9. Office order file.

(MUHAMMAD SHOHAB)
SECTION OFFICER (SCHOOLS & M.A.E)

ATTESTED



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

B/11/11

NOTIFICATION

Peshawar, dated the March 27, 2019

NO.SO(SM)E&SED/3-2/2016/SSRC of M.C: In pursuance of the provision contained in sub-rule (2) of rule-3 of the Khyber Pakhtunkhwa Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 and in supersession of this Department's Notification No. SO(SM)E&SED/3-2/2016/SSRC of MC dated 03-07-2018, the Elementary & Secondary Education Department, in consultation with the Establishment Department and the Finance Department, hereby lays down the method of recruitment, qualification and other conditions specified in Column No. 3. to 5 of the Appendix to the Notification which shall be applicable to the posts of Schools Management Cadre under the Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar and Directorate of Curriculum & Teachers Education Khyber Pakhtunkhwa Abbottabad as specified in Column No. 2 of the said Appendix.

APPENDIX

S#	Nomenclature of the Post	Minimum Qualification for Appointment by Initial Recruitment or by Transfer	Age Limit	Method of Recruitment
1	2	3	4	5
1	Director (BPS-20) ATTESTED	By promotion, on the basis of seniority-cum-fitness, from amongst the District Education Officers and Additional Directors (Male and Female) with at least five year service in BPS-19 as such and having successful completion of Senior Management Course. Provided that if no suitable officer is available for promotion then by transfer of BPS-20 officer. Note: For the purpose of promotion, a joint seniority list of District Education Officers and Additional Directors (Male and Female) shall be maintained.

<p>District Education Officer All District Male and (Female)</p>			<p>"By promotion, on the basis of seniority-cum-fitness, from amongst the Deputy District Education Officers and Deputy Directors (Male and Female) with at least seven year service in BPS-18 or twelve year service in BPS-17 and above and such officer shall undergo six weeks post promotion training on the following modules, namely:</p> <ol style="list-style-type: none"> i. Financial Management; ii. HR Management; and iii. Information Technology; <p>Provided that if no suitable officer is available for promotion then by transfer of BPS-19 officer".</p>
<p>3 Deputy District Education Officer/Deputy Director (BPS-18) (Male and Female)</p>	<ol style="list-style-type: none"> i. M.Phil in Education from recognized University with three years teaching or administrative experience in Government recognized educational institutions or offices; or ii. at least Second Class Master's Degree or BS (four years) and Bachelor's Degree of Education from recognized University with five years teaching or administrative experience in BPS-17 and above in Government recognized educational institutions or offices; or iii. at least Second Class M.A/M.Sc with Second Class M.Ed/M.A (Education Planning and Management) or equivalent qualification from a recognized University with at least five years teaching or administrative experience in Government recognized educational institutions or offices. 	<p>25 to 45 years</p>	<p>(a) Eighty Percent by promotion, on the basis of seniority-cum-fitness, from amongst the Sub-Divisional Education Officers and Assistant Directors (Male/Female) with at least five year service as such and such officers shall undergo six weeks post promotion training on following modules, namely:</p> <ol style="list-style-type: none"> i. Financial Management; ii. HR Management; and iii. Information Technology; <p>Provided that if no suitable officer is available for promotion then by transfer of BPS-18 officer"; and</p> <p>(b) Twenty percent by initial recruitment.</p>
<p>4 Sub-Divisional Education Officer/Assistant Director (BPS-17) (Male and Female).</p>	<ol style="list-style-type: none"> i. At least Second Class M.A/M.Sc or BS (four years) from recognized University; ii. at least Second Class Bachelor's of Education from a recognized University; and iii. three years teaching or administrative experience in Government recognized institutions or offices. 	<p>21 to 40 years</p>	<p>(a) Eighty percent by promotion, on the basis of seniority-cum-fitness, from amongst the Assistant Sub-Divisional Education Officers and Assistant District Education Officers (Male & Female) with at least five years' service:</p> <p>Provided that if no suitable officer is available for promotion then by transfer of BPS-17 officer; and</p> <p>(b) Twenty percent by initial recruitment.</p>

ATTESTED

<p>Assess and Advise: Librarian (M/Sec): Assistant Director Education Officer (BPS-16) (Male and Female)</p>	<p>i. At least Second Class Bachelor's Degree or BSc (four years) from a recognized University; or at least Second Class Bachelor's Degree of Education from a recognized University, and iii. five years teaching or administrative experience in Government recognized institutions or offices</p>	<p>25 to 35 years</p>	<p>-By Initial recruitment: Provided that if no suitable officer is available then by transfer of Secondary School Teacher (BPS-16) of Teaching Cadre. Note: On induction, all such officers shall undergo six weeks post induction training on the following modules, namely: i. Financial Management; ii. HR Management and iii. Information Technology"</p>
---	--	-----------------------	---

SECRETARY TO
 GOVERNMENT OF THE KHYBER PAKHTUNKHWA
 ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT

Order of Copy No. & Date:

- Copy forwarded to the:
1. All Administrative Secretaries to Chief of Khyber Pakhtunkhwa
 2. Secretary to Governor, Khyber Pakhtunkhwa
 3. Secretary to Chief Minister, Khyber Pakhtunkhwa
 4. Chairman Khyber Pakhtunkhwa Public Service Commission, Peshawar.
 5. Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
 6. Directorate of Curriculum and Teachers Education Khyber Pakhtunkhwa Abbottabad.
 7. All District Education Officers (Male/Female) in Elementary & Secondary Education Khyber Pakhtunkhwa
 8. Director Information Khyber Pakhtunkhwa Peshawar with the request to give wide publicity.
 9. Manager Government Printing Press Peshawar for publication in the next issue of Govt. Gazette.
 10. PS to Advisor to Chief Minister for EASE Department Khyber Pakhtunkhwa Peshawar.
 11. PS to Secretary EASE Department, Khyber Pakhtunkhwa, Peshawar.
 12. PS to Special Secretary EASE Department, Khyber Pakhtunkhwa, Peshawar.
 13. PA to Additional Secretary (Enab) EASE Department, Khyber Pakhtunkhwa, Peshawar.
 14. PA to Deputy Secretary (Admin) EASE Department, Khyber Pakhtunkhwa, Peshawar.
 15. All Section Officers EASE Department Khyber Pakhtunkhwa, Peshawar.
 16. Director EADS EASE Department with the request to upload the same on the web site of the Department

ATTESTED


 37-05-19
 for SECTION OFFICER (SCHOOLS HALL)



124

GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
CIVIL SECRETARIAT PESHAWAR

Tel No: (091-9223587) Email: primarymalesection2024@gmail.com

NOTIFICATION

Peshawar dated 15th January, 2024

NO.SO(P/M)ERSED/4-S/SSRC/HC/Amendment/2024: In pursuance of the provisions contained in sub-rule (2) of rule-3 of the Khyber Pakhtunkhwa Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1980, the Elementary & Secondary Education Department, in consultation with the Establishment Department and the Finance Department, hereby directs that in this Department's notification No. SO(SM)ERSED/3-2/2018/SSRC of HC dated 27-03-2019, the following amendments shall be made, namely:

AMENDMENTS

In the Appendix,-

- (a) against Serial No. 1, in Column No. 5, for the existing entry, the following shall be substituted, namely:

"By promotion, on the basis of seniority-cum-fitness, from amongst the holders of the posts of District Education Officer (BPS-10) and Additional Director (Male and Female) with at least five years service in BPS-10 as such and such officers who have successfully completed six weeks mandatory training from Directorate of Professional Development (DPD) in the following modules, namely:

- (i) Financial Management;
- (ii) HR Management;
- (iii) Project Management; and
- (iv) Office Management.

Note: For the purpose of promotion, a joint seniority list of District Education Officers (BPS-10) and Additional Directors (Male and Female) shall be maintained."

- (b) against Serial No. 2, in Column No. 5, for the existing entry, the following shall be substituted, namely:

"By promotion, on the basis of seniority-cum-fitness, from amongst the holders of the posts of Deputy District Education Officer and Deputy Director (Male and Female) with at least seven year service in BPS-18 or twelve year service in BPS-17 and above as such, and such officers who have successfully completed six weeks mandatory training from Directorate of Professional Development (DPD) in the following modules, namely:


ATTESTED



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
CIVIL SECRETARIAT PESHAWAR

Tel No: (091-9223587) Email: primarymalesection2024@gmail.com

- (i) Financial Management;
- (ii) HR Management; and
- (iii) Project Management*.

(c) against Serial No 3.

(i) in Column No. 4, for the existing entry the following shall be substituted, namely

"21 to 50 years"; and

(ii) in Column No. 5, for the existing entries, the following shall be substituted, namely:

"(a) Eighty Percent (80%) by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the post of Sub-Divisional Education Officer and Assistant Director (Male and Female) with at least five-year service as such and such officers who have successfully completed six weeks mandatory training from Directorate of Professional Development (DPD) in the following modules, namely:

- (i) Financial Management;
- (ii) HR Management; and
- (iii) Project Management; and

(b) twenty (20%) percent by initial recruitment*.

(d) against Serial No. 4-

(i) in Column No. 4, for the figure "21", the figure "24" shall be substituted, and

(ii) in Column No. 5, for the existing entries, the following shall be substituted, namely:

"(a) Eighty (80%) percent by promotion, on the basis of seniority-cum-fitness, from amongst the holders of the posts of Assistant Sub-Divisional Education Officer and Assistant District Education Officer (Male and Female) with at least five years service as such; and

(b) twenty percent by initial recruitment.


ATTESTED

Note: On induction against the twenty percent quota, all such officers shall undergo six weeks post induction training in the following modules, namely:


Director, Primary Education



(16)

GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
CIVIL SECRETARIAT PESHAWAR

Tel No: (091-9223587) Email: primarymalesection2024@gmail.com

- (i) Financial Management.
- (ii) HR Management; and
- (iii) Information Technology, and

(c) against Serial No. 5, in Column No 5, for the existing entry, the following shall be substituted, namely:

"By initial recruitment.

Note: On Induction, all such officers shall undergo six weeks post induction training on the following modules, namely:

- (i) Financial Management;
- (ii) HR Management; and
- (iii) Information Technology.

SECRETARY TO GOVT. OF THE KHYBER PAKHTUNKHWA
E&SE DEPARTMENT

Encl. No. & Date even:

Copy forwarded to: -

1. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa
2. Secretary to Governor, Khyber Pakhtunkhwa
3. Secretary to Chief Minister, Khyber Pakhtunkhwa
4. Chairman Khyber Pakhtunkhwa Public Service Commission Peshawar.
5. Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
6. Directorate of Curriculum and Teachers Education Khyber Pakhtunkhwa Abbottabad
7. All District Education Officers (Male/Female) in Elementary & Secondary Education Khyber Pakhtunkhwa
8. Director Information Khyber Pakhtunkhwa Peshawar with the request to give wide publicity.
9. Manager Government Printing Press Peshawar for publication in the next issue of Govt. Gazette
10. Director EMIS E&SE Department with the request to upload the same on the website of the Department
11. PS to Minister for E&SE Khyber Pakhtunkhwa.
12. PS to Secretary Elementary & Secondary Education Department
13. PS to Special Secretary E&SE Department.
14. All Section Officers E&SE Department
15. PA to Additional Secretary (Establishment) E&SE Department
16. PA to Deputy Secretary (Admin) E&SE Department.
17. Master file.


ATTESTED


SECTION OFFICER (PRIMARY MALE)



(16)

GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
CIVIL SECRETARIAT PESHAWAR

Tel No: (091-9223587) Email: primarymalesection2024@gmail.com

- (i) Financial Management.
- (ii) HR Management; and
- (iii) Information Technology, and

(e) against Serial No. 5, in Column No.5, for the existing entry, the following shall be substituted, namely:

*By initial recruitment.

Note: On induction, all such officers shall undergo six weeks post induction training on the following modules, namely:

- (i) Financial Management;
- (ii) HR Management; and
- (iii) Information Technology

SECRETARY TO GOVT. OF THE KHYBER PAKHTUNKHWA
E&SE DEPARTMENT

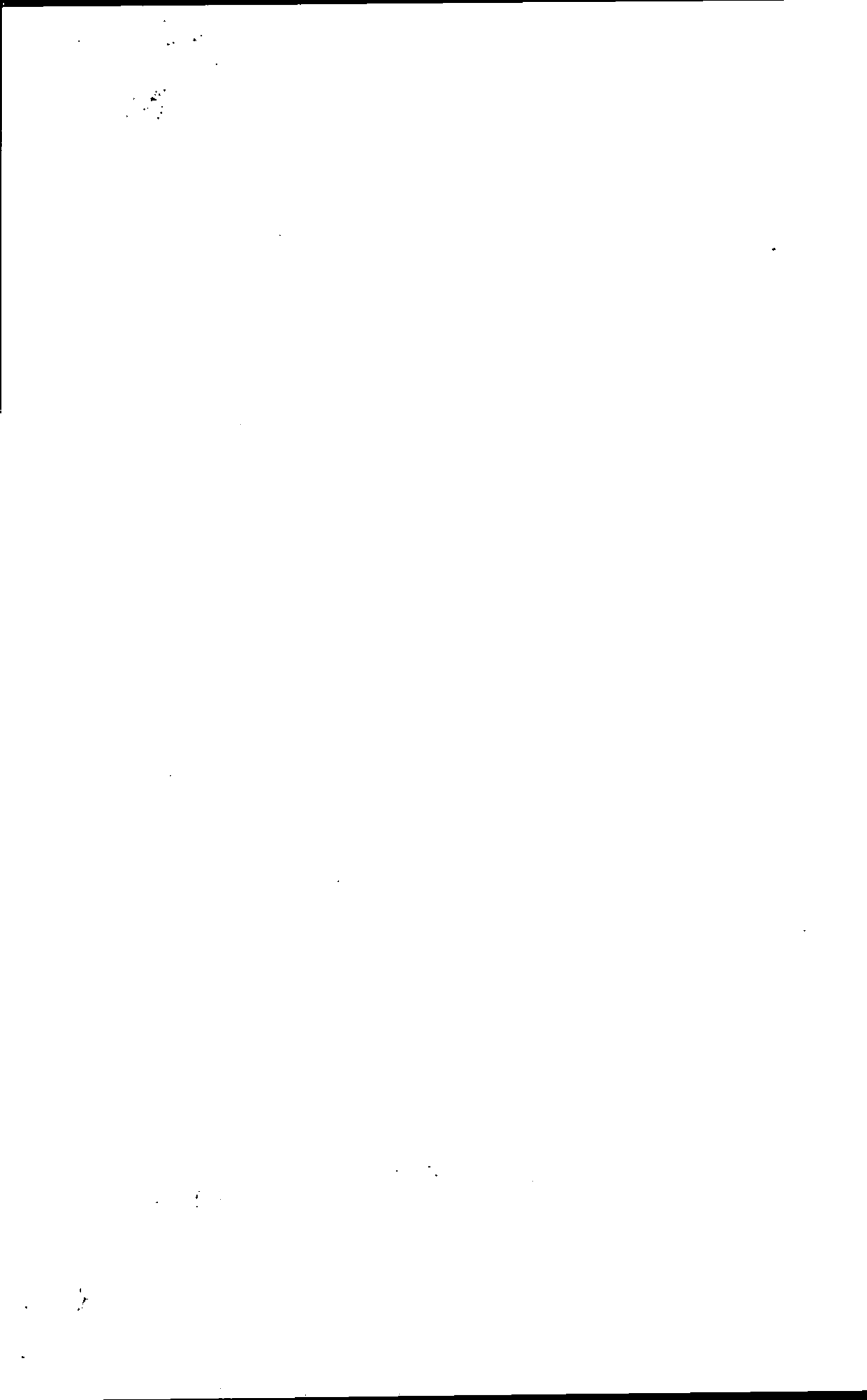
Encl. No. & Date even:

Copy forwarded to: -

1. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa
2. Secretary to Governor, Khyber Pakhtunkhwa
3. Secretary to Chief Minister, Khyber Pakhtunkhwa
4. Chairman Khyber Pakhtunkhwa Public Service Commission Peshawar.
5. Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
6. Directorate of Curriculum and Teachers Education Khyber Pakhtunkhwa Abbottabad.
7. All District Education Officers (Male/Female) in Elementary & Secondary Education Khyber Pakhtunkhwa
8. Director Information Khyber Pakhtunkhwa Peshawar with the request to give wide publicity.
9. Manager Government Printing Press Peshawar for publication in the next issue of Govt. Gazette
10. Director EMIS E&SE Department with the request to upload the same on the website of the Department
11. PS to Minister for E&SE Khyber Pakhtunkhwa.
12. PS to Secretary Elementary & Secondary Education Department
13. PS to Special Secretary ESSE Department.
14. All Section Officers E&SE Department
15. PA to Additional Secretary (Establishment) E&SE Department
16. PA to Deputy Secretary (Admin) E&SE Department.
17. Master file.

ATTESTED

SECTION OFFICER (PRIMARY MALE)





GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

Dated Peshawar August 17, 2023

NOTIFICATION

NO.SO(E-I)E&AD/9-88/E&SE/2023. The following posting/transfer of officers is hereby ordered in the public interest, with immediate effect:-

S. #	NAMES OF OFFICERS	FROM	TO
1.	Mr. Gohar Ali Khan (MC BS-20)	Awaiting posting	Director, Directorate of Curriculum & Teachers Education, Khyber Pakhtunkhwa at Abbottabad. vice Sr. No. 02.
2.	Mr. Zulfiqar Khan (TC BS-19)	Director, Directorate of Curriculum & Teachers Education, Khyber Pakhtunkhwa at Abbottabad.	Principal, GHS Hattar, Haripur against the vacant post.

**CHIEF SECRETARY
GOVERNMENT OF KHYBER PAKHTUNKHWA**

ENDST. NO. & DATE EVEN.

Copy forwarded to the:-

1. Principal Secretary to Governor, Khyber Pakhtunkhwa.
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. Secretary to Govt. of Khyber Pakhtunkhwa, E&SE Department.
4. Accountant General, Khyber Pakhtunkhwa.
5. Commissioner Hazara Division, Abbottabad.
6. Director General, Information & P.Rs Khyber Pakhtunkhwa.
7. Director, Elementary & Secondary Education, Khyber Pakhtunkhwa.
8. Additional Secretary (Staff) to Chief Secretary, Khyber Pakhtunkhwa.
9. Director, Directorate of Curriculum & Teachers Education, Khyber Pakhtunkhwa at Abbottabad.
10. All District Accounts Officers concerned.
11. PS to Secretary, Election Commission of Pakistan, Islamabad.
12. PS to Chief Secretary, Khyber Pakhtunkhwa.
13. PS to Secretary Establishment, Khyber Pakhtunkhwa
14. PS to Managing Director, Khyber Pakhtunkhwa IT Board, Peshawar.
15. Officers concerned.
16. Manager, Govt. Printing Press Peshawar.

ATTESTED

(ZIA-UL-HAQ)
SECTION OFFICER (ESTT. I)

PH # 091-9210529



D
18

Dated, the Peshawar 12th August, 2024

NOTIFICATION

NO.SO(MC)E&SED/4-16/2024/PT/Director DCTE: Mr. Gohar Ali Khan (MC BS-20),
Director DCTE Abbottabad, is hereby transferred and directed to report to Elementary &
Secondary Education Department immediately, till further orders.

SECRETARY TO THE GOVT. OF KHYBER PAKHTUNKHWA
E&SE DEPARTMENT

Endst: of even No.& date:

Copy forwarded for information to the: -

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director, E&SE Khyber Pakhtunkhwa, Peshawar.
3. Director, Directorate of DCTE, Abbottabad.
4. Director EMIS, E&SE Department with the request to upload the same on the official website of the department.
5. PS to Minister E&SE Department, Khyber Pakhtunkhwa.
6. PS to Secretary, E&SE Department, Khyber Pakhtunkhwa.
7. Master file.



(JANBAZ AHMED)

SECTION OFFICER (Management: Cadre)



ATTESTED



GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

Dated Peshawar September 19, 2024

NOTIFICATION

NO.SO(E-I)E&AD/9-88/E&SE/2024 Mr. Jaffar Mansoor Abbasi (MC BS-19), awaiting posting in Elementary & Secondary Education Department is hereby posted as Director, Curriculum & Teacher Education (C&TE), Abbottabad, in his own pay & scale, against the vacant post, in the public interest, with immediate effect.

**CHIEF SECRETARY
GOVERNMENT OF KHYBER PAKHTUNKHWA**

ENDST. NO. & DATE EVEN.

Copy forwarded to the:-

1. Additional Chief Secretary, P&D Department.
2. Senior Member Board of Revenue, Khyber Pakhtunkhwa.
3. Additional Chief Secretary, Home & T.As Department.
4. Principal Secretary to Governor, Khyber Pakhtunkhwa.
5. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
6. Secretary to Govt. of Khyber Pakhtunkhwa, E&SE Department
7. Accountant General, Khyber Pakhtunkhwa.
8. Director General, Information & P.Rs Khyber Pakhtunkhwa.
9. Director, Elementary & Secondary Education, Khyber Pakhtunkhwa.
10. Director, Curriculum & Teacher Education, Abbottabad.
11. District Accounts Officer, Abbottabad.
12. PS to Chief Secretary, Khyber Pakhtunkhwa.
13. PS to Secretary Establishment, Khyber Pakhtunkhwa.
14. PS to Minister for E&A Department, Khyber Pakhtunkhwa.
15. PS to all Ministers in Khyber Pakhtunkhwa (concerned).
16. PS to Managing Director, Khyber Pakhtunkhwa IT Board, Peshawar.
17. Deputy Director-IT, E&A Department
18. Principals concerned.
19. Manager, Govt. Printing Press Peshawar.

(IMD KHAN)
SECTION OFFICER (ESTT. I)
Ph # 091-9210529

ATTESTED



DIRECTORATE OF CURRICULUM AND TEACHER EDUCATION
KHYBER PAKHTUNKHWA ABBOTTABAD

Phone # 0992-382634 | Fax # 0992-381527 | Email director.dcte@kpese.gov.pk

NO: 2937-39/ Dated 13-08-2024

To

- 3358
15-08-2024
1. The Honorable Chief Minister, Khyber Pakhtunkhwa.
 2. The Worthy Chief Secretary,
Khyber Pakhtunkhwa.

Through: Secretary E&SE Department,
Government of Khyber Pakhtunkhwa,
Peshawar

Subject: APPEAL AGAINST THE NOTIFICATION NO. SO ((MC)E&SED/4-16/2024/PT/DIRECTOR DCTE DATED 12/08/2024 (ANNEXED "A"). WHERE BY THE UNDERSIGNED (BS-20-MC) HAS BEEN POSTED OUT FROM MY CADRE AND PLACED AT THE DISPOSAL OF E&SE DEPARTMENT WITHOUT POSTING (OSD) IN UTTER VIOLATION OF POSTING/TRANSFER POLICY, RULES AS WELL AS THE DIRECTIONS OF THE SUPERIOR FORA.

Dear Sir.

It is humbly submitted that; -

1. I am serving in the E&ED KP since 1990 and performed my duties on various senior positions within the Department and outside the Department. Presently working as Director (BS-20-MC), at the Directorate of C&TE KP Abbottabad.
2. I belongs to the School Management Cadre (M.C) of E&SED KP, and according to the Rules of Business (Annexed "B") and Services Rules of Management Cadre (Annexed "C") there are two posts of (BS-20-MC) in the School Management Cadre in the E&SE Department KP namely; -
 - a. Director (BS-20-MC), Directorate of E&SE KP, Peshawar
 - b. Director (BS-20-MC), Directorate of C&TEKP, at Abbottabad.
3. According to the final Seniority list (Annexed "D") of (BS-20-MC) of the School Management Cadre officers, I am appearing at S. No '1' and am eligible to be posted against the post of (BS-20-MC) including that of Director E&SE KP, Peshawar also. As mentioned in Para '2' Sub Para's 'a' & 'b', these two posts are occupied by the following two officers and only I am in (BS-20-MC) in the Management Cadre and is eligible for either post; -

Gohar Ali Khan (BS-20-MC) Director, DCTE KP Abbottabad
4. The post of Director (BS-20-MC), Directorate of E&SE KP has been occupied by one Mst. Samina Altaf (BS-19-MC) her seniority number even in (BS-19-MC) has been not yet determined.
5. Ever since my posting in the department I performed my duty with full devotion, dedication, and commitment and to the entire satisfaction of the superiors. During the period my performance has been always appreciated at all fora, both at Provincial as well as at National level and has earned good outstanding PERs.

Suddenly, I have been transferred from the post of Director (BS-20-MC) Director DCTE KP Abbottabad & am asked to report to the E&SE Department without posting (OSD). Without any valid reason, completing normal tenure and completing codal formalities vide Notification No. SO ((MC) E&SED/4-16/2024/PT/Director DCTE Dated 12/08/2024. This order of the E&SE Department is in utter violations of, posting/transfer policy, rules, as well as the directions of the superior fora through various judgments and without completing codal formalities as required under the rules and policy.

17/1/2024

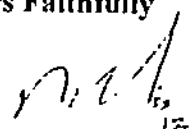
4873
15 8 24
ATTESTED

24

In the light of the foregoing facts & legal position, it is respectfully requested that; -

The Notification bearing No SO ((MC) E&SED/4-16/2024/PT/Director DCTE Dated 12/08/2024 being violative of posting/transfer policy, rules, as well as the directions of the superior fora through various judgments and without the consent of the law full authority may very kindly be withdrawn in the best interest fair play, justice and equity.

Yours Faithfully


Gohar Ali Khan (BS-20-M.C)
(Director)

Copy forwarded to the P.S to Minister E&SE Khyber Pakhtunkhwa, Peshawar for consideration on merit please.

Gohar Ali Khan (BS-20-M.C)
(Director)


ATTESTED



3456-F-
21-8-24

9 (22)

DIRECTORATE OF CURRICULUM AND TEACHER EDUCATION
KHYBER PAKHTUNKHWA ABBOTTABAD

Phone # 0992-382634 | Fax # 0992-381527 | Email director.dcte@kpese.gov.pk.

NO: 3007-3009/ Dated 20-08-2024

To

1. The Honorable Chief Minister, Khyber Pakhtunkhwa.
2. The Worthy Chief Secretary,
Khyber Pakhtunkhwa.

Through: Secretary E&SE Department,
Government of Khyber Pakhtunkhwa, Peshawar

Subject: APPEAL AGAINST THE NOTIFICATION NO. SO ((MC) E&SED/4-16/2024/PT/DIRECTOR DCTE DATED 12/08/2024 (ANNEXED "A") & NO. SO ((MC) E&SED/4-16/2024/Add: CHARGE/DCTE DATED 19/08/2024 (ANNEXED "B"), WHICH ARE IN UTTER VIOLATIONS OF POSTING/TRANSFER POLICY, RULES AS WELL AS THE DIRECTIONS OF THE SUPERIOR FORA.

Dear Sir,

I is humbly submitted that; -

I am submitting this appeal in continuation of my earlier appeal submitted to your good office vide diary No. 3358 dated 15-08-2024 and to the Secretary to Government of KP E&SE Department vide Diary No. 4873 dated 15-08-2024, the decision on which is still pending. And in the meantime the E&SE Department has issued another Notification vide NO. SO ((MC) E&SED/4-16/2024/Add: CHARGE/DCTE DATED 19/08/2024 through which the undersigned has been relieved in light of the earlier un-authorized Notification of dated 12th August, 2024 and a junior most officer Mst. Zohra Begum (BS-19) Additional Directress is authorized to hold additional charge of the post of Director (BS-20-MC) DCTE KP Abbottabad in violations of rules and law.

Respected Sir,

I have had the following reservations and grievances over the above Two Notifications and submit;

1. That the Notification of dated 12-08-2024 has been issued without approval of the competent authority, consultation of the Establishment Department and in violations of law and rules. Further, I belong to the School Management Cadre (M.C) of E&SED KP, in (BS-20-MC) and working against the post of Head of Attached Department and according to the Rules of Business the Establishment Department will issue the orders of the Head of Attached department with approval of the Chief Minister. But in my case both the orders have been issued by the E&SE Department. It is pertinent to mention that I have also not completed my normal tenure against this post.
2. Through an unauthorized Notification NO. SO ((MC) E&SED/4-16/2024/Add: CHARGE/DCTE DATED 19/08/2024 Mst. Zohra Begum (BS-19) Additional Directress is authorized to hold additional charge of the post of Director (BS-20-MC) DCTE KP Abbottabad. While, in light of Finance Department letter No FD (SR-1) 3-19/92 dated 12th August 1997 Additional charge can only be assigned to an officer of an equivalent scale. This order is also issued in violations of rules and provincial government policy.

ATTESTED

12/8/2024

231

3. According to the final Seniority list (Annexed "C") of (BS-20-MC) of the School Management Cadre officers, I am appearing at S. No '1' and eligible to be posted against the post of (BS-20-MC) including that of Director E&SE KP. Peshawar. These two posts are occupied by the following two officers and only I am in (BS-20-MC) in the Management Cadre and is eligible for either post: -
Gohar Ali Khan (BS-20-MC) Director, DCTE KP Abbottabad
4. The post of Director (BS-20-MC), Directorate of E&SE KP is also occupied by a junior officer Mst. Sanmina Altaf (BS-19-MC) her seniority number even in (BS-19-MC) has not yet been determined.
5. Ever since my posting in the department, I performed my duties with full devotion, dedication, and commitment and to the entire satisfaction of the superiors. During the period my performance has been always appreciated at all fora, both at Provincial as well as at National level and has earned outstanding PERs.

Astonishingly, without any decision on my appeal of dated 15-08-2024 against the order No. SO ((MC) E&SED/4-16/2024/PT/Director DCTE Dated 12/08/2024, the Department issued another un-authorized notification under Endst. No SO ((MC) E&SED/4-16/2024/Add: CHARGE/DCTE DATED 19/08/2024 without approval of the competent authority, whereby a junior officer Mst. Zohra Begum (BS-19) Additional Directress is authorized to hold additional charge of the post of Director (BS-20-MC) DCTE KP Abbottabad in utter violations of. posting/transfer policy, rules, as well as the directions of the superior fora and in violations of Finance Department letter No. FD (SR-1) 3-19/92 dated 12th August 1997 and I am asked to relieve the post.

In the light of the foregoing facts & legal position, it is respectfully requested that: -

The Notification bearing No SO ((MC) E&SED/4-16/2024/PT/Director DCTE Dated 12/08/2024 and No SO ((MC) E&SED/4-16/2024/Add: CHARGE/DCTE DATED 19/08/2024 being violative of posting/transfer policy, rules, as well as the directions of the superior fora through various judgments, without the consent of the lawful authority and also in violations of Finance Department letter No. FD (SR-1) 3-19/92 dated 12th August 1997 may very kindly be withdrawn in the best interest of fair play, justice and equity.

Yours Faithfully

12/11/2024
Gohar Ali Khan (BS-20-M.C)
(Director)

Copy forwarded to the P.S to Minister E&SE Khyber Pakhtunkhwa, Peshawar for consideration on merit please.


ATTESTED

Gohar Ali Khan (BS-20-M.C)
(Director)

24 H

76 ESTA CODE [Establishment Code Khyber Pakhtunkhwa]

Checked by
(Section Officer or Equivalent)

Prepared by
(Superintendent or Equivalent)

Countersigned by
(Deputy Secretary or Equivalent)

Re-allocation of posts for grant of BS-21 on meritorious service to professionals/technical officers.

I am directed to refer to this Department's letter of even No. dated 3.11.2009 on the subject cited above and to state that the competent authority has desired to re-allocate the posts of BS-21 on meritorious service basis.

2. In view of the above, it is requested to kindly provide the following information with documentary proof for further necessary action:-

- (i) Number of sanctioned posts in BS-20 and occupancy report with necessary clarification.
- (ii) Proposals of the respective department (if any) regarding re-allocation of posts for grant of BS-21 on meritorious services basis.

(Authority: No.SO(E-1)E&AD/9-133/2010, dated 3rd May 2010)

Appointment against higher posts in own pay scales.

Appointments in Higher Grades.

A number of cases have come to notice where Ministries/Divisions and Provincial Governments have made appointments of officers serving under them to posts in higher grades without the prior approval of the competent authority or going through the prescribed selection procedures. This grant of higher appointments to junior officers against senior posts amounts to accelerated promotion in view of the decision given by the Supreme Court of Pakistan in the case of Government of Pakistan versus Qazi Abdul Karim. In future such vacancies will be reported to the Establishment Division so that eligible officers may be considered and recommended for promotion by the Competent Authority in accordance with the Rules.


ATTESTED

2. The President has been pleased to direct that appointments of officers of lower grades to posts in higher grades without going through the prescribed selection process, must cease with immediate effect. The Ministries/Divisions and Provincial Governments can only fill vacancies in a particular

25

ESTA CODE [Establishment Code Khyber Pakhtunkhwa] 77

grade by officers of the same grade and officers in a junior grade will not be appointed against a vacancy in a higher grade. If it is necessary to do so due to exigencies of service, the post should be downgraded with the approval of the Establishment Division. When making such a request it will be clearly stated why the vacancy should not be referred to the Central Selection Board/High Level Selection Board/appropriate Departmental Promotion Committee for the promotion of an eligible officer to fill the vacancy in the appropriate grade in accordance with the rules.

(Authority: O.M No.2/25/69-C.I, dated 31.7.79, circulated by S&GAD NWFP vide letter No.SORI(S&GAD)1-29/75(KW), dt: 20.8.79)

Appointment in Higher Grades/Posts.

Instances have come to notice of Federal Government where civil servants have been appointed to higher posts and subsequently these posts have been downgraded retrospectively and without the prior approval of the Competent authority. This is not in keeping with the Establishment Division OM No.2/25/69-CI, dated 31st July,1979 circulated vide S&GAD circular letter No.SORI(S&GAD)1-29/75(KW),dated 20th August,1979. It is, therefore, reiterated that whenever a post is required to be downgraded due to exigencies of service, it may please be referred to this Department for approval.

2. Besides, all cases in which action may have been taken in contravention of the instructions issued on the subject may please be referred to the S&GAD for final orders.

(Authority: Letter No.SORI(S&GAD)1-29/75, dated 14.9.1985)

Appointment in Higher Grades/Posts.

Instances have come to the notice where civil servants in lower grades have been appointed to higher posts but the posts have not been downgraded with the result that the concerned civil servants come up with requests for promotion benefits in view of the decision given by the Supreme Court of Pakistan in the case of 'Government of Pakistan Versus Qazi Abdul Karim'. This is in contravention of the above instructions which is not desirable administratively.

2. It appears that either the aforesaid instructions have been lost sight or these instructions have not been brought to the notice of all concerned. It is, therefore, re-iterated that the Provincial Government can only fill vacancies in a particular grade by officers of the same grade and officers of junior grade will not be appointed against a vacancy in a higher grade. If it is necessary to do so, due to exigencies of service, the post should be downgraded with the approval in the first instance of the S&GAD who will seek approval of the Finance Department.

3. This is issued with the concurrence of Finance Department.

(Authority:Letter No.SORI(S&GAD)1-29/75, dated 25.2.1986.)


ATTESTED

26

78 ESTA CODE [Establishment Code Khyber Pakhtunkhwa]

Appointment in Higher Grades/Posts.

The President directed that appointment of officers of lower grades to posts in higher grades without going through the prescribed selection process must cease and that vacancies in a particular grade shall only be filled by officers of the same grade. It has been reported that these instructions are not being followed by some of the departments and Civil Servants in lower grades continue to be appointed against posts in higher scales without downgrading them.

2. While replying to Supplementary question on 21st October, 1987, the Chief Minister, NWFP was pleased to give an assurance to the Provincial Assembly to the effect that as per instructions already issued by Government to all Departments, no officer in lower grades shall henceforth be posted against vacancies in higher grades and that all such posts shall in future be filled in on regular basis by way of promotion or through initial recruitment, as the case may be, in accordance with the prescribed manner.

3. I am, therefore, to request that the above instructions may kindly be brought to the notice of all concerned once again and that they may be directed to abide by these instructions in letter and spirit.

(Authority: Circular letter No. SORI(S&GAD)1-29/75, dated 19.11.1987)

Appointment against higher post

A point has been raised by the District Accounts Officer, Mansehra whether a higher post can be filled in for indefinite period by appointment of an incumbent holding lower post without having relevancy to the nature of duty and basic qualification of the post etc or otherwise?

2. In this connection attention is invited to the Government of NWFP S&GAD's Circular letter No. SORI(S&GAD)1-29/75(A), dated 5th July, 1994 wherein the position has fully been explained. However, the point has carefully been re-examined in the Finance Department. At the very outset it is made clear that for all intents and purposes, the NWFP Civil Servants Act, 1973 being the latest instrument, duly approved by the NWFP Provincial Assembly and the NWFP Civil Servants (Appointment, Promotion & Transfer), Rules, 1989 which have been framed under Section 26 of Act ibid have to be followed in the matter of appointments.

3. Under Section-5 of the NWFP Civil Servants Act, 1973, the appointment to a Civil Service of the Province or to a post in connection with the affairs of the Province shall be made in the prescribed method by the Governor or by a person authorised by the Governor on that behalf.

4. Under Rule 3(2) of the NWFP Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the method of appointment, qualifications and other conditions applicable to a post shall be such as laid down by the department concerned in consultation with Services & General Admn. Department and Finance Department.

[Signature]
ATTESTED

(27)

ESTA CODE [Establishment Code Khyber Pakhtunkhwa] 79

5. Under Rule-10(3) of the above mentioned Rules, a candidate for Initial appointment to a post must possess the educational or technical qualifications and experience.

6. The appointment by Initial recruitment to a higher post or to a different post has to be made strictly in the prescribed manner and any deviation would not be in accordance with law and rules on the subject. The phrase "adjustment" is also not covered under the above rules. Moreover, an opportunity of appointment against a higher post is available to serving Government servants and they in accordance with the provisions contained in Rule-9 of the NWFP Civil Servants (Appointment, Promotion and Transfer), Rules, 1989 can be appointed on Acting Charge or Current Charge basis.

7. In the circumstances, the reply to the point as raised in para-1 above that whether a higher post can be filled in for indefinite period by appointment of an incumbent holding lower post without having relevancy to the nature of duty and basic qualification of the post etc is in negative.

(Authority: Finance Department's Circular letter No.FD/PRC-5-1/96-97, dated 29.4.97 and re-circulated by S&GAD vide letter No.SORI(S&GAD)1-29/75(B), dated 10.5.1997)

Unauthorised appointments to higher posts.

In continuation of Establishment Division's O.M No.2/25/69-C.I, dated 31.7.1979, the undersigned is directed to say that it has been observed with regret that despite repeated instructions issued by the Establishment Division regarding appointment of Government servants against higher posts other than in accordance with rules and prescribed procedure, Ministries/Divisions and Departments of the Federal Government and the Provincial Governments (In the case of officers belonging to Occupational Groups controlled by the Establishment Division) continue to make appointments to higher posts occasionally in disregard of the above instructions. Officers appointed to higher posts without going through the prescribed selection process and approval of the competent authority claim pay and allowances of the higher posts on the basis of judgements of the Federal Service Tribunal and the Supreme Court of Pakistan in a number of such cases. This places the Government in an awkward position as pay and allowances of the higher posts have to be allowed to individuals who have not been regularly promoted and who are some time not even qualified or eligible for promotion. It also causes heart burning and resentment among their seniors who were serving elsewhere or were bypassed at the time of making such irregular appointments.

2. While such irregular appointments are claimed to be made in public interest and under unavoidable circumstances, it has once again to be emphasized that appointments to higher post in disregard of the prescribed rules and procedure should be avoided under all circumstances. Various provisions already exist in the rules for making appointments on acting charge, current charge and additional charge basis, to tide over temporary difficulties. It is therefore again reiterated that in future appointments against higher posts should only be made either on a regular basis in the prescribed manner, or on acting charge or current charge basis in

ATTESTE

28

80 ESTA CODE [Establishment Code Khyber Pakhtunkhwa]

accordance with the provision of Civil Servants (Appointment, Promotion & Transfer), Rules, 1973 and relevant instructions issued by the Government from time to time.

3. Disregard of the above instructions would be viewed seriously and may result in bringing the matter to the notice of the Prime Minister.

(Authority: Estt: Division OM No.14/4/86-R.I, dated 2.5.1988 circulated by NWFP v de Circular letter No.SORI(S&GAD)1-29/75, dated 23.5.1988)

Unauthorised Appointments to Higher Posts.

This Department's Circular letter of even number dated 23.5.1988, on the subject cited above, which clearly provides that the appointments against the higher posts should be made in the manner prescribed in the rules for those posts. Notwithstanding this, instances have come to the notice that un-authorised appointments to higher posts without going through the prescribed selection process or obtaining approval of the competent authority are being made by Provincial Government Departments. This creates embarrassing position when the officers concerned prefer claim for pay of the higher posts.

2. I am directed to request you once again to strictly follow the instructions as referred to above while making appointments against higher posts. In future, no claim of pay of higher post in cases of un-authorised appointment will be considered by S&GAD.

(Authority: Circular letter No.SORI(S&GAD)1-29/75(A), dated 13.2.1993)

Irregular Appointments to various Posts/Services

NWFP Civil Servants (Appointment, Promotion and Transfer) Rules, 1975 and other ancillary instructions issued by the Provincial Government provide that initial appointments to posts/services in various Departments, Attached Departments and subordinate offices shall be made keeping in view the following:-

- (1) A selected candidate must possess the qualifications and experience prescribed for the post under the relevant rules;
- (2) The vacancies in Grades 5 and above should be advertised in leading newspapers;
- (3) The appointment is to be made on the recommendations of a broad based prescribed Departmental Selection Committee;
- (4) The zonal allocation formula prescribed vide S&GAD's Notification No.SOS.III(S&GAD)3-39/70, dated 2nd October, 1973 as amended from time to time has to be followed;

39

ESTA CODE [Establishment Code (Khyber Pakhtunkhwa)] 81

- (5) The selection for appointment should be made with regard to the criteria for initial recruitment as laid down by the Government from time to time; and
- (6) An average person should not be selected and appointed when a sufficient number of qualified and within age candidates are available.

2. It has, however, been observed from the report of the Committee appointed by the Government to probe the cases cited as subject that in almost all the departments, appointments to the various posts were made without application of the provisions of the relevant Service Rules and observance of the instructions issued thereunder.

3. It has, therefore, been decided by the Provincial Government that all appointments, promotion will, in future, be made by the competent authorities only after strictly observing all requisite codal formalities and the provisions of Rules of Business, 1985 in general and the sub-rules(5) and (6) of Rule 5 in particular, are strictly observed by all concerned in future.

4. It is requested to please ensure that all concerned abide by the aforesaid decision both in letter and spirit.

(Authority:-S&GAD's letter No.SORI(S&GAD)1-73/88, dated 23rd October, 1988.

Appointment on Acting Charge Basis.


This Department Circular letter No.SORI(S&GAD)1-206/74, dated 15th August, 1981, as amended vide this Department's letter of even number dated 17th October, 1984 and 1st December, 1987, on the subject cited above and to say that in partial modification of the said orders it has been decided that the service rendered on acting charge basis in respect of appointments falling under rules 8-B(1) and 8-B(3) of Civil Servants (Appointment, Promotion & Transfer) Rules, 1975 count in the pay scale applicable to the post for the purpose of accrual of increments, subject to the fulfillment of the following:-

- i) In case of acting charge appointments to posts carrying BPS-18, the incumbents shall have completed 5 years service in BPS-17.
- ii) In case of acting charge appointments to posts carrying BPS-19 and above the incumbents shall have completed the prescribed length of service for respective posts as under:-

a) Posts in BPS-19 12 years service in BPS-17 and above.

b) Posts in BPS-20 17 years service in BPS-17 and above.

c) Posts in BPS-21 22 years service in BPS-17 and above.


ATTESTED

I

3D

82 ESTA CODE [Establishment Code Khyber Pakhtunkhwa]

Provided that:-

- i) Where initial appointment of a person not being a person in Government service takes place in a post in BPS-18,19 or 20, the length of service specified in this Department letter No.SORI(S&GAD)1-29/75, dated 23.2.1981 shall be reduced by the following periods:

<u>First appointment in</u>	<u>Reduced by</u>
BPS-18	5 years.
BPS-19	12 years.
BPS-20	17 years.

- ii) Where initial appointment of a person already in Government service takes place, on recommendations of the Public Service Commission, in a post in BPS-18, 19 or 20, the length of service specified in above letter shall be reduced by the periods specified in proviso(i).

2. The above decision shall be effective from the First January 1985. However, in cases of acting charge appointments made during the period from 12.1.1981 to 31.12.1984, the increments shall be restored from the due dates but no arrears due on account of restoration of increments prior to 1.1.1985 shall be allowed.

3. This issues with the concurrence of Finance Department.

(Authority: Circular letter No.SORI(S&GAD)1-206/74(IV), dated 17.2.1988)

**Posting of Junior Officers
on Posts in Higher Scale**

Sl.No.10

This Department's Circular letter No.SORI(S&GAD)1-29/75(A), dated 13.2.1993, on the subject noted above and to state that it has been noticed that certain Provincial Government Departments are resorting to the practice of posting officers in a lower scale on posts in higher scales. This practice is against the provisions of NWFP Civil Servants Act, 1973 and rules made thereunder as well as the instructions of the Establishment Division reproduced below:-

"The grant of higher appointments to junior officers against senior posts amounts to accelerated promotion in view of the decision given by the Supreme Court of Pakistan in the case of Government of Pakistan Versus Qazi Abdul Karim. The Ministries/Divisions or Provincial Governments can only fill vacancies in a particular grade

ATTESTED

ESTA CODE [Establishment Code Khyber Pakhtunkhwa] 03

by officers of the same grade, and officers in a junior grade will not be appointed against a vacancy in a higher grade".

2. It may be pointed out that in the light of rule 9 of the NWFP Civil Servants (Appointment, Promotion and Transfer) Rules, 1973, the methods prescribed for posting a junior officer to a higher post are restricted to the following only:-

i) ACTING CHARGE APPOINTMENT ON A HIGHER POST

Where the senior most officer in a cadre is otherwise fully eligible for promotion but does not possess the specified length of service, the competent authority may appoint him to the higher post on acting charge basis, but only on the recommendation of Departmental Promotion Committee/Selection Board and subject to the condition that such officer lacks the prescribed length of service not more than (one year).

ii) CURRENT CHARGE APPOINTMENT OF A HIGHER POST

Only the senior-most officer of a cadre can be given current charge appointment of a higher post with the approval of the competent authority. However this can only be an arrangement upto a maximum of six months.

iii) ADDITIONAL CHARGE APPOINTMENT OF AN EQUIVALENT POST

An officer can be given the additional charge of a second post but only of a post in an equivalent grade, upto a period of six months¹ by the competent authority.

3. Adherence to the above rules is a legal requirement so that the actions taken by officers are not held at any stage to be irregular. Also, appointments in violation of the rules constitute administrative in discipline.

4. I am, therefore, directed to request that all such cases of irregular appointments be reviewed and ensure not to resort to such appointments that violate the provisions of the Civil Servants Act and the statutory rules framed thereunder.

5. I am further directed to request that these instructions may be brought to the notice of all concerned for strict compliance.

(Authority: Circular letter No. SORI(S&GAD)1-29/75(A), dated 5.7.1994).


ATTESTED

1. The period is 3 years vide Notification No. SORI(S&GAD)4-1/80 (Vol), dated 14.3.1996.

VAKALAT NAMA

NO. _____/2022,

IN THE COURT OF Kp Service Tribunal, Peshawar

Gohar Ali Khan (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Govt. OF KP (Respondent)
(Defendant)

I/We, Gohar Ali Khan

Do hereby appoint and constitute M. Asif Yousafzai, Advocate Supreme Court of Pakistan & Syed Noman Ali Bukhari, Advocate High Court & Hilal Zubair Advocate to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

AND to all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not, as may be proper and expedient.

AND I/we hereby agree to ratify and confirm all lawful acts done on my/our behalf under or by virtue of this power or of the usual practice in such matter.

PROVIDED always, that I/we undertake at time of calling of the case by the Court/my authorized agent shall inform the Advocate and make him appear in Court, if the case may be dismissed in default, if it be proceeded ex-parte the said counsel shall not be held responsible for the same. All costs awarded in favour shall be the right of the counsel or his nominee, and if awarded against shall be payable by me/us.

Dated _____/2022,

M.A.
(CLIENT)

ACCEPTED

M. Asif Yousafzai
(M. ASIF YOUSAFZAI)
ADVOCATE SUPREME COURT,
OF PAKISTAN.
(BC No. 10-7327)

& S. Noman Ali Bukhari
(S. NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT,

& Hilal Zubair Yousafzai
HILAL ZUBAIR YOUSAFZAI
Advocate

OFFICE:

Room # FR-8, 4th Floor,
Bilour Plaza, Peshawar,
Cantt: Peshawar
Cell No. 0302-5548451
0333-9103240
0306-5109438
0310-9503909