

Government of Pakistan

FEDERALLY ADMINISTERED TRIBAL AREAS
DEVELOPMENT AUTHORITY



NOTIFICATION

Peshawar, the 3rd January, 2011

No. Secy/FDA/5-90/2010. In exercise of powers conferred by section 40 of the FATA Development Authority Regulation, 2006, the Board of Directors of the FATA Development Authority with the approval of the Governor Khyber Pakhtunkhwa, is pleased to make the following Standing Order, namely: -

“The FATA Development Authority Employees (Appeal) Standing Order, 2010”

1. Short title, commencement and application: (1) This Standing Order shall be called the Federally Administered Tribal Areas Development Authority Employees (Appeal) Standing Order, 2010.

(2) They shall come into force at once.

(3) They shall apply to all employees of the Authority except where otherwise prescribed, but shall not apply to the following: -

(a) a person who is employed on contract basis; (to be governed by terms & conditions of his contract agreement); and

(b) a person who is serving on deputation basis or transfer or reemployed after retirement.

(c) temporary, adhoc, work charge or on daily wages.

2. **Definitions:** - In this Standing Order, unless there is anything repugnant in the subject or context: -

- (1) “Appellate Authority” means: -
 - (i) in cases relating to discipline:
 - (a) where the order is passed by the Chief Executive under the FATA-DA Employees (E&D) Rules, the Board; and
 - (b) where the order is passed by the Board, the Governor Khyber Pakhtunkhwa.
 - (ii) in all other cases, the officer or authority next above the authority against whose order the appeal is preferred.
- (2) “Authority” means the Federally Administered Tribal Areas Development Authority, established under section 3 of the Federally Administered Tribal Areas Development Authority Regulation, 2006.
- (3) “Board” means Board of Directors of the Authority constituted under Section 5 of the Regulation.
- (4) “Chief Executive” means Chief Executive of the Authority appointed under Section 5(1) of the Regulation.
- (5) “Competent authority” means the appointing authority as per provisions of the FATA-DA Employees (Appointment, Promotion & Transfer) Rules 2008.
- (6) “employee” means an employee of the Authority to whom these rules apply.
- (7) “Governor” means the Governor of Khyber Pakhtunkhwa.

(8) “Regulation” means the FATA Development Authority Regulation, 2006.

(9) “penalty” means any of the penalties specified in rule 4 of the FATA-DA Employees (E&D) Rules, 2010.

3. Right of appeal: - (1) An employee aggrieved from an order passed by the authority, imposing upon him any penalty, may prefer an appeal, within 30 days, to prescribed appellate authority;

Provided that where the penalty is imposed by an order of the Governor, the employee shall have no right of appeal but may apply for review of the order.

Provided further that no appeal or review shall lie on matters relating to the determination of fitness of a person to hold a particular post or to be promoted to a higher post or to a higher pay scale, as the case may be.

4. Appeal against an order other than an order imposing a penalty & appellate authorities: - An employee may appeal to the appellate authority from an order passed by an authority or authorized officer which: -

- (a) alters, modifies his terms & conditions of service, pay, allowances, or gratuity, etc from which he considers himself aggrieved.
- (b) interprets any rule concerning service which makes an employee aggrieved;
- (c) reduces or forfeits gratuity admissible to him under the rules governing gratuity; or
- (d) terminates or issues termination of service notice in negation of the FATA-DA employees Service, gratuity etc rules.

Provided that an employee may appeal to the Governor from an order passed by the authority subordinate to him.

5. Notwithstanding anything contained in any other law or rules for the time being in force, a person aggrieved by a final order under rules 3 & 4, may within thirty days of date of communication of the order, prefer an appeal to the Federal Services Tribunal, if he so desires.
6. **Procedure for submission and contents of appeal:** - (1) The appellant shall not amalgamate more than one order in his appeal which should be made in his own name;
- (2) The appeal shall be accompanied by an attested copy of the order appealed against.
- (3) Every appeal shall contain all material statements and arguments relied upon by the appellant, shall contain no disrespectful or improper language, shall be complete in itself and end with a specific prayer.
- (4) Every appeal should be submitted through the head of office to which the appellant belongs or belonged, and through the authority from whose order the appeal is preferred.
- (5) Every appeal shall be submitted within a period of thirty days of the communication of the order appealed against.
- (6) Sending of advance copy of an appeal shall amount to misconduct on the part of the appellant.
7. **Order on appeal:** - (1) In case of an appeal under rule 3, the appellate authority shall consider:
- (a) Whether the facts on which the order appealed against was based, have been established;
- (b) whether the facts established afford sufficient ground for taking action; and

- (c) whether the penalty is excessive, adequate or inadequate; and after such consideration shall confirm, set aside or modify the previous order, and the appellant shall be informed of the reasons for passing such order.

(2) In the case of an appeal under rule 4, the appellate authority shall pass such order, having regard to all circumstances of the case, as appears to it just and equitable, and the appellant shall be informed of the reasons for passing such order, through the concerned authority.

8. Authority to give effect to an order on appeal: - The authority from whose order an appeal is preferred under these rules, shall give effect to any order made by the appellate authority.

9. Withholding of appeal: - (1) An appeal may be withheld by an authority not lower than the authority from whose order it is preferred if: -

- (a) it is an appeal in a case in which no appeal lies under these rules; or
- (b) it does not comply with the provisions of sub-rule (1), (2), (3) or (4) of rule 6; or
- (c) it is not preferred within the time specified in sub-rule (5) of rule 6 and no reasonable cause is shown for the delay; or
- (d) it is addressed to an authority to which no appeal lies under these rules; or
- (e) it is a repetition of a previous appeal and is made to the same appellate authority by which such appeal has been decided, and no new facts or circumstances are adduced which afford grounds for reconsideration of the case;
- (f) it is disrespectful, scandalous or contains derogatory remarks/words.

Provided that in every case in which an appeal is withheld, the appellant shall be informed of the fact and the reasons for it;

Provided further that an appeal withheld on account only of failure to comply with provisions of sub-rules (2), (3), or (4) of rule 6 or clause (d) above, may be re-submitted within fifteen days of the date on which the appellant is informed of the withholding of the appeal, and if re-submitted in a form which complies with these provisions or is addressed to the proper appellate authority, as the case may be, it shall not be withheld.

(2) No appeal shall lie against the withholding of an appeal by an authority competent to do so.

10. Transmission of appeal: - Every appeal which is not withheld under these rules, shall be forwarded to the appellate authority with an expression of opinion by the authority from whose order the appeal is preferred.

(2) A list of appeals withheld under rule 9 with reasons for withholding them shall be forwarded quarterly by the withholding authority to the appellate authority.

(3) An appellate authority may call for any appeal admissible under these rules but withheld by a subordinate authority and may pass orders thereon as it considers fit.

11. Rules 5 to 9 to apply to representation: - The provisions of rules 6, sub rule (2) of rule 7, rules 8, 9 and 10 shall apply mutatis mutandis to a representation.

12. Existing appeals or representations: - All appeals or representations pending immediately before coming into force of these rules shall be deemed to be appeals or representations, as the case may be, under these rules, and must be disposed of accordingly.

Sd/xxx
Attaullah Khan
Chief Executive, FATA-DA