

In the Federal Constitutional Court of Pakistan
(Appellate Jurisdiction)

Present:

Justice Aamer Farooq
Justice Syed Arshad Hussain Shah

C.P.L.A. No.116-P of 2025

(On appeal from judgment of the Peshawar High Court, Mingora Bench (Dar-ul-Qaza) Swat dated 10.12.2024 passed in Writ Petition No.128-M of 2023)

Director General Education Monitoring Authority, Peshawar &
others

Petitioner

Versus

Mst. Lubna

Respondent

For the petitioners: Mr. Muzammil Khan, Addl. A.G., KP

For the respondent: Mr. Mushtaq Ahmad Khan Alizai, ASC

Date of hearing: 25.2.2026

Judgment

Syed Arshad Hussain Shah, J: The short controversy involved in the instant petition revolves around the appointment of the respondent as Data Collection and Monitoring Assistant (female) BS-16 in the Director General, Khyber Pakhtunkhwa Education Monitoring Authority. The respondent secured first position amongst the successful candidates. However, appointment letter was not issued in her favour on the ground that she was overage. Being aggrieved, the respondent invoked the Constitutional jurisdiction of the Peshawar High Court by way of filing writ petition under Article 199, which was allowed and the present petitioners were directed to consider the request of the respondent for her age relaxation.

2. Learned Additional Advocate General argued that the learned High Court has not appreciated the facts and law in their true perspective, particularly, the fact that under the Rules 2021, no relaxation in upper age limit can be granted. On the other hand,

learned ASC for the respondent fully supported the impugned judgment and submitted that case of the respondent is fully covered and protected under serial No.(ii) & (iii) of the table of Rule 3(i) of the KPK Initial Appointment to Civil Posts (Relaxation of Upper Age Limit Rules, 2008 (hereinafter referred to as the Rules 2008) and she is very much entitled to relaxation in upper age limit.

3. We have heard the learned Additional Advocate General, KP as well as learned ASC for the respondent. Appearance of the respondent in test, securing first position amongst the successful candidates and availability of one seat has not been disputed at any stage. The only hurdle/objection in her appointment was her being over age. It is pertinent to note here that the respondent hails from District Buner, which, as per serial No.xiv of Appendix to Rule 3(ii) of the Rules 2008, comes in the category of “backward areas”, thus, besides three years automatic relaxation under category (ii) specified in Rule 3(i), she is also entitled to relaxation in upper age limit upto two years by the appointing authority under serial No.iii of the table of the Rule 3(i) of the Rules 2008. Serial Nos.(ii) & (iii) of the table to Rule 3(i) are reproduced below for ready reference:-

S.No.	Category of candidates	Age Relaxation admissible
1	2	3
ii.	Candidates belonging to backward areas as specified in the Appendix attached herewith.	Three years Automatic Relaxation.
iii.	General candidates.	Upto two years by the appointing authority and exceeding two years upto five years by the Establishment Department [and beyond five years upto ten years by the Chief Minister of the Khyber Pakhtunkhwa).

The case of the respondent is also covered under the category of "general candidates", as stipulated in proviso to Rule 4 of the Rules, 2008, which is reproduced below:-

“Provided that the candidates from backward areas, **in addition** to automatic relaxation of three years under category (ii) specified in rule 3, **shall be entitled** to one of the relaxations available to Government servants, general or disabled candidates, whichever is relevant and applicable to them.”.

3. In view of the above-mentioned provisions of law, it is crystal clear that respondent is entitled to upper age limit. In such circumstances, we find no illegality, irregularity or infirmity in the impugned judgment warranting interference. Resultantly, this petition being devoid of merits, is dismissed and leave is refused.

Judge

Judge

Islamabad

25th February, 2026

Approved for reporting.

Riaz