



Ombudsman Punjab

Annual Report

2012

OMBUDSMAN PUNJAB

ANNUAL REPORT 2012



OMBUDSMAN

2-BANK ROAD, LAHORE
PAKISTAN

**PROFILE OF
MR. KHALID MAHMOOD
(OMBUDSMAN PUNJAB)
(2008 – 2012)**



Mr. Khalid Mahmood
Ombudsman Punjab
(2008 to 2012)

Mr. Khalid Mahmood was sworn in as the 5th Ombudsman for the Province of Punjab on 8th December, 2008. Educated at Government College Lahore, he holds a Master's degrees in History and in Political Science. He got a law degree from the Punjab University, Lahore, and later did his L.L.M. from Harvard Law School, U.S.A.

After qualifying the CSS exam in 1967, Mr. Khalid Mahmood was placed in the Tax Group and retired as a Secretary to the Government of Pakistan in 2005. He held a number of important positions in the Federal Board of Revenue (FBR) and other Federal Government agencies including that of Secretary (FBR), Commissioner of Income/Wealth Tax, Member Income Tax Appellate Tribunal, Member Finance, Water and Power Development Authority (WAPDA), Director, Kot Adu Power Company (KAPCO), Director Finance, Oil and Gas Development Company Limited (OGDCL), Director General, Civil Services Academy, Lahore, and Principal, Pakistan Administrative Staff College, Lahore. His last appointment while in Government service was as Chairman, Technical Education and Vocational Training Authority (TEVTA) Punjab. On the basis of his extensive and varied experience, he has a deep understanding of the problems faced by citizens coming in contact with Government agencies.

His keen interest in sports particularly cricket, provided Mr. Khalid Mahmood opportunities to serve Pakistan Cricket Board (PCB) in various capacities: Honorary Secretary (1975-1976), Member PCB Council (1988-94), Manager of Pakistan Cricket Team touring England, South Africa and the West Indies (1992-1993) and as Chairman PCB (1998-1999).

Mr. Khalid Mahmood is also a writer and a columnist. His report on "Corporatization and Restructuring of WAPDA" depicts the valuable experience gained by him while serving in WAPDA. Similarly, after visiting England as Manager of Pakistan Cricket Team, his publication "Eye of the Storm" was well received by the general public particularly cricket lovers in Pakistan. He contributed a series of columns for daily Nawa-i-Waqt, Lahore, in 1997.



D.O.NO.POP/1-786/2010
**OFFICE OF THE
OMBUDSMAN, PUNJAB
2-BANK ROAD, LAHORE**

Dated Lahore the 1st April, 2013

My Dear Governor,

It is my privilege to present the Annual Report for the year 2012 as required under section 28(1) of the Punjab Office of Ombudsman Act 1997. This is the 16th Annual Report since the office was established in 1996.

2. The Report pertains to the period of my predecessor, who relinquished the charge of the office of Ombudsman on 7th December, 2012 and the office remained vacant till March 12, 2013. As a result a backlog of complaints accumulated during the period that has now been cleared.

3. Fresh complaints instituted during the year were 10,575. The statistical analysis of the complaints received, investigated and disposed of during the year under review shows that the total of 13,460 complaints were processed and 9,862 were disposed of, leaving a balance of 3,598 at the end of the year 2012. The highest number of complaints 1,544 was against Education Department followed by Police with 1,291 complaints. Revenue administration was third with 1,150 complaints.

4. Efforts are continued to redress the grievances of the public and to have better fruitful coordination with Government departments/agencies.

With best regards,

Yours sincerely,

(JAVED MAHMOOD)

**Makhdum Syed Ahmed Mahmud
Governor Punjab.**

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Part-I

INTRODUCTION

- 1.1 Office of the Ombudsman Punjab
- 1.2 How are we different?

OFFICE OF THE OMBUDSMAN PUNJAB

Traditionally the task of overseeing the activities of the administrative authorities, and preventing misuse of power is primary responsibility of the legislator which normally can exercise general supervision over the administration, so, the institution of Ombudsman originated in Sweden about 200 years ago as a parliamentary supervisory body for the redressal of individual grievances. The concept gradually became popular in a number of countries from 1960 onward. In Pakistan the office of Ombudsman was first set up at the federal level in 1983. Later it was established in Punjab on 3rd September, 1996 through an Ordinance and finally the Punjab Office of the Ombudsman Act 1997 was promulgated.

The Office of Ombudsman Punjab has been established with the prime objective “to provide protection for the rights of the people, to ensure adherence to the rule of law, to suppress corrupt practices; to diagnose, redress and rectify any injustice done to a person through maladministration”.

The law empowers the Ombudsman Punjab to entertain complaints against any department, commission or a statutory corporation or other institutions established by the Provincial Government, but does not include the High Court and the courts working under the supervision of High Court and the Provincial Assembly and its secretariat.

Ombudsman has the same powers as are vested in a civil court under the Code of Civil Procedure for summoning and enforcing the attendance of any person; compelling the production of documents; receiving evidence on affidavits; and issuing commission for examination of witnesses. The Ombudsman is vested with the powers to enter and search any premises or inspect any article, books of account and other documents; impound and seal such articles. The Ombudsman has the same powers mutatis mutandis as the High Court has to punish any person for its contempt.

Submission of the Annual Report by the Ombudsman Punjab is a statutory requirement under section 28(1) of the Punjab Office of the Ombudsman Act 1997. The report is to be submitted to the Governor within three months of the conclusion of the calendar year to which the report pertains. This is the 16th Annual Report since the establishment of the office of the Ombudsman in September 1996 and the first during the incumbency of the present Ombudsman.

Since its establishment the following served as Provincial Ombudsman Punjab:

- Mr. Justice (Retd.) Munir Ahmad Khan
22.10.1996 to 28.12.1996
- Mr. Justice (Retd.) Manzoor Hussain Sial
26.1.1997 to 25.1.2000
- Mr. Justice (Retd.) Sajjad Ahmad Sipra
12.2.2000 to 11.2.2004

- Mr. Abdur Rashid Khan
17.5.2004 to 16.5.2008
- Mr. Khalid Mahmood
8.12.2008 to 7.12.20012
- Mr. Javed Mahmood
Since 13.3.2013

The Office of Ombudsman has its head office at Lahore and three regional offices at Multan, Rawalpindi and Sargodha. The territorial jurisdiction of the head office includes districts of Lahore, Sheikhupura, Kasur, Okara, Nankana Sahib, Gujranwala, Sialkot, Narowal, Gujrat, Hafizabad, Faisalabad, Toba Tek Singh and Sahiwal.

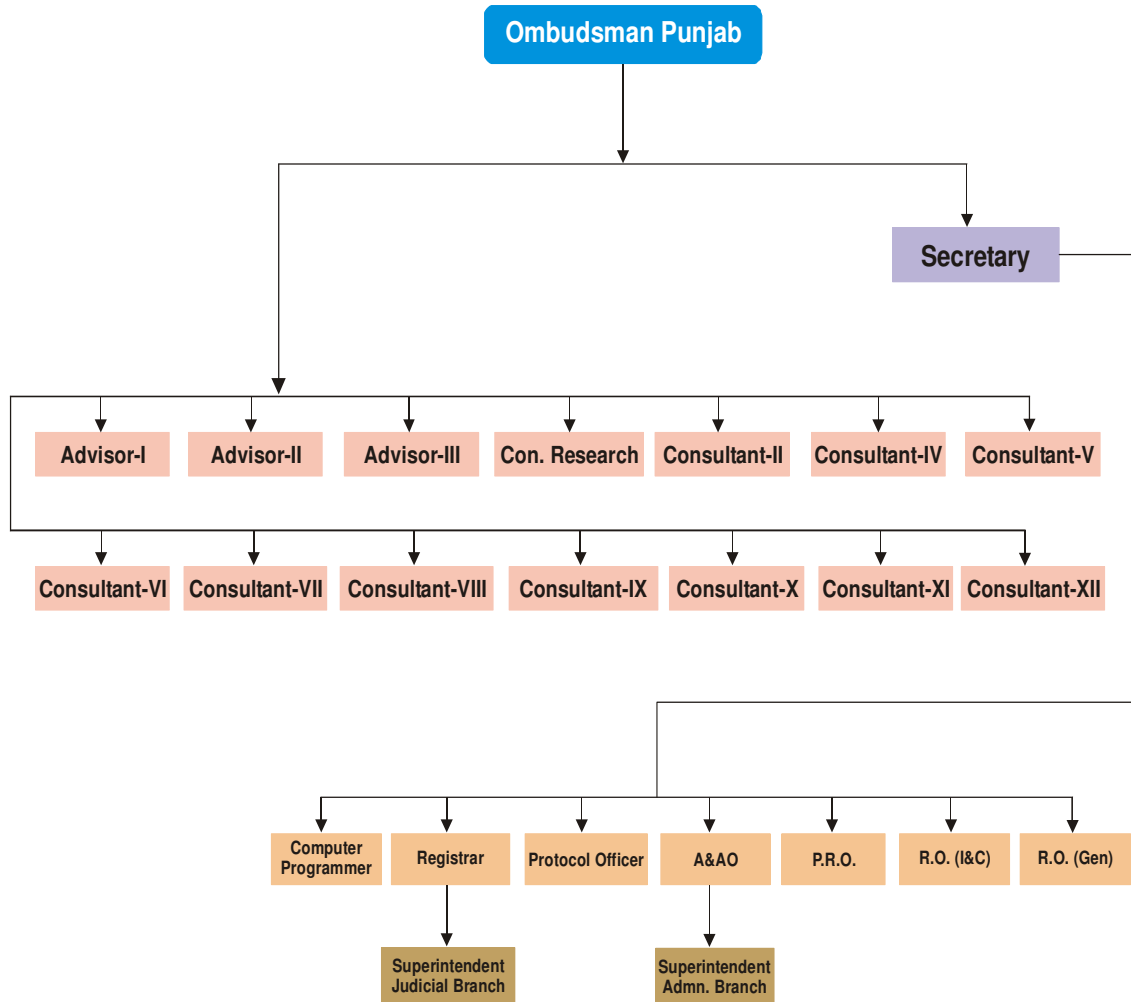
The regional office Multan includes districts of Multan, Khanewal, Lodhran, Vehari, D.G. Khan, Muzaffargarh, Layyah, Rajanpur, Rahim Yar Khan, Bahawalnagar, Bahawalpur and Pakpattan.

Rawalpindi regional office entertains and investigates complaints filed by the residents of Rawalpindi, Attock, Jhelum and Chakwal Districts.

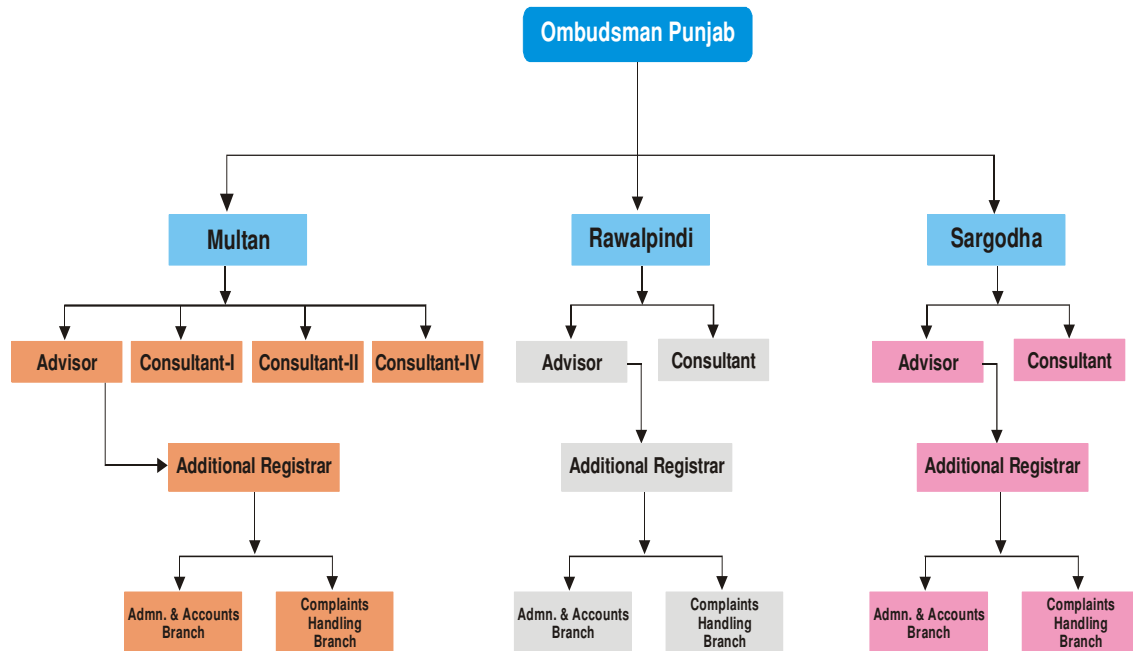
The territorial jurisdiction of Sargodha office includes District Sargodha, Khushab, Bhakkar, Mianwali, Chiniot, Jhang and Mandi Bahauddin.

ORGANOGRAM

Head Office



Regional Offices



HOW ARE WE DIFFERENT?

The word “Ombudsman” is Scandinavian and means “representative” or “proxy”. In its ordinary dictionary meaning it denotes “an official appointed to investigate complaints against the public authorities, government departments or the people who work for them”. Every functionary who investigates complaints is, however, not regarded as an Ombudsman in the true sense of the word as understood in the modern world.

There are certain conceptual and operational features which constitute the core of this institution and distinguish it from other complaint handling organizations. It is required to be “legally established; functionally autonomous; external to administration, operationally independent of both the legislator and executive; non partisan, freely accessible and visible.” It is quasi judicial forum which neither competes with courts nor it is an appellate forum.

A set of commonly asked questions and its answers are given below to provide a general perspective of the working of the institution and the procedure usually adopted for redressal of grievance/resolution of a problem.

Q: Who can file a complaint?

A: Complaint can only be filed by an aggrieved person and, in case of his death, by his legal representative.

Q: How can complaints be filed before the Ombudsman?

A: Complaint on a plain paper supported by an affidavit alongwith copy of the National Identity Card may be presented either personally in the office of the Registrar at the Head Office or in the Regional Offices at Multan, Rawalpindi and Sargodha depending upon the Agency to which the complaint relates and the district to which the complainant belongs. The complaint can also be sent by post, Fax or E-mail.

Q: What types of complaints are not entertained?

A: The Ombudsman does not have jurisdiction to investigate or enquire into matters which:

- are subjudice before a court of competent jurisdiction on the date of the receipt of a complaint, reference or motion by him; or
- relate to the external affairs of Pakistan or the relations or dealings of Pakistan with any foreign state or government; or
- relate to, or are connected with, the defence of Pakistan or any part thereof, the Military, Naval, and Air Forces of Pakistan or the matters covered by the laws relating to those Forces.

Similarly, the Ombudsman does not entertain any complaint by or on behalf of a public servant or functionary concerning any matters relating to his service therein.

Q: What types of complaints are entertained?

A: All complaints of maladministration defined in Section 2(2) of the Punjab Office of the Ombudsman Act, 1997 can be filed. The definition of maladministration is reproduced below:

- decision, process, recommendation, act or omission or commission which:
 - is contrary to law, rules or regulations or is a departure from established practice or procedure, unless it is bonafide and for valid reasons; or

- is perverse, arbitrary or unreasonable, unjust, biased, oppressive, or discriminatory; or
 - is based on irrelevant grounds; or
 - involves the exercise or powers or the failure or refusal to do so, for corrupt or improper motives, such as bribery, jobbery, favoritism, nepotism and
 - administrative excesses; and
- neglect, inattention, delay, incompetence, inefficiency and ineptitude in the administration or discharge of duties and responsibilities.

Q: Does a complaint filed in the Office of the Ombudsman cost anything?

A: There is no cost to a complainant either for filing a complaint before the Ombudsman or during its investigation, except where expenses are incurred when the complainant may be called for joint hearing of the case. The complaint can be made on a simple piece of paper. There are no charges for providing a copy of the findings of the Ombudsman either.

Q: Is there any time limit for lodging a complaint?

A: Section 10(3) of the Act provides that a complaint shall be made not later than three months from the day on which the person aggrieved first had the notice of the matter alleged in the complaint. However, the Ombudsman can condone the time limit if he considers that there are special circumstances and the delay was justified.

Q: Can an aggrieved person approach the Ombudsman even if a similar complaint has already been decided by some other court or is still pending adjudication before a court?

A: The aggrieved person can not approach the office the Ombudsman for redressal of any grievance in respect of which suit/plaint is pending adjudication in any court of competent jurisdiction. The complaint which has already been adjudicated by a competent court can not be entertained by this Office either.

Q: Does the complainant have to appear in person during Investigation of complaint?

A: No. The law permits a complainant to be represented by some one but the representative must have a written authorization for this purpose. Even otherwise the complainants are not required to be present on each date of hearing. Only at the time of joint hearing, complainants are required to be present, for which notice is issued to them.

Q: How long does a complaint take to decide?

A: All possible efforts are being made to undertake and complete the investigation without undue delay. The Office monitors performance targets for different Investigating Officers. It takes a maximum period of about six months to complete investigation (with some complex cases, excepted) but many complaints are disposed of much earlier.

Q: By whom can complaints be lodged in the office?

A: Any person aggrieved of maladministration committed by an Agency of the Punjab Government (Exceptions are mentioned separately in answer to the next question) can lodge

a complaint. In addition, the Ombudsman undertakes investigation on a reference by the Govt. or the Provincial Assembly, or on a motion of the Supreme Court or the High Court made during the course of any proceedings before it, or of his own motion into any allegation of maladministration of an Agency or any of its officers or employees.

Q: Against which Departments can the Ombudsman Punjab entertain complaints?

A: The Ombudsman can entertain complaints against an Agency which means a Department, Commission or office of the Government of the Punjab or a statutory corporation or other institutions established or controlled by it but DOES NOT include:

- the High Court and courts working under the supervision and control of the High Court, and the Provincial Assembly of the Punjab and its Secretariat. (Section 2 of Act X. 1997)

Q: Is it mandatory to first approach higher officers of the Department /Agency concerned for redress of grievances prior to filing a complaint before the Ombudsman?

A: It is not mandatory to first approach the higher officers of the Department/Agency to seek redress of grievance of maladministration. It is for the aggrieved person to decide, in which order he wants to take up his grievance for redressal.

Q: Can a govt. servant also approach the office of the Ombudsman for redressal of his grievances against his own or any other Department?

A: A government servant can also approach the office of the Ombudsman for redressal of his grievances against his own or any other department. However, this Office can not entertain complaint by or on behalf of a public servant or functionary concerning any matters relating to the Agency in which he is, or has been, working, in respect of any personal grievance relating to his service therein. The process of recruitment and recommendation for appointment, if involves maladministration, can also be challenged.

Q: Is there any provision in the law to punish those who lodge false and frivolous complaints?

A: Section 14(4) envisages that where the Ombudsman finds the complaint to be frivolous or vexatious, he may award reasonable compensation to the Agency, public servant or other functionary against whom the complaint was made and the amount of such compensation shall be recoverable from the complainant as arrears of land revenue.

Q: What type of evidence is required to prove the allegation contained in the complaint?

A: The parties to the complaint can produce before the Investigating Officer:

- documentary evidence duly attested.
- affidavit by the witnesses duly attested.

Q: What authority does the Ombudsman exercise to compel any person to attend the proceedings and produce the requisite record?

A: Section 14 of the Act prescribes the authority of the Ombudsman which he can exercise to compel any person to attend the proceedings and produce requisite record. The Ombudsman has, for the purposes of this Act, same powers as are vested in a civil court under the Code of Civil Procedure, 1908 in respect of the following matters:

- summoning and enforcing the attendance of any person and examining him on oath;
- compelling the production of documents;
- receiving evidence on affidavits; and
- issuing commission for the examination of witnesses.

Q: Can the Ombudsman compel any person/Agency to produce the secret information/documents before the investigating officer?

A: For the purposes of investigation under the Act, the Ombudsman may require any officer or member of the Agency concerned to furnish any information or to produce any document which in the opinion of the Ombudsman is relevant and helpful in the conduct of the investigation and there shall be no obligation to maintain secrecy in respect of disclosure of any information or document for the purposes of such investigation:

Provided that the Government may, in its discretion, on grounds of its being a state secret, allow a claim of privilege with respect to any information or document.

Q: Does the Ombudsman deal individually with each case?

A: A number of investigating officers are working in the Head Office, Lahore and the three Regional Offices (Multan, Rawalpindi & Sargodha) who assist the Ombudsman in the investigation of complaints and submit their findings. The Ombudsman then considers in detail facts of the case, relevant record and the assertions of the parties. He may give personal hearing to the parties to hear their point of view, if so required, and then passes the final orders.

Q: What is the Complaint Handling Procedure?

A: The following procedure is followed in handling the complaints:

- the day-to-day working of the Office, does not invoke strict/orthodox procedural and legal formalities.
- A complainant can file his complaint either by post/e-mail or in person as per his/her convenience.
- The format of the complaint is not strictly laid down.
- It is normally registered on the day of its receipt and notice issued to the agency for submission of a report.
- There is no court fee. Likewise the appearance of counsels is also not required although the complainant has the right of being represented.
- A complaint is required to comprise the following:
 - The complaint on plain paper
 - Copy of the C.N.I.C.
 - An affidavit on a plain paper regarding the veracity of the contents and the matter of complaint not being subjudice, attested by Oath Commissioner/Officer of scale 17 or above/Nazim or Councilor of Union Council. Name and designation of attesting person must be clearly mentioned.
- Registration is not refused to incomplete complaints. The complainants are advised/approached to arrange the required documents. In case of any difficulty, the complainants have free access to the Hon'ble Ombudsman, the Secretary, Investigating Officers etc.

Q: What legal remedy is available to a person aggrieved by a decision of the Ombudsman?

A: Section 32 of the Act provides that representation to the Governor can be filed against the decision or order of the Ombudsman. This representation has to be filed within 30 days of the decision or order.

Q: Can the Ombudsman award costs or compensation and order refund of amounts recovered?

A: According to Section 22 of the Act, the Ombudsman can award reasonable cost or compensation to an aggrieved party for any loss or damage suffered by him on account of any maladministration committed by a public servant. This, however, can be done only after issuing a show cause notice to public servant, functionary or Agency concerned and after considering the explanation and hearing such public servant, other functionary or Agency. The cost or compensation awarded is recoverable arrears of land revenue. Similarly, in cases involving payment of illegal gratification, misappropriation, criminal breach of trust or cheating, the Ombudsman can order payment thereof for crediting to the government or pass such other order as he may deem fit.

Part-II

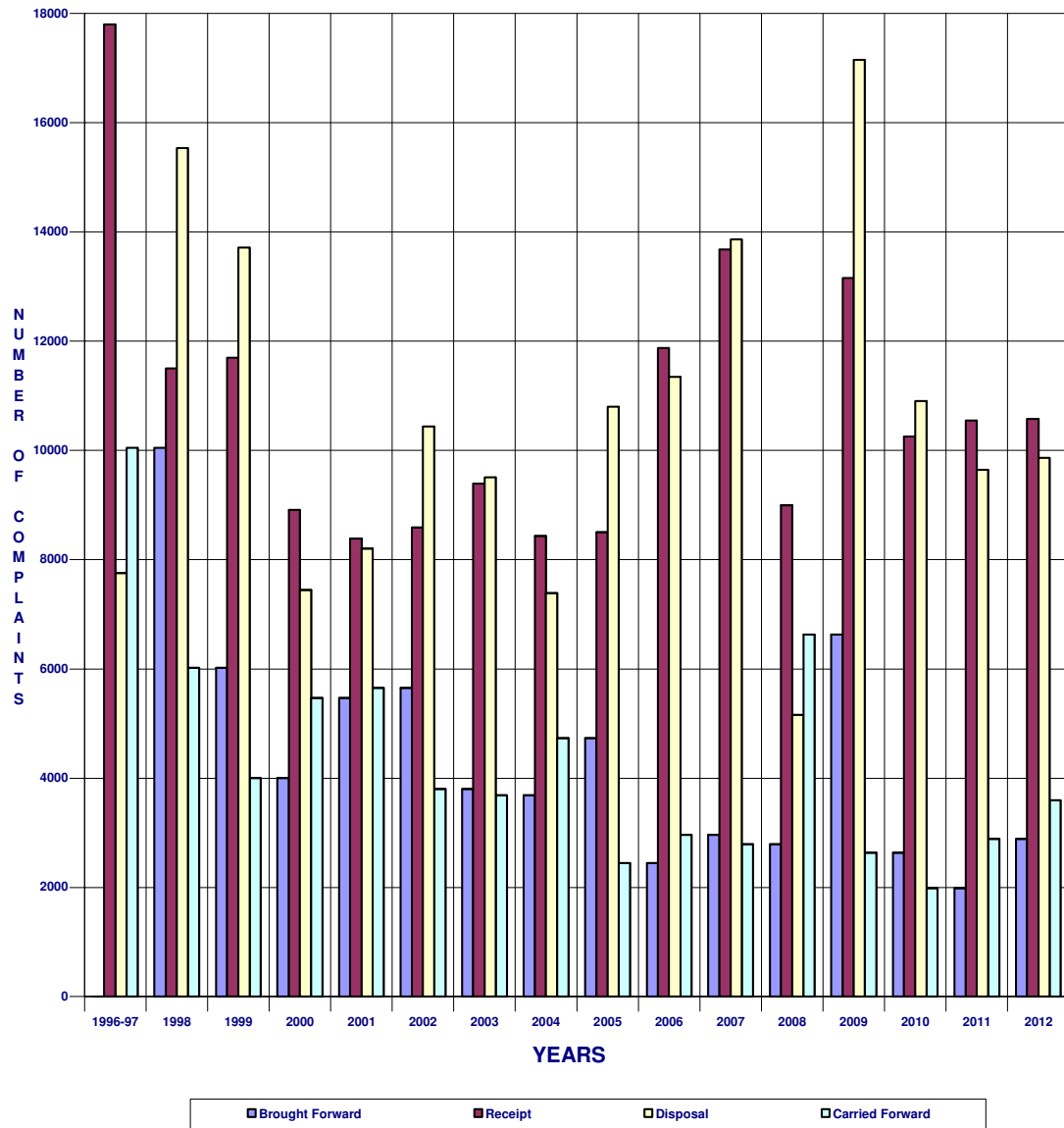
THE YEAR IN REVIEW

- 2.1 Statistical Analysis
- 2.2 Children Complaint Office
- 2.3 Case Studies
- 2.4 How did the departments perform?
- 2.5 Relief provided in monetary terms

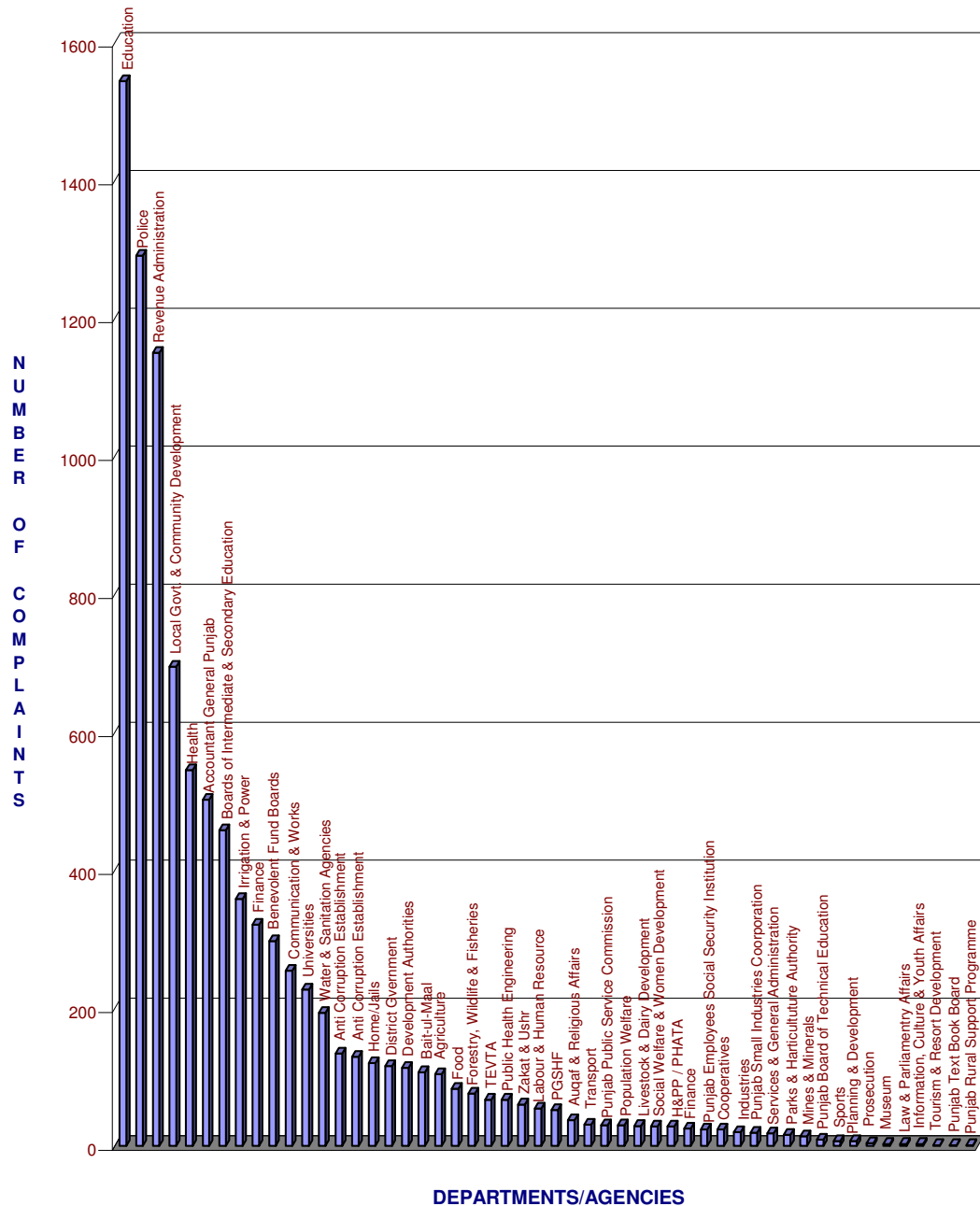
STATISTICAL ANALYSIS

The statistical analysis of the complaints received, investigated and disposed of during the year under review shows that a total of 13,460 complaints were processed and 9,862 were disposed of, leaving a balance of 3,598 at the end of the year 2012. The highest number of complaints 1,544 were against Education followed by Police Department with 1,291 complaints. Revenue Administration was third with 1,150 complaints. 4,353 complaints were found non-maintainable for various reasons. In all 459 implementation petitions were processed and 233 were disposed of, leaving a balance of 226 implementation petitions. As a result of determined follow up action the number of implementation petitions pending in the office and the number of directions awaiting compliance was considerably reduced. Maximum number of directions awaiting implementation pertains to various tiers of LG&CD (54) A.G. Punjab/DAOs (31), Education (28), Revenue Administration (20), Irrigation and Power (19), Police (18), Health (13) and Others (47). The departments where these directions were not implemented for a very long time are Local Government, A.G. Punjab/DAOs and Education. The matter has been taken up with the office of Chief Secretary Punjab who has deputed I&C Wing of S&GAD to liaise with the concerned departments for early compliance of the directions of the Ombudsman.

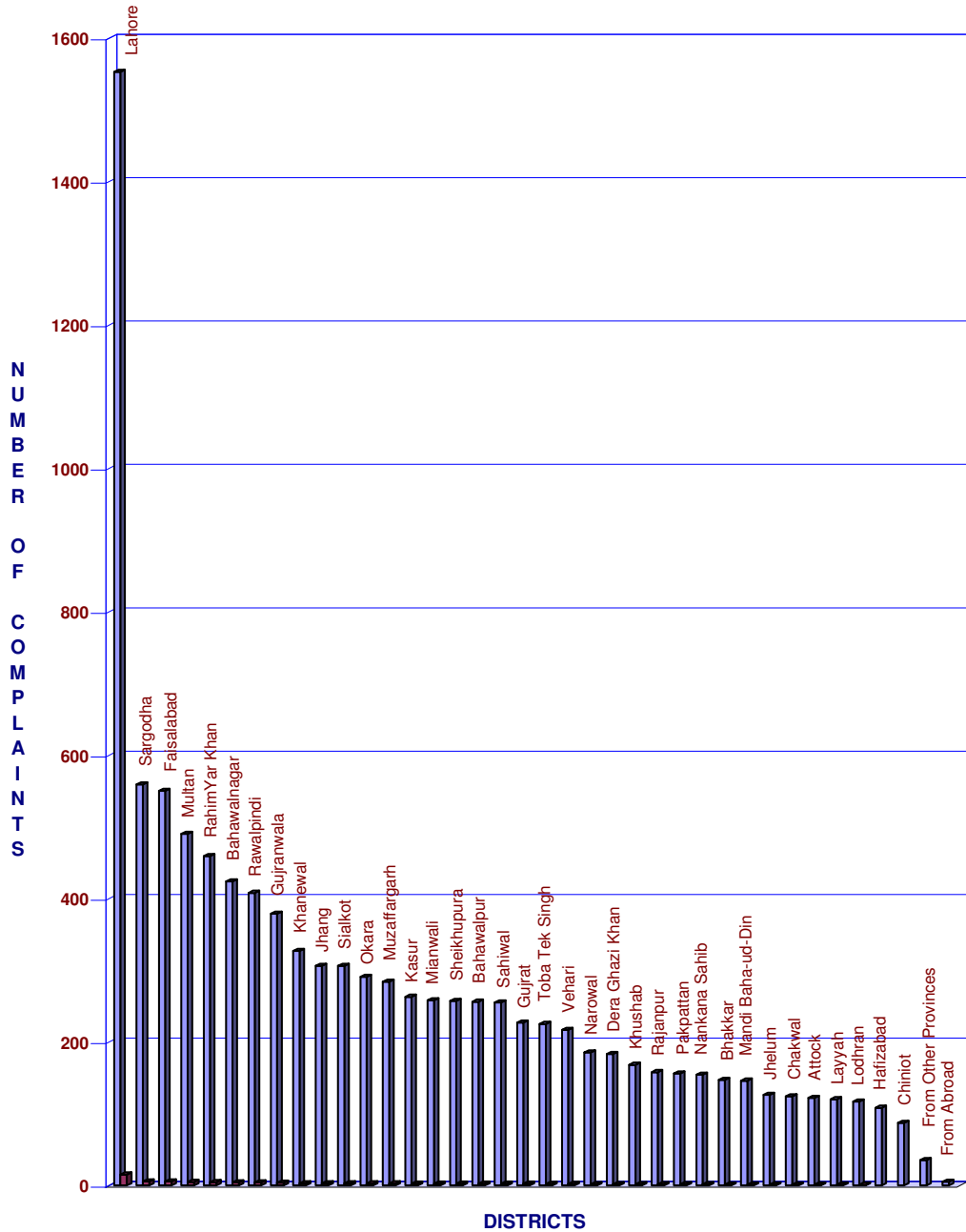
YEAR WISE RECEIPT AND DISPOSAL OF COMPLAINTS (30.9.1996 TO 31.12.2012)



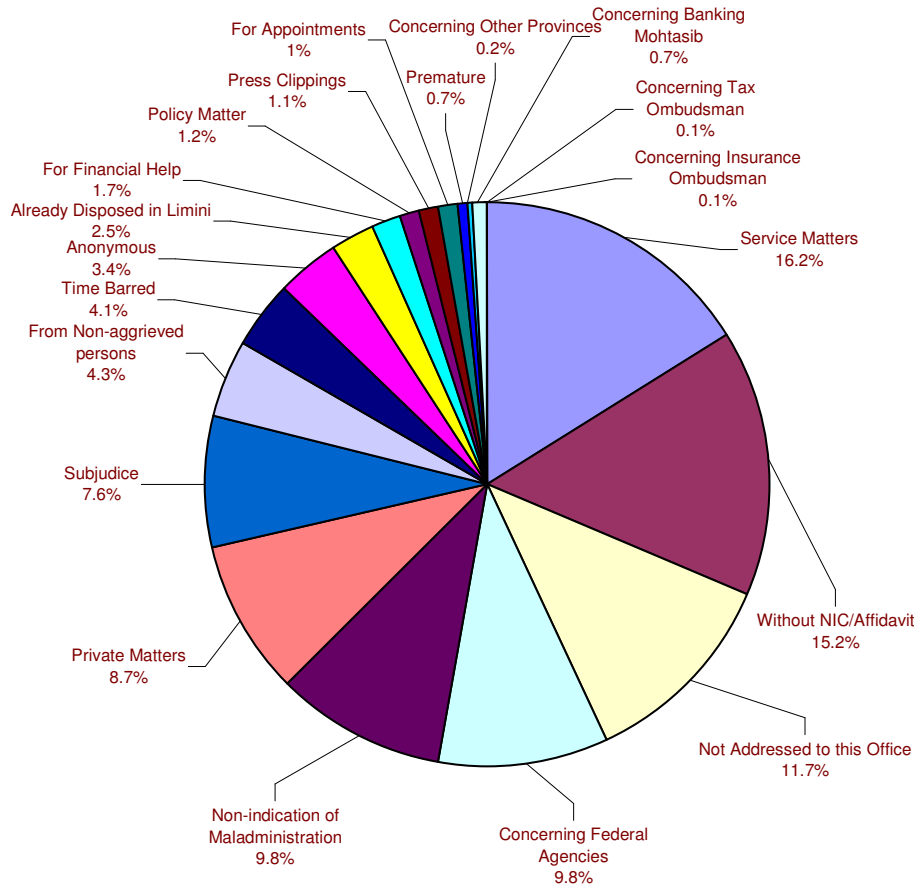
DEPARTMENT/AGENCY WISE BREAK UP OF COMPLAINTS RECEIVED DURING 2012



DISTRICT WISE BREAK UP OF COMPLAINTS RECEIVED DURING 2012

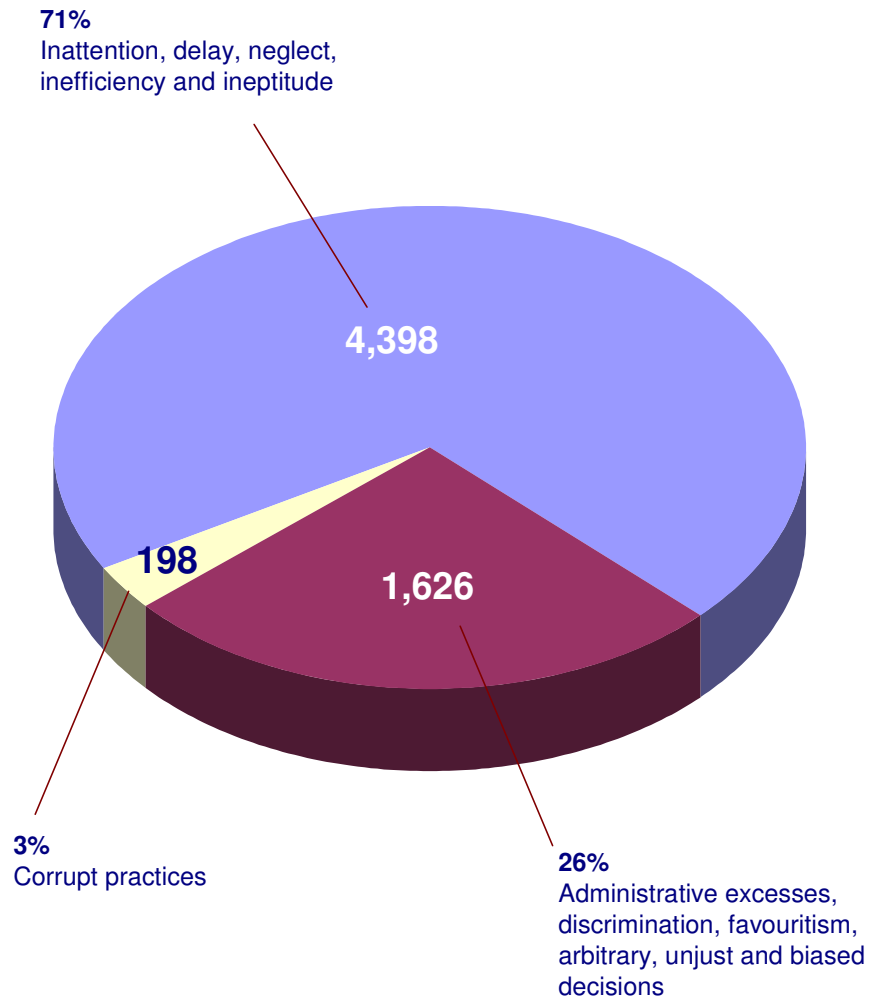


NON-MAINTAINABLE COMPLAINTS RECEIVED DURING 2012



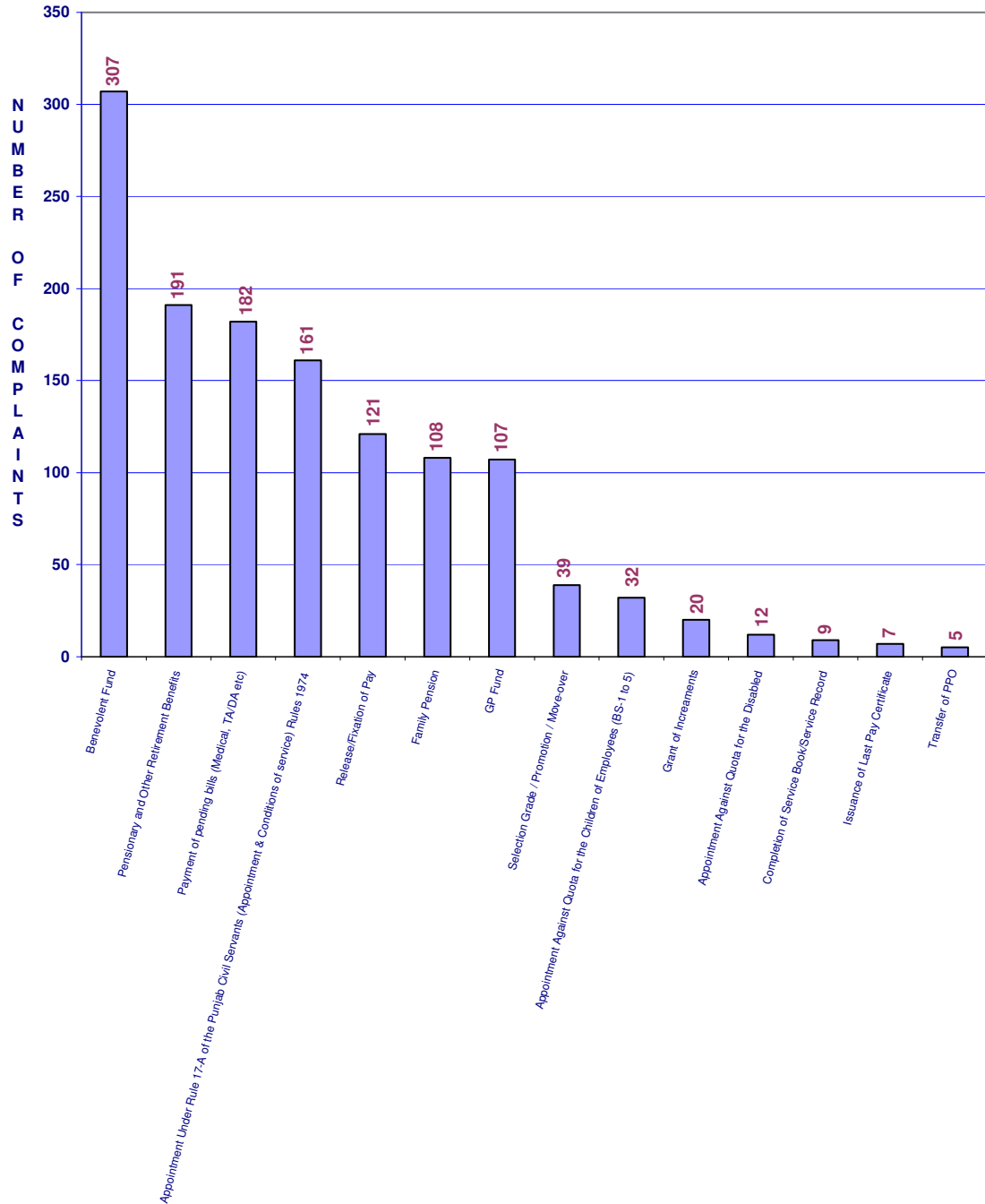
TOTAL: 4,353

NATURE OF MALADMINISTRATION
REFLECTED IN MAINTAINABLE COMPLAINTS
DURING 2012

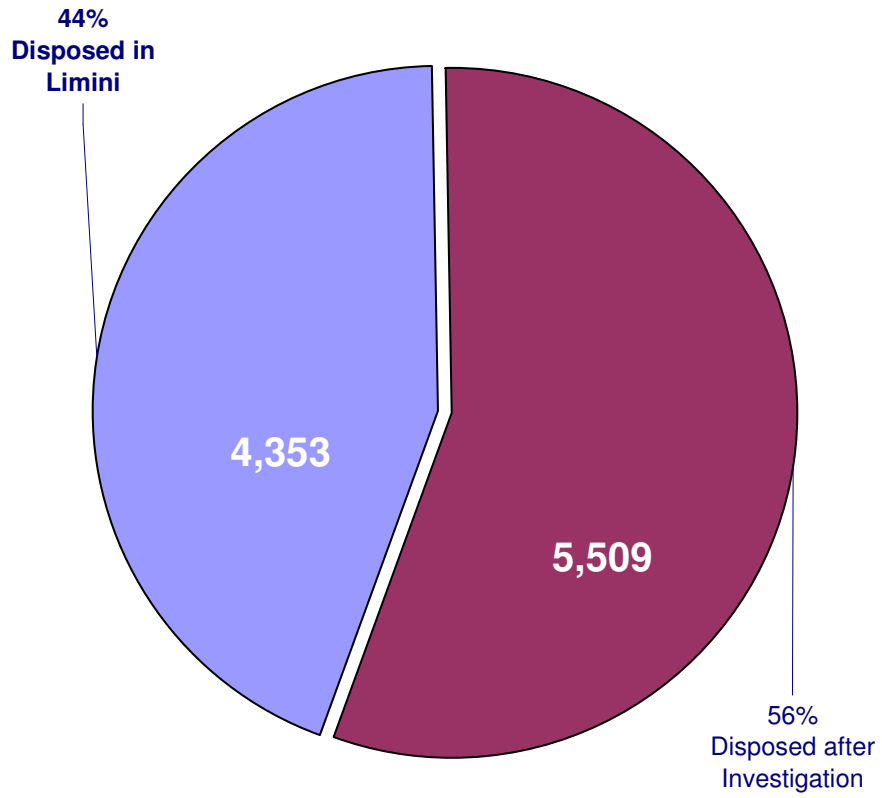


TOTAL: 6,222

COMPLAINTS PERTAINING TO MALADMINISTRATION IN MATTERS RELATING TO SERVICE DURING 2012

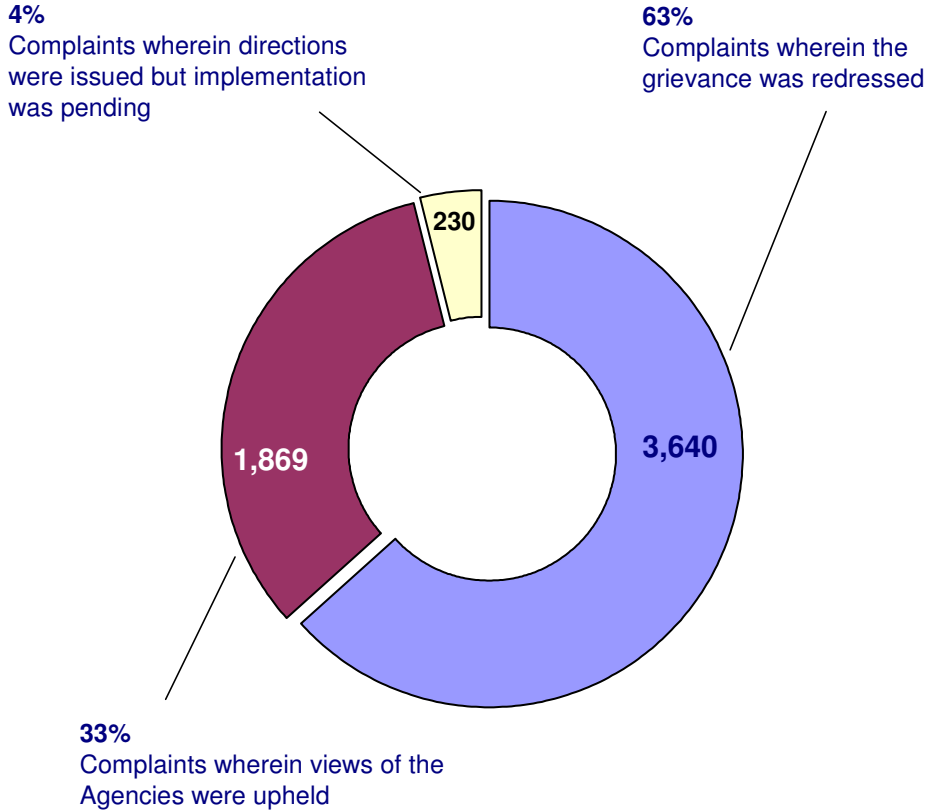


DISPOSAL OF COMPLAINTS DURING 2012

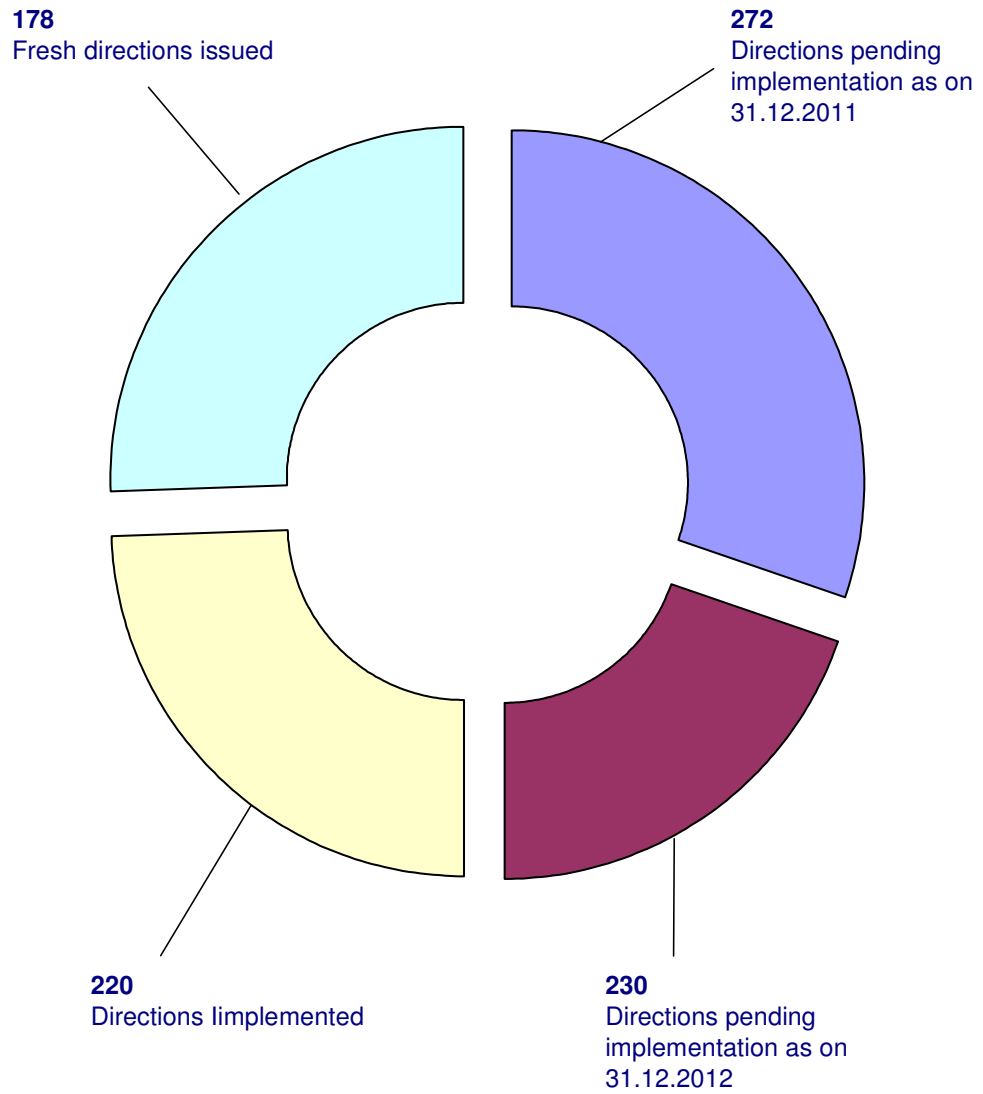


TOTAL: 9,862

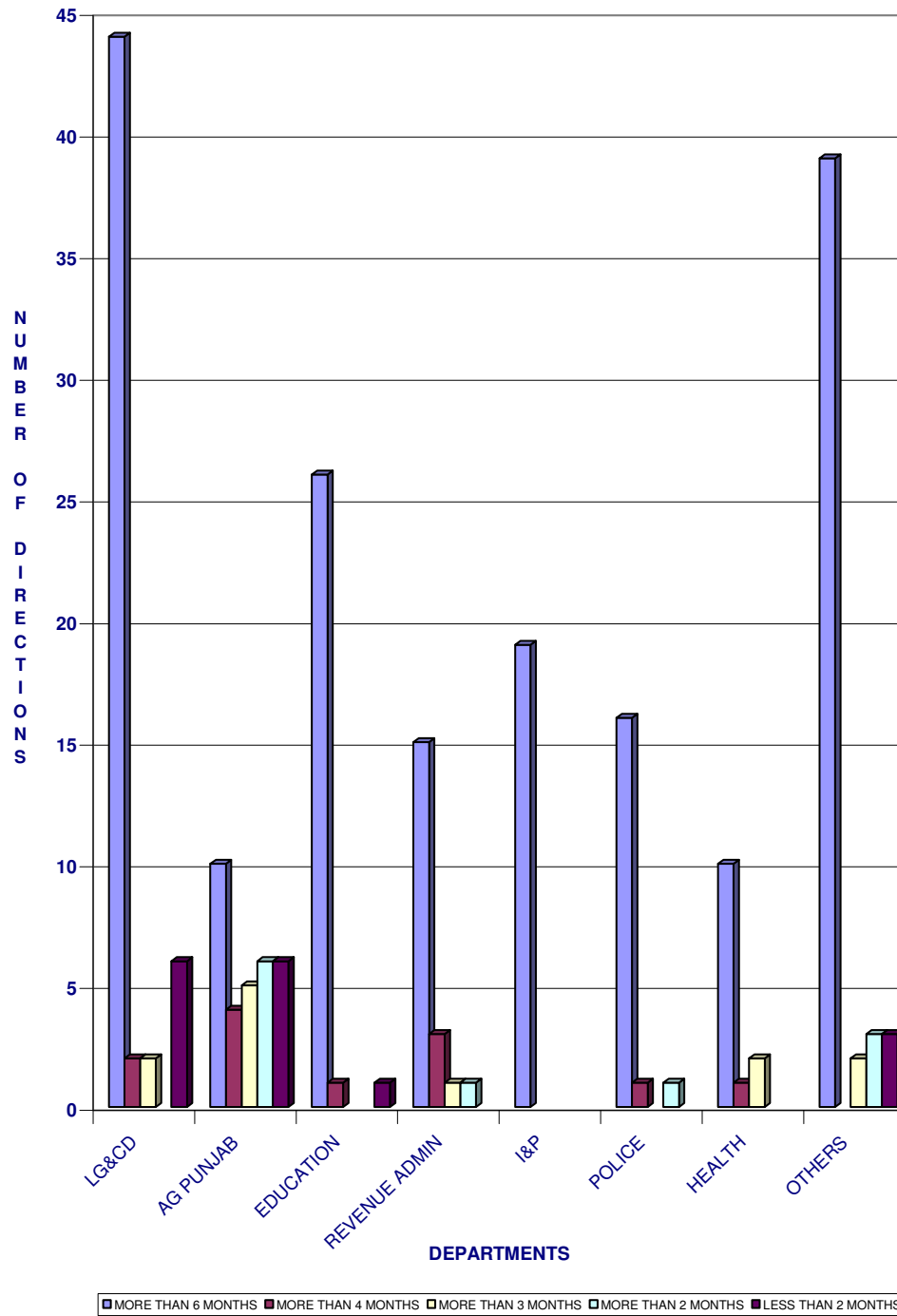
**BREAK UP OF COMPLAINTS DECIDED
AFTER INVESTIGATION
DURING 2012**



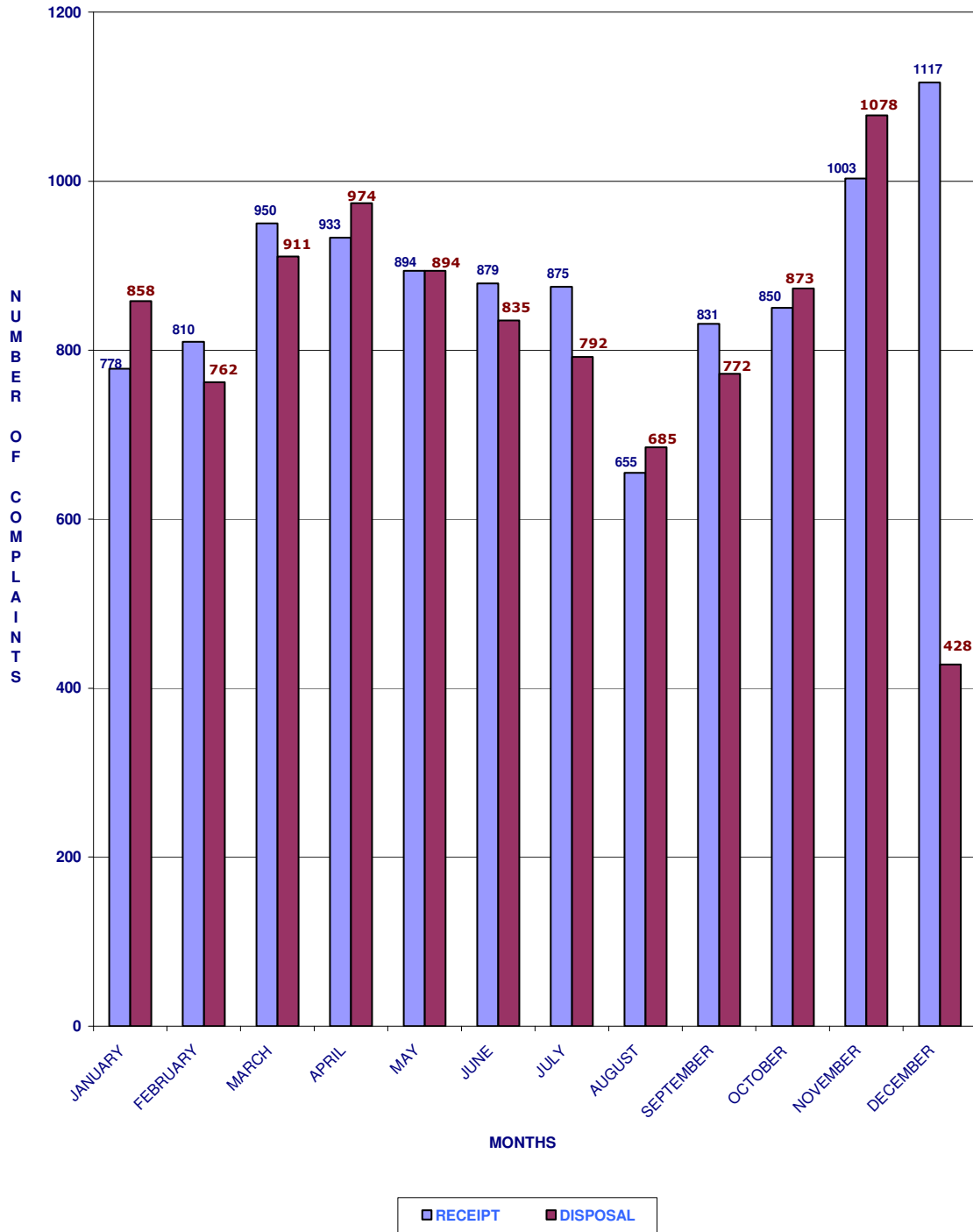
**BREAK UP OF COMPLAINTS AWAITING
IMPLEMENTATION OF DIRECTIONS
DURING 2012**



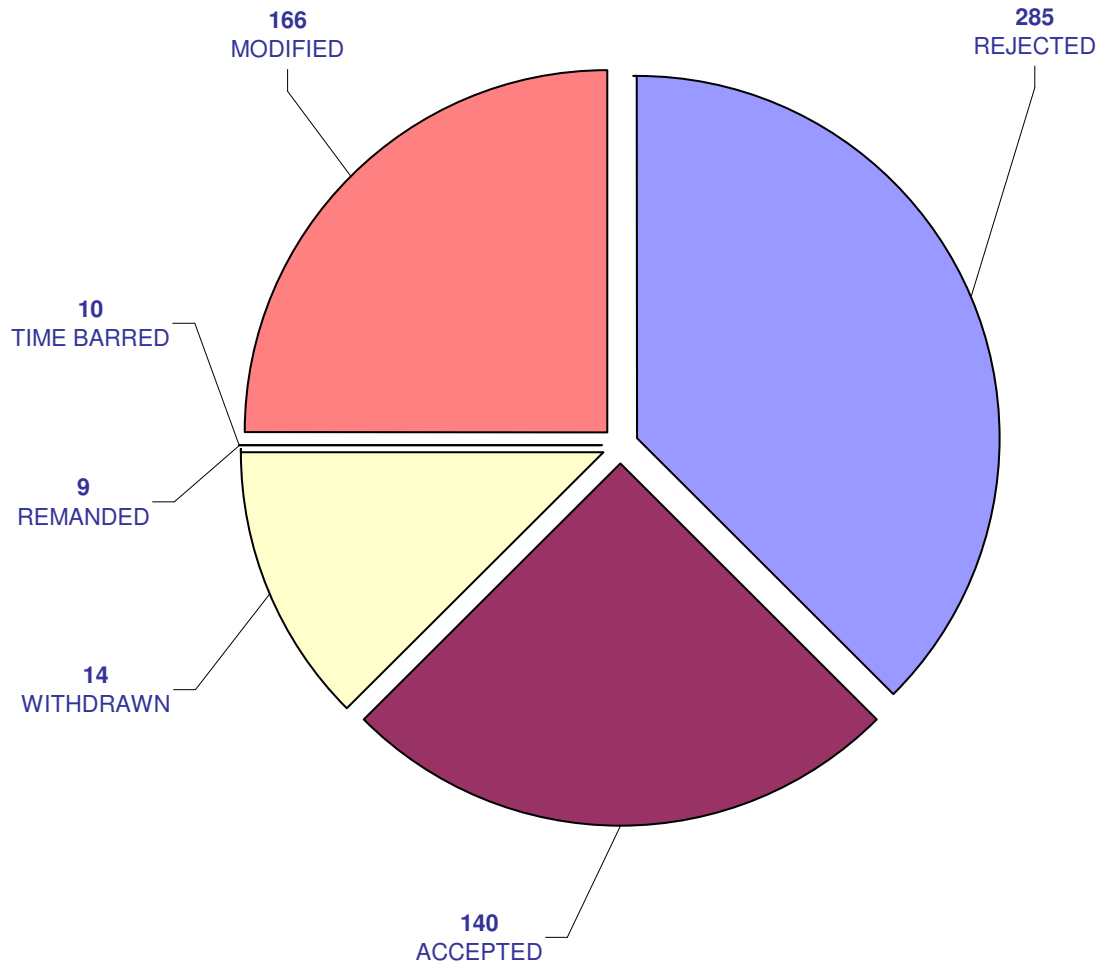
DEPARTMENT/AGENCY WISE BREAK UP OF DIRECTIONS AWAITING IMPLEMENTATION AS ON 31.12.2012



MONTH-WISE RECEIPT & DISPOSAL OF COMPLAINTS DURING 2012

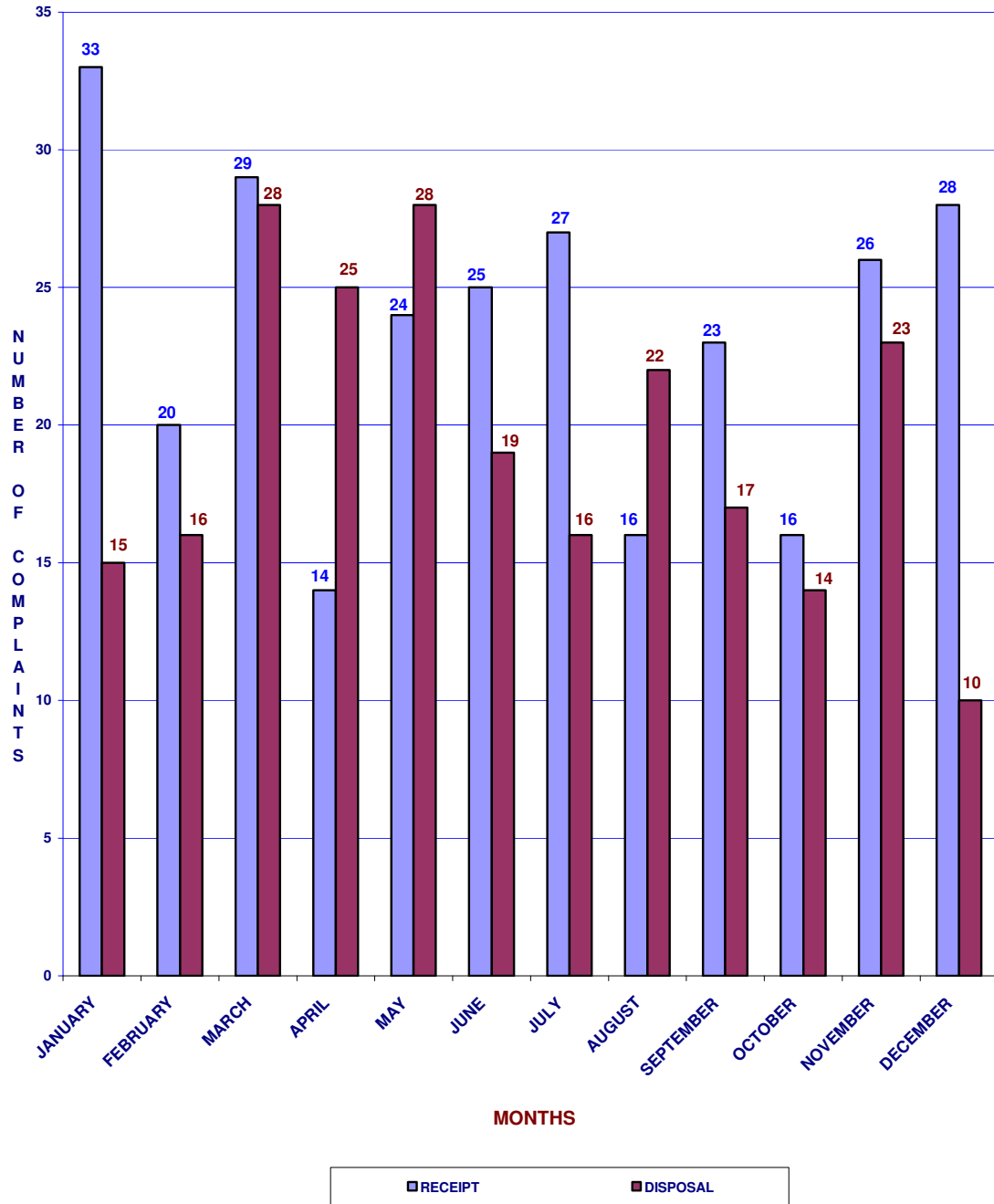


DEPARTMENT/AGENCY-WISE REPRESENTATIONS
DECIDED BY THE GOVERNOR DURING 2012



TOTAL : 624

MONTH-WISE RECEIPT AND DISPOSAL OF IMPLEMENTATION PETITIONS DURING 2012



CHILDREN COMPLAINT OFFICE

The Children Complaint Office (CCO) was set up under the Responsive, Enabling and Accountable System for Children's Rights (REACH) project in the office of Ombudsman Punjab with the assistance of UNICEF in May, 2009. The Children Complaint Office (CCO), is a section of the office of Ombudsman Punjab charged with the responsibility to promote and safeguard the rights and welfare of children and young people below 18 years of age. Its specific objective includes:

- (a) To establish a focused and dedicated redress and responsible system for complaints made by or on behalf of children against maladministration by provincial agencies, institutions or public bodies/functionaries.
- (b) To provide a platform for addressing child rights issues through research, advocacy and engagement with the children and other stakeholders.

In the year 2012 CCO widened its scope and strengthened the regional offices of Ombudsman Punjab at Multan, Rawalpindi and Sargodha for the purpose. CCO has been successfully communicating its message by arranging campaigns as well as seminars on multiple issues to create awareness among the children, parents and other participants. The CCO has planned its yearly activities focusing on children's participation and celebrated all the national and international days with marginalized groups of children. A special sport festival was also arranged at Bhalwal. It also organizes orientation session and awareness campaigns with students of various universities and colleges. More than 450 such orientation sessions were carried out at various cities namely Gujranwala, Wazirabad, Rawalpindi, Sialkot, Faisalabad, Chakwal, Sargodha, Kasur, Muzaffargarh, Multan and Mianwali. Through out the year CCO has been hosting seminars for children, parents, teachers, community organizations and approached nearly 50,000 children and other stakeholders.

A quarterly news letter of CCO is being published and distributed regularly among the stakeholders. A series of promotional materials like leaflets, caps and calendars were prepared and distributed amongst the public and the children.

An important aspect of research and analysis is to make child friendly investigation. Different research reports prepared by the CCO, serve as a ready reference for policy on child related issues. The CCO is also facilitating the Federal Ombudsman in preparation of a report on state of children in Pakistan.

Psycho-social Interventions

The children going through maltreatment and abuse may suffer from symptoms of anxiety, depression, intense fear, shock, fits of anger, loss of sense of safety, disorientation, disillusionment, feeling of helplessness and suicidal tendency. CCO received more than 50 complaints where psychosocial support was needed and the Consultant Psychologist

provided individual and family counselling. The intervention sessions were conducted to get analysis of behavioral patterns of aggrieved children (complainants).

More than 2,218 complaints were registered, out of which 1,848 has been disposed of while the rest of the complaints are under investigation. In this connection 512 field visits were made by the Investigating Officers. Another initiative of CCO team is the placement of complaint boxes in more than 200 schools of 19 districts of Punjab and a large number of complaints were received through these boxes within a short time.

CASE STUDIES

Accountant General Punjab

Protection of Pay & Allowances Drawn Against Previous Confirmed Appointments

Complainants, Attiq Amjad, Muhammad Tariq Kamran and Muhammad Khalid Javed, Lecturers in Education department stated that prior to their selection as Lecturer (on contract basis), in 2005 and afterwards on the recommendations of PPSC, they were working as regular/confirmed School Teachers. They joined duty as Lecturers in district Okara without any break/interruption in their service. Their contract appointment as Lecturers was, subsequently, regularized under a general policy decision taken by the Govt. They were allowed fixed pay package during the period of their contract appointment but the pay and allowances being drawn by them against the previous posts were not protected. A policy decision was, however, taken by the Govt./S&GAD through an amendment in the contract policy on 02.08.2007 and all employees who were earlier working against regular posts in confirmed position before fresh appointment on contract basis, were allowed protection of their pay and allowances in re-fixation of their pay (which was, otherwise, less than the emoluments drawn by them previously) on contract appointment. In the light of the Govt. instructions dated 02.08.2007, several Lecturers including one Intizar Hussain Alvi, a Lecturer in district Okara, were allowed protection of their previous pay/allowances. They approached DAO Okara for re-fixation of their pay in the light of the instructions issued by S&GAD and the precedents. The DAO Okara, however, adopted a negative attitude and refused to entertain their legitimate request. They approached AG Punjab who confirmed that the Lecturers appointed on contract basis were entitled to protection of their previous pay/allowances but the DAO stuck to his stance. The complainant contended that Subject Specialists and Headmasters directly appointed (on contract basis) on the recommendations of the Punjab Public Service Commission, were allowed protection of their previous pay and allowances as School Teachers but a different yard stick was adopted by DAO Okara in their case. The complainants requested that directions be given to the Agency/DAO Okara for refixation of their pay as Lecturers (on contract basis) strictly in accordance with the instructions dated 02.08.2007, issued by S&GAD.

DAO Okara reported that complainants were appointed as Lecturers on contract basis and were allowed specific terms and conditions including pay and allowances. They accepted those terms and conditions without any objection at that time. S&GAD's instructions dated 02.08.2007 were, therefore, not applicable to them. The office of AG Punjab reported that as per S&GAD's instructions dated 02.08.2007, the confirmed employees subsequently appointed on contract basis, were entitled to protection of their previous pay/allowances. In a subsequent report, the office of AG Punjab took a different stance and maintained that the stance taken by DAO Okara was not baseless.

Finance department reported that those employees who were appointed on contract basis and were previously working against temporary posts on contract basis, were not entitled to protection of their pay/allowances on contract appointment.

The complainants maintained that the DAO Okara had submitted a misleading report and he also did not offer comments with regard to precedent of Intizar Hussain Alvi whose case was identical and who was allowed protection of his previous pay and allowances. The AG's stance was also inconsistent because it supported their contention and, thereafter, for unknown reasons, had endorsed unreasonable stance taken by DAO Okara. The complainants further maintained that FD's stance was also inconsistent and irrelevant because according to FD, protection of previous pay/allowances was not allowed to those employees who were previously working on contract basis. They (the complainants) were, on other hand, working against substantive posts and their lien as confirmed School Teachers was retained by the department when they were relieved to join as Lecturers. The AG office and the DAO were bound to act in accordance with instructions dated 02.08.2007 issued by S&GAD which had the powers to prescribe terms and conditions of contract appointment in respect of any class of Govt. employees.

Parties were jointly heard. The complainants reiterated their stance as contained in the complaint and the rejoinder. They also produced evidence including pay slips in cases where pay and allowances drawn in precedented cases were protected on contract appointment. The DAO Okara repeated his earlier stance.

It is evident from facts/record that the complainants were regular/confirmed School Teachers before their selection as Lecturers (contract basis) through Punjab Public Service Commission. They joined as Lecturers without any break/interruption in their service. Subsequently, as per policy of the Govt. their contract appointments (as Lecturers) were converted into regular appointments in the time scale. They claimed protection of their past pay/allowances as regular School Teachers in the light of S&GAD's notification dated 02.08.2007 which provided for protection of pay and allowances drawn as regular/confirmed employees. This provision was specifically incorporated in the terms and conditions of appointment of Headmasters and Subject Specialists directly appointed on contract basis on the recommendations of the Punjab Public Service Commission. The protection of pay and allowances was also allowed to several Lecturers who were appointed alongwith the complainants in other districts. The AG Punjab also, in its initial reaction to the petition, agreed to protection of previous pay and allowances. FD's stance was misconceived because it considered the complainants as temporary/contract appointees (as School Teachers) before their appointments as Lecturers. In several precedented cases like that of Tariq Imran and Intizar Hussain Alvi, Lecturers, the protection of pay and allowances was allowed by the DAOs including DAO Okara. It is also to be noted that the complainants had suffered loss in total emoluments despite their appointment against higher posts of Lecturer

due to exclusion of allowances like Adhoc relief and cost of living allowance etc which were not paid to them after appointment as Lecturers.

Considering the facts of the case, refusal to protect pay/allowances drawn by the complainants in their substantive capacity as School Teachers before appointment as contract Lecturers, (when this benefit was allowed in precedented cases and was incorporated in the terms and conditions of other employees (Headmasters etc) appointed on the recommendations of PPSC, is considered an act of discrimination/maladministration. The Agency/DAO Okara was accordingly directed to issue revised pay slips including the benefit of protection of past pay/allowances to the complainants in terms of S&GAD's notification dated 02.08.2007, within a period of one month.

[Complaint 2243/06/2011](#)
[Complaint 1368/04/2012](#)
[Complaint 4287/11/2011](#)

Request for Payment of Further Interest on GPF

Complainant, Fateh Muhammad stated that he retired as a Senior Headmaster/ Education department /district Gujranwala in June 2006, but GPF was paid to him in December 2009. The DAO Gujranwala calculated interest on his GPF balance upto six months after the date of retirement. He told DAO that as final payment of GPF was made in December 2009, he was entitled to get further interest for a period of three years after the date of his retirement, but did not receive any response. The complainant requested that direction be given to the Agency/DAO Gujranwala for recalculation and payment of further interest on GPF up to the actual date of payment i.e. 10.12.2009.

DAO Gujranwala reported that the complainant had not stated full facts. His GPF account was considered interest free as per record. He filed a complaint before Ombudsman and on the directions of Ombudsman, the authority for final payment of GPF issued earlier, was revised and he was paid GPF with interest calculated upto six month after the date of his retirement in accordance with GPF Rules. The complainant accepted recalculation of interest on his GPF (as per GPF Rules) in accordance with the decision of Ombudsman. He was not entitled to payment of further interest.

The complainant maintained that the issue raised by him did not relate to the decision of Ombudsman in his previous complaint.

Parties were jointly heard. The complainant maintained that he was entitled to payment of further interest on his GPF up to the date of final payment. The representative of the Agency/DAO Gujranwala maintained that in terms of rule 1.13(4) of GPF Rules, interest could be calculated upto six months after the date of retirement i.e. the date when GPF became payable after discontinuation of subscription.

It is evident from record as produced that the complainant previously filed a complaint (No. 7916/10/2007 – a fact not disclosed by the complainant in his present

complaint) regarding payment of interest on his GPF as according to him the authority for final payment of GPF was issued by DAO Gujranwala excluding interest soon after his retirement. The DAO (in that case) took the stance that as per record the complainant's GPF account was interest free. The complaint was disposed of through order dated 13-07-2009 with the following directions: "DAO Gujranwala is directed to recalculate the complainant's GPF balance against GPF account No. Edu-4964 after properly adjusting the missing credits and allowing interest as per rules and issue revised authority - DAO Gujranwala shall submit a compliance report". In compliance with these directions, the Agency/DAO Gujranwala issued a revised authority including interest in accordance with GPF Rules and submitted an implementation report to the office of Ombudsman. The compliance report by DAO including calculation of interest according to Govt. instructions (rule 1.13 (4) of GPF Rules) was accepted on 28.10.2009.

As the complainant was issued revised authority including interest in accordance with the order dated 13.07.2009 passed in his original complaint and the complainant accepted that order as well as the action taken by the DAO (in 2009) in pursuance of that order without any objection, no case of maladministration is made out against the Agency/DAO Gujranwala.

Complaint No.332/01/12 C-VI-15/2012

B.I.S.E

Fixation of minimum age limit for enrollment of students in violation of children rights warranted by the charter of U.N.O

Complainant, Bushra Mujahid stated that her daughter, Amara Mujahid, a student of class-IX, Nawaz Sharif Girls High School Nicholson Road, Lahore was refused enrolment/registration by BISE, Lahore for Matriculation (Part-I) examination 2013 on the ground that she was underage. The complainant contended that her daughter being exceptionally brilliant/gifted, passed middle standard examination in 2012 by obtaining 90% marks and was granted admission in class-ix. Her name was included in enrolment return which was not accepted under on line system of the Board as she did not fulfill the condition of age limit of 13 years for enrolment/registration for Matriculation (Part-I) examination 2013. The complainant stated that her daughter felt dejected on rejection of her enrolment on ground of age. Fixation of any minimum age limit for children/students in an examination was unjust and opposed to U.N charter of children rights. The complainant requested that directions be given to the Agency/BISE, Lahore to register her daughter for the forthcoming Matriculation (Part-I) examination 2013 for which the closing date was 03.07.2012.

Secretary BISE, Lahore reported that minimum age of 13 years on 1st August in a year in which a candidate was to appear in class-ix examination, was fixed by Punjab Boards Committee of Chairmen through its decision dated 08.05.2012. The online system accepted particulars of only those candidates (for registration) who fulfilled the condition of

minimum age limit. The complainant's daughter being underage, the proposal for her registration sent by the school, was not accepted.

Parties were jointly heard on 02.07.2012. The complainant reiterated her stance and contended that the latest Board's decision regarding fixing of minimum age limit for students of Matriculation, was unreasonable, ill advised and against children's rights. The Agency was represented by Mr. Zahid Hussain, L.C, BISE, Lahore who maintained that the decision was taken in a meeting of Chairmen of the Boards. He could not, however, provide justification for that decision. He admitted that several students/their parents had approached the Board for review of the decision and the matter was likely to be placed again in a meeting of the Punjab Boards Committee of Chairmen.

It is evident from record that no minimum age limit was prescribed for children/students who appeared in middle standard examination (which qualified them for admission in class IX) in the same year. No such condition was prescribed earlier for enrolment with the Board. The latest decision of fixing minimum age limit of 13 years on 1st August of the year in which a student was to appear in Matriculation (part I) examination, was taken on 08.05.2012. If any age limit was to be fixed, it should have been first fixed for the preceding (middle standard) examination. It was unfair to allow a student, (despite his/her age) to appear in middle standard examination, to get admission in class IX and to refuse enrolment for the same class (class IX) during the same year on ground of age. Even otherwise, a decision taken in May 2012, could not be applied to students who got admission in class IX before this decision (in April 2012). Brilliant students like the complainant's daughter can pass primary/middle standard examinations at an early age. Forcing such students to waste an additional year (i.e. to spend 3 years instead of 2 years) in Matriculation, appears unfair and, therefore it is an act of maladministration. The Agency/BISE, Lahore is directed, to admit the particulars of complainant's daughter (Amara Mujahid) and other students falling in this category, for enrolment for Matriculation (Part-I) examination 2013 immediately on receipt of an application/enrolment return from the school. The Agency is, further directed to withdraw this unreasonable decision of fixing minimum age limit.

[Complaint -2256/06/2012-Adv-II-211/2012](#)

District Government

Approval of Building Plan

Brief facts of the case are that the complainant submitted a building plan to TMA Ravi Town for approval to reconstruct his old house situated inside Sheranwala Gate Lahore. He was told that the competent authority had imposed a ban on reconstruction inside Lahore City. The complainant requested that the TMO be directed to approve the building plan of his house which was in a dilapidated condition and it could cause loss of life in case the existing structure collapsed.

Town Officer (P&C) TMA Ravi Town reported that Government of the Punjab had launched a project in the walled city to save the national heritage. A ban had been imposed on 23.10.2008 on demolition of heritage buildings and approval of new building plans till further orders and City District Government, Lahore was directed to make rules which were still awaited. It was contended that approval of building plans in walled city was not possible under these circumstances. The Town Officer (Regulations) TMA Ravi Town also filed a list of persons, who did not comply with the government instructions and carried out unauthorized construction.

District Officer (Spatial Planning), City District Government, Lahore reported that the demolition, renewal or preservation of heritage buildings was not the subject of City District Government, Lahore nor there was any question of approval of building plan. As per building regulations, a three storey and beyond was a high rise building. There was no ban on approval of plans of a building up to two storeys. The District Officer added that City District Government, Lahore did not frame rules as decided in the meeting dated 23.10.2008 and the walled city authority never followed up the issue nor any meeting was ever held, hence the decision needed to be revisited.

Record shows that in order to save the national heritage, Government of the Punjab established a project for sustainable development of the walled city. In its preparatory meeting dated 23.10.2008, the project management imposed a ban on demolition of heritage buildings and approval of new building plans. The City District Government, Lahore directed to make rules to resolve the issue did not make any rules during the last more than three years.

It is admitted that PMU never followed up the matter since 2008 nor the City District Government framed any rules to regulate the issue. This indifference of the Agencies can cause a human tragedy and loss of property in case an old building collapses. Reconstruction in violation of building regulations is reportedly going on unabated. It is time the concerned Agencies wake up and realise the grave dangers involved in this situation. Whereas the heritage buildings must be protected in coordination with the Archaeology Department, no moratorium should be imposed on renovation/reconstruction of the buildings which are dilapidated. Keeping in view the aforesaid, the walled city project and District Coordination Officer, City District Government, Lahore are directed to notify the policy on the subject immediately and resolve the complainant's problem as per the existing rules within one month of the date of issue of this order.

Complaint No. 3584/10/2011 C-X-197/11

Education

Poor conditions of service in private schools

Complainant, Um-ul-Baneen stated that being an educated young person she wanted to adopt teaching as a career. She approached several private schools and offered

to serve as a teacher but was frustrated to find that those private schools were following a policy based on exploitation of teachers. For instance, as against minimum wages of Rs.7000/-P.M fixed by the Govt. for labourers/workers, the private schools were paying only Rs.3500/-P.M to qualified teachers. The teachers did not enjoy job security and were not allowed to sit in chair during working hours. They were also not paid any salary during vacation whereas full tuition fee for three months of summer vacation, was received in advance from the students. Original degrees/certificates of those teachers were kept in possession to force them to work in the school against their will. No medical care or any retirement benefit was provided. The complainant requested that directions be given to the concerned agencies to ensure better conditions of service for teachers working in private institutions.

Punjab Employees Social Security Institution (PESSI) reported that the teachers working in some private schools covered by Social Security Scheme, could get free medical facilities from Social Security hospitals/dispensaries. Secretary Labour and Human Resource Department reported that Social Security Ordinance was not applicable to private schools and the teachers working in private schools did not come under the purview of labour laws. A specific code of conduct was, however, needed for the private educational institutions in order to safeguard the interests of the teachers. Secretary School Education and DPI (SE) reported that the private schools were registered under Punjab Private Educational Institutions (Promotion and Regulation) Ordinance, 1984 and the rules framed thereunder. On the directions of C.M, a committee had been constituted to formulate recommendations in respect of privately managed schools and that the matter would be placed before the Provincial Cabinet after consulting all stakeholders.

The complainant did not appear. The Agency was represented by Sheikh Iftikhar Hussain, Assistant Director (Litigation) o/o DPI (SE) who stated that the department was aware of the problems faced by teachers in private teaching institution and that the matter was presently being considered by a committee. He admitted that the teaching institutions in private sector, were being run like a business concern and generally no effective remedy or forum was available to redress the grievances (insecurity, poor remuneration, absence of ordinary service facilities) of teachers working in private institutions.

The complainant has highlighted the plight of teachers, particularly of female teachers, in private institutions/schools. The representative of the Education department admitted during the proceedings that the grievances (insecurity, poor pay etc) mentioned in the complaint, were not baseless. Most of these teachers did not enjoy any medical facility or any retirement benefit because most of the private schools were not covered under social security scheme. According to Secretary Labour, social security scheme was not applicable to private schools/teachers whereas according to PESSI, some private schools were registered under social security scheme. Secretary Labour and Human Resource is directed

to resolve this conflict (confusion regarding application of social security scheme in respect of private schools/institutions/teachers) by associating PESSI and the Education department and to issue definite/clear instructions in this regard.

Exploitation (poor terms and conditions of service) of teachers in private schools is a reality and the agencies do not deny this fact. The owners of some of the private institutions (this group of schools and that group of colleges etc or this school system or that school system) have, over the years, turned too powerful and the Education department appears to have lost the will and the capacity to impose any check or to enforce any discipline through legislation etc. A committee is reported to have been constituted to formulate recommendations for an amendment in the existing law. The Secretary School Education and DPI (SE) are directed to ensure (through amendment in existing rules and by taking practical steps) that the teachers in private schools/institutions were paid salary above the minimum level of wages (fixed for workers) and that no teacher is deprived of salary for the period of vacation.

[C-4218/11/2011-Adv-II-281/2011](#)

Payment of outstanding Bills of Books supplied to Quaid-e-Azam Library

Zubair Khalid Mirza, Chief Executive, Multi Line Books approached Ombudsman's office with a complaint stating that he supplied books worth Rs.10,66,814/- to Quaid-e-Azam Library Lahore, on different dates in 2008, 2009 and 2010 and submitted four bills amounting to Rs.1,73,688/-, Rs.2,49,826/-, Rs.6,40,718/- and Rs.2,602/- respectively which were received and acknowledged by the librarians. The books were taken on stock, allotted accession numbers, placed on library shelves and were being used/read since 2008. A cheque (for payment) was also prepared but not delivered to him. He repeatedly approached the Agency/D.G, Quaid-e-Azam Library for release of payment but did not receive any response. The complainant requested for directions to the Agency/D.G, Quaid-e-Azam Library for payment of pending bills alongwith the additional amount corresponding to the change in currency value.

D.G, (PL)/Quaid-e-Azam Library took the stance that the complainant supplied 142 books alongwith bills amounting to Rs.1064212/- on 31.12.2010 without any supply order. The issue (payment of liability) was considered in a meeting of the Board of Governors (BoG) of the Library and a Book Selection Committee (BSC) was formed for the purpose. The Committee considered the matter and expressed reservations about the currency, usefulness and price of some books. It was also contended that the books were accepted by the former D.G, Quaid-e-Azam Library and that the rate of discount ie. 10% offered by the complainant, was not reasonable. The complainant should also supply original invoices regarding the imported books.

Investigation of the complaint showed that the complainant supplied at least 142 professional and general (imported) books on different dates in 2008, 2009 and January, 2010 to Quaid-e-Azam Library and submitted bills accordingly. The Agency's contention that he submitted bills on 31.12.2010, was not supported by record and the representative of the Agency admitted this fact during investigation. The bills were duly acknowledged, taken on stock, stamped, allotted accession numbers and placed on library shelves. The books were being used by the readers/members of the library for the last 3-4 years and this fact was candidly admitted by the representative of the Agency. No objection was raised regarding suitability, usefulness or price etc. at the time the books and bills were received by the management of the Library. As per prevailing/normal practice, the complainant's firm and other books suppliers supplied books without any formal supply order. New policy (tendering etc as per PPRA rules) introduced by F.D. in 2011, could not be applied with retrospective effect as per well settled principles of law. The books were selected and accepted by the Library authorities and the suppliers including the complainant submitted bills against the books supplied. The record showed that payment was made to some other book sellers who had supplied books in the same manner and during the same period without any objection. The record also showed that the complainant had supplied many books to Quaid-e-Azam Library and several other libraries as per usual practice (in the past) and payment was made without any objection. Objections (proper or improper) were framed in December, 2011 whereas the books were supplied in 2008, 2009 and January, 2010. It was observed that the Book Selection Committee apparently, had no legal authority to make a fresh selection or to discard and disown some books (atleast 38) in December 2011 which had been taken on stock 3/4 years ago. One member of the committee, (Justice (R) Mian Allah Nawaz), questioned the vires of proceedings of the committee in the first meeting and refused to be associated with the task.

As it was proved that the complainant supplied books in 2008, 2009 and January, 2010 which were taken on stock without any objection/observation and were being used and a cheque bearing No.80078489 dated 08-03-2011 was also prepared (but not sent to the complainant), the delay of 3/4 years in payment of pending bills was considered an act of maladministration in terms of section 2(2)(1)(b) and (c) of the Punjab Office of the Ombudsman Act, 1997. The D.G, Quaid-e-Azam Library was directed to ensure payment (subject to verification of original invoices upto the permissible limit) of outstanding bills/issuance of cheque to the complainant, within a specific limit of time.

Complaint -4384/12/2011-Adv-II-301/2011

Request for payment of Group Insurance

Mst. Victoria, widow of Salamat Masih submitted that her husband, who was working as EST, retired on 15.12.2007 and died on 14.05.2008. She submitted a claim for payment of group insurance, which had not been paid to her so far. She requested that directions may be issued to the State Life Insurance Corporation for payment of group insurance.

The State Life Insurance Corporation of Pakistan submitted, vide report dated 26.01.2010, that the complainant's husband was retired on medical ground w.e.f 05.12.2007, at 56 years of age. According to the agreement, signed between the Govt. of the Punjab and SLIC for the period from 01.07.2007 to 30.06.2010, only those Govt. servants who retired after completing the age of superannuation, were covered under the Group Insurance Scheme. Since the complainant's husband retired before attaining the age of superannuation i.e. 60 years, he was not covered under the scheme and could not be paid the amount of group insurance.

The complainant admitted the provision in the agreement between the Provincial Govt. and the SLIC, but requested that her case may be decided on compassionate grounds, as she had no other means of income. She requested that the SLIC may be directed to pay her the insurance amount as a special case. In the alternative, the deductions of premium made from the pay of her deceased husband may at least be returned to her.

Perusal of the agreement, signed between the provincial Govt. and the SLIC for the period from 01.07.2007 to 30.06.2010, indicates that group insurance was payable only to those Govt. servants who retired at 60 years of age. Since the complainant's husband retired at the age of 56 years, his case was not covered under the new policy/agreement signed between the Provincial Govt. and the SLIC.

It may however, be observed that the amended policy, in contrast to the previous policy, discourages Govt. servants from seeking early retirement. It also unjustifiably excludes those Govt. servants who for some pressing circumstances like health reasons, seek early retirement or stand retired due to being unfit for further service. Denial of insurance benefits under the new policy to the families of government servants who had been paying insurance premium regularly while in service is a serious case of maladministration.

The Additional Chief Secretary, S&GAD Vice Chairman, Provincial Benevolent Fund Board is, therefore, directed to review the agreement signed with the SLIC with a view to finding a way out of this illogical and unfair arrangement and provide the due relief to the complainant. In case the required review of the agreement with SLIC is not found feasible at this stage, the amounts of premium deducted from the salaries of government servants retiring prematurely have to be refunded.

After persistent follow up by this office the Insurance Policy was finally amended and revised on 8.4.2010. Consequently, not only the widow of Salamat Masih received a cheque amounting to 0.300 million rupees towards the settlement of her claim, but also 819 cases which were rejected earlier, amounting to Rs.183.650 million, were being finalized for payment to the heirs of the deceased employees of the Punjab Government.

Excise & Taxation

Request for stopping charging of Income Tax and Professional Tax on registration of Motor Cab Rickshaws

Complainants, Malik Nazir Ahmad and Rana Rashid Javed, office bearers of Rickshaw Drivers Union, Faisalabad stated that Motor Registration Authority (E.T.O), Faisalabad introduced computerized system of registration of motor vehicles in 2007 and started charging dues including Income Tax and Professional Tax on registration of Motor Cab Rickshaws. Recovery of Income Tax and Professional Tax from Rickshaw owners, was illegal because no provision existed in any Govt. notification for inclusion of those taxes in the registration dues. The taxes were also being charged at different/inconsistent rates at the whims of the Registering Authority and the Post Office department. They approached the Motor Registering Authority Faisalabad for stopping recovery of Income Tax and Professional Tax, but did not get any response. On the other hand, the Govt. of the Punjab issued a notification in July, 2011 which indicated that Income Tax and Professional Tax were not part of the dues of registration of Motor Cab Rickshaws. They complainants requested that directions be given to the Agency/Excise & Taxation Department to stop charging Income Tax and Professional Tax on registration of Motor Cab Rickshaws.

D.G. Excise and Taxation and E.T.O/Motor Registering Authority, Faisalabad reported that Income Tax was charged on registration of every kind of vehicle including Motor Cab Rickshaws in the light of Section 234 of Income Tax Ordinance, 2002 and Professional Tax was charged in accordance with the instructions of the Provincial Govt. contained in the Finance Act, 1977.

The complainant contended that the reports of the Agency were misleading. No Govt. notification authorized the Excise & Taxation to recover Income Tax and Professional Tax on registration of three wheeled Auto/Motor Cab Rickshaws which had very limited seating capacity. The Agency/Excise & Taxation Department was recovering Income Tax and Professional Tax without any legal basis/ground.

Parties were jointly heard. The complainants reiterated their stance. The representative of the Agency maintained that according to computer software of registration dues prepared by the departmental System Analyst, Income Tax and Professional Tax were payable by owners of Motor Cab Rickshaws and that the Govt. was competent to impose any tax or to recover any tax by any means.

The Agency/Excise & Taxation Department has not produced any specific Govt. notification authorizing it to recover Income Tax and Professional Tax at the time of registration of an Auto/Motor Cab Rickshaw. Apparently, these taxes were not being recovered before computerization of registration of motor vehicles in 2007. The Agency has failed to provide any valid document in support of the entries (about recovery of these taxes)

placed in the computer software introduced in 2007. On the other hand, according to latest Govt. notification dated 17.08.2012, the levy of these taxes on registration of Motor Cab Rickshaws having a limited seating capacity has been stopped. It is also to be noted that Income Tax and Professional Tax were included in the dues of registration of Rickshaws without obtaining any advice or clarification from the agencies responsible for introducing these taxes i.e. Finance Division, Govt. of Pakistan or Finance department Govt. of the Punjab. Considering these facts, the Secretary, Excise & Taxation Department is directed to hold an enquiry regarding inclusion of these taxes in the software launched in 2007 and to issue appropriate instructions to the Motor Registration Authority, Faisalabad.

Complaint -4342/11/2011/C-VI-176/2011

Finance

Inclusion of 7% Cost of Living Allowance in Emoluments Reckonable towards Pension

Complainants, Mushtaq Qasid, Amanullah & Muhammad Iqbal Hussain stated that they retired from service under the Govt. of Punjab before introduction of Revised Basic Pay Scales 2001. They were receiving cost of living allowance @ 7% of pay before retirement which was, however, not counted while calculating their pension. Through judgement dated 02.12.2010, the Federal Services Tribunal ordered the Govt. to include the said cost of living allowance in emoluments reckonable towards pension. The judgement of the Federal Service Tribunal (FST) was upheld by the apex court through its judgement dated 01.4.2011. Finance Division/Govt. of Pakistan, then issued a circular letter dated 16.05.2011 permitting those Federal pensioners who had not availed of the benefit of Revised Basic Pay Scales 2001, to get their pension re-fixed by including cost of living allowance in their emoluments reckonable towards pension. The complainants further stated that they approached the Finance department, Govt. of Punjab for issuance of a similar circular letter in respect of Provincial pensioners, but did not receive any response. The complainants requested that direction be given to the Agency/ Finance department for permitting the provincial pensioners for re-fixation of their pension in accordance with judgement of the FST and Hon'ble Supreme Court.

Finance department reported that the provincial Govt. was not bound to adopt every policy/decision of the Federal Govt. A summary was, however, being submitted to the Chief Minister regarding grant of benefit of re-fixation of pension by including the cost of living allowance @ 7% of basic pay in emoluments reckonable towards pension.

The complainants maintained that the Provincial Govt. was bound to follow the policies of the Federal Govt. in matters relating to pay, allowances and pension.

It is evident from record that a well-reasoned judgement was passed by Federal Service Tribunal (on various service appeals) regarding inclusion of cost of living allowance @ 7% of pay in emoluments reckonable towards pension in respect of those pensioners who

had not availed of the benefit of Revised Basic Pay Scales 2001. The judgement of FST was up-held by Hon'ble Supreme Court of Pakistan and implemented by the Federal Govt. and some Provincial Govts. Availability of a financial benefit to Federal employees/pensioners and denial of the same to Provincial employees/pensioners (when facts and circumstances were the same) is considered an act of discrimination and repugnant to article 25 of the Constitution. The Agency/Secretary Finance department is directed, therefore, to immediately issue notification regarding rerefixation of pension of those Provincial pensioners (who had not availed of the benefit of Revised Basic Pay Scales 2001) by including the cost of living allowance @ 7% of pay in terms of the judgements of FST and the Hon'ble Supreme Court of Pakistan.

[C-4316/11/2011-C-VI-187/2011](#)
[C-351/01/2012-C-VI-14/2012](#)
[C-379/02/2012-C-VI-17/2012](#)

Request for Revision of Pension by Including one Increment Above the Maximum Stage of Pay Scale at the Time of Retirement

Complainant, Muhammad Akram stated that at the time of retirement in September 2001 as an employee of Building department, he was drawing pay at the maximum stage of BS-12 and his pension was calculated accordingly. Through notification dated 13.07.2010, the Federal Govt. allowed its pensioners to get their pension revised after adding one notional increment, if at the time of retirement they were drawing pay at the maximum stage of their pay scales and had rendered atleast six months service in that pay scale in the year of retirement. The notification dated 13.07.2010 was issued in pursuance of the judgement (dated 22.06.2009) of Hon'ble Supreme Court of Pakistan in different civil petitions. The Govt. of Punjab also issued a notification dated 05.07.2011 regarding grant of the benefit of notional increment on the same pattern, but the benefit was restricted to only those who had retired on or after 01.6.2011. The complainant contended that no cutoff date/limitation, was envisaged in the judgement of the Hon'ble Supreme Court of Pakistan as well as the notification issued by the Federal Govt. The complainant requested that directions be given to the Agency/Provincial Finance department for extension of the benefit of inclusion of one notional increment in pay (drawn at the time of retirement) for revision of pension, to those pensioners (like the complainant) who had retired before the cutoff date/01.06.2011.

SO (PC)/Finance department reported that a writ petition filed by Qalb-i-Abbas for extension of the benefit of one notional increment from a date earlier than 01.06.2011, had been dismissed by the High Court. The instructions issued by the Federal Govt. were not binding on the Provincial Govt. If the cutoff date of 01.06.2011 was removed, the Provincial Govt. would have to face a heavy liability.

The complainant maintained that the report submitted by the Agency was not based on facts. The apprehension that a big financial liability would be created for the Govt. of

Punjab, was imaginary. The judgement of the Hon'ble Supreme Court of Pakistan was applicable to all employees/pensioners placed in the same category.

Parties were heard. The complainant reiterated his stance and maintained that the judgement of Hon'ble Supreme Court was applicable in respect of all pensioners including those who belonged to the Provincial Govt. The representative of the Agency reiterated the stance as contained in the report of the Agency.

It is evident from record as produced that the Hon'ble Supreme Court of Pakistan pronounced a judgement regarding recalculation of pension after adding one notional increment in case a pensioner was drawing pay at the maximum stage of his pay scale and had rendered atleast six months service in the pay scale in the year of his retirement. As the judgement was in respect of a policy issue, it was a judgement 'in rem' and, apparently, applied to all employees/pensioners including pensioners of the Provincial Govt. The Federal Govt. acted upon the judgement without any precondition. The facts in the case/writ petition of Qalb-i-Abbas (referred to by the Agency/F.D) were distinguishable because the petitioner (Qalb-i-Abbas) had sought extension of the benefit w.e.f 1990 when the issue of addition of notional increment in pay (above the maximum stage) was not under consideration at any forum.

In view of the foregoing, the Agency/Finance department is directed to amend the notification dated 05.07.2011 and to allow the benefit of notional increment (for recalculation of pension) strictly in accordance with the notification issued by the Federal Govt./judgement of the Apex Court.

[Complaint 2821/07/2012-C-VI-192/2012](#)

Health

Payment for Installation of Power Generators

Complainant Abdul Wajid Qureshi stated that his firm S.M. Jaffar & Company was issued an advance acceptance letter on 2009 by Principal Post Graduate Medical Institute (PGMI)/Lahore General Hospital Lahore regarding supply (through import) and installation of three 800 KVA power generators (Prime). Purchase order was issued to the firm on 24.06.2009. Payment for the imported units was made by the Agency through LC as per agreement. The firm's quotation for installation charges included supply of power cables, construction of foundation, transportation, commissioning of material, clearing charges and installation of ATS panels etc. The Board of Management (BoM) of PGMI accorded approval for payment of Rs.91,94,132/- on 29.11.2010. The job was completed to the satisfaction of the Agency in March 2010. The firm also deposited CDR (security) of Rs.29,28,561/- with the Agency which was not yet refunded. The firm repeatedly approached the Agency for payment of installation charges (as per agreement/approval) and refund of security, but did not receive any response. On the other hand, a simple matter was being unnecessarily dragged and delayed by sending a reference to Finance department. The complainant contended that his firm was entitled to get compensation and mark up @ 18% (due to delay in payment) in

addition to the amount actually payable. The complainant requested that direction be given to the Agency to pay installation charges as per approval of BoM, to refund CDR and to pay compensation with interest for the loss suffered by the firm, without further delay.

The Agency/PGMI reported that three power generators of 800 KVA were purchased and got installed through the complainant firm without floating tenders in the press. Quotations were obtained locally in disregard of Purchase Rules/Financial Rules. The job of supply and installation was completed by the firm as per agreement, but payment was withheld due to audit objections. The matter was considered in a meeting of the BoM and entrusted to an Inquiry Committee. The Inquiry Committee observed that the cost of installation of generators was increased without an amendment in the work order and that supply and installation of three generators of 800 KVA, was arranged without inviting tenders through the press. A reference had been sent to Finance department for an advice.

The complainant maintained that his firm was neither concerned nor responsible if prescribed/normal procedure of inviting open tenders was not followed by the Agency. Increase in the cost of installation was duly approved by the Board of Management of the Agency. The representatives of the Finance department and the Health department were present in the meeting of Board of Management which approved increase in installation charges.

Parties were jointly heard. The complainant reiterated his stance as contained in the complaint/rejoinder. The Agency was represented by Mr. Muhammad Faisal Nawaz, Legal Advisor PGMI/L.G Hospital who maintained that advice from the Finance department was awaited.

It is evident from record as produced that the Agency/PGMI invited tenders for supply/installation of 500 KVA power generators. The quotations received in response to the advertisement were considered and not found technically acceptable. The Agency, then, decided to purchase/install 800 KVA power generators on the general terms and conditions mentioned in the original tender notice relating to supply of 500 KVA generators. This fact is mentioned in the advance acceptance letter dated 27.05.2009 sent to the firm. The complainant firm supplied imported generators for which payment was made by the Agency. Installation charges (Rs.91,94,132/-) were approved by Board of Management of PGMI as per office order dated 29.11.2010. The Agency admits that the job of installation was executed by the firm in accordance with invoice/agreement. If fresh tenders for supply and installation of three 800 KVA generators were not invited, the firm could not be held responsible. It was a lapse on the part of the Agency. The fact is that three 800 KVA generators were installed in March 2010 and were being used for the last more than two years. Any procedural omission or departure from Purchase/Financial Rules could not be used as a ground for withholding payment. The Agency/PGMI/L.G Hospital is accordingly directed to pay the outstanding bill as well as security (CDR) to the complainant within a period of one month from the date of this order. As regards the complainant's claim for payment of compensation/mark up etc, (on

ground of delay in payment), the matter is referred to the Agency/PGMI for an appropriate decision as per the conditions laid down in the Advance Acceptance of the Tender letter dated 27.05.2009 and the purchase order dated 11.11.2010.

C. No 2127/06/2012/ADV-I-67/2012

Alteration of terms of contract employment without withdrawal /rescission of the previous

The complainant Dr. Muhammad Rafique Chatha stated that after his retirement from government service he was re-employed (on contract) for two years in MP-1 as Project Director/Dean, Institute of Dental Sciences, Lahore. His period of re-employment was last extended vide notification dated 31.01.2007. As per terms and conditions, his appointment on contract basis was liable to termination on one month's notice by either side or payment of one month's pay in lieu thereof. His terms and conditions were unilaterally altered to his detriment through a notification dated 7.4.2008 issued by the Chief Secretary which, inter alia, stipulated that his appointment could be terminated at any time without assigning any reason and his pay was also reduced and he was placed in BS-20 instead of MP-1 scale. Immediately thereafter his contractual re-employment was terminated through notification dated 10.04.2008 without any prior notice or payment of one month's salary and was also deprived of pay in MP-1 for 12 days, one month's salary amounting to Rs.2,94,750/- in lieu of notice, gratuity amounting to Rs.8,84,250/- and encashment of 110 days of leave on full pay amounting to Rs.10,80,750/-. It was requested that a direction be issued to the Agency for making payment of his dues without further delay.

Health Department reported that after his retirement in January 2003 the complainant was re-employed as Project Director/Dean Institute of Dental Health Sciences for two years which was further extended by S&GAD. The Health Department opposed the last extension in his re-employment as it was against the re-employment policy. Terms and conditions of complainant's re-employment were revised and terminated by the competent authority. It was contended in the report that the complainant was not entitled to claim any dues of pay, gratuity etc. under the previous terms and conditions which ceased to be applicable once those were revised and the complainant was also not entitled to encashment of leave.

It was evident from the record that the complainant's re-employment (on contract) was extended vide notification dated 31.01.2007. The complainant's terms and conditions extended re-employment according to which he was allowed pay in MP-1, were settled through a notification dated 5.6.2007. As per these terms and conditions, the complainant had claimed salary for 12 days, gratuity equal to three month's salary, one month's pay in lieu of notice before termination of his appointment and encashment of leave earned during the period of contract. The complainant contended that the government had no authority to alter the terms and conditions of his contract to his disadvantage. The agency stated that the concerned authority was competent to change the terms and conditions of contract at any time as per its discretion. The plea taken by the Agency was, however, not tenable as there was no

existing law in the country which permits an authority to change the terms of a contract unilaterally as has been done in this case. In fact, there were a number of rulings of the superior courts which establish the principle that a contract once made cannot be changed unilaterally by one party without the consent or to the disadvantage of the other party/parties.

Keeping in view the above, it was held that act of changing the terms and conditions of the contract of the complainant unilaterally through a notification dated 7.4.2008 lacks legal sanction and the complainant was entitled to all the claims made by him except encashment of leave which was not provided in his original contract. The Agency was directed to settle his claims accordingly within one month from the date of receipt of this order.

Complaint No.2935/8/11/ADV-I-50/2011

Payment of Arrears of Salary

Mst. Naheed Akhtar stated that she had appointed as a Family Welfare Worker (FWW) in Population Welfare Department in a village of district Sahiwal in 1999. Due to retrenchment of the post her contract appointment had been terminated w.e.f. 02.05.2002. She had not been paid her salary for the period from November, 2001 to April, 2002. In the past she filed two complaints bearing No.2852/02 and RP-137/03 which were decided in her favour and the Agency was directed to pay her arrears of salary for the aforesaid period i.e. November 2001 to April 2002. The petitioner stated that she had paid arrears only upto January 2002 and no payment had made for the remaining period. It was requested that fresh directions be given to the Agency for payment of arrears of salary from February 2002 to April 2002 without further delay.

E.D.O.(Health), Sahiwal reported that delay in making payment of arrears of salary to the petitioner from February, 2002 to April, 2002 had occurred due to non submission of bank statement by the petitioner for confirmation of nonpayment of salary for that period to her. On submission of bank statement, the petitioner had paid the balance amount. The representative of the Agency had furnished evidence regarding payment of arrears of salary to the petitioner for the remaining period i.e. from February 2002 to April 2002.

IMP-990/03/2012/ADV-I-03/2012

Unlawful Act of Medical Officer

Mr. Mushtaq Ahmad contended that doctor Muhammad Nawaz, Medical Officer, Rural Health Centre, Qila Ahmadabad district Narowal, had registered one Muhammad Mushtaq s/o Muhammad Rafique (an employee of WAPDA) in OPD and issued him a medical certificate, although the said person was in Indian Jail. It was requested that directions be given to the authorities for departmental proceedings against the Medical Officer.

The EDO (Health), Narowal reported that an enquiry was earlier conducted against the accused Medical Officer who explained that at the time of registration in OPD as well as

signing the medical certificate, he could not ask the impersonating person for CNIC and thereby he was trapped. The accused had warned to be careful in future. Moreover the complainant submitted in writing that he did not want to pursue his complaint.

Withdrawal of the complaint by the complainant notwithstanding, the main allegation against Dr. Muhammad Nawaz that by misusing his position as Medical Officer, he created false record of admission and issued three bogus medical certificates in the year 2004 in favour of one Muhammad Mushtaq S/o Muhammad Rafique to provide him undue advantage to hoodwink his employer. It was wrongly and deliberately certified by him that the said Muhammad Rafique, an employee of WAPDA, had been under his medical treatment, whereas he actually was confined in Indian Jail in a border crossing criminal offence. This offence on part of accused Dr. Muhammad Nawaz being of a serious nature, warranted proper departmental enquiry as well as registration of a criminal case against him, but he was let off with a simple warning. This proves maladministration of a very serious nature. Secretary Health Govt. of Punjab is, therefore, directed u/s 11(1)(f) of the Punjab Office of the Ombudsman Act, 1997 to initiate regular departmental enquiry against the accused Dr. Muhammad Nawaz, Medical Officer and take further proceedings as per law.

Complaint No.1167/4/12/Adv-I-30/2012

Lahore Development Authority

Restoration of Damaged Portions in the Building of Govt. Fatima Jinnah College for Women Choona Mandi and Widening of Road etc

Complainants (Aamir Butt and several other residents of Choona Mandi/Lahore) stated that Govt. Fatima Jinnah College for Women Choona Mandi located in Haveli Asif Jah/Dhyan Singh/Shahi Hamam (a cultural heritage/monument) in the walled city with an impressive enrolment of 3000 girl students, was plagued by serious problems including dilapidated (insecure) condition of the building and road congestion etc mainly owing to inattention/neglect on the part of the concerned authorities. Breaches and cracks had developed at various points in the building which could cause the structure to crumble. The basement block and some class rooms were damaged due to penetrating sub-soil moisture. The lives of students/teachers were, therefore, unsafe. The approach road to the college from the main circular road, was very narrow and got clogged/jammed during opening and closing hours. Repeated applications sent to concerned authorities did not fetch any satisfactory response. The complainants requested that directions be given to the agencies for immediate repairs/renovation of the building of the college and widening of the approach road leading to the college.

Chief Engineer Buildings (North), Capital City Police Officer Lahore, Director (Buildings)/LDA, Secretary Higher Education and Principal of the College reported that LDA was responsible for repairs and maintenance of the college building. A revised estimate amounting to Rs.2,90,69,767/- for the construction of additional class rooms, toilet block in

'Pardah Bagh' and restoration of cracked/damaged portions of the buildings, had been submitted to Higher Education department (by LDA) through the Principal. LDA would undertake execution of work on receipt of approval by the Govt. Higher Education department maintained that a scheme regarding repairs/renovation of the college building was being submitted to the Chief Minister for approval/allocation of funds out of the existing block allocation of Rs.600 million in the current ADP. Police department informed that a narrow street/road – 6/7 ft wide, started from Police Station Masti Gate and led to the main gate of the college. The road was effectively supervised by traffic wardens during rush hours and vehicles were not allowed to use that road at that time. According to Principal of the College, a case for widening of existing road or construction of a new/wider road was under the consideration of the Board of Governors of the College and no final decision had yet been arrived at.

The representatives of various Govt. agencies were heard. They repeated the stance as contained in the reports of respective organizations and promised to address the problems giving rise to current impasse with full attention.

It is evident from record that Govt. Fatima Jinnah College for Women Choona Mandi Lahore was established in 1986 at an historical site i.e. Haveli Asif Jah/Dhyan Singh/Shahi Hamam in the area of Choona Mandi/Walled City. The importance of the place/area warranted a special focus for renovation/immediate repairs of the girls college building. Extremely decayed/dilapidated (to the extent of being unsafe) condition of college building, has not elicited a prompt response from the concerned agencies and reflects an attitude of neglect/inattention on part of the authorities. The Principal of the College showed her deep concern for the prevailing conditions but the alarm raised by the College for repairs/renovation does not appear proportionate to the damage (cracks etc) to the building which are visible even to a casual visitor. LDA is said to be exclusively responsible for repairs and maintenance of the college building but apart from its own enormous problems/limitations, it needs funding from the provincial government budget. LDA initially prepared an estimate of Rs.71,07,930/- which was subsequently revised to Rs.92,38,804/- exclusively for repairs and submitted to the Principal of the College in Oct: 2011 for getting approval/allocation of funds. Another estimate (including repairs and new construction) amounting to Rs.2,90,69,767/- was also prepared and sent to the Principal. The estimate has since been submitted to Secretary Higher Education department by the Principal for allocation of funds with the approval of the Chief Minister. It appears that the Higher Education department has finally realized the gravity of the situation which warrants an immediate action. The Secretary Higher Education and DG LDA are accordingly directed as follows:

- (1) The Secretary Higher Education must ensure that the case is immediately sent to the Chief Minister for approval/allocation of funds atleast for emergency repairs/renovation out of the current year's block allocation in the ADP. DG LDA should ensure that on receipt of approval of the competent

authority, execution of works is started and completed on war footing without a single day's delay, by associating the Principal of the College.

- (2) The Secretary Higher Education department should also plan to transfer the responsibility for maintenance/repairs of the college (an autonomous institution) from LDA to the Provincial Buildings department. It may be advisable to obtain views of Archeology department as well in this regard.

The students and the teachers are exposed to the nuisance of endless traffic jams on the narrow approach road almost every day. The record shows that a narrow road/street – 6/7 ft wide, from the main road leads to entrance of the college. The use of this road is banned for general traffic during rush hours when the college is open. Issues related to identification of area for construction of a new/wider road have remained under consideration of Board of Governors (BoG) of the College since 2003, but no final decision has been arrived at. This undue/inordinate delay in resolving an urgent matter reflects indifferent and apathy of the concerned agencies. The Principal of the College, who is also Secretary of its BoG, has an important role to play in this regard. The matter cannot be allowed to linger on for an indefinite period. The Secretary Higher Education, DG LDA and Principal Fatima Jinnah College for Women Choona Mandi are directed to coordinate and to finalize a scheme either for widening of the existing narrow access road or for construction of a new/wider road for convenient approach to the college, within a period of three months and to take further action (regarding implementation of the said scheme) without a single day's delay. Till the time a regular scheme in this regard is finalized and implemented, DIG Police (Traffic) Lahore City should provide sufficient traffic personnel to supervise and control the flow of traffic at site by associating the management of the College. TMO Ravi Town is directed to take immediate steps for removal of unauthorized structures/encroachments on the existing approach roads/streets which lead to main gate of the college.

A copy of this order was sent to the Principal Secretary to the Chief Minister for appropriate action.

Complaint 3454/09/2011-C-XI-87/2011

Refund of transfer fee

One Khalid Mahmood came up with a complaint stating that he wanted to purchase plot No.176/A-I, (measuring 10 Marlas) in Gujjarpura Housing Scheme and deposited an amount of Rs.51050/- as fee into the account of LDA for transfer of the said plot. In the course of identification of parties in the office of LDA, he learnt that the area of the plot was not in accordance with the seller's entitlement. He decided to cancel the deal (before approval) and requested LDA for return of his money (transfer fee) but LDA was reluctant to refund the fee. The complainant requested for directions to the Agency/LDA for return of transfer fee.

The Agency/LDA took the stance that as per opinion of its legal branch it was not bound to return the transfer fee to the complainant.

Investigation of the complaint showed that the complainant deposited an amount of Rs.51,050/- into the account of LDA regarding transfer of a plot. The deal did not, however, materialize and, transfer of the plot was also not approved. LDA did not issue transfer letter to the complainant. It was held that fee paid by the complainant into the account of LDA was like a trust, and the Agency's reluctance (without any ethical/legal justification) to return the money, was tantamount to violation/breach of a trust and an act of maladministration. The Agency/D.G LDA was accordingly directed to refund transfer fee to the complainant within one month.

C-3695/10/2011-Adv-II-238/2011

Request for Withdrawal of Demand Notice Regarding Payment of price of Excess Area

Complainant, Nooria Absar approached the office of Ombudsman stating that she purchased exempted plot No.747-D, Jauhar Town which was transferred to her in 2003 by LDA on the terms and conditions on which the plot was held by the original exemptee/allottee. She constructed a house thereon after obtaining approval of the building plan from LDA in 2004. The completion certificate was issued by LDA without pointing out any excess area. She, however, received a demand notice in June 2011 from the Agency for payment of Rs.4,46,314/- (including Rs.18,872/- as WASA dues) as price of the excess area. The complainant contended that area of the plot was never measured by any official of LDA in her presence. The price of excess area was not calculated in accordance with the agreement between her (as transferee) and LDA at the time of transfer of the plot. According to agreement (letter of transfer), she was liable to pay Rs.3000/- per Marla as and when any excess area was pointed out by LDA. The complainant requested for directions to the Agency/LDA for fresh measurement of the excess area of the plot/property in her presence and for charging the price of the excess area in accordance with the transfer agreement/letter of exemption at the time of transfer of the plot.

The Agency/LDA when confronted with the contents of the complaint reported that measurement of the plot was taken on the directions of the competent authority and excess area (28.36 sqm) above the complainant's entitlement of 249.47 sqm was noticed. The complainant was, accordingly, sent a notice for payment of Rs.4,27,442/- as price of the excess area at current market rate (DC rate plus 40%) and that the price of the excess area was being demanded in accordance with existing policy of LDA.

Investigation of the complaint revealed that the plot was originally allotted/exempted to Mohammad Mubarak Khan in lieu of his land in Mauza Ajudiapur in 1988 with the condition that the exemptee would pay in advance development charges @ Rs.50,000/- per Kanal and price of excess land, if any, @ Rs.60,000/- per Kanal. The original exemptee paid development charges but as no excess area was pointed out, he did not pay for any excess land. The same terms and conditions (including the rate of Rs.3000/- per Marla for excess land) were maintained in the letter of transfer issued to the complainant in 2003. Apparently, those terms and conditions were never changed/amended by LDA. Likewise, the

complainant was not asked to pay for the excess area when completion certificate was issued later on. The area of the plot/property was not measured in the presence of the complainant and that fact was not denied by LDA.

It was held that as no change in the terms and conditions of exemption/transfer of the plot took place at any stage, the complainant was justified in demanding withdrawal of the demand notice for payment of the price of the plot at current market rate and recalculation of the price in accordance with the terms and conditions of original exemption. The Agency/DG LDA was accordingly directed to withdraw the demand notice for payment of price of the plot (747/D, Jauhar Town) at current market rate and re-determine the price of the excess area as per original terms and conditions of transfer of the plot (not amended at any stage), after fresh measurement of the plot by Town Planning Wing in the presence of the complainant.

Complaint No.1685/05/2012-Adv-II-165/2012

Punjab Workers Welfare Board

Appointment as PTI on the basis of qualification not mentioned in the application

One Mobia Ambreen came up with a complaint highlighting a grave irregularity committed in recruitment against a post of PTI in Workers Welfare School (boys) Chawinda. The complainant went on to state that she was a candidate for appointment as PTI in that school. She possessed higher qualification (M.A), did well in interview and expected to be appointed but all her better qualifications/excellent record, were ignored and a candidate who did not possess the qualification of BA at the time of submission of her application was appointed in W.W. school Chawinda. The complainant requested that directions be given for holding an inquiry regarding dubious appointments and for her appointment as PTI.

Director (Education) Punjab Workers Welfare Board when confronted with the complaint pointed out that recruitment of PTI WW School (boys) Chawinda was made in accordance with the contract appointment policy and five additional marks for higher qualification were awarded to Ms Samrina Fardus (the candidate selected) because she acquired the qualification of BA before the date of interview. The complainant rebutted the stance taken by the Agency and contended that a serious irregularity was committed regarding recruitment against the post of PTI in WW School Chawinda and that Samrina Fardus was illegally raised in merit by awarding five additional marks of higher qualification (B.A) which she had neither mentioned in her application nor possessed at the time of submission of application for recruitment. Samrina Fardus (the beneficiary candidate) contended that she was not at fault because she was selected and appointed by the competent authority. She admitted, however, that she got a definite advantage in consequence of grant of extra (5) marks. She also admitted that she had not acquired the qualification of B.A up to the closing date fixed for receipt of applications. She also acknowledged that in her application the qualification of B.A was not written/mentioned. Mr.

Shafqat Ali, ex-Principal WW School Chawinda stated that he had initially opposed the grant of five additional marks of higher qualification to Samrina Fardus but the Chairman (Mr. Saeed Awan, a Director in the Labour Deptt) of the Recruitment Committee pressurized and persuaded him and other members of the Committee to grant five extra marks to the said candidate. When asked as to why he did not bring the irregularity to the notice of competent authority i.e. the Chairman PWW Board, or the Secretary PWW Board or atleast the Director (Education), he could not furnish any satisfactory explanation.

It transpired from record that the complainant applied for appointment as PTI in two schools managed by PWW Board ie. Quaid-e-Azam School (for girls) Sialkot and WW School (for boys) Chawinda. In both schools, the candidates who possessed lesser academic qualifications (compared to the complainant), were appointed. In Chawinda School, Samrina Fardus, who possessed the qualification of FA plus Diploma in Physical Education as per contents of her application, was appointed. The application submitted by Samrina Fardus showed that she did not possess the qualification of BA. The closing date for submission of applications as per advertisement, was 07.06.2011 and she had not acquired a qualification above FA, by that date. Her result in BA examination (held by Allama Iqbal Open University) was declared on 15.08.2011 i.e. more than two months after the closing date. Samrina Fardus admitted during proceedings that she had not acquired the qualification of B.A by the closing date. She was, however, awarded extra marks by Recruitment Committee headed by an officer (a Director in the Labour department) who did not belong to the field of education. The complainant possessed the qualification of MA with Diploma in Physical Education and this fact was not denied by the Agency. Director (Education) PWW Board and the then Principal Chawinda school admitted that Samrina Fardus who possessed the qualification of FA (with Diploma) and not BA (as per contents of her application) was not (legally) entitled to award of five additional marks for higher qualification. It was observed that if the Principal of the school was pressurized by Chairman of the Recruitment Committee regarding award of additional marks to Samrina Fardus, he (the Principal) should have brought the matter to the notice of the Chairman or Secretary or at least Director (Education) PWW Board before finalization of the recommendations/merit list, but he did not do that. The record showed that Samrina Fardus was appointed as PTI in WW School Chawinda owing to wrongful award of five additional marks. The Agency was accordingly held responsible for maladministration and Chairman Punjab Workers Welfare Board was directed to take immediate steps for cancellation of the merit list/appointment of Samrina Fardus after granting her personal hearing. The Agency was further directed to prepare a revised merit list pertaining to appointment of PTI in WW School (boys) Chawinda and to take further action for appointment of a candidate strictly in accordance with the revised merit list. It was also directed that the stance taken by the ex-Principal of Chawinda School that he agreed to grant five marks to Samrina Fardus under pressure, should be looked into and further action in that regard be

taken as per rules. The Agency (W.W. Board) was advised to appoint an officer as Chairman of the Recruitment Committee (for appointment of school teachers) in future, who had the experience and background of education.

[C-4403/12/2011-Adv-II-299/2011](#)

Services & General Administration

Refund of surcharge with interest

Complainant, Professor Naseer-ud-Din approached Ombudsman's office with a complaint stating that as a member of Punjab Govt. Servants Housing Foundation (PGSHF), he was allotted house No.1, Block-A/1, in Mohlanwal Scheme on 18-03-2010 and asked to pay Rs.58,32,796/- (as price) within 90 days. As he was unable to pay the amount within the stipulated period, he was asked to pay Rs.12,784/- as surcharge (fine) at the rate of 10%. He paid full amount with surcharge on 25.06.2010. On the other hand, the Agency extended the period (for payment of dues without surcharge) for further 90 days in favour of those who did not pay the dues despite expiry of the original period. He approached the Agency/PGSHF to refund the amount of surcharge in view of extension in the period for payment of dues allowed to others. His request was turned down on the ground that he had deposited the dues alongwith surcharge without waiting for extension in the stipulated period. The complainant requested for direction to the Agency for refund of surcharge with interest.

The Agency/PGSHF took the stance that on a representation by some allottees who were unable to make full payment within the stipulated period of 90 days, the competent authority allowed extension in the period for 90 days. The complainant, however, deposited the dues alongwith surcharge before availing of extension and he was, thus not entitled to refund of the amount of surcharge/interest etc.

Investigation of the complaint revealed that the Agency had taken irrational stance. The essence of that stance was that one who faithfully obeyed the law/instructions should be ready to bear the penalty. The complainant acted in accordance with the instructions of PGSHF and paid fine/surcharge but others who defied the instructions and did not pay the dues during the stipulated period, were allowed extension in the period for payment of dues without surcharge. It was observed that the Agency's refusal to refund of surcharge (Rs.12,784/-) paid by the complainant was wanting in reason. The complainant could not be denied refund on the simpliciter that he did not agitate for extension in the period (allowed to others in that category) for payment of dues and willingly paid full amount with surcharge. The complainant was being obviously discriminated against viz a viz those who availed of the extension and did not pay surcharge. The Agency/PGSHF was considered responsible for maladministration and directed to refund the surcharge amount to the complainant within a period of 3 weeks.

[Complaint No. 3711/10/2011-Adv-II-240/2011](#)

HOW DID THE DEPARTMENTS PERFORM?

Agriculture

A Remedy for Chronic Delays in the Payment of Death/Retirement Dues of Staff of Market Committees/Agriculture Department

Every now and then the Office of Ombudsman receives complaints regarding chronic delays in the payment of pension, commutation and other dues on retirement/death of any member of the staff of Market Committees. It is usually the families of low paid employees of these Market Committees who suffer the most. In some cases commutation (lumpsum payment) and financial assistance was not paid for years and the families languished in helpless state of extreme poverty/hardship. Main reason for delay in the payment of retirement dues is the weak financial position of Market Committees, due to growing leakage of revenue etc. The Govt. has established Provincial Market Committees Fund Board. The Market Committees are required to pay monthly contribution @ 10% to this Board. The Board is expected to extend loan to Market Committees in the event of any financial crises. The Board does not, however, help any Market Committee for payment of commutation/financial assistance etc to its retired employees when the need arises. With a view to resolving the issue of chronic delays or failure in the payment of pension, commutation and financial assistance etc, by the Market Committees plagued by financial deficits, following recommendations are made:-

- The Government should devise an effective and fool proof system of supervision of the accounts of Market Committees. Presently, the Market Committees are not getting full income through its share of commission mainly due to corrupt staff who are generally in league with the commission agents in causing loss to the Market Committees. The Govt (Agriculture Deptt) should also review the present practice of appointment of administrator of Market Committee.
- The Market Committee Provincial Fund Board should be made responsible to pay commutation and financial assistance in all those cases where a Market Committee is unable to pay the liability within one year. If this requires amendment in the rules of the Board, the department should proceed to carry out that amendment in the rules/law.

Department's Reply/Implementation Report

The following measures have been taken by the Directorate of Agriculture (E&M) Punjab, Lahore to streamline the affairs of pension cases:

- a) All the Administrators and Secretaries Market Committees have been directed to develop better strategy/method of deduction/deposit/maintenance of pension funds for immediate clearances of pension dues of retired/retiring employees of Market Committee.
- b) The Market Committees who do not have sufficient funds in the pension account to clear the liability of payment of retired employees have been directed to make necessary arrangements and approach the competent authority for transfer of

required amount from the General Fund to pension fund. Recently Rs.1500000/- and Rs.2500000/- have been allowed to transfer the amount from General fund to pension fund for clearance of pension dues of retired employees of Market Committee Kalurkot and Sadiqabad respectively.

- c) The Secretaries market committees have been ordered not to put up the bills of salary of employees of to concerned Administrator for approval without due contribution towards pension fund.
- d) They have also been directed to stop the previous practice and not use the pension fund for any other purpose.
- e) The market committees who are not meeting their expenses from their own resources, they are being abolished/merged in other market committees to make them viable such as Market committee Khangah Dogran has been abolished and merged in market committee Dhaban Singh.
- f) For consolidation of pension fund at provincial level, the case has been forwarded to the Director Market Committees Provincial Fund Board where it is under process.
- g) The income and expenditure of market committee are being reviewed. A cell has been established at Government level and those market committees who have less income as compare to expenditure, those are directed to mobilize total resources of income and to realize the full potential of market fee according to the business practices prevailing with the commission agents.
- h) Secretaries market committee have been directed to prepare the daily recovery plan for efficient recovery of dues.
- i) Instructions have also been issued to eliminate other business conducted in the F&V markets.

BISE and Universities

Defects/Flaws in the Existing system of Dispatch of Certificates/Degrees to Private Candidates

This Office continues to receive complaints regarding missing certificates/degrees sent to private candidates. When confronted with such complaints, a routine answer furnished by the Educational Boards and the public sector Universities is that they send certificates/degrees to private candidates by registered post at the addresses given in the admission forms. Investigation of several such complaints revealed that main reason for non-delivery of certificates/degrees was that the same were dispatched by ordinary registered mail. Having considered the problem from all angles, following recommendations are made:-

- Existing rules should be suitably amended by the Boards and the Universities, in order to ensure the dispatch of certificates etc to private candidates by more efficient/safer means.
- Private courier services should be utilized (as far as possible) for dispatch of certificates/degrees.
- In case of candidates living in remote/rural areas which do not fall in the range of private courier companies, the certificates/degrees be sent through registered post with acknowledgement due to be obtained from the addressees. The record

of acknowledgement receipts should be maintained by the Boards/Universities for at least 10 years.

- A new agreement be executed by the Boards/Universities with the Postal Department to ensure that the record of registered mail (pertaining to dispatch of certificates/degrees) is maintained by the post offices for at least five years.

Department's Reply/Implementation Report

The matter has been examined in the Wing and discussed with both the BISEs and Universities. As both entities are autonomous and body corporate as per their respective acts/Ordinances, the recommendations of the Ombudsman will be placed in the Syndicate for discussion and implementation. Whereas both the entities agree with the need to make a fool proof system for delivery of certificates/degrees they do have reservations on the increase of cost to the student; hence the need for deliberations in their respective authorities.

It is submitted that the entire process entails nine different BoGs and twelve Syndicates (which do not include agriculture, health and livestock universities), the final outcome on the implementation of the recommendations would take considerable time.

Finance

Service Book cum Pension Document

Recommendation for simplification of pension procedures by converting the officials/officers (gazetted & non-gazetted) record into a comprehensive document to be called 'service book cum pension document (SBPD)

The system of sanctioning Pension and GP Fund being currently followed is to the detriment of employees who undergo, in many cases, a frustrating period of wait at the end of their careers for receiving dues they had earned over long years of service. There were cases in which people had to wait for years to get GPF dues and even incidents of people breathing their last while awaiting the finalization of their dues were not unheard of. This is unfair, unjust, inhuman and most unfortunate and must be changed. Collecting and verifying service records of the retiring employees is time consuming and it is an onerous job. Records are often incomplete. There can be delays due to shortage of staff, due to callousness of staff, lack of competence, lack of interest and other such factors. As retiring employees shuttle between offices and tables of staffers and look up to the staff concerned to resolve their problems, the situation facilitates graft. People have to visit their departments and the AG/DAO's office again and again to receive benefits they had earned over a lifetime. They may have to chase their case for weeks, months, years. All records are maintained manually and their tabulation is slow, particularly as the staff is often, if not invariably wanting in the kind of skills that are required for the job.

A study was carried out to streamline the painful exercise of preparation of GPF & Pension papers at the time of retirement.

After great efforts and consultation with a number of agencies including the systems of service record being maintained by Government as well as Corporate Sectors, a document with the title of “Service Book Cum Pension Document” has been proposed to facilitate the in-service as well as retired/retiring employees.

The proposed document will be embossed with Security Code No. (SC No.) to be allotted by the DDOs. The ‘Service Book Stock Register’ will be opened and maintained as an official inventory register of this document. (This will be “secret stock Register of Service Book-Cum-Pension Document). The Service Book Stock Register (SBSR) will be an auditable document to be audited periodically by Audit Office. Preparation of pension papers will start at the time of joining service and will continue till the date of retirement.

The proposed Service Book-Cum-Pension contains forty pages duly numbered. The document will be maintained in duplicate, one copy to be retained by the Officer/Official himself or family as legal document for entertaining the entitled claims. The other copy will be property of the DDO of the department. After authorization of pension, the Service Book will become the property of Pay Offices for further reference and verification etc.

The document has been divided into four parts.

- Part-I carries Personal Data as per requirement of the pension rules and regulations.
- Part-II contains Service Data and other matters which will help all the concerned officials to know about GP Fund details and service record/statements and pay fixation/events during the career. All required information on account of GP Fund will also be included in this part.
- Part-III will contain Pension Application form, LPC, List of family members, details of qualifying service and check list at the time of retirement for use in AG office & DAO. (Currently pension papers are prepared separately which is an awful and painful exercise for entire staff).
- Part-IV will have yearly check list of documents to be maintained by DDOs for the purpose of yearly and periodical verification. It will carry an Entitlement Section also according to which the retired people will know their rights of entitlement. Under the existing pension and service rules this comprehensive document should be sufficient to cater the requirement at the time of retirement. DDOs and Computing/approving Authorities will use this document as Pension and GP Fund papers.

The proposed comprehensive document consists of all the forms/formats currently being used by DDO/AG for the purpose of calculation and granting retiring benefits on different dates and occasions.

Finance Department may consider to introduce this comprehensive document which will facilitate the quick and timely payments to retiring employees. It will provide sense of ownership to the in service employees or their family in case of death to use this legal document for timely approval of their cases.

The ‘Urdu version’ and a set of proformas are also available for use by Finance Department.

Department's Reply/Implementation Report

Finance has examined the rule ibid and considered that there is no need to amend the existing provisions of the same.

Finance Department has engaged services of two consultants for reviewing and simplification of the existing pension procedure followed by necessary amendments in the pension rules. This recommendation is also being considered for the purpose and final outcome in this regard will be conveyed accordingly.

Finance Department has engaged services of two consultants for the purpose and a revised procedure for pension payment has been devised and scheduled to be implemented w.e.f. 01.01.2013.

Local Government & Community Development

The Agency must follow up the matters about payment of Group Insurance of the employees with the State Life Insurance Corporation.

The arrears of development works executed in the past be cleared at the earliest.

Efforts be made to resolve the disputes about contracts through arbitration if such provision is provided in the agreement.

The development schemes be included in the budget/ADP on the basis of their importance and relevant priority.

The benefit under rule 17-A of the Punjab Civil Servants (Appointment & Conditions of Service) Rules, 1974 be given without any undue delay to the children of deceased or incapacitated employees.

Defective sewerage and water supply systems in towns and cities require immediate attention and regular monitoring. Inattention/inaction in the matter results in spreading the epidemic diseases due to the use of contaminated drinking water.

The mode of garbage lifting and its disposal in cities/towns may be modernized / mechanized as far as possible. Filth depots (covered) need to be constructed/increased in number in every town/city and require regular monitoring in these actions.

System of street light needs improvement. Pilferage in this sector may be checked strictly. Provision of covers for the uncovered manholes requires proper monitoring.

Another equally distressing act of maladministration is the non payment of pension share of retired employees by the TMA's to the District Government or other departments to which they had been allocated after the devolution. It is strongly urged that LG & RD Department should take effective steps to resolve this issue, ensuring timely payment of pension to the retired officials.

Encroachments, especially in busy commercial areas be cleared and encroachers penalized. The monitoring system needs to be effectively organized for the purpose. The employees of local bodies involved in encouraging encroachments be proceed against under the law.

The procedure for registration and issuance of birth certificate maybe further simplified.

Department's Reply/Implementation Report

Group Insurance

The observation is already being implemented in letter and spirit.

Clearance of Arrears of Development Work

Policies/directions of the P&D Department for clearance of pending liabilities have already been given by the P&D Department to all the DCOs, Punjab. The same have also been endorsed to all the District Governments and Districts formations of the LG&CD Department for implementation/ compliance.

Efforts to Resolve the Disputes about Contracts

Relief is being provided to the contractors who apply for relief under arbitration clause. The Superintending Engineer, LG&CD at the PHQ, Lahore is arbitrator for resolution of disputes amongst the contractors and the executing agencies i.e. LG&CD Department.

Inclusion of Development Schemes in Budget on the Basis of Importance/Priority

Instructions have been noted for compliance.

Provision of Benefit under Rule 17-A without Delay

The observation is already being implemented in letter and spirit.

Defective Sewerage and Water Supply

The matter relates to the WASA/City District Govt. However, recommendations have been sent to the TMAs for compliance.

Lifting/Disposal of Garbage be Modernized

The subject matter relates to the City District Govt. However, recommendations have been forwarded to the TMAs for compliance.

System of Street Lights and Cover of Manholes require Monitoring

The matter relates to City District Govt. However, recommendations have been communicated to the XENs, LG&CD circles and ADLG for strict compliance.

None Payment of Pension Share of Retired Employees by the TMAs to the City District Govt

Director General, LG&CD has reported that no case for grant of pensionary share to the retired employees is pending.

Clearance of Encroachments in Commercial Areas

The subject matter relates to the City District Govt. However, recommendations have been sent to the TMAs for compliance.

Simplification of Procedure for Registration and Issuance of Birth Certificate

The steps for simplification and increase in birth registration process are being under taken by the LG&CD Department e.g. late entry fees for registration of child birth have been waived off, the awareness campaign for increase/simplification of birth registration process is being under taken by the Department under Universal Birth Registration Project in collaboration with UNICEF and necessary changes in Health Manual are also under way.

A Prescription for Reduction in Un-employment and Crimes

The recommendations regarding launching of a project by the Provincial Govt. for establishing a large number of technical and vocational institutions, relates to the Industries and Education Department. However, instructions have been noted for consideration.

Incomplete or Fragmented Information on Website of Various Govt. Departments

Necessary information regarding LG&CD including rules, notifications has already been updated on the department website. However, instructions have been noted for compliance.

Concluding Remarks

The recommendations contained in Ombudsman Punjab Annual Report, 2011 are of prime importance. Their implementation in letter and spirit would eradicate many irregularities and pitfall in the work of government offices. It is hoped that strict compliance of the subject recommendations would be result in effective public service delivery.

PGSHF

Policy of Payment against Houses Constructed by PGSHF

Several complainants have approached this office pointing out that they had obtained membership of Punjab Government Housing Foundation (PGSHF) before their retirement. After their retirement, they were allotted houses constructed by PGSHF in various schemes according to their entitlement. They were being asked to pay full cost of the allotted house within a period of three months which was not possible for them as the amount of pension/commutation/GPF received by them at the time of retirement was not sufficient to pay the price. While deciding several such complaints/cases, this office directed PGSHF not to deviate from the original objectives (welfare of civil servants/pensioners) while demanding cost of constructed houses from the pensioners. It is recommended that PGSHF should amend its existing policy of demanding payment of the whole cost within a short period of three months. In all such cases, the PGSHF should give a period of atleast one year to the allottees to pay the price in installments. The PGSHF should also reassess the cost of the houses as the price being presently demanded for different categories of houses seems excessive.

Department's Reply/Implementation Report

Recommendations of the Ombudsman were considered at various stages and the Foundation after approval of its Board of Directors and Provincial Cabinet presented the PGSHF (Second amendment) Act, 2012 before the Provincial Assembly of the Punjab in order to seek permission for allocation of developed plots alongwith constructed houses, depending upon the option of the members. Said amendment has been approved by the Provincial Assembly and notification to this effect stands issued on 5.1.2013.

With the promulgation of the Act *ibid*, in case of land provided by the Government for a housing scheme sponsored by the PGSHF, only the development cost of plots would be charged from the members which would be relatively low and will certainly help in alleviation of financial problem of members

Police

Fate of Investigation of Criminal Cases Registered on the Court Orders

Criminal cases are some time registered on the order of Lahore High Court, District and Sessions Judge or this office. The investigating officers and the concerned S.H.O. as

they were initially against registration of the case on the complaint, investigate such cases usually with preconceived notions / conclusions for recommending cancellation of the cases thus registered. It also happens that those who are crucial for meaningful prosecution in such cases are usually not cited as witnesses which result into the failure of the cases. It is, therefore, recommended that the cases registered on the direction of the court should not be cancelled unless the cancellation reports are thoroughly examined and the parties are invariably heard by the Superintendent of Police (Investigation) of a district. The concerned S.P. should furnish a certificate to this effect with the cancellation report.

Department's Reply/Implementation Report

It is submitted that on receipt of observations/recommendations of Hon'ble Ombudsman, Punjab made in its annual report 2011, were examined and circulated to all heads of police units for compliance in letter and spirit vide this office letter No. 6915-41, DISC-IV, dated 12.07.2012 and copy was endorsed to Section Officer (Cabinet-I), Govt. of the Punjab, S&GAD (Cabinet Wing).

All the heads of the units of police department have intimated that instructions regarding the investigation of the cases registered on the order of Hon'ble Lahore High Court, Lahore, and learned Additional & Session Judges or by the Hon'ble Ombudsman, Punjab have been conveyed to all the SSP/Investigation. They have been directed to conduct investigation by utilizing professional skills so that no lapse in the investigation comes forth during the prosecution. It has been further directed that the cases registered on the direction of the learned courts should not be cancelled until cancellation reports are thoroughly examined and the parties are heard by the SP investigation of district.

Punjab Emergency Service

Investigations in quite a number of complaints have revealed that the selection process of candidates for various posts was not above board. No doubt marks in respect of academic qualifications and in the other fields were awarded to the candidates in accordance with the prescribed formula but the marks awarded to the candidates during interview gave rise to doubts with regard to credibility of the selection process. Full marks (20) were given by the Departmental Selection Committee to those candidates who had lower academic qualifications as compared to those who were given 4 marks only. The inference drawn in this situation was that the results in a few cases were predetermined as each member gave full marks (5 marks) to a candidate who had ultimately to be selected whereas the members gave only one mark each to candidates who had to be ignored. The matter in this regard was also discussed with Director General, Punjab Emergency Service, Lahore sometime back who had his own views with regard to awarding of marks during the interview and was of the opinion that intentions of Members of the Departmental Selection Committee who were responsible officers and belonged to different departments could not be doubted. This view, however, was against the ground realities in particular cases.

Another circumstance detected during investigation of the complaints was that in a large number of cases all candidates, may be they were 20 or more in number, were called in the room at a time and were put questions as to their names, age and parentage and that formed the basis of awarding of marks. The question arises as to how answers to these simple questions could become the basis for awarding marks in an interview. It would not be out of place if members of the Committee were asked to keep record of interview proceedings in respect of each candidate.

Department's Reply/Implementation Report

It is stated that the Punjab Emergency Service (Rescue 1122) is a life saving Emergency Service established through Punjab Emergency Service Act, 2006. The performance of the service speaks for itself and the service is considered as role model in SAARC countries in order to ensure transparent recruitment process, the candidates have to go through a series of test including physical, written and psychological and skill tests for evaluation of theoretical and professional knowledge. After qualifying all the said tests, the candidates appearing for interviews out of thousands of applicants, are almost at the same level, leaving minimal discretion for the recruitment/selection committee constituted by the Government of the Punjab comprising representatives from different government departments. Finally, the said committee awards the marks on the basis of appearance, communication skills, physique, clarity of speech and manners.

As for the method of selection, the committee practices the comparative method for recruitment which is also widely used in clinical medicine for interviews. This method provides a clear comparison among the various candidates thus, facilitating the decision making process, it is through this method that this life saving Emergency Service has been able to select the best possible emergency staff which is also the main reason for the success of this emergency service and has also been widely acknowledged by the public at large. Succinctly, recommendations contained in the Hon'ble Ombudsman Punjab Annual Report, 2011 have been noted and shall be complied with in true letter and spirit.

Punjab Public Service Commission

Recruitment of Handicapped Persons against Reserved Quota

A candidate applied for one of the posts of SST against 2% quota reserved for handicapped persons, advertised by the Punjab Public Service Commission. Out of six vacancies from the reserved quota, five vacancies could not be filled in because as per policy/rules of Punjab Public Service Commission criteria fixed for interview was the same as fixed for other normal candidates.

We think that physical infirmity/disability affect the psychological make up of a handicapped person which reflects in his performance in the interview. We feel this aspect needs to be considered on humanitarian grounds. It is, therefore, recommended that the criterion for interview of handicapped persons may be lowered from 50% to 45% marks.

Department's Reply/Implementation Report

It is incorrect, the Punjab Public Service Commission had not filled any post of SST in near past. However, the Punjab Public Service Commission had advertised 18 posts of Subject Specialist Education (Female) in Punjab Education Department in 2007. Mst. Aisha Nawaz had applied for there said posts. She appeared in the written test and qualified for interview, however, she could not come within the orbit of selection against open seats. She competed against disabled quota but could not be recommended as she had been placed at merit No. 11 against 05 posts reserved for disabled persons.

Mst. Aisha Nawaz filed a Writ Petition No.9931/2009 wherein she challenged the viva voce/interview and severity of disability in the Honorable Lahore High Court Multan Bench, Multan. The said Writ Petition was dismissed. She filed an ICA No. 03/2010 which was allowed by the learned Division Bench of Lahore High Court, Multan Bench, Multan. The commission filed CPLA No. 1827-L/2010 in the Honorable Supreme Court of Pakistan, The Apex Supreme Court of Pakistan made the following observations:

“In this respect, the appellant must formulate Rules and Policy wherein it should also keep into consideration the degree of disability while providing of opportunity to disabled persons for appointment against the different posts....

.....We also cannot substitute the policy of the government in such like matters by introducing a new formula to the disadvantage of the rest of the candidates who were declared successful by securing more marks. The policy of the government cannot be interfered with unless it is shown that such policy was violative of the fundamental rights....”

Services & General Administration

Specification of Reserved Quotas in Advertisements for Recruitment

This office received a number of complaints requesting for appointment against 20% of vacancies reserved for the children of government servants. During investigation it transpired that in the advertisements of the Agency for various class-IV posts a footnote was given to the effect that 20% quota for government servants (in service or retired) had been reserved but the number of vacancies which were available under the aforesaid quota was not mentioned. The exact position in this regard is that vide notification dated 01.09.1993 issue by Government of the Punjab, Services & General Administration Department 20% vacancies in the cadre of Junior Clerk, Driver, Naib Qasid, Mali, Farrash, Water Carrier and Chowkidar in all government departments were reserved for the children of such government servants in BS 1-5 who were either still serving in the respective department/cadre or had retired from the said department/cadre in BPS 1-5. Vide another notification dated 21.08.2009 it was clarified that the other categories of employees would not fall in the aforesaid quota. So far as mentioning of number of vacancies available under the aforesaid

quota is concerned, procedure/criteria in this regard has been given in rule 3 of the Punjab Civil Services (Ratios of Recruitment Rules) 1973.

It would be advisable that Government of the Punjab, Service & General Administration Department should issue instructions to all departments/attached departments/autonomous bodies etc, that the posts available under 20% quota should be worked out in accordance with provisions of rule 3 ibid while giving advertisements for recruitment.

Department's Reply/Implementation Report

The Government of Punjab has reserved 20 % vacancies in the cadre of Junior Clerk, Patwari, Driver, Beldar, Naib Qasid, Mali, Frash, Water carrier and Chowkidar in all Government Departments for the children of such government servants in BS-1-5, Junior clerks(BS-7) and Patwaris (BS-9), who are either serving in the respective department/cadre or have retired.

The Ombudsman Punjab on receipt of a number of complaints for appointment against the above said quota has noticed that the departments while making recruitment against posts in Class-IV has given a foot note in the advertisements to the effect that "20 % vacancies have been reserved for Government servants (in service or retired) without mentioning the number of posts in the said quota"

The Administrative Departments, Subordinate offices, Autonomous bodies, District offices, etc, are therefore requested to ensure that the number of vacancies reserved under 20 % quota of children of government employees may be mentioned in the advertisement.

RELIEF PROVIDED IN MONETARY TERMS

Some Aspects of Relief Provided in Monetary Terms

This office has always strived to provide expeditiously due relief to the complainants. A table given below indicates some aspects of relief provided in monetary terms which shows that a substantial amount of Rs.28,99,15,975/- has been made available to the complainants through our unrelenting efforts:

Sr.No.	Category	Amount
1	Contractual Dues	16,84,58,012
2	Medical Bills	30,03,849
3	Pensionary Dues	3,01,87,682
4	G.P. Fund	1,27,06,299
5	Scholarships out of Benevolent Fund	22,79,607
6	Arrears of Pay / Salary	1,92,38,771
7	Financial Assistance	1,28,61,964
8	Scholarships	30,92,408
9	Death Grant	79,32,291
10	Marriage Grant / Funeral Grant	23,10,316
11	Zakat	94,000
12	Monthly Grant / Farewell Grant	25,27,606
13	Group Insurance	6,37,723
14	Examination Duties Fee	2,29,250
15	Incentives/Cash Prizes to the Teachers	25,43,189
16	Leave Encashment	5,78,394
17	POL Charges	1,13,78,731
18	Consultancy & Professional Fee	8,28,490
19	Maintenance Allowance	4,80,265
20	Stipend Amount	65,500
21	Refund of Deducted Amount / Security	13,47,062
22	Building Rents	8,18,720
23	Return of Fee of Students	27,500
24	T.A. Bills	4,67,561
25	Transfer Grant Bill	200,047
26	SLIC Claim	25,25,470
27	Refund Claim	7,52,038
28	Watan Card	9,40,000
29	Arrears of CCTV bill	50,000
30	Refund of Lease money	2,45,150
31	Payment of Compensation	9,12,545
32	Labour Court Decree	55,350
33	Living Allowance	78,412
34	Decretal Amount	46,000
35	Other Dues	15,773
	Total	28,99,15,975

Legal Empowerment of the Poor (LEP) Program in Pakistan

United Nations Development Program (UNDP) through United Nations Office of Project Services (UNOPS) has launched Legal Empowerment of the Poor (LEP) Program in Pakistan. The program will cover all quarters providing legal services to the general public in the country including Supreme court, High courts, Lower courts, Police, Ombudsman etc. Objectives of the LEP program are:-

1. Access to justice for the poor.
2. Public service delivery mechanisms on the area of justice.

For the purpose UNOPS has signed a MoU with Forum of Pakistan Ombudsman (FPO) and is expected to sign MoUs with all Ombudsmen Offices individually as well. Due to overwhelming welcome and keen interest shown by the Office of the Ombudsman Punjab, UNOPS has started working with the Ombudsman Punjab office without even signing a formal MoU.

After a meeting with the Secretary office of the Ombudsman Punjab UNOPS has shown their acceptance in taking on following interventions:-

1. Design and Development of the official website.
2. Provision of IT equipment.
3. Training of IT staff.
4. Development of CMIS (Complaint Management Information System).
5. Training on Communication Skills for Consumer/Customer Relationship.
6. Designing of Communication Strategy including,
 - a) Information, Education and Communication (IEC) development and dissemination of material at interpersonal level through appropriate means.
 - b) Launching SMS campaign for mass awareness on public service delivery of Punjab Ombudsman.
 - c) Placing of hoardings in before selective public offices falling under the jurisdiction of the Punjab Ombudsman.
7. Hiring of a consultant to design Investigation Training Manual for Investigation Officers.
8. Training Program for Investigation Officers.
9. Establishment of a state of the art Registration cum Facilitation centre for complainants which would serve as 'one window' for the visiting persons who come to seek assistance of this Office for redressal of their grievances.
10. Provision of Interactive Voice Response (IVR) Call Centre.

11. Provision of SMS based Complaints Registration and Tracking System.
12. Establishment of Research/Study Wing.
13. Provision of Digital Library (Case Law).
14. Provision of equipment for Committee Room; like Multimedia with screen and sound system etc.
15. Administrative Control System (HR Module and Admin Module)
16. Surveillance cameras at Head Office and Regional Offices.
17. Firewall for security of CMIS (Hardware Security)
18. IP Telephony (CISCO Telephone) at Head Office and Regional Offices to facilitate free and conference calls.
19. Provision of IT equipment like Networks, Computers, Laptops, Scanners and Printers etc to facilitate CMIS.

Following activities / interventions are under process:-

1. A server computer with cabinet, few computer units and a heavy duty photocopier have been provided.
2. Computer networking at Head and all three Regional Offices has been done.
3. Development of centralized database is in process.
4. New dynamic website of the office containing some exciting features like online chat, free calls, complaint registration etc. has been activated.

Part-III

SPECIAL INITIATIVES

According to the section 9 (1) of the Punjab Office of the Ombudsman Act 1997 the Ombudsman may on a complaint by any aggrieved person, on a reference by the Government or the Provincial Assembly, or on a motion of the Supreme Court or the High Court made during the course of any proceedings before it or of his own motion, undertake any investigation into allegation of maladministration on part of any Agency or any of its officers or employees.”

- 3.1 On a motion of the Supreme Court of Pakistan
- 3.2 Cases referred by the Provincial Government
- 3.3 Suo Motu Cases

ON A MOTION OF THE SUPREME COURT

Affairs of Punjab Small Industries Corporation Employees Cooperative Housing Society Ltd. Lahore

Brief facts of the case

Taking cognizance of the complaint filed on 8.8.2006 (Human Rights case No.4229/06) making serious allegation of fraud and illegal allotment against the management of Punjab Small Industries Corporation Employees Cooperative Housing Society Limited, Lahore (referred to as Society), the Supreme Court of Pakistan had earlier directed the Punjab Government to constitute a three members committee “to make a thorough probe into the affairs of Society” and make its recommendations. The committee formed as per this direction on 4.11.2006 functioned for about a year and a half until 28.4.2008 when it was superseded by a seven member committee headed by the Advocate General Punjab which remained in the field for about a year.

Both committees did some useful work and submitted their reports to the apex court recommending action against the officials and management of the Society, cancellation of illegal allotment of plots, adjustment of the claims of bonafide allottees and expeditious finalization of litigation pertaining to the land owned/claimed by the Society. On the basis of these reports the case was heard from time to time by the Supreme Court until the august court considered it appropriate to refer the matter to the Ombudsman Punjab for further inquiry and remedial measures/recommendations etc. subject to passing of a final order by the Supreme Court of Pakistan. The operative para of the order dated 05.05.2009 of the court is as under:-

“.....thus the matter is referred to the Provincial Ombudsman for decision/settlement in terms of Section 9 of the Punjab Office of the Ombudsman Act, 1997, enjoying other administrative authorities available to him under the law. The Ombudsman in addition to the points, which are being formulated herein below shall also have jurisdiction/authority to look into any allied question/point brought before him or otherwise called for during the hearing of the complaints/petitions. The Provincial Ombudsman shall be free to exercise all such powers, which are necessary for suitable resolution of the disputes”.

The august court also framed nine terms of reference which included determination of number of original/bonafide members, the members who were victims of alleged illegal acts of the Society, formulation of criteria for adjustment of members’ claims and prioritization of such claims, illegal/fraudulent acts done by the Society/its ex-Secretary, measures for retrieval of Society’s property from the possession of persons/parties, and criminal or civil action which could be taken against those found responsible for depriving the members of the Society of their lawful rights.

In compliance with the order dated 05.05.2009 of the Supreme Court, this office had submitted a report to the Hon’ble Court on which the following order was passed:

“The above report as well as prayer made therein shall be read as part of the order of this Court and directions made in different parts of the prayer clause shall be deemed to be the directions of this Court and the Ombudsman shall implement the same in letter and spirit. All the law enforcing agencies including Police Department, Home Department, other departments and related functionaries of the Government of the Punjab are directed to extend full support and cooperation to the Ombudsman to implement these directions. The courts where criminal and civil cases between the parties are pending, shall inform the status of the same to the Ombudsman and on receipt of such information the matter shall be disposed of expeditiously on merits by consuming minimum time but not more than six weeks in any case. The Provincial NAB authorities are also directed to accelerate the proceedings against the persons whose names have been mentioned hereinabove”.

- (i) In pursuance of the above direction, cases of 613 claimants were heard and disputes relating to 339 plots were settled. Seventy four cases appeals are, however, still pending in various courts.
- (ii) Grant of subsequent membership in violation of Society bye-laws and without the approval of the General Body by the defunct Managing Committee being illegal, has been nullified.
- (iii) The genuine/bonafide allottees who were affected due to unauthorized sale of Society's land, or purchase of land without title of vendors or disputed land, are likely to be accommodated on retrieval of land which is under litigation.
- (iv) Efforts have been made to settle the dispute between the original allottees and the persons who raised construction on the plots allotted to them by the previous management of the Society. Majority of cases have been decided amicably and possession handed over to the rightful claimants.
- (v) Agreement has been reached between LUMS and PSICECH Society regarding the dispute of 45-kanals and 11-marlas. The agreement is being submitted before the Hon'ble Supreme Court for approval.
- (vi) On the direction of the Hon'ble Court, the cases pending in different Civil Courts and 1st Appellate Courts were consolidated and most of them were disposed of.
- (vii) The lay out plan of the Society was got approved from the Walton Cantonment Board which had not been approved previously.
- (viii) A close contact was maintained with NAB authorities to pursue cases against Major (R) Zulfiqar Ali, Ex-Secretary of the Society and other members of the Management Committee facing trial before the Accountability Court at Lahore.
- (ix) External electrification of different Blocks of the Society both residential and commercial, was completed after payment of dues to WAPDA.
- (x) Audit of Society's accounts is upto date.

- (xi) As a result of restoration of plots to original/bonafide members and cancellation of plots from the names of fake allottees, an authentic list of bonafide members was prepared and Registrar Cooperative Society was directed to hold the election of the Society. Elections were held on 18.11.2012 and a new Managing Committee has taken the charge which is now running the affairs of the Society. The Administrator of the Society has handed over a sum of about Rs.2,44,000,00/- to the new Managing Committee.

Despite best efforts of this office following issues are, however, still pending which need the attention of the Hon'ble Court.

- (i) It was brought to the kind notice of the Honourable Court through earlier reports filed by the Society on 19.07.2010, 10.08.2010, 17.09.2010, 17.02.2011, 27.05.2011 and 21.06.2011 that in twenty six (26) cases the parties were not willing to settle the matter either by paying the price of the plots to the genuine owners or by accepting the cost incurred on the construction illegally raised by them. Since the matter was first reported to the Honourable Court, more such cases were added to the list. Due to hectic efforts made by this office, a number of such cases have been decided and presently only 18 cases are pending wherein further progress does not appear possible due to evasive and adamant behaviour of one or both the parties. To resolve this problem, a proposal was placed for approval by the Hon'ble Court that illegal occupants be forcibly evicted and properties in their possession be auctioned so that sale proceeds could be distributed as per bye laws of the Society. A decision in this matter is awaited.
- (ii) The Administrator of the Society made a fresh application for demarcation of land measuring 64-kanalas situated in the revenue estate of village Lidhar. The demarcation was carried out by the Consolidation Officer, Assistant Collector Lahore on 13.05.2011. The demarcation report indicated illegal possession of land of the Society measuring 31 kanals 13 Marlas by DHA, Lahore and 33 Kanals 4 Marlas by National Management Foundation / LUMS University. Both LUMS and DHA were accordingly served with legal notices to vacate the land of the Society illegally possessed by them. The Defence Housing Society despite a number of notices and visits by the Administrator of the Society, avoided delivery of possession on one pretext or the other.
- (iii) That the National Management Foundation / Lums has filed a false and frivolous suit against 26 respondents / defendants seeking relief against the order of the Member Board of Revenue whereby he maintained "Akhraaj" of a fraudulent mutation. Since the suit before the Civil Court was clearly barred under the provisions of Cooperative Societies Act, 1925 and the Punjab Land

Revenue Act, 1967, the Society moved an application under Order VII Rule XI CPC for rejection of the plaint. The application has since been argued but the learned Trial Court Niajaf Shahzadi, Civil Judge, Lahore has not announced the order despite a number of adjournments.

- (iv) That the applicant approached the revenue authorities for retrieval of land illegally occupied by DHA and National Management Foundation (LUMS) who are reluctant to listen to reason. Any possibility in the near future that these authorities will hand over possession of Society's land or offer compensation in lieu thereof looks remote. It appears that DHA Lahore has already allotted the land belonging to the Society to different persons in the form of plots and some allottees have even built houses on these plots.

CASES REFERRED BY THE PROVINCIAL GOVERNMENT

Request for Grant of Membership for Allotment of House

Facts of the case in brief are that Punjab Government Servants Housing Foundation was established under Act X of 2004 to provide constructed houses to the Government servants on their retirement on 'No Profit No Loss' basis according to their eligibility and seniority position on their turn. The foundation invited applications for membership upto 30.9.2004 through advertisement appearing in print media and further disseminated information through Head of Departments in Punjab down to lower formations. The period for submission of applications was further extended upto 28.2.2005 by the competent authority.

Sardar Muhammad Nasim, ex-ES Teacher did not apply for the membership during his service and has since been retired compulsorily from Government service. He applied for membership in PGSHF and a summary was put up to the Chief Minister for his information/orders.

Chief Minister observed that the membership form in respect of Sardar Muhammad Nasim, ex-ES Teacher was duly endorsed and submitted to the Punjab Government Servants Housing Foundation and thus he deserved to be given membership for allotment of house as per laid down procedure.

Managing Director PGSHF submitted a fresh summary with reference to the Chief Minister's order that the membership form in respect of Sardar Muhammad Nasim was neither annexed by the Foundation nor was available in the file. The applicant has himself admitted that his parent department did not recommend and forward his application to the Foundation till the cut off date which was 28.2.2005. The applicant further stated that he was compulsorily retired from Government service during 2007.

In pursuance of Rule 5(2) of the Punjab Government Servants Housing Foundation Rules, 2005, the Foundation fixed 28.2.2005 as last date for acceptance of membership option forms by the eligible Government servants. Rule 5(3) of the Rules ibid also provides that the Foundation may impose additional conditions for the acceptance of the applications for membership, submitted after the lapse of the prescribed time subject to deposit of contribution in the account of the Foundation. Therefore, the requests for grant of membership after the prescribed time are entertainable subject to certain conditions. However, it will be contrary to the policy decisions taken by the Chief Minister Punjab and Board of Directors, PGSHF during meetings held on 28.2.2007, 18.5.2007 and 25.2.2011 wherein it was decided to continue the policy of restricting new membership on various grounds, after the cut of date, viz 28.2.2005.

Under Rule 6(1)(a) of PGSHF Rules, 2005, the membership of even an existing member is liable to be terminated, if retired compulsorily. Therefore, it would not be

advisable to entertain the request of the petitioner, being compulsorily retired official, unless reinstated in service by the School Education Department.

In view of the legal/factual position explained above, the Chief Minister may kindly review his orders for grant of membership to the petitioner.

Chief Minister observed that: (i) The applicant has clarified that subsequent inquiry into the matter proved that his application was duly forwarded to the Foundation but some how it was misplaced. (ii) In view of the above, the directions may be implemented and a compliance report may be furnished to this Secretariat within 03 days positively.

Managing Director, PGSHF again submitted a summary purporting that under Rule 27 of the Rules *ibid*, the Government may, on the recommendations of the Board, relax all or any of the provisions of these rules in case of any hardship. As compliance report is to be furnished to the Chief Minister's Secretariat within 03 days positively, it would be difficult to obtain recommendations of the Board within the time limit to relax the above provisions of the Rules.

Moreover relaxations, if granted, may create a precedent for other compulsorily retired members/applicants to seek remedy on similar grounds and even involve the Foundation in unnecessary litigation, which may adversely affect interests of the Foundation/members.

Keeping in view the position explained above, the following options were submitted for approval of the Chief Minister:

- (i) Review his orders and decline the request of the petitioner.
- (ii) Relaxation of Rule 5(2), 6(1)(a) & 27 of the Punjab Government Servants Housing Foundation Rules, 2005, specifying hardship in the matter, may kindly be granted to entertain the request of the petitioner for membership subject to deposit of contribution in lump sum from 1.5.2005.

Chief Secretary/Chairman, PGSHF supported the first option.

Chief Minister, however, observed that the applicant was victimized politically and was terminated from service. In order to mitigate his suffering on account of victimization, the second proposal was approved as a special case with the condition that it will not be quoted as precedent in future.

Managing Director, PGSHF again moved a summary to review the order on the following grounds:

- (i) Services of Sardar Muhammad Naseem, ex-ES Teacher were not terminated. In fact, he was retired compulsorily from Government service. There is nothing on record with us to know the charges against the official resulting in his compulsorily retirement. The School Education Department is in a better position to comment whether the charges were political in nature or otherwise.
- (ii) It is apprehended that a number of officials/officers whose membership has already been terminated on account of compulsory retirement from service

may seek remedy from Courts as per precedent of the petitioner leaving the Foundation in embarrassing situation and it may also result in entitlement seniority disputes amongst the members and the Foundation.

Under Rule 27 of the Punjab Government Servants Housing Foundation Rules, 2005, the Government may, on the recommendations of the Board, relax all or any of the provisions of these rules in case of any hardship. However, the Government has relaxed the relevant rules pending recommendations of the Board. The applicant is unlikely to be allotted a house in Lahore immediately, even if the membership is allowed. Therefore, it would be appropriate if the matter is first placed before the Board of Directors for consideration.

The case of Sardar Muhammad Naseem, a compulsory retired teacher from Government Service, for grant of membership was placed before the Board of Directors in its 18th meeting held on 29.10.2011, as required under Rule 27 of the PGSHF Rules 2005. The House, after detailed deliberations observed that if membership is allowed to the petitioner, it will set a bad precedent and drag the Foundation into unnecessary litigation from other compulsory retired Govt. servants. The Board decided that the rules may be followed and the case be re-submitted to the Chief Minister for reconsideration of his orders.

The Chief Minister desired that the matter may be referred to the Ombudsman for his examination/views.

In pursuance of the direction the Ombudsman recorded his views as under:

- (i) It is not as complicated a case as it has been made to look by the Punjab Government Servants Housing Foundation (referred to as 'Foundation'). The record shows that application of the petitioner, although forwarded within the prescribed limitation, was misplaced. This being maladministration on part of the agency, justice required granting the right due to the petitioner. Rather than do that, the Foundation used a subsequent event, i.e. his compulsory retirement, to hold that the petitioner had lost his right to be a member of the Foundation.
- (ii) Even if the contention of the PGSHF is accepted that since the petitioner was retired compulsorily, he had lost his right to be a member of the Foundation, the special relaxation (suggested as an option by the M.D. Foundation in para 26/ante) granted by the Chief Minister in terms of Rule 27 of the Punjab Government Servants Housing Foundation Rules, 2005, was circumvented by taking the same issue to the Board of Directors. Rule 27, as relaxed by the Chief Minister, reads as under:-

“27. Relaxation of rules. *The Government may, on the recommendation of the Board, relax all or any of the provisions of these rules in case of any hardship.”*
- (iii) Having presented the option of relaxation of rules to the Chief Minister, M.D., PGSHF had hardly any justification to propose that “it would be appropriate if the matter is laid before the Board of Directors for consideration”.

- (iv) As indicated above, matter was placed before the Board of Directors in its 18th meeting held on 29.10.2011 which decided that the rules may be followed and the case be resubmitted to the Chief Minister for reconsideration of his orders.
- (v) As can be seen from plain reading of Rule 27, recommendation of the Board is only a procedural matter as the rule does not make it obligatory for the Chief Minister to accept what the Board recommends. Notwithstanding the contrary view expressed in this case by the Board under Rule 27, the Chief Minister still has the authority to allow membership of the Foundation to the petitioner (considering the suffering of the petitioner and his political victimization) which will not be a precedent unless circumstances of some other applicant are exactly similar.

BOARD OF REVENUE

Auction of lot No.7, Mauza Shelli Gharbi, Tehsil Chishtian, District Bahawalnagar

Brief history of the case is that the state land measuring 200 acres consisting of lot No.7 in pond area, Mauza Shelli Gharbi, Tehsil Chishtian, Distt. Bahawalnagar was auctioned under the Punjab Privatization Board Act 2010 on 16.6.2010. The highest bid of 3,05,000/- per acre was offered by Mr. Muhammad Umar Arshad. The case was placed before P.B. in its 69th meeting held on 7.7.2010 which recommended for approval of the auction of the said property. After approval of the Government the sanction letter was issued to the auction purchaser on 16.8.2010.

After receipt of full auction price the Board of Revenue Punjab accorded sanction for execution of sale deed in favour of auction purchaser. The sale deed was executed for land measuring 1587 kanals, 8 marlas and was registered in favour of the auction purchaser. Mr. Umar Arshad then submitted various applications complaining that there was a shortfall in the auctioned area of the property and he was handed over possession of marshy and encroached land situated along the river. He requested that the land may be exchanged with some other suitable land. Consequently, District Coordination Officer, Bahawalnagar was requested to send a demarcation report which he furnished on 6.5.2011. He recommended exchange of land of lot No.7 with lot No.8 as both the properties have almost equal value and the interest of the Government will not be affected.

District Coordination Officer, Bahawalnagar intimated that though there was no rules/laws for exchange of the land, however, on the basis of ground situation the exchange of land was necessary to resolve the grievance of the purchaser and to avoid litigation. The DCO suggested that the request of the auction purchaser for exchange of land may be forwarded to the Board of Revenue Punjab.

Mr. Umar Arshad filed an application before the Member (Colonies), Board of Revenue, Punjab with the request that either the proposal moved by the DCO,

Bahawalnagar may be approved or principal amount with 18% interest plus damages may be refunded to him.

Member (Colonies), Board of Revenue supported the proposal for the adjustment/exchange of the state land of lot No.7 with lot No.8 as the same was in consonance with para 364 of Colonies Manual 1966 which reads as under:

“Land purchased at auction or otherwise cannot be exchanged without the expressed orders of the Government which should only be sought in very exceptional cases.”

A careful examination of the proposal forwarded by the DCO, Bahawalnagar does reflect that it is an exceptional case, and if acceded to, it does not involve loss to the public exchequer. In this case, the land was sold in lot No.7 whereas the land shown to the purchaser was situated in lot No.8 which is proved through documentary evidence. Subsequently demarcation of the land proved that the site plan shown prior to the auction was erratic. It was also proved through documentary evidence that the same price of land situated in lot No.8 was assessed as that of lot No.7. The price of lot No.8 was further determined through open auction which was also on record. After repeated auctions the land in lot No.8 could fetch only 1,65,000/- per acre whereas the auction purchaser had purchased the land in lot No.7 at the rate of 3,05,000/- per acre. So it was proposed that the proposal of DCO Bahawalnagar may be approved.

The matter was referred to the Chairperson, Punjab Privatization Board who observed that the stance taken by the DCO, Bahawalnagar at this belated stage is an after thought. Moreover, if the request of the petitioner is acceded to, it will open a Pandora Box and will also create a precedent for the other auction purchasers for exchange of properties after finalization of auction process and execution of sale deed.

Member (Colonies), Board of Revenue observed that to resolve the issue it was proposed that the amount 6,05,19,625/- deposited by Mr. Muhammad Umar Arshad may be refunded to him as one time dispensation.

The precedent was available in case of establishment of rice export centre by NLC at Kala Shah Kaku in which principal amount was refunded to NLC with the approval of Chief Minister. Senior Member, Board of Revenue, Punjab, however, did not agree with the proposal and observed that it was neither exchange of land nor refund of sale price appeared to be justified. In the instant case, state land was sold through open auction and sale deed had already been executed in favour of the purchaser, therefore, it was not appropriate to reopen the matter at this stage. The request of the applicant merits rejection.

With these remarks the summary was submitted to the Chief Minister who was pleased to direct as under:

- (i) Satellite Imagery of lot No.7 on the date of auction may be obtained to ascertain whether the land was water-logged or submerged.

- (ii) This imagery may be superimposed on Masavis (Revenue Maps) of land in question.
- (iii) Secretary Irrigation and PD Urban Unit may be associated in this exercise.
- (iv) The findings shall be examined by Punjab Privatization Board. The Board shall hear Commissioner Bahawalpur and DCO Bahawalnagar on the issue. Mr. Muhammad Umar Arshad the petitioner may also be afforded a personal hearing.
- (v) The recommendations of the PPB shall be examined by Cabinet Committee on Privatization (CCOP) before re-submitting the case for information/orders of the Chief Minister within one week.

The case was placed before the Punjab Privatization Board and the following recommendations were made in the meeting:

- (i) Keeping in view the recommendations of the Flood Inquiry Commission and the decision of the Supreme Court of Pakistan, state land under pond area cannot be sold/auctioned or exchanged, because exchange of land will also be a new/fresh transaction.
- (ii) Member (Colonies, Board of Revenue, Punjab himself and also on behalf of Senior Member, Board of Revenue Punjab recommended that neither the exchange of land nor refund of sale price appears to be justified as observed by SMBR in the above referred summary. The Chairperson, PPB reiterated his earlier stance as contain para 12 of the summary. However, in order to resolve the issue, the remaining Board Members (Mr. Viqar A. Khan, Mr. Saif Ullah Dogar, Deputy Secretary Finance, Mr. Jahanzeb Awan, Deputy Secretary Industries, Ch. Hasnat Ahmad, Senior Chief, P&D, Mr. Babar Malik, Head Retail Banking, Bank of Punjab and the Secretary, PPB) with majority of 6 : 3 unanimously recommended that the principal amount deposited by Mr. Umer Arshad, auction purchaser may be refunded to him. If this offer is acceptable to Mr. Umer Arshad he will have to submit an undertaking that he will not claim any interest.
- (iii) The Board Members unanimously observed that the map provided by the District Revenue Authorities at the time of auction was not correct and demarcation report dated 06-12-2010 was also incorrect, for which the responsibility lies on District Revenue Authorities and the P.P. Board cannot be held responsible for this mistake.
- (iv) The Board further observed that as the auction purchaser had purchased the land of Lot No.7 but occupied land under Lot No.8 for which he is not entitled to claim any damages/amount incurred by him on the development of land under Lot No.8, rather he is liable to pay 'Tawan' on account of illegal cultivation of state land under Lot No.8.

The above mentioned recommendations of the PP Board were placed before the CCOP in its 8th meeting held on 28.03.2012.

The recommendations of the CCOP are given below:

“After detailed discussion, the CCOP recommended that in the light of discussion & examination of the case in PP Board meetings, the Sale Deed No.470 dated 17.02.2011 executed/registered in favour of the auction purchaser may be amended through corrigendum accordingly as per possession of auction purchaser.”

However, Senior Member (Colonies), Board of Revenue did not support the proposal and the summary was submitted to the Chief Minister. The summary was returned to the Chairman Punjab Privatization Board who reiterated that:

“Punjab Privatization Board is a statutory body constituted under Section 3(1) of the Punjab Privatization Board Act, 2010. In terms of Section 3(2) of the Act ibid, the Board is a body corporate having perpetual succession and a common seal with power to enter into agreement, acquisition, holding, management and disposal of property and also sue and be sued in its name. However, this power has been made subject to the provisions of the Act specifically as follows:

3(2) “The Board shall be a body corporate having perpetual succession and a common seal, with power, subject to the provisions of this Act, to enter into agreement, acquire, hold, manage, and dispose of property, and to sue and be sued in its name.”

It is clear from the above that all powers of the Board are subject to the provisions of the Act and have to be exercised strictly in accordance with that.

Section 32 of the Act provides exclusive jurisdiction to the Lahore High Court in both civil and criminal issues and also specifically says that only Lahore High Court shall have exclusive authority to adjudicate and settle all matters related to or arising from proceedings under the Act. The relevant portion of the Act is re-produced as follows:

32. “Notwithstanding anything contained in any other law for the time being in force, the Lahore High Court shall exercise exclusive original civil and criminal jurisdiction.

- (a) To adjudicate and settle all matters related to, Arising from or under or in connection with this Act;
- (b) To adjudicate and settle all matters transferred to it pursuant to section 35; and
- (c) To try offences punishable under this Act.

Under Section 35 of the Act, all matters pending or related to the process of privatization even before the enforcement of this enactment in any forum, tribunal or court other than the Federal Shariat Court or Supreme Court of Pakistan were transferred to the Lahore High Court. Apart from this, no other manners or procedure for settlement of any dispute with regard to privatization process has been provided in the Act. It is, therefore, mandatory that any dispute

arising from the process of privatization, at any stage whether initial advertisement or final transfer, has to be taken to the Lahore High Court for a decision under its exclusive jurisdiction by the affected party. It appears from the record of the case that this particular aspect of Punjab Privatization Board Act, 2010 has not been brought to the knowledge of either Chief Minister or Cabinet Committee on Privatization. It may also be pertinent to point out that substitution or change of auctioned property has no mention in the Act *ibid*.

In view of above, implementation of decision of the Cabinet Committee will not be possible without amendment in Section 32 of the Act *ibid*. The amendment will need to take away the exclusive jurisdiction of Lahore High Court on the subject and allow for alternate modes of dispute resolution including creation of a forum for this purpose. However, I sincerely feel that taking such a course is not advisable in the current context of the case.

In view of the above, it may be appropriate that the matter is placed again before the Cabinet Committee on Privatization for a review of its earlier decision. The applicant may be advised to invoke exclusive jurisdiction of Lahore High Court for redressal of his grievances in terms of Section 32 of the Punjab Privatization Board Act, 2010 and sent the case to the Member (Colonies), Board of Revenue.

The matter was also referred to Secretary Law who recorded his observation as under:

“A combined reading of the above provisions leads to the following conclusion relevant to the controversy in hand:”

- (a) Subject to any policy instructions issued by the Govt. under section 6(2) of the PPB Act 2010, PPB is under a statutory mandate to accomplish, as an autonomous body, the objectives underlying the Act and discharge its functions strictly according to its provisions.
- (b) PPB is authorized to sell state properties *inter alia* through public auction/tender in accordance with the procedure laid down in the PPBA 2010.
- (c) The Government, under section 45 of PPBA 2010, is empowered to scrutinize and investigate, on a complaint or otherwise, any privatization transaction, and take necessary action in accordance with law.
- (d) Under PPBA 2010, a transaction is processed between PPB and the auction purchaser: PPB is responsible to the purchaser for any error committed even by its agent including revenue officials.
- (e) Under section 20 of the Punjab General Clauses Act 1956, the authority which is empowered to pass an order or take an action is also empowered, subject to vested rights, to amend, vary or rescind such an order or action if circumstances so justify and justice so warrants.
- (f) When both the parties to a contract are under a mistake of fact, the contract is void in terms of section 20 of the Contract Act 1872.

- (g) If consent of one of the parties to the contract is caused by coercion, fraud or misrepresentation, the contract is voidable at the option of such party under section 9 of the Contract Act.
- (h) A person to whom money has been paid or anything delivered by mistake has to repay or return it in terms of section 72 of the Contract Act.
- (i) Every authority is empowered to undo its action tainted by fraud, perversity or manifest abuse of authority.
- (j) Although section 32 of the PPBA 2010 empowers the High Court ultimately to adjudicate and settle all matters arising from a transaction under the Act, that *per se* does not impinge on the remedial power of PPB under section 20 of the Punjab General Clauses Act 1956 read with section 19, 20 and 72 of the Contract Act 1982.

It is manifest from the report of District Coordination Officer, Bahawalnagar that the revenue officials grossly misled both PPB and the auction purchaser. However, so far as the purchaser is concerned, the misrepresentation even on the part of the revenue officials will be construed as misrepresentation by the PPB. The Government, after scrutiny and investigation of the transaction under section 45 of the PPBA 2010, has concluded that the said transaction was the result of common mistake of fact and misrepresentation. Thus, as both the parties appear to have acted under gross mistake of facts as to the land and its nature, the agreement is void in terms of section 20 of the Contract Act 1872 or is voidable at the instance of the purchaser under section 19 of the said Act.

Now when the factual position stands admitted between the parties (PPB and the purchaser), Punjab Privatization Board, in the light of the facts involving the case and the legal principles spelled out above is under legal obligation to take necessary remedial steps to undo the wrong done to the auction purchaser. In any case, it would be unwise to force the purchaser into litigation.

In the light of the above discussion, this department is of the view that:

- (a) The Government may, under section 45 of the PPBA 2010, refer the matter to PPB for appropriate necessary action in accordance with law.
- (b) The Government may also issue policy instruction in terms of section 6(2) of the PPBA 2010 to safeguard against recurrence of such events.
- (c) PPB may consider the matter and if it is found that the contract falls within the mischief of section 19 or section 20 of the Contract Act, it may, on the basis of the applicant of the purchaser, rescind it under section 20 of the Punjab General Clauses Act 1956 read with section 20 of the Contract Act 1872 and the rule laid down in the cases cited as PLD 1975 SC 331 and PLD 1992 SC 263.
- (d) The Board may also decide to refund the sale price to the purchaser in terms of section 72 of the Contract Act 1872.

- (e) In the absence of any enabling provision in the PPBA 2010, the Government or PPB has no power to exchange the land sold in auction to the purchaser with another piece of land. The provisions of Colonization Act 1912 are not attracted to the transaction in hand which was made under the PPBA 2010 and not under the said Colonization of Land Act.
- (f) In case, PPB decides to auction the land factually in possession of the purchaser, though not actually purchased by him, the purchaser may compete through the bidding process.
- (g) If the purchaser is not satisfied with any of the actions of PPB, he has the ultimate right to approach the Lahore High Court under section 32 of the PPB Act 2010.

On this, the Chief Minister was pleased to constitute the following Committee on this issue:

- (i) Advocate General, Punjab
- (ii) Secretary law
- (iii) Chairman Punjab Privatization Board

Advocate General, Punjab noted that Lot No.7 (the pond area), measuring 200 acres, Mauza Shelli Gharbi, Tehsil Chishtian, District Bahawalnagar was put to auction on 16.6.2010 at the office of the Punjab Privatization Board (the Board), Government of the Punjab, Lahore. The highest bid of Rs.3,05,000/- per acre was offered by Mr. Muhammad Umar Arshad s/o Ch. Muhammad Arshad. The case was presented before the Board in its 69th meeting held on 07-07-2010 and the Board recommended the said bid for approval. The approval letter was issued on 16.8.2010.

A Sale Deed was executed in favour of Mr. Muhammad Umar Arshad for the land measuring 1587 kanals and 8 marlas. It is borne from the record that even before the Sale Deed was registered the Auction Purchaser submitted various applications complaining that there was a shortfall in the auctioned area and he had not been handed over the actually advertised property and had rather been given encroached land situated along the river. It is also borne from the record that the District Coordination Officer vide Report dated 06.05.2011 recommended exchange of land of Lot No.7 with Lot No.8 on the ground that the grievances raised by the auction purchaser were correct and genuine and that the exchange of land would not affect the state exchequer. The then Member Colonies Mr. Khalid Masood Ch. vide noting dated 07.9.2011 endorsed the view of the District Coordination Officer. The matter was then referred to a Sub Committee of the Cabinet on Privatization. The Sub Committee examined various aspects including satellite imagery. However, because of difference in opinion between the Punjab Privatization Board and the Board of Revenue Punjab, the matter was then referred to the Chief Minister Punjab who was pleased to direct resolution of the dispute between the two departments by a Committee comprising the Advocate General

Punjab, Law Secretary and the Chairman, Punjab Privatization Board. The Committee was asked to submit its recommendations within 10 days.

In view of the importance of the matter it was deemed appropriate that hearing be accorded to the auction purchaser. A notice for hearing was issued to the auction purchaser and he was heard at length by the Committee. The auction purchaser stated that the land of Lot No.7 was not the same as shown in the map displayed at the time of auction and that this was the fault of the field staff officials who mis-informed and misdirected the auction purchaser. He referred to certain documents to prove that sketch/map displayed at the time of auction was not correct. He referred to various statements and referred to Section 20 of the Punjab General Clauses Act, 1956 to contend that an exchange of land would be legal and proper.

The matter, in my opinion, cannot be resolved without recording of evidence and since the matter essentially relates to alleged maladministration of state officials, it will be in the fitness of things that a reference under Section 9(1) of the Punjab Office of the Ombudsman Act, 1997 be made to the Hon'ble Ombudsman, who has the power to investigate the matter in the manner that Hon'ble Ombudsman may wish to adopt. The Government may be pleased to request the Hon'ble Ombudsman for entertaining the reference and may then act on the recommendations made by him.

Chief Minister, Punjab approved the recommendation of Advocate General and the case was sent to Provincial Ombudsman, Punjab for his findings/recommendations. The Hon'ble Ombudsman gave his findings as under:

"The matter referred to this office was investigated as per direction of the Chief Minister. Joint hearing of the case was attended by Mr. Muhammad Umar Arshad, Auction purchaser alongwith Mr. Muhammad Arshad. The PPB was represented by its Secretary, Mr. Muhammad Ashiq, as assisted by Ch. Muhammad Azam, Property Consultant. Mr. Ajmal Saif Chattha, Tehsildar Chishtian, District Bahawalnagar appeared on behalf of DCO, Bahawalnagar and produced the record which was perused."

The focus of the investigation were the following issues earlier referred to the Board of Revenue by Secretary to Chief Minister (Coordination) vide letter No.PS/SCM(Coord.) (CMS)(D)-12/OT-4/(R)/126246 dated 13.01.2012:

- (i) Whether the Map provided by the Revenue authorities and Punjab Privatization Board to the eligible bidder at the time of auction was factually correct or not?
- (ii) The District Revenue authorities had reported that 1587 Kanals 12 Marlas land was cultivable and the fact that sizeable portion was under water was never reported before, whereas now it is being reported that 40% of the land is under water. Was this fact shared with the respective bidder at the time of auction?
- (iii) According to the recommendations of the Inquiry Commissions set up by Supreme Court of Pakistan and Government of Punjab, after 2010 Flood,

waterways and river stems have to be cleared of all encumbrances, encroachments and agricultural activities. In the light of the said recommendations of the Inquiry Commission, is it advisable to auction the land which has waterways and river stems located in it?

With regard to the query at 79(i), it has been proved through investigation and also admitted by the Revenue Authorities that at the time of auction at site, an incorrect and misleading site plan of the area was used. The District Coordination Officer Bahawalnagar submitted in his report that both PPB and the auction purchaser were misled by the erroneous misrepresentation made by the Revenue Authorities. Both the parties thus appear to have acted on a misleading site plan and erred in evaluating the land and its nature. Thus the impugned agreement is a contract voidable under section 19 of the Contract Act, 1872 at the option of either party whose consent was caused by misrepresentation. The auction purchaser is, therefore, justified in representing to the Member (Colonies), Board of Revenue, Punjab dated 06.07.2011 that either the proposal moved by the District Coordination Officer, Bahawalnagar for exchange of land may be approved or the principal amount with 18% interest plus damages be returned to him.

Investigation has proved that the District Revenue Authorities did not inform the bidder or the PPB that 40% of the land under auction was water logged.

With regard to the third query, there is no law permitting exchange of land under water with other land. Secondly the exchange of such land shall be contrary to the verdict by the Supreme Court of Pakistan in Constitution Petition No.62 of 2010 (Marvi Memon vs. Federation of Pakistan etc. and HRC No.52220-P of 2010 HRC No.57247-A of 2010 & HRC No.69622 of 2010. In view of the recommendations of the Inquiry Commission set up by the Supreme Court of Pakistan and Government of the Punjab, auction of land would not be desirable but such a decision at this stage will be to the detriment of the auction purchaser who claims to have made substantial investment in the project

Redressal of Grievances—C.M's Directive No.PA/ASA/CMS/11/OT-46-B/98595 dated 02.06.2011 regarding Award of Fair Compensation to Mst. Shamas-un-Nisa wd/o Abdul Rashid In lieu of her Land Acquired for Lahore Township Scheme, Lahore

Brief history of the case is that Mst. Sardar Begum purchased 22 kanal of land comprising Kh.No.974, Mauza Keer Kalan by means of registered deed dated 25.7.63 i.e. after the issuance of Notification under Section 4 of Land Acquisition Act, 1894. This land was acquired for Lahore Township Scheme and its award was announced on 4.7.1963 in the name of Sardar Begum subject to confirmation/attestation of Mutation in favor of ex-land owner. Mst. Sardar Begum got entered mutation No.2267 dated 6.10.93 on the basis of sale deed dated 25.7.63. However, the mutation was cancelled / dismissed in default.

Mst. Shamas-un-Nisa and her children got succession certificates from the court of law. However, the Court vide decree dated 31.3.1993 observed that the plaintiffs have failed

to provide any documentary evidence regarding ownership of the plots mentioned in the plaint and they are the only legal heir of deceased Abdul Rashid. The rest of the suit is dismissed. However, the plaintiff filed an appeal before the Addl. Distt. & Session Judge, Lahore but the same was dismissed on 13.7.1993. However, in compliance with the said certificate/decreed their names stand entered in LDA record. The said judgment thus does not substantiate the contention of the applicants that their predecessor-in-interest (Abdul Rashid) was the sole legal heir of Mst. Sardar Begum. It is, thus, obligatory upon them to have a declaration from the court and also to establish to be exclusively entitled to the inheritance of Mst. Sardar Begum.

It is mentioned that the policy was framed in 1966 by the Government that “only those ex-land owners were allotted plot who owned land before the issuance of the Notification under Section-4 of the Land Acquisition Act, 1894; having holding of 6-kanal and above land were to be given 4 kanal plot. Since Mst. Sardar Begum became owner after the issuance of the said Notification, hence, her case did not fall within the ambit of this policy. Subsequently, the ex-land owners, who had purchased land after the issuance of said Notification, were also accommodated and were required to submit their claims/application by 31.8.1972. Only a plot of maximum size of one kanal could be given irrespective of the limit of the holding of the land owners. Mst. Sardar Begum did not avail this opportunity by not submitting her claim/application before the cut of date and failed to get her right of allotment.

Vide Govt. of the Punjab’s Notification No. SO(D-1)2-449/87 dated 4.12.1988 it was decided that only cash compensation would be given to the ex-land owners. Accordingly, cash compensation of her land was assessed as Rs.4400/- by the Land Acquisition Collector, H&PP Circle, Lahore.

In 1995, to sort out the issue a committee was constituted by DG, LDA comprising DG, LDA, DG (Housing), DEM, QAT and Director Legal, LDA. The said committee held a meeting on 19-6-95 and directed the petitioner to complete the following formalities:

- i) To get the mutation attested in the name of Mst. Sardar Begum/legal heirs.
- ii) To move the LDA Tribunal if mutation is not attested by the Revenue Authorities to get the observations of the LAC removed from the award.
- iii) To get a declaration from the court of competent jurisdiction to the effect that applicants are legal heirs of Mst. Sardar Begum.

The applicant neither got the mutation attested from the collector nor filed reference before LDA Tribunal. Moreover, they did not obtain decree regarding declaration of legal heirs of deceased Sardar Begum as the decree already provided relates to the extent of Abdul Rashid’s heirs.

Mst. Shams-un-Nisa being successor-in-interest had made a request to the then Chief Minister Punjab for the allotment of plot in lieu of her meager cash compensation on

compassionate grounds. A summary in this regard was submitted to the Chief Minister Punjab, who was pleased to approve the allotment of plot on 8.9.1994 in lieu of acquired land in relaxation of Government instructions/policy dated 12.4.1988. However, the size of plot to be given to the petitioner was not mentioned in the said summary, therefore, Secretary Housing again submitted the summary to the Chief Minister Punjab. The operative part of the summary is given below:

“Presently no unencumbered residential plot is available in Lahore Township Scheme. In case, however, the proposal at para:19, finds favor of approval, the applicant could be considered for allotment of a 4-Kanal plot by carving out the requisite plots in Lahore Township Scheme.”

The summary was returned with the following remarks:

“The CM was pleased to observe that he had already approved allotment of plot in favour of the applicant in relaxation of policy. Fresh orders of the CM, therefore, were not required.”

However, the summary was again submitted to Chief Minister Punjab on 15-7-96 soliciting orders whether plot of one kanal or 4-kanal is to be allotted to the widow or her heirs as the case may be. The Chief Minister approved the proposal and sent the same back to LDA on 2-11-1996.

It is worth mention that during the pendency of said summary the Chief Minister Punjab issued instruction notified vide letter No.LDA/DC&I/851 dated 10-10-1996 that “No compensation to the land owners in the shape of plot will be allowed. They can get cash compensation vide Govt. of the Punjab HP&EP Department Notification No.SO(DI)2-449/87 dated 12-4-1988. Therefore, in the light of said orders the request of the applicant was turned down by the competent authority vide letter dated 18-11-1996.

Mst. Shams-un-Nisa feeling aggrieved filed a writ petition No.8270/097 in Lahore High Court, Lahore. The Hon’ble Mr. Justice Najam-ul-Hassan passed following orders:-

“As far as the payment of compensation of the land is concerned, the learned counsel for the respondent did not deny that the matter of compensation would be processed in accordance with law as the land of petitioner having being consumed in the Scheme, the respondent would be liable to make payment of fair compensation. This being so, the respondents shall examine the issue of payment of cash compensation to the extent of the land acquired and utilized in the Scheme. The matter pertaining to assessment and payment of compensation shall be decided expeditiously and without any further delay. For the reason above, the writ petition is disposed off with the direction that the respondents shall ensure a assessment and payment of cash compensation for the land acquired, to the petitioners, expeditiously, and without delay. However, prayer to the extent of exemption in relaxation of rules is declined.”

The petitioner feeling aggrieved from the above orders of the Lahore High Court, Lahore filed an Intra Court Appeal in Lahore High Court, Lahore. The learned judge dismissed the said ICA No.1020/99, dated 16-11-2000 and upheld the judgment passed by the Single Bench in the following terms:

“ The learned single judge after detail discussion of the matter disposed off the writ petition with the observation that the claim of the appellant

being rejected by the Civil Court, the same was not entertainable through constitutional petition and they would be only entitled to the payment of compensation. Subsequently, we having heard the learned counsel for the appellants as well as the respondent have not been above to find any substance in the present appeal and, therefore, dismiss the same with an observation that the appellant may, if so desired, invoke the administrative jurisdiction of the concerned Authorities for the relief being sought from this Court.”

In the light of the directions of the Lahore High Court, Lahore, the case was referred to the Legal Advisor, LDA, for opinion/advice who rendered his opinion which is given below:-

“The matter was again discussed with Director Legal today i.e 18.3.08 when the learned Director Legal visited the office of undersigned. All departmental decisions in the light of CM, Punjab order dated 8-9-94 have been discussed in the writ petition as well as in the ICA and the judicial orders clearly declare the relaxation of rules by Chief Minister illegal and subsequent departmental order also declare having no legal effect. Judicial order will prevail over any executive order. Thus is a past and close chapter which cannot be reopened at this late stage.”

In view of legal opinion the case was sent to the LAC, LDA, for assessment of amount of compensation who worked out Rs.4400/- as cash compensation.

Subsequently upon approval of the Competent Authority/DG, LDA, a cheque of Rs.4400/- was issued on 25.06.2002 which was duly received and encashed by Mst. Shams-un-Nisa. However, alongwith an application dated 15.03.08 the petitioner submitted a Pay Order of Rs.4400/- in the name of DG, LDA by informing the cheque was cashed by her by mistake. The said Pay Order has not been encashed by LDA so far.

Earlier, the applicant filed a Criminal Original No.15/W/2003 in the Lahore High Court, Lahore wherein the petitioner agitated that the amount of Rs.4400/- for the land measuring 22 kanal is not a fair compensation. While disposing off the said criminal original the Hon'ble LHC ordered that the LAC if approached by the petitioner, will decide his application within two months in accordance with law.

Consequent upon the said order the petitioner approached the LAC whereby the LAC passed his comments dated 31-01-04 which are reproduced as under:-

“In the light of award announced by the then LAC of H&PP Department compensation was determined according to the then market value. Once the award is finalized, the LAC is not competent to amend the award or determine compensation afresh under the Land Acquisition Act 1894. It is not out of place to mention that authority vide its decision dated 18-7-03 that *“no relaxation of policy shall be allowed. All those landowners who have not received compensation of their acquired land in the Township Scheme, shall be entitled to received only cash compensation, determined in the award under the Land Acquisition Act 1894. No plots shall be allotted to the such cases.”*

In the light of opinion rendered by Legal Advisor and authority decision the petitioner, through Malik Muhammad Iqbal (GPA), was informed vide this office letter

No.LDA/DEM/QAT/6372 dated 3-11-08 that her case had already been decided by the Lahore High Court Lahore in w.p.No.8270/97 titled "Shams-un-Nisa Vs. Ismail Qureshi, DG, LDA", therefore, her request merits no consideration at that stage.

Opinion of Secretary Law was sought regarding 'fair compensation'. Secretary Law vide his opinion dated 24-05-2010 supported the views of LDA i.e. the petitioner is only entitled for cash compensation as assessed by the LAC in the award.

At present petitioner is agitating for fair compensation at market value or compensation in form of 4-kanal plot. She contends that as per clear verdict of the Lahore High Court, Lahore, she is entitled for the payment of 'fair compensation' in case, she is not given a plot. She is of the view that the compensation should be much more than is being offered by LDA.

However, following policies/notifications are putting bar on LDA to entertain the request of the petitioner:-

1. The Government is not under any mandatory obligation to provide plots to the ex-land owners in Lahore Township Scheme vide Memo. No.SI(DI)2-449/87 dated 12.04.1988.
2. No compensation to the land owners in shape of plots will be allowed by the orders of Chief Minister/Chairman LDA vide No.DC&I/LDA/851 dated 10.10.1996.
3. The Authority vide its decision dated 18-07-2003 decided that no relaxation of policy shall be allowed. All those land owners who have not received compensation of the required land in the Township Scheme shall be entitled to receive only cash compensation determined in the award under the Land Acquisition Act, 1894. No plot shall be allotted in such cases.
4. The Authority vide its decision dated 24-06-2004 decided that exemption of plot from one scheme to another scheme is not allowed.

Following issues are also worth mentioning here:-

1. There is no established link as per available record, of legal heirs of Mr. Abdul Rashid with Awardee Mst. Sardar Begum, and the applicant failed to provide any succession certificate/court decree in this regard.
2. The applicant accepted and withdrew the cheque of Rs.4400/- as cash compensation on 25-06-2002. But after lapse of about 6-years, the applicant furnished a pay order of Rs.4400/- in favour of LDA on 15-03-2008 which LDA has not yet encashed.

In view of the above circumstances, claim of the applicant has already been finalized by LDA as per law/rules/policies in vogue.

Subsequently another summary was submitted by DG, LDA to the Chief Minister who observed that it was a hardship case and the claimants were running from pillar to post for settlement of claim for the last two decades. The Chief Minister desired that the case be placed in the next LDA Authority meeting for consideration with a view to redress grievances of the claimants and a report may be furnished for his information.

In pursuance of the directive, DG, LDA submitted another summary stating that the matter was placed before the Authority in its meeting dated 18-2-2012 who declined the request with the remarks that no further action is required at this stage.

The Chief Minister desired that the Law Department may examine this case thoroughly and add their views/recommendations for his information.

Secretary Law submitted his views/recommendations as under:

“On an earlier reference, Law Department advised as under:

“The case was discussed with officers of Lahore Development Authority and has been examined from various perspectives in the light of the judgment of the Hon’ble Lahore High Court. Through the said judgment, the court has directed that ‘fair compensation’ be assessed/paid in respect of the land acquired. It appears that, at the relevant time, the fact that the compensation had already been assessed under the relevant provision of law was not brought to the notice of the court.

The record shows that the Land Acquisition Collector, after observing all the legal formalities under the Land Acquisition Act, announced the award in this case. That award was never challenged by the then owner of the land or her legal heirs. The Land Acquisition Collector, having announced the award, has become functus officio and has no legal authority to review or change it. However, it could be questioned under section 18 of the said Act.”

As directed by the Chief Minister, the case has been re-examined. Mst. Sardar Begum was the owner of 22 Kanals of land which was acquired by the Government for purposes of establishing the Township Scheme. The Land Acquisition Collector announced the award and compensation of Rs.4,400 was assessed for the land. The award attained finality as it was not challenged in accordance with the provisions of Land Acquisition Act 1894.

The said Sardar Begum was survived by her son Abdul Rashid, who also died leaving behind Mst. Shams-un-Nisa (widow) and three children. The surviving legal heirs of Mst. Sardar Begum have been approaching different administrative and judicial for a seeking an exemption plot in lieu of land of Mst. Sardar Begum.

Writ petition No.8270/1997, filed by the petitioner, was decided on 25.10.1999. The High Court inter alia held that the petitioners or their predecessor should have applied for exemption at the relevant time and if they had not availed themselves of the opportunity, they could not, at that late stage, be allowed to ask for relief in relaxation of the rules. The department agreed to the payment of cash compensation and the Court disposed of the Writ

Petition with the direction to assess and pay cash compensation to Mst. Shams-un-Nisa and her children. An Intra Court appeal against this judgment was dismissed on 2.02.2002. A cheque of Rs.4,400 was issued by LDA in favour of Mst. Shams-un-Nisa and she encashed it.

In 2006, Mst. Shams-un-Nisa and other legal heirs of Mst. Sardar Begum challenged payment of Rs.4,400 compensation through Writ Petition No.2030 of 2006. On 18.9.2007, the said writ petition was also disposed of on the statement of the learned counsel for the petitioners that the petitioners intended to file petition under section 18 of the Land Acquisition Act before the LDA Tribunal for the enhancement of compensation. The Court disposed of the writ petition on that statement with the direction to the said Tribunal to expeditiously decide any such petition before it. However, instead of approaching the LDA Tribunal, on 15.03.2008, Mst. Shams-un-Nisa again agitated the matter through an application by attaching a Pay Order for Rs.4,400 in favour of D.G. LDA. The said Pay Order has not been encashed by LDA so far.

The matter stands past and closed as the legal heirs of Mst. Sardar Begum have not been successful in establishing their claims before the Courts in more than two rounds of litigation, the award had attained finality, and the compensation was paid and accepted. Re-opening of the case at this belated stage may create a bad precedent: the development authorities may not be able to withstand the pressure of satisfying all such claims. In the circumstances, this department is of the view that no executive indulgence at this point of time is necessitated especially in the backdrop of the observations of Lahore High Court in its judgment dated 25.10.1999.

On this, the Chief Minister observed that Provincial Ombudsman may please thrash out this case and give a personal hearing to the applicant in the presence of representative of the LDA and submit his in views/recommendations.

The Hon'ble Ombudsman furnished his views/recommendations as under:

“Brief facts giving rise to this dispute are that land measuring 22 kanals belonging to one Mst. Sardar Begum was acquired by the Provincial Govt. for Township Housing Scheme Lahore. As per award announced by the Land Acquisition Collector in pursuance of Government of the Punjab Notification No. 50(D-1)2-449/87 dated 4.12.1988, an amount of Rs.4,400 /- was assessed as cash compensation of her land. Considering this compensation too meager, the legal heirs of Mst. Sardar Begum (since deceased) approached the Chief Minister Punjab who was pleased to relax the policy and allow (vide order dated 08.09.1994) exemption of plot in lieu of the acquired land, but the exemption was later withdrawn and petitioner's request was turned down by the competent authority vide letter dated 18.11.1996. The Lahore High Court also declined the request for exempted plot in writ petition No.8270/1997 but observed that the respondents shall examine the issue of cash compensation to the extent of land acquired and utilized in the Scheme. As an Intra Curt Appeal against this order was dismissed on 25.02.2002, a cheque for Rs.4,400/- was issued by LDA in favour of the legal heirs of Mst. Sardar Begum which was encashed.”

The legal heirs of Mst. Sardar Begum challenged the compensation paid to them through writ petition No.2030/06 which was disposed of on 19.09.2007 to enable the petitioners “to file a petition under Section 18 of the Land Acquisition Act before LDA Tribunal for enhancement of compensation”. The applicant later filed a Criminal Original No.15/W/2003 in the Lahore High Court, Lahore, agitating that the amount of Rs.4,400/- for land measuring 22 kanals was not fair compensation. While disposing of the said criminal original, the Hon’ble High Court ordered that the Land Acquisition Collector, if approached by the petitioner, will decide the issue within two months in accordance with law. The Land Acquisition Collector, however, expressed his inability to re-open the case as it had already been decided by his predecessor. His comments dated 31.01.2004 are reproduced as under:-

“In the light of award announced by the then LAC of H&PP Department compensation was determined according to the then market value. Once the award is finalized, the LAC is not competent to amend the award or determine compensation afresh under the Land Acquisition Act, 1894.”

On the latest petition filed by the petitioner, views of the Law Department were obtained which advised as under:-

“The record shows that the Land Acquisition Collector, after observing all the legal formalities under the Land Acquisition Act, announced the award in this case. That award was never challenged by the then owner of the land and her legal heirs. The Land Acquisition Collector, having announced the award, has become functus officio and has no legal authority to review or change it. However, it could be questioned under section 18 of the said Act.”

The Secretary Law further expressed the following views:-

“The matter stands past and closed as the legal heirs of Mst. Sardar Begum have not been successful in establishing their claims before the Courts in more than two rounds of litigation, the award had attained finality, and the compensation was paid and accepted. Re-opening of the case at this belated stage may create a bad precedent, the development authorities may not be able to withstand the pressure of satisfying all such claims. In the circumstances, this department is of the view that no executive indulgence at this point of time is necessitated especially in the backdrop of the observations of Lahore High Court in its judgment dated 25.10.1999.”

The views of the Secretary Law, however, do not conform to the judgments of the superior courts which seem to suggest that the office of Land Acquisition Collector having done its job, may ordinarily become functus officio, but the courts can always intervene to order fresh determination. In this particular case, Land Acquisition Collector’s jurisdiction has obviously been revived as per specific direction of the Lahore High Court in Cr. Original No.15/W/2003 which makes it obligatory for him to assess the fair monetary compensation to the petitioner. This view finds support from the judgment passed by the Lahore High Court(2010 YLR/324) in–re Mst. Nasreen Akhtar and three others Vs Province of Punjab through Collector, Lahore and five others:-

“The petitioners in any case after more than three decades cannot be asked to receive the compensation as suggested by the respondent-authority and cannot be deprived from their valuable rights guaranteed by the Constitution of Islamic Republic of Pakistan, 1973. The Authority i.e. Lahore Development Authority, who is autonomous in its formation and to some degree at liberty to run its domestic affair without the intervention of the other Government departments, so such type of the autonomous authorities are expected to safeguard and protect the rights of the people and particularly, who are genuinely entitled to be treated strictly in accordance with law.

For the foregoing reasons, both these petitions are allowed. The respondent Lahore Development Authority is directed to accommodate the petitioners in the same scheme namely Upper Mall or any other developed scheme in the city in the terms of the quoted case Mian Ata Ullah (UPM No.78), within four months from today. In case the Authority decided to pay cash compensation of the land, that would be equivalent to the market price of the properties located in the Upper Mall Scheme.”

Award of fair compensation in this case creates no precedent as any such exercise will not be undertaken unless there is a specific order of any superior court.

Keeping the aforesaid in view, it is recommended that the fair monetary compensation of the petitioner’s land be ordered to be assessed as per the direction of the Lahore High Court contained in Cr. Original No.15/W/2003.

SUO MOTU CASES

A Safari Park with Dysfunctional CCTVs

A news item appeared in daily “Dawn”, Lahore, that CCTV system of Lahore zoo safari park was dysfunctional for the last six months, posing a risk to the safety of animals, birds and visitors. It was highlighted in the published news that the lion and tiger safari area is one of the most sensitive areas of the park. Visitors go in the safari on their vehicles. One cannot be located without CCTV camera because of long grass and bushes. The TV set that shows the activities in and around the Park are lying totally blank.

Hon’ble Ombudsman, took suo motu cognizance and the Secretary, Government of Punjab, Forest, Wildlife & Fisheries Department, Lahore was directed to take immediate necessary action for the redressal of the grievance and submit a report.

In the compliance report, it was intimated that preliminary inquiry was conducted and corrective measures were taken. It was informed that CCTV system has been made functional and disciplinary proceedings on the charge of negligence and mal administration have been initiated under the provisions of Punjab Employees Efficiency, Discipline and Accountability Act, 2006 Mr. Iftikhar Ahmad Qureshi, Director Fisheries (HM) Punjab, Lahore has been appointed as inquiry officer to conduct inquiry against the responsible officials, (i) Mr. Muhammad Saleem Akhtar, Deputy Director wildlife. (ii) Mr. Abdul Shakoor Manj, Assistant Director Wildlife. (iii) Mr. Muhammad Akbar, Assistant director wildlife. (iv) Mr. Raiz Ahmad, Assistant director Wildlife. (v) Mr. Muhammad Yousaf Pal, Deputy Director Wildlife.

Public Library needs Authorities’ Attention

A news item appeared in daily “Nation”, Lahore that public library in Vehari was the only centre of learning for the public and students of the city. But due to the alleged maladministration and inefficiency of TMA officials, it was losing its beauty. Reportedly, there was not a single gardener to look after the lawns and plants as the employed gardeners are working at the TMA officials’ residences. The condition of books and building was also worsening. TMA was responsible for the maintenance of library and allocation of fund for it but nothing was being done for its preservation. There were well-trimmed plants and a congenial atmosphere for learning but the alleged corruption in funds ruined the natural aspect of this place.

Hon’ble Ombudsman took suo motu cognizance of the matter and DCO, Vehari was directed to take immediate necessary action for the redressal of the grievance and submit a report.

Through his compliance report, the TMO, TMA Vehari, intimated that the grassy plots and flowers beds have been restored. Funds for the repair have been released and the contractor has started the repair work.

Illegal Occupation over Graveyard of the Military Accounts Cooperative Housing Society, Ltd, Lahore

A news item appeared in daily "Khabrain", Lahore, dated 17-01-2012 regarding irregularities/illegalities in the affairs of the Military Accounts Cooperative Housing Society, LTD, Lahore.

Hon'ble Ombudsman took suo motu cognizance of the matter and the Registrar, Cooperative Societies, Punjab, Lahore was directed to take immediate necessary action for the redressal of the grievance and furnish a report.

Assistant Registrar (Housing), Cooperative Societies, Punjab, Lahore, forwarded the report of the inquiry conducted by the District Officer (Cooperative), Lahore. It was intimated that management committee of the society had been involved in corruption, misuse of funds and commission of serious irregularities/illegalities in the affairs of the society. Assessment of the damage done by the management committee members was recommended.

On this report of the agency, the Hon'ble Ombudsman, desired that Registrar, Cooperative Societies should finalize his recommendations about affairs of the society and initiate proceeding under section 50-A of the Cooperative Societies Act, 1925.

Later on, the agency reported that FIR has been got registered against members of the management committee. It was further informed vide a compliance report that proceedings under section 50-A of the Cooperative Societies Act, 1925 were under adjudication in the Court of Registrar, Cooperative Societies, Punjab, Lahore.

Historical Baradari Serves as a Dumping Ground

A news item appeared in daily "News", Lahore regarding construction of a waste enclosure there after demolishing a portion of the Baradari in violation of Heritage Rules and Antiquities Act, 1975.

Hon'ble Ombudsman took suo motu cognizance of the matter. DCO, Lahore and the Managing Director, LWMC, Lahore were directed to furnish report.

MD, LWMC reported that according to United Nations Educational, Scientific & Cultural Organization (UNESCO) Baradari is not included in the list of Heritage. So, the Historical Heritage Rules does not apply to this site.

LWMC, however was directed to take stock of the situation, enquire into the matter and arrange for shifting of the waste dump.

Finally, with the persistent efforts of this Office, LWMC, submitted compliance report and intimated that waste enclosure beside the Baradari has been converted into an office and there will be no waste dumping next to the Baradari in future.

School without Teacher

A news item appeared in daily “Nawa-i-Waqt”, Lahore, regarding availability of only one teacher for 400 students of Govt. Primary School, Pisanwala, Narang Mandi and that too after his retirement, no teacher was posted and the school was un-officially closed for the last four months.

Hon’ble Ombudsman took suo motu cognizance of the fact and EDO (Education), Sheikhpura was directed to take prompt action for the redressal of the grievance and submit a report.

EDO (Education), Sheikhpura vide his report intimated that a school teacher has been posted and the said school has resumed its normal educational activities.

Unchecked Quackery in Sialkot

According to a news item which appeared in daily “Sahib” Lahore, death ratio of innocent poor people have increased due to unchecked quackery in District Sialkot. The corrupt drug inspectors of the Health Department, Sialkot were in league with quacks.

Hon’ble Ombudsman, taking suo motu cognizance required EDO (Health), Sialkot to take immediate action for redressal of the grievance and submit a report.

EDO (Health), Sialkot, intimated Vide his compliance report, that anti-quackery campaign has been launched in the district and details of the action taken during campaign were also provided.

Children Park of Township

A news item appeared in daily “Khabrain”, Lahore, regarding dilapidated condition of the children park in Block No. 11, Township Lahore. Hon’ble Ombudsman, directed PHA, Lahore to take immediate necessary action for repair / renovation / up-lift of the park and submit a report.

PHA authorities, vide their compliance report intimated that grass turfing has been done and trees have been planted; earth filling has also been done to raise the level of the park.

School Deprived of Play Ground and Bath Room

A news item appeared in daily “City 42”, Lahore, purporting non availability of missing facilities of class rooms, furniture, electricity, wash rooms, play ground, electric fans and wash rooms/toilets in Govt. Girls Primary School, Sora.

On the directions of the Hon’ble Ombudsman, report from the EDO (Education), Sheikhpura was summoned and he was directed to take immediate action for the redressal of the grievance.

The DEO (M-EE), Lahore, vide his compliance report, intimated that Govt. Girls Primary School, Sora, Lahore, has been merged in Govt. Boys Primary School and now all missing facilities have been made available to students of both the schools.

Part-IV

RECOMMENDATIONS

- 4.1 Department specific
- 4.2 General recommendations

RECOMMENDATIONS

DEPARTMENT SPECIFIC

Agriculture

Delay in Payment of Death Dues in Respect of Employees of Market Committees

This office frequently receives complaints regarding extreme delay in payment of dues on death of an employee of Market Committee. The Market Committees function like Govt controlled autonomous bodies and their employees are governed by the same rules in matters of pay and pension which are applicable to Govt. employees. Investigation of numerous complaints in this regard has shown that principal reason for delay in payment of dues (financial assistance) related to weak financial position of various Market Committees. A Market Committee in which the deceased or retired employee was last working, may not have sufficient resources/budget to pay heavy amounts i.e. gratuity or financial assistance.

In order to ensure redressal of such grievances (due to delay) it is recommended that Secretary Agriculture should establish a separate fund under the supervision of Director of Agriculture (Economics and Marketing), for payment of financial assistance (in case of an in-service death) to widows. The Director of Agriculture (E&M) should be made responsible to pay financial assistance from the special fund irrespective of place of last posting of a deceased employee.

Benevolent Fund Boards

District Benevolent Fund Boards maintained that heirs of Non-Gazetted Govt. Servants could not be paid financial assistance because the Provincial Benevolent Fund Boards did not release the funds according to their requirements. The Provincial Benevolent Fund Board has informed that the fund which related to Non-Gazetted Govt. Servants was under stress because of decrease investment and reduced contribution to the fund as appointments were usually being made on contract basis.

As per our information, widows and orphans of Non-Gazetted Govt. Servants had not been paid monthly grant during the last three or more years. Families of some deceased Govt. Servants has no other source of income except the grant being paid to them from Benevolent Fund. The shortage of funds has become perennial.

It is, therefore, recommended that Provincial Benevolent Fund Board may consider the possibility to amalgamate the amount pertaining to the Gazetted Govt. Servants with the funds of Non-Gazetted Govt. Employees because the very object of introducing the Benevolent Fund Scheme was to provide financial assistance to the Govt. Servants and their families irrespective of their status in service.

Boards of Intermediate & Secondary Education

While filling up the admission form for various examinations, the candidates are required to exercise option about the medium of examinations to be adopted by them. In Bahwalpur Board, a candidate (vide complaint No.M/1482/12) adopted English medium in the SSC examination and his script of English was sent to Rawalpindi Board alongwith the lot of script of Urdu medium candidates for evaluation as a result of a common decision of

Board to interchange the scripts. The candidate attempted alternate question meant for English medium candidate in lieu of the question meant for Urdu Medium candidates but the Examiner of Rawalpindi Board, considering him as an Urdu Medium candidate, awarded “zero” mark and gave a note “Not meant for Urdu Medium”. The discrepancy was pointed out by the candidate at the time of rechecking. The Board did not redress his grievance and as a sequel thereto, his father lodged the above mentioned complaint in this office.

After investigation, it was held that conduct of the examiner was not fair and question may be treated as “unmarked”. As a result of evaluation under the direction of Hon’ble Ombudsman, the candidate obtained 09 out of ten marks and his result was revised.

The Boards need to be advised that scripts of English Medium candidates in all the subjects/papers may be segregated and sent to the examiners separately (not in routine) to avoid confusion so that the student do not unduly suffer at the hand of the examiners.

Correction of Particulars of Name etc before Appearance in Class-X Examination

In a complaint against Board of Intermediate & Secondary Education, Rawalpindi it was alleged by the complainant that an amount (as fee) exceeding Rs.4000/- was demanded by the Board for correction of particulars of name of the student’s father (Ashfaq Ahmad) on the ground that in the admission form/enrolment return for Matriculation part-I, the name was erroneously written as Muhammad Ashfaq. The Agency/BISE, Rawalpindi wanted to punish the student (by imposing a fine) on the ground that he had himself signed the admission form and enrolment return sent to the Board by the school. The student was still enrolled in Matriculation examination and had not yet appeared in class-x examination. The investigation of the complaint revealed that such minor errors were commonly committed because the teachers-in-charge while helping the students to fill the admission forms did not compare the particulars with the contents of the register of admission and discharge. It was held by this office that the students should not be punished through imposition of heavy fine on such minor mistakes, particularly when they had not yet appeared in class-X examination.

It is recommended that in all cases involving minor mistakes in writing particulars of names during the period of enrolment of a student in a school, the Boards should not charge heavy fee for correction.

Issue of Appeal against Punishment of Disqualifications etc

A school teacher complained that he performed examination duty as a Centre Superintendent during Matriculation Examination 2011 and was awarded punishment of temporary disqualification to perform any examination duty by BISE Lahore on ground of negligence. He filed an appeal before the Chairman BISE Lahore but instead of quashing the punishment, the penalty was enhanced and he was permanently disqualified. The complainant maintained that Chairman of the Board was not competent to enhance the penalty in his capacity as the appellate authority.

The Agency / BISE Lahore could not produce any document / evidence to show that the Chairman who had awarded the punishment of temporary disqualification on recommendations of the Discipline Committee, could also enhance punishment on an appeal. It was stated that in the absence of any provision in the Board's rules with regard to enhancement of penalty, the Chairman could exercise powers at his discretion. This stance was not accepted by this office and the Agency was directed to place the appeal/issue before next higher authority i.e. the Governing Body of the Board for a well reasoned decision as no provision actually existed in the rules of the Board regarding enhancement of punishment awarded to examination staff and no authority could assume any powers not available under any specific rules.

With the above facts in view, it is recommended that the Educational Boards should proceed to make a suitable amendment in their existing rules/Calendar in order to enable the appellate authorities to enhance punishment in case it was felt (on the strength of facts) that the punishment originally awarded was not adequate and the nature of guilt justified imposition of more severe penalty.

Correction of Particulars of Name with Reference to Vernacular Expression

This office frequently receives complaints relating to correction of particulars of names given in the certificates/result cards issued by the Educational Boards. Some students write their names with certain spellings in admission forms but with different spellings in enrolment returns sent to the Board. For instance, a student wrote his name as Waqar Ahmed in the admission form but as Waker Ahmad in the enrolment return. The Boards are apt to charge heavy fee for correction of such minor errors casually committed by the students. This office has observed in some such cases that the Boards should also pay attention to the particulars of names written in Urdu by the students and if a discrepancy between particulars given in Urdu and those mentioned in English was noticed, the Boards, instead of waiting for the students to submit applications and to get heavy fees for correction later on, should timely point out the discrepancies to the students. If due importance was given to particulars of names written in Urdu, many complications with regard to difference of spellings etc could easily be resolved.

It is recommended, therefore, that the Boards should, in future, point out any discrepancy between the particulars as given in Urdu and as given in English, to the students at appropriate time without waiting for receipt of formal applications.

Evaluation of Objective Papers after Rectification of Error of Code No.

A student approached the office of Ombudsman stating that although he had obtained very high marks in Matriculation examination 2011, but he was not placed among top position holders by the Board, mainly because he was not awarded marks in objective part of his paper in the subject of Physics according to his attempt. The student explained that he expected full marks but was awarded only 2 marks out of 12 marks. According to the Agency/BISE Lahore, the objective paper attempted by the student was ignored by computer

because he had written a wrong code No. on the paper. The Board admitted, however, that in cases involving mention of wrong roll numbers, the students were allowed evaluation of their papers according to their attempt after correction of errors in roll numbers. It was observed by this office that the Board should follow the same practice in cases involving wrong mention of code No. by a student.

With the above background/facts in view it is recommended that the Educational Boards should make a suitable amendment in their existing rules (Calendar) and permit the students to have their objective papers manually evaluated (if the papers were rejected by computer due to wrong code No.) after rectification of mistake.

Grant of Permission to Private Students to Appear in Subjects Involving Practical in Intermediate Examination

A female student approached this office stating that she was allowed by the Board to appear as a candidate in Intermediate examination (part I) but was refused permission to appear in the second part on the ground that one of the subjects mentioned by her in the admission form involved practical examination. The Board contended that the student was inadvertently allowed to appear in that subject (Psychology) during Intermediate (part I) but on detection of mistake she was disallowed to appear in part-II of the same subject. The complainant argued that if she could successfully clear the practical examination as a private candidate during part-I, stopping her from appearing in practical examination (part II) of the same subject, was unjust. The complainant's contention was considered valid and the Agency/BISE Lahore was directed to allow the candidate to appear in part II of the same subject with the observation that the policy of not permitting private students to appear in Intermediate examination in subjects involving practical, was not rational.

With the above background/facts in view, it is recommended that the Educational Boards in the Punjab should review their existing policy of not permitting the private students to appear in subjects./papers involving practical in Intermediate examination. Regular students could also fail in practical examination. The fact that a private student can clear practical examination, furnishes sufficient justification for reviewing the existing policy.

Education

Poor Conditions of Service of Teachers in Private Schools

A young lady brought to the notice of Ombudsman (through her complaint) the plight of teachers in private schools, particularly the female teachers. According to her the teachers in private schools were ruthlessly exploited by the managements. They had to accept poor salary usually, Rs.3000/- to Rs.4000/- P.M (far below the level of minimum wages fixed for labourers), and no salary was paid to them during vacation. They were not allowed to sit in chair during working hours. Their original certificates/degrees were often kept in possession in order to force them to work in the school against their will. No medical care or any retirement benefits were

provided to them. This office obtained comments on the complaint from Education and Labour Welfare Department. The agencies confirmed that, by and large, the complainant's statement regarding miserable conditions of services of private teachers, was correct.

As it is proved (after investigation of the complaint) that private teachers were subjected to exploitation (despite being well educated) and most of them are not allowed salary during vacation, it is recommended that the School Education Department should take cognizance of the plight of these teachers. The deptt: should take steps (including enactment of a new law or amendment in the existing laws concerning private schools) to ensure that private teachers are not denied salary during summer vacation and they are paid salary/wages atleast above the level of minimum wages fixed by the Govt. for labourers/workers. It is also recommended that Labour Department should conduct an exercise to bring the private schools under social security scheme with a view to provide social security benefits to private school teachers, like medical care and retirement benefits etc.

Review of Existing Formula Regarding Assessment of merit of Candidates for Appointment as School Educators

Some candidates for recruitment as School Educators under the existing Recruitment Policy approached this office stating that they had obtained their degrees under annual system of examination but their merit was assessed under the same formula which was applicable to candidates who had obtained their degrees under semester system which guaranteed very high percentage of marks to students. They also contended that the candidates holding single degree of BS (Hons)/4 years course, were awarded double marks for two degree i.e. bachelor degree as well as master's degree, which was unjust. They also maintained that when professional qualification was prescribed as an essential condition for appointment, the candidates without professional qualifications should not be selected. Investigation of these complaints revealed that the existing Recruitment Policy (for School Educators) was imbalanced and warranted review. It was held that when candidates with professional qualification were available, the candidates without professional qualification should not be considered. It was also observed that the candidates who had passed two separate degree examinations i.e. B.A/B.Sc/M.Sc should get some advantage/edge over candidates who possessed single degree of B.A. B.S/ 4 year course.

With the above background/facts in view, it is recommended that the School Education Department should make a suitable amendment in its existing Recruitment Policy regarding appointment of School Educators. Atleast, the candidates possessing two independent degrees, should not be considered at part with the candidates having a single degree of B.S/4 years acquired under semester system, for the purpose of assessment of merit.

Excise & Taxation

In certain cases where a vehicle is purchased from the Province other than Punjab, but it is got registered in Punjab. The authentication of documents/ownership must be got

completed at the earliest, by the department itself. In Complaint No.1002/11 filed by Javed Akhtar, it has been observed that after purchase of Suzuki Mehran in the year 1996 from Pak Suzuki Motor Karachi, the complainant was made to wait for 15 long years for his due/permanent registration of his vehicle.

The Agency/Excise Department contended that although letters were written to Pak Suzuki Motors Karachi Office, for verification of the purchase, yet the original documents could not be transmitted apprehending their loss. As such, the complainant was made responsible to get documents authenticated/verified from the office.

In fact, it is the primary responsibility and legal liability of the Excise Department to get the ownership documents of a provisionally registered vehicle authenticated/verified through special messenger, fax or courier service etc. and as such a matter could not be entrusted and left, on to the complainant.

Punjab Public Service Commission

It has been observed while dealing/investigating the complaints that PPSC issues calls for written test almost to every applicant/candidate, but despite qualifying the written test, he is refused to be interviewed on certain ground, like the candidate lacks domicile, proper age, experience or any such other matter.

In a number of cases, it has been recommended by the Ombudsman Punjab that possible efforts be made to scrutinize the papers/documents of each candidate before issuing the call letter for his written test, and if at all, the same is not possible in view of large number of candidates, then at least, the relevant documents/requisite qualification must necessarily be scrutinized prior to issuance of interview call letter.

in so many cases, after passing written examination, the candidates were called for the purpose of interview and just on the day of interview at the Commission Office, they were declined the right of being interviewed owing to one reason or the other. Since, an action on the part of the Commission may be legal or justified one, yet it brings frustration, humility and social embarrassment to the examinee/candidate, so it needs be avoided.

So far as the matter of Domicile is concerned, concerning the old districts within the jurisdiction of which new districts were carved, the concerned candidate could be asked to provide domicile of the present, newly created district, in addition to old domicile submitted by him. In case of Complaint No. 701/12, Muhammad Nawaz recorded his district of domicile as Multan in the relevant column of application form, submitted to the PPSC, as it stood issued prior to creation of new district Lodhran. But at the time of interview, although he was holding domicile of newly created district Lodhran also (in addition to his previous domicile of Multan within the jurisdiction of which present Lodhran district stood included as Tehsil in the year 1988), so his right to be interviewed was declined. In such circumstances, the PPSC was directed to remedy the grievance of the complainant, who was otherwise eligible for "Lecturer in Seraiki", but he could not be interviewed owing to mention of old domicile in his form.

RECOMMENDATIONS

GENERAL

Delay in Notifying Retirement on Superannuation

Under section 12 (1)(ii) of the Punjab Civil Servants Act, 1974 a civil servant retires from service on completion of 60th year of age. Notification is required to be issued by the concerned authority well before the date of retirement so that retirement benefits are granted immediately after retirement. In this regard Rule 5.2 of Punjab Civil Servants Pension Rules and instructions issued vide No.FDSR.III-4/01/77 dated 14.04.1997 require initiation of the case for grant of pension and retirement benefit, one year before the date of retirement. Instances have been reported where retirement notification was issued when the date of superannuation had already passed. Resultantly a government official overstayed in service creating another set of problems. The concerned authorities should, therefore, ensure timely notification of retirement of each employee falling within their respective jurisdiction.

Shortage of Doctors

It is commonly said that there is considerable shortage of doctors and a number of health units, more particularly in rural areas are lying without doctors. Every year a large number of doctors leave the country in search of better prospects and those remain here in the urban Government health units/hospitals are not feeling comfortable with their service structure. As a result the provision of health facility to the general public becomes difficult. Affluent patients can avail the facility of private hospitals and specialists, but the poor is faced with a dire situation.

This shortage of doctors has further aggravated because of posting of doctors to various administrative and secretariat positions such as Executive District Officer, District Officer, Deputy District Officer, Deputy Secretary and Section Officer etc. etc. In the process that their professional attainments become inconsequential, and on the other hand, they do not have the requisite experience or expertise for the post assigned to them. In the circumstances, it is recommended that the posting of doctors to such posts should be reconsidered and if possible, may be discontinued.

Merit Based Recruitment against Lower Posts is Still an Illusion (Some Practicable Suggestions)

This office continues to deal with a large number of complaints from general public/candidates about disregard of merit in the selection of candidates against lower posts in BS 1–7/above. The malady does not exclusively lie in bad intentions and extraneous pressures/Sifarish etc. Certain elements in the Recruitment Policies framed and being followed by Govt. Deptts are also responsible for present state of frustration among the educated youth. Every now and then, new or additional quotas are reserved on the demands of various pressure groups. Likewise, the aggregate of interview marks (awarded at the

discretion of members of recruitment committees which are not free from external pressures), in disregard of higher qualifications, are factors which defeat the objectives of merit based recruitment. It is, therefore, recommended that:-

- (i) Various existing reserved quotas be reduced as far as possible.
- (ii) The total marks reserved for interview (40 marks at present) against class-IV and class-III (general cadre posts) be reduced to 10, while the marks for academic qualification be proportionately increased.
- (iii) The candidates having only the basic qualification, may not be preferred over the candidates possessing higher qualifications for which special marks be allocated through an amendment in Recruitment Policy.

Part-V
PUBLIC PERCEPTION

- 5.1 Acknowledgement by the complainants
- 5.2 Reports by the Print Media

APPENDICES

- Our team
- Contact details
- List of abbreviations

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LIST OF ABBREVIATIONS

ABAD	Agency for Barani Area Development	Coop.	Cooperatives
A.C.E.	Anti Corruption Establishment	D.A.O.	District Accounts Officer
A.G.	Accountant General	D.C.	Deputy Commissioner
ACR	Annual Confidential Report	D.C.O.	Divisional Canal Officer
ADO(R)	Assistant District Officer (Revenue)	DCO	District Coordination Officer
ADP	Annual Development Programme	D.D.C.	District Development Committee
ADV-I	Advisor-I	D.D.O.(A)	Deputy District Officer (Accounts)
ADV-II	Advisor-II	D.D.O.(C)	Deputy District Officer (Co-ordination)
ASI	Assistant Sub Inspector	D.E.O. (M-EE)	District Education Officer (Male- Elementary Education)
AWT	Army Welfare Trust	D.E.O. (W-EE)	District Education Officer (Women- Elementary Education)
B.A.	Bachelor of Arts	D.E.O.(SE)	District Education Officer (Secondary Education)
B.F.	Benevolent Fund	D.G	Director General
B.I.T.	Bachelor of Information Technology	D.G. Khan	Dera Ghazi Khan
B.O.R.	Board of Revenue	D.M.	District Magistrate
B.P.S.	Basic Pay Scale	D.O.(A)	District Officer (Accounts)
B.S.	Basic Scale	D.O.(C)	District Officer (Co-ordination)
B.Sc.	Bachelor of Science	D.O.(Coop)	District Officer (Cooperatives)
CCA	Culturable Commanded Area	D.O.(F&B)	District Officer(Finance & Budget)
C&W	Communication & Works	D.O.(Lab)	District Officer (Labour)
C-I	Consultant-I	D.O.(P)	District Officer (Planning)
C-II	Consultant-II	D.O.(R)	District Officer Revenue
C-III	Consultant-III	D.O.(SW)	District Officer (Social Welfare)
C-IV	Consultant-IV	D.P.E.	Director Physical Education
C-V	Consultant-V	D.P.O	District Police Officer
C-VI	Consultant-VI	D.S.P.	Deputy Superintendent of Police
C-VII	Consultant-VII	DDO (R)	Deputy District Officer (Revenue)
C-VIII	Consultant-VIII	Dev.	Development
C-IX	Consultant-IX	Dy.	Deputy
C-X	Consultant-X	E&T	Excise & Taxation
C.F.C.	Cooperative Finance Corporation	E.D.O.(Agri)	Executive District Officer (Agri.)
C.M.A.	Controller Military Accounts	E.D.O.(CD)	Executive District Officer (Community Development)
C.O.	Care of	E.D.O.(Edu)	Executive District Officer (Education)
C.R.	Consultant Research	E.D.O. (F&P/D)	Executive District Officer (Finance and Planning/Development)
Cr.P.C	Criminal Procedure Code	E.D.O.(H)	Executive District Officer (Health)
C.T.	Certificate of Teaching		

E.D.O.(IT)	Executive District Officer (Information Technology)	N.B.P.	National Bank of Pakistan
E.D.O.(Law)	Executive District Officer (Law)	N.O.C.	No Objection Certificate
E.D.O.(Lit)	Executive District Officer (Literacy)	N.W.F.P	North West Frontier Province
E.D.O.(R)	Executive District Officer (Revenue)	NESPAK	National Engineering Services of Pakistan
E.O.B.I.	Employees Old-age Benefit Institution	NGOs	Non-Governmental Organizations
E.S.T.	Elementary School Teacher	NOVs	Non-Official Visitors
F.D.	Finance Department	O.P.F.	Overseas Pakistanis Foundation
F.I.R.	First Information Report	O.S.D.	Officer on Special Duty
F.Sc.	Faculty of Science	P&D	Planning & Development
G.A.R.V.	Gross Annual Rental Value	P.B.F.	Punjab Benevolent Fund
G.B.	Gogera Branch	P.C.B.L.	Punjab Cooperative Board for Liquidation
G.M.	General Manager	P.E.S.S.I.	Punjab Employees Social Security Institution
BoG	Board of Governor	P.H.A.	Parks & Horticulture Authority
G.P. Fund	General Provident Fund	P.I.D.B.	Punjab Industrial Development Board
H&PP	Housing & Physical Planning	P.I.T.B.	Punjab Information Technology Board
H.B.F.C.	House Building Finance Corporation	P.L.D.	Pakistan Legal Decisions
H.B.L.	Habib Bank Limited	P.M.	Per Month
HUD & PHE	Housing, Urban Development & Public Health Engineering	P.O.	Post Office
I&P	Irrigation & Power	P.P.C.	Pakistan Penal Code
I.G.	Inspector General	P.P.O.	Pension Payment Order
I.R.U.D.P.	Integrated Rural Urban Development Programme	P.P.S.C.	Punjab Public Service Commission
J.B.	Jhang Branch	P.S.	Police Station
L&DD	Livestock & Dairy Development	P.T.C.	Primary Teaching Certificate
L.P.R.	Leave Preparatory to Retirement	P.T.C.L.	Pakistan Telecommunication Corporation Limited
LDA	Lahore Development Authority	PAD & SC	Punjab Agricultural Development and Supply Corporation
LG&RD	Local Government & Rural Development	Ph.D.	Doctor of Philosophy
Ltd.	Limited	Pt-I.	Part-I
M.A.	Master of Arts	Pvt.	Private
M.C.B	Muslim Commercial Bank	R.D.A.	Rawalpindi Development Authority
M.D.	Managing Director	R.T.A.	Regional Transport Authority
M.I.T.	Master of Information Technology	R.Y. Khan	Rahim Yar Khan
M.V.Rules	Motor Vehicle Rules	R/O	Resident of
MBA	Master of Business Administration	Rft.	Running feet
MCL	Metropolitan Corporation Lahore	Rtd.	Retired
MDA	Multan Development Authority	S&GAD	Services and General Administration Department
N.A.B.	National Accountability Bureau		

Appendices – List of Abbreviations

S.C.A.R.P.	Salinity Control and Reclamation Project	T.E.V.T.A.	Technical Education / Vocational Training Authority
S.D.C.O	Sub Divisional Canal Officer	T.T. Singh	Toba Tek Singh
S.D.O.	Sub Divisional Officer		
S.E.	Secondary Education / Superintending Engineer	U.B.L.	United Bank Limited
S.H.O.	Station House Officer	U.C.C.	Upper Chenab Canal
S.I.	Sub Inspector	W.E.F.	With effect from
S.M.R.	Special Modarba Receipt	W.W.F.	Workers Welfare Fund
S.N.E.	Schedule of New Expenditure	WAPDA	Water and Power Development Authority
S.O.(P.C.)	Section Officer (Pay Commission)		
S.P.	Superintendent of Police	WASA	Water and Sanitation Agency
S.S.P.	Senior Superintendent of Police	Wd/O	Widow of
S.V.Teach.	Senior Vernacular Teacher	WMO	Woman Medical Officer
T.A./D.A.	Traveling Allowance / Daily Allowance	XEN	Executive Engineer