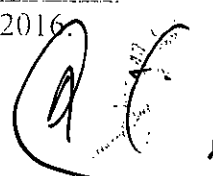
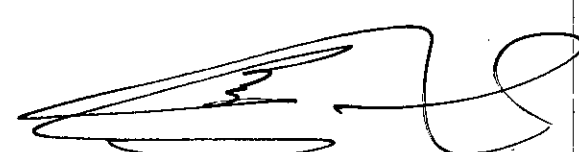


Sr. No.	Date of order/ proceedings	Order or other proceedings with signature of Judge/ Magistrate
	2	3
	25.01.2016	<p style="text-align: center;">KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, <u>CAMP COURT, D.I.KHAN.</u></p> <p style="text-align: center;">Service Appeal No. 615/2014 Muhammad Jamil Versus Government of KPK through Chief Secretary, Peshawar etc.</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p><u>PIR BAKHSH SHAH, MEMBER.-</u> Counsel for the appellant (Mr. Muhammad Ismail Alizai, Advocate) and Government Pleader (Mr. Farhaj Sikandar) with Masroor Hussain, SDO for the respondents present.</p> <p>2. Arguments heard and record perused.</p> <p>3. After hearing learned counsel for the appellant and learned Government Pleader at length in this case and perusal of the record, it was found that termination order in this case has been passed on the grounds of the identical cases of Farmanullah etc. in Service Appeal No. 665/2014. We do not find that grounds of termination of the instant impugned order is different from the one in the said service appeals, hence in order to avoid conflicting judgments, this appeal is also remitted to the department to examine the same similarly as directed in the said appeal vide judgment dated 30.12.2015. The appeal is disposed of accordingly. Parties are left to bear their own costs. File be consigned to the record room.</p> <p><u>ANNOUNCED</u> 25.01.2016</p> <div style="display: flex; justify-content: space-between;"> <div style="text-align: center;">  (ABDUL LATIF) MEMBER </div> <div style="text-align: center;">  (PIR BAKHSH SHAH) MEMBER Camp Court, D.I.Khan </div> </div>

28.07.2015

Counsel for the appellant and Farhaj Sikandar, GP present. The Bench is incomplete, therefore, case to come up for arguments on 25-08-2015 at camp court, D.I.Khan.


MEMBER
Camp court, D.I.Khan

25.08.2015

Since tour to D.I.Khan schedule for 25th August, 2015 has been cancelled therefore, case to come up for arguments on 26-10-15 at camp court, D.I.Khan.


READER


26.10.2015

Appellant with counsel and Mr. Farhaj Sikandar, GP for the respondents present. The Bench is incomplete, therefore, case to come up for arguments at camp court D.I.Khan on 28-12-16.


MEMBER
Camp court, D.I.Khan


23-2-15

Appellant with Counsel and G.P. for Respondent No. 1 to 5 present. Respondents No. 6 to 7 are absent despite proper service upon them, proceeded against ex parte. Case adjourned to 31-3-2015 for rejoinder at Camp Court, D.I. Khan.


Member
Camp Court, D.I. Khan.

31.3.2015

Appellant with counsel and Mr Farhaj Sikander, GP with Masro ul Hassan SDO for respondents present. Rejoinder received and placed on file. To come up for arguments on 27.4.15. at Camp Court D.I.Khan..


MEMBER
Camp Court, D.I.Khan

27.4.2015

Appellant with counsel and Mr. Farhaj Sikandar, GP for the respondents present. The bench is incomplete, therefore, arguments could not be heard. To come up for arguments on 25.05.2015 at camp court, D.I.Khan.


MEMBER
Camp Court, D.I.Khan.

25.05.2015

Clerk of counsel for the appellant and Mr. Farhaj Sikandar, GP for the respondents present. Due to general strike of the legal fraternity, counsel for the appellant is not available. To come up for arguments on 28.7.2015 at camp court, D.I.Khan.


MEMBER
Camp court, D.I.Khan

محضور جناب صدر میں صاحب، جسپر چمنو نچوا سروں ٹریبونل لٹنادر

سروں اپیل نمبر 615/2014

لقبوان: محمد جمیل نام حکومت K.P.K وٹیرہ

درخواست بسراد منتقلی مقدمہ بنام لٹنادر

جناب عالی ا

① یہ کہ سروں اپیل درج بالا مالکاً 2014 سے زیر سماعت ٹریبونل ہذا
جلی آر سی ہے جس میں اسندہ تاریخ 26/10/2014 برائے بحث
پر مقدمہ مقرر ہے۔

② یہ کہ ٹریبونل ہذا کا بیچ بنام ڈیو ایس ایس خان مکمل نہ ہونے کی بناء پر
اپیل ہذا میں بحث پر مقدمہ کافی عرصہ سے Pending جلی آر سی ہے جبکہ
سائل بے روزگار ہونے کی بناء پر مالی پریشانیوں کا شکار ہو گیا ہے۔

③ یہ کہ دریں لوطیت کے دیگر مقدمات قبل ازیں لٹنادر بیچ منتقل کئے
چاہئے ہیں جو کہ بوجبات بالا اپیل ہذا بھی ٹریبونل کے لٹنادر بیچ

منتقل کی جانا قرین الصاف ہوگا

لہذا استدعا ہے کہ اپیل مذکورہ عنوان بالا
لٹنادر بیچ منتقل کی جائے تاکہ حکم صادر فرمایا جائے

مورخہ 29-09-2015

محمد جمیل
M. Jamil
(Appellant)

29-9-2014.

Appellant with counsel and G.P. for respondents present. Reply R.No. 1 to 4 received copy whereof is handed over to appellant. To come up for reply of R.No. 5 to 7 on 27-10-2014 at camp court, D.I.K.

Le. Suley
Registrar
Camp Court, D.I.K.

27-10-14.

Appellant with counsel and Masroorul Hassan S.D.O. and Liaqat Ali, Supdt. for respondents with G.P. present. Reply not received. To come up for reply on 25-11-2014 at Camp Court, D.I.K.

Le. Suley
Registrar
Camp Court, D.I.K.

25-11-2014.

Present as before on 27-10-2014. Since the Tribunal is incomplete, therefore, this case is adjourned to 29-12-14 for written reply at Camp Court, D.I.K.

Le. Suley
Registrar
Camp Court
D.I.K.

29-12-14.

Appellant in person present. No one is present on behalf of respondents. Case adjourned to 26-1-15 for written reply at camp court, D.I.Kham.

Le. Suley
Registrar
Camp Court, D.I.K.

26-1-15.

Appellant with counsel and Masroorul Hassan, S.D.O. for respondents no. 1 to 4 with G.P. present. Muzd Khasif Nadin representative of respondent no. 5 present and filed written reply, copy whereof is handed over to appellant for rejoinder. No one is present on behalf of respondents no. 6 to 7. Notices be issued to them for appearance and submission of written reply on 23-2-15 at camp court D.I.K.




Le. Suley
Member
Camp Court, D.I.K.

Form-A

FORM OF ORDER SHEET

Court of _____

Case No. 615 /2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	05/05/2014	<p>The appeal of Mr. Muhammad Jamil presented today by Mr. Muhammad Ismail Alizai Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	13-5-2014	<p>This case is entrusted to Touring Bench D.I.Khan for preliminary hearing to be put up there on <u>26-5-2014</u></p> <p style="text-align: right;"> CHAIRMAN</p>
3	26-5-2014.	<p>Appellant with counsel present and heard. The counsel contended that appellant has been terminated from service on 14-2-2014. He filed departmental appeal on 24-2-2014 which was not responded by the appellate authority within statutory period of law. Hence this appeal on 5-5-2014. Since the appellant has not been treated in accordance with law, therefore he alleged malafide on the part of respondents while passing impugned order against him.</p> <p>Points raised at the bar need consideration. Admit subject to all legal objections. Process fee and security be deposited within 10 days. Thereafter, notices be issued to the respondents for submission of written reply of 29-9-14 at Camp Court, D.I.Khan.</p> <p style="text-align: right;"> Member Camp Court, D.I.K.</p>

Appellant Deposited Security Process Fee Rs. 260/- Bank Receipt is Attached with File.

Before The Service Tribunal, Khyber Pakhtun-khwa, Peshawar.
Service Appeal No:...615 /2014

Muhammad Jamil, Ex-JS Stenographer.

Versus

Govt of KPK etc.

(Appellant)

(Respondents)



3/13

Rejoinder to written statement.

Respectfully, the appellant very humbly submits as under: -

On Preliminary Objections:-

Assertions made by the answering respondents from paras 1 to 8 are distinctively and collectively denied being incorrect, misconceived, against the law, without any substance or proof and an effort to colour the facts according to their own whims yet factually non-sustainable.

On Factual Objections:-

1. Incorrect thus denied. The appellant was lawfully and in accordance with the statutory provisions prevalent for the time being was appointed and a wrong done by the authority does not entail any burden onto the appellant in light of persistent verdicts of superior courts of the land.
2. Incorrect, misconceived thus denied. The appellant relies on his averments made in corresponding para of his appeal besides law on the subject.
3. Denied being factually and legally incorrect. Respondents have fallen in err in interpreting the decision of the Apex Court. The appellant also relies on his averments made in corresponding para of his appeal.
4. Denied being factually and legally incorrect. The appellant relies on his averments made in corresponding para of his appeal.

On Objections to Grounds:-

- A. Denied being factually as well legally incorrect. The appellant relies on his averments made in corresponding para of his appeal.
- B. Denied being factually and legally incorrect. The Tribunal may conveniently assess the high handedness of the respondents while dealing with the case of the appellant.
- C. Denied being factually and legally incorrect. Respondents have fallen in err in interpreting the decision of the Apex Court. The appellant also relies on his averments made in corresponding para of his appeal.
- D. Incorrect yet without any footings / sustenance on part of respondents. The appellant also relies on his averments made in corresponding para of his appeal.
- E. Incorrect thus denied. The appellant also relies on his averments made in corresponding para of his appeal.
- F. Needs no comments.

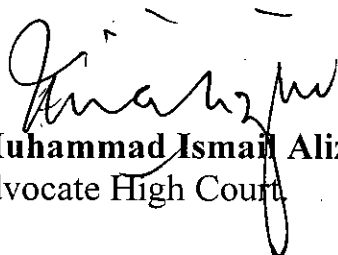
PRAYER:

In view of the facts and grounds, as mentioned above as well as in the main appeal, it is requested that by setting-aside the impugned orders of Respondents as prayed, declaring the same as illegal, void ab-initio, nullity in law and ultra-virus thus of no consequence on the rights of the appellant, to kindly reinstate the appellant in service with grant of all back benefits. Any other remedy deemed appropriate by the Hon'ble Tribunal in the circumstances of the matter is solicited, too.

Dated... 31/3/2015.

Humbly,

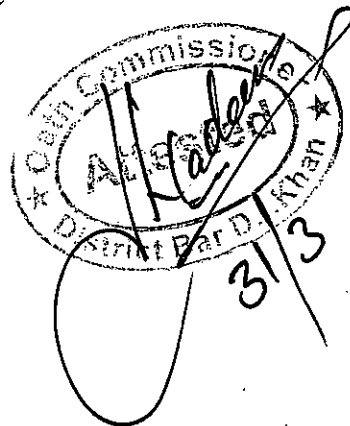
Appellant,
Through Counsel.


(Muhammad Ismail Alizai)
Advocate High Court.

Affidavit.

I, Muhammad Jamil, the appellant, affirm and declare on oath that contents of this rejoinder are true & correct to the best of my knowledge and belief and that nothing is willfully concealed or kept from the Tribunal.

Dated: 31-3-15




Deponent.

Before The Khyber Pakhtunkhwa Service Tribunal, Peshawar.
Service Appeal No:.....615...../2014

Muhammad Jamil s/o Muhammad Aslam,
R/o Village Pirwana, District Tank,
Presently, Malana House, Qasuria Town, Multan Road,
Dera Ismail Khan.

S.W.P. Peshawar
646
05/05/14

(Appellant)

Versus

1. Government of Khyber Pakhtunkhwa through its Chief Secretary, Civil Secretariat, Peshawar,
2. The Secretary, Public Health Engineering Department, KPK, Peshawar,
3. Chief Engineer (south), Public Health Engg; Deptt; KPK, Peshawar,
4. Superintending Engineer, PHED Circle, D.I.Khan.
5. Deputy Commissioner (Formerly DCO / Chairman, District Departmental / Selection Committee), Tank.
6. Accountant General, KPK, Peshawar.
7. District Accounts Officer, Tank.

(Respondents)

40

5/5/14 Note: The addresses given above are sufficient for the purpose of service upon respondents.

[Handwritten Signature]

Appeal U/S 4 Of KPK Service Tribunal Act, 1974 Against Order Dated 14.2.2014 Of Respondent No.3 Conveyed Through Office No. 47/E & Finally Against Inaction By Respondent No.2 / appellate Authority On Representation Dated 24.2.2014 Of Appellant.

- PRAYER: - By setting-aside the impugned Order of Respondent No.3, declaring the same as Illegal, Void ab-initio, Ultra-virus, Nullity in law and of no consequence on the status / rights of the appellant and thereby direct the respondents to desist from discriminating / disturbing the appellant in violation of law, rules & instructions / policy of Government,
- To graciously reinstate the appellant in service with grant of all back benefits as may accrue,
 - To kindly impose cost on respondents, as may graciously be fixed.

Respectfully Sheweth: -

The appellant very humbly submits as follows: -

BRIEF FACTS:-

1. That prior to the pronouncement of title mentioned impugned order the petitioner had been serving as Steno Typist in Public Health Enrgg. Division, at Tank, having been appointed way back in 2007 vide appointment order issued from the office of competent authority i.e. D.C.O, Tank in lieu of fulfillment of due process of notifying of the post, holding scrutiny of testimonials of candidates and later a vetting & process through the District Selection Committee, Tank in accordance with the provisions of law, rules and policy of the government in vogue then. Copies of Advertisement, Constitution and proceedings of the Distt: Selection Committee, besides Appointment Order issued in favour of the appellant are placed herewith as Annexes A to A/
2. That lately, the appellant, besides few others, was proceeded against departmentally on the grounds as contained in the Show Cause Notice served on the petitioner, though utterly vague and unfounded besides being irrelevant to the case & status of the petitioner. The said SCN was issued, though in utter contradiction and defiance of the law, rules and policy of the government, yet under the garb of implementation of a verdict of the Supreme Court of Pakistan, but in err and misconceiving the spirit and object thereof. The appellant tendered an appropriate reply to the Show Cause Notice duly supplemented by law, rules and relevant records. Copies of Show Cause Notice and reply thereto are placed herewith as Annexes B to B/
3. That in a slipshod manner the matter was decided by the departmental authority, choosing to impose punishment on the petitioner of the nature of Termination of Service vide subject mentioned order, impugned hereby. Copy of the impugned order is annexed herewith as Annex-C.
4. That aggrieved from the impugned order issued over No.47/E-4/PHE dated 14.2.2014 from the office of Chief Engineer (South) PHED, KPK and



communicated through post, the petitioner in due course approached office of respondent No.2 by filing a departmental appeal against the order of termination of service. Copy of departmental appeal is placed herewith at Annex-D. Respondent No.2 i.e. the appellate authority however, did not bother to decide the matter within the statutory period, hence the present service appeal before this Hon'ble Tribunal seeking redressing of grievance on, inter-alia, the following grounds.

GROUND:-

- a. That the proceedings undertaken and culminating in the impugned order of the Departmental Authority are against the law and rules / regulations framed there-under and the policy of the government in vogue then, as well factually, thus are not maintainable and are liable to be set-aside and to be declared as void ab-initio.
- b. That the proceedings culminating in the award of punishment to the petitioner as impugned hereby have been conducted in an absolute biased manner and are contrary to the law besides are based on misinterpretation of the judgment of the Apex Court of the country, thus may also amount to contemptuous exercise of powers. The appellant has also been denied his due rights of defense including an opportunity of personal hearing as well and has been adjudged liable to the punishment though against law and facts.
- c. That the petitioner has been victimized due to misinterpretation of judgment of the Apex Court, wrong reckoning of facts and rules applicable to the case of appellant resulting in an arbitrary decision without any lawful Justification. The petitioner can't legally be dislodged from service and as such deprived of his sole means of earning bread & butter for his family by misinterpretation of judgment of the court which in no manner is even applicable to the case of the petitioner.
- d. That the departmental authority failed to act in accordance with law and Rules while disposing off the matter pertaining to the issue, as such have caused grave miscarriage of justice qua the appellant as against the constitutional guarantees.
- e. That the Hon'ble Tribunal is vested with ample powers to adjudicate in the matter and to grant the request as solicited.
- f. That counsel for the appellant may kindly be permitted at the juncture of arguments to add to the grounds, if need be.



Prayer:

In view of the above made submissions it is very humbly requested that the order dated 14.2.2014 passed by the Chief Engineer, PHED (South), KPK, may very graciously be set aside and in consequence thereof the petitioner / appellent may kindly be re-instated in service with grant of all back benefits besides any other remedy which this Hon'ble Tribunal may deem appropriate, including burdening respondents with costs.

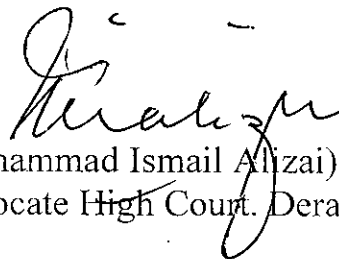
Humbly,

Dated. 25.5.2014.



(Muhammad Jamil) Applt/Petitioner,
Ex- Steno Typist, PHE, Tank
Presently, c/o Malik Muhammad
Aslam, Malana House, Qasuria Town,
Multan Road, D.I.Khan

Through Counsel.

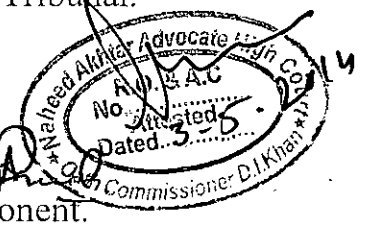


(Muhammad Ismail Alizai)
Advocate High Court. Dera Ismail Khan.

Affidavit.

I, Muhammad Jamil s/o Muhammad Aslam, the appellent herein, solemnly affirm and declare on oath that contents of the petition of appeal are correct to the best of my knowledge and belief and per official records and that nothing is willfully concealed or kept from the Tribunal.

Dated: 25.5.14



M. Jamil
Deponent.

ڈیرہ اسماعیل خان اور لاہور سے بیک وقت شائع ہونے والا اخبار

Daily **DARPAN** D.I. Khan
ڈیرہ اسماعیل خان

دربار

جاوید اقبال سنواری

جلد نمبر 1 | جمعرات 10 رجب 1428ھ 26 جولائی 2007ء مسدود 2064 صفحات 6 قیمت 3 روپے | شمارہ نمبر 222

آسامی خالی ہے

ہر خاص و عام کو مطلع کیا جاتا ہے کہ دفتر ڈپٹی ڈائریکٹر وائرسپلائی اینڈ سٹینڈیشن ورکس اینڈ سرورسز ضلع ٹانک میں مندرجہ ذیل آسامی کیلئے سوزوں امیدواروں سے درخواستیں مطلوب ہیں جو کہ 11-08-2007ء تک دفتر ڈپٹی ای او ٹانک میں پہنچ جانی چاہئیں۔ آسامی کی تفصیل اور متعلقہ شرائط مندرجہ ذیل ہیں۔

نمبر شمار	نام آسامی معہ سکیل	تعداد	تعمیری قابلیت	عمر کی حد
01	اسٹینو گرافر (جوئیئر) سکیل BPS-15	01	FA/Fsc کمپیوٹر اور شارٹ ہینڈ جاننے والے کو ترجیح دی جائے گی	18 تا 30 سال

شرائط:- ☆ نام ل اور تاخیر سے پہنچنے والی درخواستوں پر غور نہیں کیا جائیگا۔ ☆ سرکاری ملازمین اپنے عہدے کی وساطت سے درخواستیں جمع کروائیں۔ ☆ صرف Short Listed امیدواروں کو انٹرویو کیلئے بلایا جائیگا۔ ☆ Short listed امیدواروں کا انٹرویو مورخہ 03-09-2007ء کو ہوگا۔ ☆ اس تمام کارروائی کیلئے کوئی الگ لیٹر جاری نہیں کیا جائیگا۔ ☆ کوئی TA/DA نہیں دیا جائیگا۔

الشہزادہ ڈسٹرکٹ کوارڈینیشن آفیسر ضلع ٹانک

M. Qasbi

(5)
A/1

OFFICE OF THE DISTRICT COORDINATION OFFICER DISTRICT TANK

No. 3701 /DCO

Dated 28-08 /2007

To

1. The Executive District Officer,
Works & Services Tank
2. The Executive District Officer,
Finance & Planning tank
3. Deputy Director (WS&S)
Works & Services Tank

Subject: **APPOINTMENT AS JUNIOR SCALE STENOGRAPHER**

Memo:-

One of post of Junior Scale stenographer as lying vacant in office of the Deputy Director (WS&S) District Tank. To fill up the aforesaid post a meeting is scheduled to be held on 03-09-2007.

You are, therefore, requested to attend the meeting on 03-09-2007 in the office of the undersigned so the necessary selection amongst the candidates appearing in the interview may be made.

CHAIRMAN
District Coordination Officer
District Tank

Attested
M. D. Prasad

8

A/2

MINUTES OF THE MEETING OF DEPARTMENTAL PROMOTION/SELECTION COMMITTEE HELD ON 03-09-2007 UNDER THE CHAIRMANSHIP OF DISTRICT COORDINATION OFFICER DISTRICT TANK

A meeting of departmental Promotion/Selection Committee was held on 03-09-2007 at 1100 horse under the chairmanship of District Coordination Officer, District Tank in his personal office.

The following attended the meeting

- | | |
|---|----------|
| 1. District Coordination Officer, Tank | Chairman |
| 2. Executive District Officer, (W&S) Tank | Member |
| 3. Executive District Officer F&P, Tank | Member |
| 4. Deputy Director (WS&S), Tank | Member |

The chairman welcomed the participates, Merit list of the candidates appeared in the interview for the post of Junior Scale Stenographer (BPS-12) was thoroughly discussed by the DSC and after detailed discussion, the committee has recommended/selected the name of Mr. Muhammad Jamil S/o Muhammad Aslam R/o Toran Now District Tank for the appointment against the post of Junior Scale Stenographer (BPS-12) lying vacant in the office of the Deputy Director (WS&S) District Tank.

The meeting ended with the vote of Thanks.

District Coordination Officer
District Tank

the 7/09/2007

No. 3775 /DCO Dated Tank 6

Copy forwarded for information to the:-

1. Executive District Officer, (W&S) Tank
2. Executive District Officer F&P, Tank
3. Deputy Director (WS&S), Tank

District Coordination Officer
District Tank

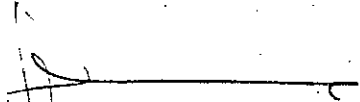
Attested
M. Jamil

MINUTES OF THE MEETING OF DEPARTMENTAL PROMOTION / SELECTION/APPOINTMENT COMMITTEE HELD ON 03-09-2007

The committee constituted for the purpose has made the following findings/recommendations and following candidates has been considered for the appointment against the vacant post of "Junior Scale Stenographer"

<u>S.No.</u>	<u>Name of Candidate</u>	<u>BPS</u>	<u>Designation</u>	<u>Remarks</u>
1.	Mr.-Muhammad Jamil S/o Muhammad Aslam	12	Junior Scale Stenographer	Against the Vacant Post

Chairman


District Coordination Officer,
District Tank

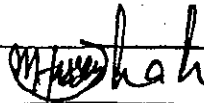
Member


Executive District Officer,
(W&S) Tank

Member


Executive District Officer,
(F&P) Tank

Member


Deputy Director (WS&S)
Tank

Attested
M. Amir



GOVERNMENT OF N.W.F.P.
ESTABLISHMENT & ADMN: DEPARTMENT
(REGULATION WING)

10 A/4

No.SOR-V(E&AD)2-7/2003.
Dated Pesh: the 17th November, 2005.

To

All District Coordination Officer,
in N.W.F.P.

SUBJECT:- CONSTITUTION OF SELECTION BOARD.

Dear Sir,

I am directed to refer to this Department letter bearing No.SOR-V(E&AD)1-3/03 dated 30-7-2003 on the subject noted above and to state that due to amendment in Rule-8 in sub rule 1(b) of District Government Rules of Business 2001 notified vide Local Government, Elections and Rural Development Department No.SO(LG-1)3-190/E.M/05 dated 7-10-2005, the Departmental Selection Committees at District level are reconstituted as under:-

A) DEPARTMENTAL SELECTION COMMITTEE AT DISTRICT LEVEL FOR POSTS IN BS-11 TO BS-15.

- i. DCO. Chairman
- ii. EDO concerned. Member
- iii. One member to be nominated by the Admin: Deptt: concerned. Member.
- iv. One member to be nominated by the Appointing Authority. Member.

B) DEPARTMENTAL SELECTION COMMITTEE AT DISTRICT LEVEL FOR POSTS IN BS-1 TO BS-10.

- i. EDO concerned. Chairman.
- ii. One member to be nominated by the DCO. Member.
- iii. District Officer concerned. Member.

A.C.O
Copy to all EDOs/Dos

Attested
M. Amir

Yours faithfully,

(MUSHARAF KHAN)
SECTION OFFICER (R-V).

D.C.O, Tank Endst: of even No & Date

Copy forwarded to

All Administrative Secretaries to Govt. of NWFP

4115
22/11/05

SECTION OFFICER (R-V).

11

N.O.S. (S. POOL) (EX. AD) 1-16/2005

A/S

Dated 18.12.2005

All District Coordination Officers in NWFP.

Subject: ADJUSTMENT OF SURPLUS EMPLOYEES IN B-1 TO B-10
POWERS OF ADJUSTMENT

Dear Sir,

I am directed to refer to the subject noted above and to say that in view of Notification No. SO(L.G-1)3-196/EM.05 dated 07.10.2005, references are being received in this Deptt for clarification with regard to adjustment authority because under Para-7 of the Surplus Pool Policy, the competent authority to notify/issue the adjustment order of surplus employees in a Deptt shall be respective appointing authority for the posts under the relevant rules.

2. The case has been examined in this Deptt. The EDOs have been given powers of appointing authority vide Local Govt. & RD Deptt's Notification mentioned above, through amendment in rule 6(1)(b) of the NWFP District Govt Rules of Business, 2001. Prior to the said amendment, DCO was competent to appoint staff in B-1 to B-15 in the District Govt. After the said amendment DCO is appointing authority for posts in B-11 to B-15 in all the devolved departments while the EDO is appointing authority for posts in B-1 to B-10 in the concerned department only. The DCO shall maintain surplus pools at District level. However, adjustment shall be made by the respective appointing authorities.

3. I am further directed to clarify that Establishment Deptt as well as the DCO concerned shall issue NOC with regard to non-availability of surplus class IV employees (BPS-1) as per Finance Department's letter No. BOV/F.D/1-16/2004-2005/41502/Primary dated 05.12.2005.

Yours faithfully,
(Signature)
(AKHIL SAKHETI)
Section Officer (S.Pool)

Alotted
M. Singh

G.B

Post-imp...

AM to all EDOs

Information

12

A/6

GOVERNMENT OF N.W.F.P.
ESTABLISHMENT AND ADMINISTRATION DEPARTMENT.

NOTIFICATION

Dated Peshawar the 2nd November, 2002

No. SOR IQ&AD11-99/73 (Vol. IV), in exercise of the powers conferred by section 10 of the North-West Frontier Province Public Service Commission Ordinance, 1978 (N.W.F.P. Ord. No. XI of 1978), the Government of the North-West Frontier Province is pleased to direct that in the North-West Frontier Province Public Service Commission (Functions) Rules, 1983 the following further amendments shall be made, namely:

17/76
Annual of
service laws)

AMENDMENTS.

1. For rule 3, the following shall be substituted, namely:

3. Function of the Commission - The Commission shall -

- (a) conduct tests & examinations for recruitment of person to -
 - i) the civil services of the Province and civil posts in connection with the affairs of the Province in basic pay scales 16 and above or equivalent; and
 - ii) posts in basic pay scale 11 to 15 or equivalent specified in the following Departments (except the District cadre posts)
 1. Civil Secretariat (through Establishment Department);
 2. Board of Revenue.
 3. Police Department.
 4. Prison Department.
 5. Services and Works Department.
 6. Irrigation Department;
 7. Industries, Labour and Manpower Department.
 8. Health Department
 9. Education Department;
 10. Local Government and Rural Development Deptt.
 11. Excise and Taxation Department;
 12. Food Department;
 13. Physical Planning and Environment Department including Urban Development Department; and
 14. Organisations, except autonomous bodies, under the Health and Education Departments;
- (b) advise the Governor -
 - (i) on matters relating to qualifications for, and method of recruitment to, services and posts referred to in clause (a)
 - (ii) on the principles to be followed in making:
 1. initial appointments to the services and posts referred to in clause (a);
 2. appointments by promotions to posts in BPS-17 and above; and
 3. transfer from one service to another; and
- (c) deal with any other matter which the Governor may refer to the Commission.

5/26

1886
9/11/02

8/11

Attested
M. Amir

Est. Sec.
1
9/11-2002

(13)
A/7

Explanation:-- In this rule, recruitment means initial appointment other than by promotion or transfer."

2. For rule 4, the following shall be substituted, namely:

"4. Exception:-- Notwithstanding anything to the contrary contained in rule 3, recruitment to the following posts shall be outside the purview of the Commission:

- (i) posts in the Governor House;
- (ii) posts to be filled on adhoc basis for a period of six months or less; provided that before filling the posts, prior approval shall be obtained from the Commission;
- (iii) posts to be filled by re-employing a retired officer; provided that the re-employment is made for a specified period not exceeding two years in a post not higher than the post in which the person was employed on regular basis before recruitment."

3. The schedule shall be deleted.

SECRETARY TO GOVT. OF NWFP
ESTABLISHMENT & ADMN.
DEPARTMENT

Attested
M. D. J. J. J.

(Side) 14/8

(2)

(14)

A/8

GOVERNMENT OF NWFP
WORKS & SERVICES DEPARTMENT

Dated Peshawar, the March 22, 2005

NOTIFICATION

No. SO(E)W&S/13-1/77: The competent authority is pleased to order the declaration of provincial cadre posts of BPS-1 to BPS-15 of the Works & Services Department as district cadre posts with immediate effect on the following terms and conditions:-

- 1) Permanent transfer to the districts will be made on domicile and seniority basis.
- 2) In case the personnel of that particular district being more than the sanctioned strength, the deployment will be on the basis of seniority and the junior most over-flow will be posted temporarily to the other districts of the province till such time vacancies occur in the districts of their domicile.
- 3) All such employees of the above status working in FATA but belonging to settled districts will be adjusted as per their seniority in the relevant cadre and the over-flow will continue working in FATA till such time vacancies occur in their districts of domicile.
- 4) The domicile of the female officials will be counted under the wedlock policy and such employees will be given one time, irreversible choice to opt for the districts of their spouse or their own. In case of spouse being a government employee and his transfer to another district, inter-district transfer of the female officials will be allowed subject to availability of vacancy in the desired district.
- 5) Subsequent to the permanent transfer of all BPS-15 and below staff to the districts, further transfers and service matters including appointments, within the districts, shall be made by the District Government in light of the District Government Rules of Business, 2001.
- 6) All cases of transfers from one district to another will be decided and ordered upon by the Secretary W&S Department as per rules / policy.
- 7) Seniority for the purpose of promotion to the posts of provincial cadre will be maintained at Secretariat level.

It is further to mention here that the district governments will deal with the cases of these employees as per clause 6(B) of District Government Rules of Business. They (the District Govt.) will also adopt a mechanism in such a manner that their inter-se-seniority is not affected.

Attested
M. D. Javid

S E C R E T A R Y

No. SO(E)W&S/13-1/77:

Dated Peshawar, the March 22, 2005

Copy forwarded to the:-

- 1) Accountant General NWFP Peshawar.
- 2) Secretary to Chief Minister NWFP; for information.
- 3) Chief Engineer, Works & Services Peshawar.
- 4) All District Coordination Officers in NWFP.
- 5) Chief Engineer (FATA), W&S Peshawar.
- 6) All Executive District Officers W&S in NWFP.
- 7) PS to Secretary W&S Department.
- 8) O/O File.

EDO Tank

Phoofoor Shah

(CHAFOOR SHAH)
SECTION OFFICER (ESTT-II)

No. 20 7-A Dabd-tank the 9 4
2005
copy of the above VTs

enclosure is forwarded to Dy:DO-W&S
tank/Dy:Director, B+A. Works and
Services tank for subordination and
necessary action

Executive District Officer
Works & Services Department,
District Tank

15

GOVERNMENT OF N.W.F.P.
ESTABLISHMENT DEPTT.

NO.SOE.V(E&AD)3-24/2007

Dated 15.11.2007

A/9

To

The District Coordination Officer,
Tank.

Subject: NOC

Dear Sir,

I am directed to refer to your letter No.287/DCO dated 17.10.2007 on the subject noted above and to convey NOC of this Deptt for fresh recruitment against the post of Steno Typist (B-12), lying vacant in the office of EDO W&S, Tank, subject to fulfillment of all codal formalities.

Yours faithfully,

[Signature]
Section Officer (Establishment-V)

Attested
M. D. Singh

(16)

A/10

No. 4670 /GB Dated Tank the 22/11/2007.

To:- The Executive District Officer,
Works & Services, Tank.

Subject. NOC.

Memorandum.

Enclosed please find herewith a letter No. SOE.V(E&AD)3-24/2007 dated 15.11.2007 received from the Section Officer, (Establishment-V), Establishment Department, NWFP Peshawar for information and further necessary action.

HC
for n.a.
M

DISTRICT COORDINATION OFFICER,
TANK.

Attested
M. Qadir

DISTRICT TANK.

[Handwritten signature]

97
A/11

OFFICE OF THE DISTRICT COORDINATION OFFICER, DISTRICT TANK.

No. 1484 /GB. Dated Tank the 13 / 09 /2007

To

Mr. Muhammad Jamil
S/o Aslam Khan r/o village Toran Tehsil & District Tank

Subject **APPOINTMENT AGAINST THE VACANT POST OF JUNIOR SCALE STENOGRAPHER (BPS-12) IN THE OFFICE OF THE DEPUTY DIRECTOR, PHED TANK.**

Reference your application for the above post, the competent authority is please to appoint you against the vacant post of Junior Scale Stenographer (BPS-12) in the Office of the Deputy Director, (PHED) Tank on following terms & conditions -

- 1- That your appointment is on Govt. appointment policy in vogue.
- 2- That you are declared medically fit for government service.
- 3- That you will be governed by such approved order as may be issued by the Govt. of NWFP from time to time in the category of Govt. Servants for which you belong.
- 4- If you wish to resign at any time you will resign in written with 30 days notice or pay in lieu thereof and will continue to service the Govt. till the acceptance of your resignation by the competent authority.
- 5- That you can be posted any where in the district Tank.
- 6- That you will not be entitled to any facility for medical examination at joining the first appointment.
- 7- The candidate is required to produce age and health certificate from MS THQ Hospital Tank.
- 8- The candidate will enter into an agreement with the Govt and will be governed by terms and conditions here in after mentioned in such agreement.
- 9- If the above offer of appointment on contract basis is acceptable to you on the above terms and conditions, you are directed to report to the office of the Deputy Director, (PHED) Tank city for duty within one week after the receipt of this offer, failing which this offer will be considered as cancelled.


**DISTRICT COORDINATION OFFICER
DISTRICT TANK.**

Endst. No. 1485-89 /GB

Copy to the:-

- 1- EDO, Works & Services, Tank.
- 2- Deputy Director, PHED, Tank.
- 3- District Accounts Officer Tank
- 4- Official concerned.
- 5- Office Order file.

Attested
M. Jamil


**DISTRICT COORDINATION OFFICER.
DISTRICT TANK.**

18

A/12

To,

The Deputy District Officer,
W.S& Sanitation (PHE),
District Tank.

Subject: ARRIVAL REPORT

Dear Sir,

In compliance with the order of worthy D.C.O Tank, order bearing No.1484/GB
Date 13/09/2007. I submit my arrival report today on 14/09/2007 as Junior/Scale Steno-Grapher
(BPS-12).

Thanks,

Yours Obediently,

M. Jamil
Mohammad Jamil, ✓
J/Scale Steno-Grapher,
W.S&Sanitation(PHE),
Works and Services Tank.

Attested
M. Jamil

MEDICAL CERTIFICATE

Name of Official Mohad Samil

Caste or Race Malani

Father's Name Mohad Aslamkh.

Residence toran teh - Distt - Tank.

Date of Birth 7-3-1984

Exact height by measurement 5-6

Personal marks of Identification nil

Signature of the Official Mohad Samil

Signature of _____

Head of Office _____

*Attested
M. Durrani*

Seal of Office

Mohad Samil
~~Deputy District Officer~~
Water Supply & Sanitation
Works & Services, TANK

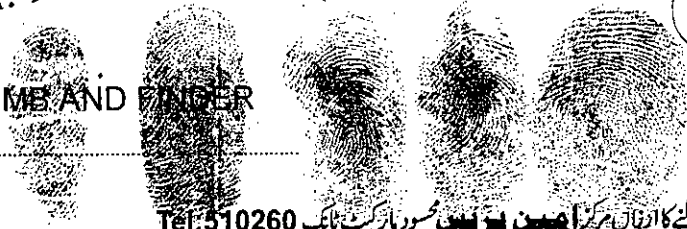
I do hereby certify that I have examined Mr. Mohad Samil
a candidate for employment in the Office of the Dupty District P.H.E.O
and cannot discover that head any disease communicable or other constitutional effection or
bodily infirinity except _____

I do not consider this as disqualification for employment in the office of the _____

His age according to his own statement 23yr, year and by appearance
about 23yr years.

~~Executive District Officer
(Health) Distt: Tank.~~

LEFT HAND THUMB AND FINGER
IMPRESSIONS



M. Durrani
Medical Superintendent
Civil Hospital MALOT
C/S

Medical Superintendent
Distt: Hospital Tank



OFFICE OF THE CHIEF ENGINEER (SOUTH)
PUBLIC HEALTH ENGG: DEPARTMENT
KHYBER PAKHTUNKHWA, PESHAWAR

No. 37 /E-4/PHE

Dated Peshawar, the 27 /01/2014

To

- | | |
|-------------------------------|----------------------------|
| 1. Mr. Tariq Nawaz | Sub Engineer, |
| 2. Mr. Sajjad Khan | Sub Engineer, |
| 3. Mr. S. Muhammad Ihsan Shah | Sub Engineer, |
| 4. Mr. S. Muhammad Ali Sajjad | Sub Engineer, |
| 5. Mr. Abdul Samad | Sub Engineer, |
| 6. Mr. Shaukat Ali | Sub Engineer, |
| 7. Mr. M. Ali Noor | Sub Engineer, |
| 8. Mr. Irshad Elahi | Sub Engineer, |
| 9. Mr. Hussain Zamian | Sub Engineer, |
| 10. Mr. Salim Nawaz | Sub Engineer, |
| 11. Mr. S. Ashfaq Ahmad | Sub Engineer, |
| 12. Mr. Munaza Ali | Sub Engineer, |
| 13. Mr. Sahar Gul | Sub Engineer, |
| 14. Mr. Ishfaq | Sub Engineer, |
| 15. Mr. Abdul Shahid | Sub Engineer, |
| 16. Mr. Kashif Raza | Sub Engineer, |
| 17. Mr. Waqar Ali | Sub Engineer, |
| 18. Mr. Muslim Shah | Sub Engineer, |
| 19. Mr. Ishtiaq Ahmad | Sub Engineer, |
| 20. Mr. Zuhib Khan | Sub Engineer, |
| 21. Mr. S. Hassan Ali | Sub Engineer, |
| 22. Mr. Mohsin Ali | Sub Engineer, |
| 23. Mr. Muqtada Qureshi | Sub Engineer, |
| 24. Mr. Ishfaq Ahmad | Sub Engineer, |
| 25. Mr. M. Qaiser Khan | Sub Engineer, |
| 26. Mr. Nomanullah | Senior Scale Stenographer, |
| 27. Mr. M. Imran | Steno Typist, |
| 28. Mr. M. Jamil | Steno Typist, |
| 29. Mr. Ifikhar | Steno Typist, |
| 30. Mr. Shah Khalid | Steno Typist, |
| 31. Mr. Aziz Ullah | Steno Typist, |
| 32. Mr. Farhan Ullah | Steno Typist, |
| 33. Mr. Farman Ali | Data E/Operator, |
| 34. Mr. Murtaza Qureshi | Data E/Operator, |

Subject: SHOW CAUSE NOTICE

In compliance of Supreme Court of Pakistan decision dated 15.1.2014 action against all illegal appointee's are being taken immediately. As such you are hereby served with this show cause notice regarding your appointment as under:

1. In light of S&GD letter No.SOR-I(S&GAD)/1-117/91(C) dated 12.10.1993 the appointment of Sub Engineer, Steno Typist/Stenographer and Data E/Operator continued to be made through recommendation of Public Service Commission. Whereas you have been appointed without the recommendation of Public Service Commission which is contrary to the prevailing rules. Therefore you are directed to provide recommendation of Public Service Commission, if any.
2. Your appointment orders have been made in contravention of Govt bed down policy vide circulated notification No. SOR-VI/EXAD/1-10/2005/Vol-VI dated 15.11.2007.

*Attested
M. Jamil*

(20)

B



Page -2

3. The content of your appointment orders reveal that you have been appointed without recommendation of the Public Service Commission, of Khyber Pakhtunkhwa. No NOC obtained from the Public Service Commission for recruitment, no requisition submitted to Secretary Works & Services Department, no sanction/approval was obtained from Administrative Secretary, no Departmental Promotion Selection Committee constituted by the Secretary Works & Services Department, not advertised and nor the appointment are modified in terms of para-13 and 14 of N.W.F.P. Civil servant (appointment, promotion and transfer rules 1989). Codal formalities have not been fulfilled in your appointments.
4. Necessary sanction to condonation of the violation of codal formalities have not been accorded by the competent Authority.

Keeping in view the above, you are directed to furnish reply to the show cause notice within 15-days positively; otherwise it will be presumed that you have nothing in your defense. As such ex-parte action will be taken against you under the E&D rules which will entail your termination from service.

[Signature]
Chief Engineer (South)

Copy forwarded to:

1. The Secretary to Govt of Khyber Pakhtunkhwa Public Health Engg: Department Peshawar.
2. The Chief Engineer (North) Public Health Engg: Department Peshawar. *PATA 095*
3. All Superintending Engineers/Executive Engineers in South/North Public Health Engg: Department. They are directed to serve the show cause noticed to the above named officials working in your office.

[Signature]
Chief Engineer (South)

*Received through
Fax on dated 09/02/014
M. Qureshi
09/02/014*

*Attested
M. Qureshi*

B/1

To,

The Chief Engineer (South)
Public Health Engg:Deptt:
Khyber Pakhtunkhwa Peshawar.

Subject:- SHOW CAUSE NOTICE
Reference Your Letter No.32/E-4/PHE dt: 21.01.2014
(Received through Fax on 04/02/2014)

Sir,

1- I was applied through an application addressed to D.C.O Tank for the appointment of the Post of junior Scale steno grapherBPS-12, as the post was advertised in the daily News paper Darpan on Dated 26/07/2007 (Copy of press clipping enclosed) against existing Vacancy in PHE Division Tank. The DCO tank call the meeting of the District Selection Committee vide his letter No.3701/DCO Dated 28-08-2007 (copy enclosed) the District Selection Committee meeting was held on 03-09-2007 in which I was recommended by the committee for appointment vide letter No.3775/DCO Dated 07-09-2007 (Copy enclosed) the D.C.O Tank issued Office order for appointment accordingly vide letter No.1484/GB Dated: 13-9-2007 (Copy enclosed) the D.C.O was empower to make appointment from BPS-11 to BPS-15 vide Govt: of N.W.F.P Establishment and Administration Department (Regulation Wing) Circular letter No. SOR-V(E & AD) 2-7-2003 dt: 17-11-2005 (Copy enclosed). The Works & Services Deptt: vide Notification No.SO(E)W&S/13-1/77 dated 22/03/2005 it has clearly been mentioned in Para No.5 & 7 about the appointment/Posting/Transfer of District Cader Posts and also to maintain the Seniority list in the Secretariat level (Copy enclosed).

2- After that according to rules I appeared to obtain my medical fitness certificate from medical Superintendent Civil Hospital Tank which was obtained (Copy enclosed).

3 - Then I reported arrival for duty on 14-09-2007 in PHE office Tank, and also intimate the arrival report to the Chief Engineer PHE Deptt: Peshawar as well as all concerned vide XEN PHE Tank letter No. 1258/E-4, dated 31-1.2008 (Copy enclosed).

4- For the purpose of recruitment NOC from The Establishment Department was also obtained by the DCO Tank vide letter No.SOE-V(E&AD)3-24/2007 dated 15/11/2007 (Copy enclosed).

D.No - 905
dt - 11-02-014

Attested
M. Amir

It is therefore further brought to your kind notice that my case may not be mixed with the case of Sub Engineers and other Steno typist/ Data entry operator because my appointment is made purely according to rules/regulation and District Govt: Rules 2001.

The circumstances explained above I humbly request that my case of appointment is purely legal and according to rules / regulations and also I am working in the office honestly / regularly since 2007. Which can be verify from my officers at any time.

I hope that In Sha Allah my name will be exempted from Show Cause Notice by your kind honor shall pray for your long life and prosperity.

Yours obediently,

M. Jamil
Muhammad Jamil
Steno Typist
PHE Division, Tank 10/02/014

Copy to:

1. Superintending Engineer PHE Circle D.I.Khan
2. XEN PHE Division Tank, for information with reference to above please.

Attested
M. Jamil



OFFICE OF THE CHIEF ENGINEER (SOUTH)
PUBLIC HEALTH ENGG: DEPARTMENT
KHYBER PAKHTUNKHWA, PESHAWAR

No. 47 / E-4 / PHE,

Dated Peshawar, the 14 /02/2014

Mr. M. Jamil s/o Aslam Khan
Steno Typist P.H.Engg Division
Tank

Subject: TERMINATION FROM SERVICE

Your recruitment in PHED made vide DCO Tank letter No.1484/GB dated 13.9.2007 was illegal and unlawful as he was not authorized to appoint provincial cadre post and non-fulfillment of codal formalities.

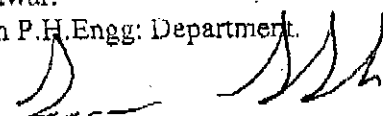
2. Your appointment as a Steno Typist has been reviewed on the direction of Supreme Court of Pakistan Order dated 15.01.2014 in the civil petition No.2026 and 2029 of 2013, Mushtaq Ahmad and Muhammad Nasir Ali and others. The Supreme Court of Pakistan directed the undersigned to finalize action against all illegal appointees within one month. In this regard direction of Establishment & Administration Department vide his No.SOR-V(E&AD)/15-3/2009 dated 30.1.2013 received through Secretary PHE Department Khyber Pakhtunkhwa Peshawar No.SO(Estt)/PHED/I-90/2012-13 dated 3.2.2014 record of the recruitment of Steno Typist and other staff has been checked and found the following irregularities committed by the appointing authority in your appointment.

1. Vacancies/posts of Steno Typist s were not advertized through news paper.
2. Initial recruitment of Steno Typist s will continue to be made through recommendation of the Public Service Commission in light of S&GAD letter No.SOR-I (S&GAD)1-117 /91(c) dated 12.10.1993. in this case NOC was not obtained from Public Service Commission before issuance of your appointment order. As such your appointment without recommendation of the Public Service Commission is invalid and unlawful.
3. Approval from Administrative Secretary was not obtained by the appointing authority before making your appointment.
4. Departmental selection committee was not constituted by the Administrative Secretary.
5. You have also failed to reply to the show cause notice issued vide this office No. 32/E-4 /PHE dated 21.01.2014 in your defense with in stipulated period.
6. The above mentioned irregularities committed by the appointing authority in your appointment process prove that you were illegally appointed and there is no justification to retain you in the service of PHED. You are therefore terminated from the Post of Steno typist with immediate effect.


Chief Engineer (South)

Copy forwarded to:

1. The Secretary to Govt of Khyber Pakhtunkhwa Public Health Engg: Department Peshawar.
2. PS to Minister for Public Health Engg: Department Khyber Pakhtunkhwa Peshawar.
3. The Accountant General Khyber Pakhtunkhwa Peshawar.
4. The Chief Engineer (North) Public Health Engg: Department Peshawar.
5. The Chief Engineer (FATA) Works & Services Department Peshawar.
6. All Superintending Engineers/Executive Engineers in South/North P.H.Engg: Department.
7. All District Accounts Officer in Khyber Pakhtunkhwa.


Chief Engineer (South)

Attested

M. Jamil

The Worthy Secretary / Appellate Authority,
Public Health Engineering Deptt. KPK, Peshawar.

Appel against order dtd. 14.2.2014 Passed by the
Chief Engineer (South) PHED, whereby service of
appellant stands terminated

Respectfully Stated:-

The appellant / petitioner very earnestly prefers the instant
petition on the grounds hereinafter submitted apropos the following
facts.

BRIEF FACTS:-

1. That prior to the pronouncement of impugned order the petitioner had been
serving as Steno Typist, P.H. Engrg. Division, at Tank, having been
appointed way back in 2007 vide appointment order issued from the office
of competent authority i.e. D.C.O, Tank in lieu of fulfillment of due process
of notifying of the post, holding scrutiny of testimonials of candidates and
later a vetting & process through the District Selection Committee, Tank in
accordance with the provisions of law, rules and policy of the government in
vogue then. Copies of Advertisement, Constitution and proceedings of the
Distt. Selection Committee, besides Appointment Order issued in favour of
the appellant are placed herewith for kind perusal.

2. That lately, the appellant, besides few others, was proceeded against
departmentally on the grounds as contained in the Show Cause Notice
served on the petitioner, though utterly vague and unfounded besides being
irrelevant to the case & status of the petitioner. The said SCN was issued,
though in utter contradiction and defiance of the law, rules and policy of the
government, yet under the garb of implementation of a verdict of the
Supreme Court of Pakistan, yet in error and misconceiving the spirit and object
thereof. The appellant tendered an appropriate reply to the Show Cause
Notice duly supplemented by law, rules and relevant records. Copies of
Show Cause Notice and reply thereto are placed herewith for kind perusal.
3. That in a slipshod manner the matter was decided by the departmental
authority, choosing to impose punishment on the petitioner of the nature of
Termination of Service vide subject mentioned order, impugned hereby.
Copy of the impugned order is annexed herewith for kind perusal.
4. That aggrieved from the impugned order issued over No. 47/E-4/PHED dated
14.2.2014 from the office of Chief Engineer (South) PHED, KPK and
communicated through post, the petitioner approaches your good office
seeking redressing of his grievance on, inter-alia, the following grounds.

PHED Deptt.
Dy. No. 660
Dated. 24-2-14.

M. J. Khan
Attended

M. J. Khan
24-2-14

(25)

GRUNDS

a. That the proceedings undertaken and culminating in the impugned order of the Departmental Authority are against the law and rules / regulations framed there-under and the policy of the government in vogue then, as well as factually, thus are not maintainable and are liable to be set-aside and to be declared as void ab-initio.

b. That the proceedings culminating in the award of punishment to the petitioner as impugned hereby have been conducted in an absolute biased manner and are contrary to the law besides are based on misinterpretation of the judgment of the Apex Court, thus may also amount to contemptuous exercise of powers. The appellant has also been denied his due rights of defense including an opportunity of personal hearing as well as has been adjudged liable to the punishment though against law and facts.

c. That the petitioner has been victimized due to misinterpretation of judgment of the Apex Court, wrong reckoning of facts and rules applicable to the case of appellant resulting in an arbitrary decision without any lawful justification. The petitioner can't legally be dislodged from service and as such deprived of his sole means of earning bread & butter for his family by misinterpretation of judgment of the court which in no manner is even applicable to the case of the petitioner.

d. That the departmental authority failed to act in accordance with law and Rules while disposing off the matter pertaining to the issue, as such have caused grave miscarriage of justice qua the appellant as against the constitutional guarantees.

e. That your good office is vested with ample powers to adjudicate in the matter and to grant the request as solicited.

Prayer:

In view of the above made submissions it is very humbly requested that the order dated 14.2.2014 passed by the Chief Engineer, PHED (South), KPK may very graciously be set aside and in consequence thereof the petitioner appellant may kindly be re-instated in service with grant of all back benefits.

= Humbly,

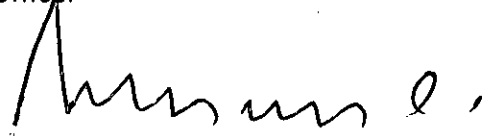
(Muhammad Jamil) Appellant/Petitioner,
Ex-Steno/Typist, PHE, Tank
Presently, c/o Malik Muhammad Aslam,
Qasuria Town, Multan Road, D.I.Khan

M. Jamil
Attested

Dated: 24.03.2014

AUTHORITY LETTER

I hereby authorize to Mr. Masroor-ul-Hassan SDO PHE Sub Division No. 2 Tank to attend the Honourable Service Tribunal Court at DIKhan on 29-09-2014 vide Appeal No. 615 in respect of Muhammad Jamil on behalf of this office.



**SUPERINTENDING ENGINEER
PHE CIRCLE DIKHAN**

BEFORE THE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA PESHAWAR.

Appeal No 615/2014

Muhammad Jamil S/O Muhammad Aslam R/O Village
Pirwana District Tank Presently Malana House Qasuria
Town Multan Road Dera Ismail Khan

..... (Appellant)

Versus

1. Chief Secretary to Government of Khyber Pakhtunkhwa Civil Secreteriate Peshawar
2. Secretary to Govt: of Khyber Pakhtunkhwa Public Health Engg: Department Peshawar.
3. Chief Engineer(South) Public Health Engg: Department Govt: of Khyber Pakhtunkhwa Peshawar.
4. The Superintending Engineer Public Health Engg: Circle Peshawar
5. Deputy Commissioner (Formerly DCO)/Chairman DSC Tank.
6. The Accountant General Khyber Pakhtunkhwa Peshawar
7. The District Accounts Officer Tank (Respondents)

WRITTEN REPLY ON BEHALF OF
RESPONDENTS NO 1,2,3, & 4.

Respectfully stated

Para-wise comments of the Respondents No 1, 2,3 & 4 are as under:-

PRELIMINARY OBJECTIONS.

- 1). That the appellant has got no cause of action.
- 2). That the appellant is estopped by his own conduct to bring the instant appeal.
- 3). That the present appeal is not maintainable in its present form.
- 4). That the appellant has got no locus standi.
- 5). That the appellant has not come to the Tribunal with his clean hand.
- 6). That the appeal is bad for non-joinder and misjoinder of necessary parties.
- 7). That the appeal is barred by Law & limitation.
- 8). That this Honourable Service Tribunal has no jurisdiction to entertain the present appeal.

ON FACT.

- 1). **INCORRECT:-** Respondent No 5 is not the competent authority for appointment of Junior Scale Stenographer which falls in Provincial cadre and falls in the purview of Public Service Commission, according to Government of Khyber Pakhtunkhwa Local Govt: Election and Rural Development Department notification dated Peshawar 30.10.2001 rule 24 Sub Rule(i) based on Local Government Ordinance 2001 (Annexure-I) and ESTA Code (Annexure-II). District Coordination Officer has wrongly exercised his power to appoint the appellant. Recruitment policy of the government has been violated by not advertizing the post of Junior Scale Stenographer in leading Newspapers through wide publicity. Member of Administrative Department was not included in the District Selection Committee which is permanent member of District Selection Committee in accordance with Establishment Department letter No SOR-V/E&AD/2-7/2003 dated Peshawar the 17.11.2005. (Annexure-III)

- 2). **INCORRECT.** According to Local Government Ordinance 2001, The District Coordination Officer shall have the powers of the appointing authority in respect of officials of District cadre posts in BPS-11 to 15 in all the developed Departments except posts which falls in the purview of Public Service Commission. The post of Junior Scale Stenographer falls in provincial cadre and falls in the purview of Public Service Commission. All the service matters of appointment transfer/postings, Promotion and Seniority list of Junior Scale Stenographers are processed by the Chief Engineer Public Health Engg: Department, Head

of the Department. The District Coordination Officer has no power to make recruitment in the Provincial Department. The show cause notice issued to appellant was based on the above mentioned facts. The Supreme court of Pakistan has directed the department to finalize action against all illegal appointees (Annexure-IV). The appellant was illegally appointed against the Provincial Cadre post by District Coordination Officer Tank without recommendation of Public Service Commission, without proper advertisement and without properly constituted District Selection Committee. Therefore the appellant was terminated from service of Public Health Engg: Department.

- 3). **INCORRECT:** *Supreme Court of Pakistan had given one Month time on 15.1.2014 to finalize action against all illegal appointees in Public Health Engg: Department. As the appellant was inducted in the Department through back door illegally. Therefore he was terminated from service of Public Health Engg: Department in compliance of the verdict of Supreme Court of Pakistan after fulfilling all the codal formalities.*
- 4). **INCORRECT:** *There was no weightage in the representation of the appellant. Therefore his representation was not entertained. The petition being without any legal substance may kindly be dismissed.*

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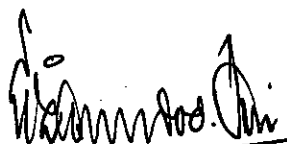
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and

ON GROUNDS.

- a). *Recruitment Policy of Establishment Department Khyber Pakhtunkhwa (Annexure-II) Local Government Ordinance 2001 (Annexure-I) and Public Service Commission Act have been violated by appointing the appellant as Junior Scale Stenographer by District Coordination Officer Tank without obtaining NOC from Public Service Commission and without recommendation of Public Service Commission. District Coordination Officer has no power under Local Government Ordinance 2001 to make recruitment against Provincial Cadre Post of Junior Scale Stenographer. The proceedings and termination order of the appellant is according to Law, rules/regulation and ESTA code.*
- b). *No discriminatory treatment has been meted out in case of appellant. All these Junior Scale Stenographer including the appellant recruited illegally without recommendation of Public Service Commission have been terminated on the direction of Supreme Court of Pakistan. The appellant has failed to qualify test and interview conducted by Public Service Commission in 2012-13. Sufficient time was given in show cause notice served on him to clarify his position.*
- c). *Supreme Court of Pakistan on 15.1.2014 directed the Chief Engineer Public Health Engineering Department to finalize action against all such illegal appointees within one-month. The appellant case is similar to already removed Sub Engineers reported to Supreme Court on 15.1.2014. The Supreme Court of Pakistan Judgement has been implemented in letter and spirit.*

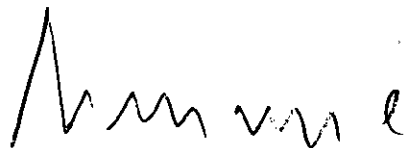
- d). *The appellant was recruited against Provincial Cadre Post for which District Coordination Officer has no power under Local Government Ordinance 2001. His termination from service is therefore justified. Selectee of Public Service Commission shall be appointed in place of the petitioner.*
- e). *As per paras mentioned above.*
- f). *That the respondents seeks permission to advance further grounds during course of arguments. It is therefore requested that the appeal may kindly be dismissed with cost.*


22/09/14

SECRETARY
GOVERNMENT OF KHYBER PAKHTUNKHWA
PUBLIC HEALTH ENGG: DEPARTMENT
Respondent No 1 & 2



CHIEF ENGINEER (SOUTH)
PUBLIC HEALTH ENGG: DEPARTMENT
KHYBER PAKHTUNKHWA PESHAWAR
Respondent No 3



SUPERINTENDING ENGINEER
PUBLIC HEALTH ENGG: CIRCLE
D.I.KHAN
Respondent No 4

BEFORE THE HONOURABLE SERVICE TRIBUNAL PESHAWAR

1. Service Appeal No. 615/2014
2. Muhammad Jamil S/O Muhammad Aslam Appellant
r/o Village Pirwana District Tank Presently Malana
House Qasuria Town Multan Road Dera Ismail Khan

Versus

3. Govt of Khyber Pakhtunkhwa through
Chief Secretary & Others Respondent

AFFIDAVIT

I, Sikandar Khan Chief Engineer (South) Public Health Engineering Department Peshawar do hereby solemnly affirm that the contents of the accompanying written statement are true and correct to the best of my knowledge and nothing has been concealed from this honourable Tribunal.



DEPONENT

✓ Annex-I
209

**GOVERNMENT OF NORTH-WEST FRONTIER PROVINCE
LOCAL GOVERNMENT, ELECTION AND RURAL DEVELOPMENT
DEPARTMENT**

NOTIFICATION

Dated Peshawar the 30th October, 2001

No. ADMN(LG)/DG/1(28)-2001.--- In exercise of the powers enforced by section 191 of the North-West Frontier Provincial and Local Government Ordinance, 2001 (N.-W.F.P. Ord. XIV of 2001) read with section 31 thereof, the Government of the North-West Frontier Province is pleased to make the following rules: namely-

**THE NORTH-WEST FRONTIER PROVINCE DISTRICT
GOVERNMENT RULES OF BUSINESS, 2001.**

**PART A
GENERAL**

1. **Short title and commencement.**--- (1) These rules may be called the North-West Frontier Province District Governments Rules of Business, 2001.

(2) It shall come into force at once.

2. **Definitions.**--- (1) In these rules, unless the context other-wise requires,-

1. "body corporate" means a body having perpetual succession and a common seal, with power to sue and be sued;
2. "budget" means an official statement of income and expenditure for a financial year;
3. "business" includes all work done by a local government;
4. "component" means the offices mentioned in column 2 of Schedule I to the Ordinance;

260

5. "convenor" means the convenor of the Council concerned;
6. "Federal Government" means the Government of the Islamic Republic of Pakistan;
7. "financial year" means the year beginning from the 1st day of July and ending on the 30th day of June next following;
8. "Government" means the Government of the North-West Frontier Province;
9. "Governor" means the Governor of the North-West Frontier Province;
10. "Ordinance" means the North-West Frontier Province Local Government Ordinance, 2001 (NWFP Ord. XIV of 2001);
11. "Schedule" means a Schedule to these rules;
12. "Secretariat" means the Secretariat of a Council; and
13. "section" means a section of the Ordinance.

(2) Words and expressions used in these rules but not defined shall have the same meanings assigned to them in the Ordinance, the North-West Frontier Province Government Rules of Business, 1985, or any other Provincial law for the time being in force.

3. Composition of Departments and allocation of Business.--- (1) The composition of the offices and groups of offices shall be the same as provided in section 14 of the Ordinance read with the First Schedule thereof, and may be varied in accordance with the provisions of the aforesaid section.

(2) The business of the offices shall be distributed amongst the Departments in accordance with Schedule-I:

Provided that any particular subject or matter of an office may be transferred from, or reallocated to an office, in accordance with the section 14.

(3) A Zilla Nazim shall be assisted by the District Coordination Officer.

15

(211)

4. **Organization of Offices.**--- (1) The Organization of various offices shall be the same as provided in the Ordinance or, where the Ordinance has not so provided, as determined by Government.

(2) The Executive District Officer shall, by means of standing orders, distribute the work of the office among the officers subordinate to him.

(3) The cases enumerated in Schedule II shall be submitted to the Zilla Nazim before issuance of orders;

(4) Reports on any of the matters specified in Schedule III shall be submitted to the Zilla Nazim for his information;

5. **Secretariat of District Government.**--- (1) There shall be a secretariat of the District Government headed by the District Coordination Officer and comprising of the decentralized departments or groups of departments as shown in the First Schedule to the Ordinance.

(2) Each decentralized group of departments shall be headed by an Executive District Officer appointed or nominated by the Government for the purpose.

(3) Each Executive Officer shall be responsible to Zilla Nazim through the District Coordination Officer and shall channelize his correspondence through him.

6. **Deputation of civil servants and power of District Coordination Officers.**---

(1) The civil servants posted in the decentralized departments shall continue to be civil servants for all intents and purposes of the relevant civil servants laws and the rules framed thereunder with the modification that-

(a) all civil servants in BPS-16 to BPS-20 shall be appointed by Government or the Federal Government, as the case may be, and posted in decentralized Departments from time to time.

212
(b) the District Coordination Officer shall have the powers of the appointing authority in respect of the officers/officials in BPS-1 to BPS-15:

Provided that no vacancies are to be filled in by way of direct recruitment or transfers and the officers/officials of the surplus pool are to be absorbed/adjusted against the vacancies:

Provided further that even after the said period ban on recruitment shall continue till it is lifted by Government in the Finance Department.

(2) No civil servant shall be transferred from his post in a district except under the orders of the Government:

Provided that the District Coordination Officer, or as the case may be, the Executive District Officer, may, suo moto or on the initiation of the Nazim, initiate disciplinary proceedings against a civil servant for his inefficiency or malpractices and submit the outcome of the proceedings to competent authority for decision.

(3) In disciplinary matters, the Zilla Nazim, in case of officers in BPS-19, and District Coordination Officer, in the case of officers in BPS-16 to BPS-18, shall refer the cases to the competent authority for decision under the North-West Frontier Province Removal from Service (special Powers) Ordinance 2000 (N.-W.F.P., Ord. No. V of 2000), through the administrative Secretary concerned.

7. **General procedure for disposal of business.**--- (1) The channel for obtaining or transmitting the orders of the Zilla Nazim is the Executive District Officer or an officer specifically authorized in this behalf by the District Coordination Officer.

(2) All orders shall be passed in writing, where a verbal order is given, it should be reduced to writing at the earliest opportunity by the officer receiving it.

213
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(3) If any doubt or dispute arises as to the Department to which a case properly pertains, the matter shall be referred to the District Coordination Officer for decision.

(4) Detailed instructions for the disposal of business in the District administration shall be issued by the District Coordination Officer.

(5) If any order happens to contravene a law, rule or policy, it shall be the duty of the next below officer to point out this to the authority passing the order.

(6) While submitting a case for the orders of the Zilla Nazim, it shall be the duty of the Executive District Officer/District Coordination Officer to suggest a definite line of action.

8. **Office administration and record.**--- The manual of instructions for Provincial Civil Secretariat issued by the Chief Secretary of Government from time to time shall, mutatis mutandis, be applicable to the secretariat of the District Government and the District Coordination Officer shall have the powers to issue instructions in addition there to and not in derogator of the instructions already issued.

9. **Official language.**--- (1) The official language of the District Government for official correspondence with the Provincial Government and Federal department shall be English and efforts shall be made to conduct the correspondence with the people representative and public in general in Urdu.

(2) All notices affecting the citizens shall be published at least in two Urdu dailies having wide circulation in the local area.

10. **Zilla Nazim.**--- (1) A Zilla Nazim shall assume the charge of his office from the date on which he takes upon himself the oath of such office.

(2) Government shall notify the dates of assumption of the offices of the Zilla Nazim in the Official Gazette.

214

11. **District Coordination Department.**— (1) An officer appointed as District Coordination Officer shall, on assuming charges, as such, exercise such powers and perform such functions and duties as are mentioned in section 28.

12. **District Police Officer.**— (1) The District Police Officer shall keep the Zilla Nazim generally informed of all matters affecting public tranquillity. He shall, in particular, submit report through the Zilla Nazim, to Provincial Government of all cases likely to have major political repercussions.

(2) The District Superintendent of Police shall coordinate with the Zilla Nazim for the maintenance of law and order in the district and shall comply with all of his orders.

PART-B

DEPARTMENTAL PROCEDURE

13. **Enforcement and interpretation of rules.**— (1) The Executive District Officer shall be responsible for the careful observance of these rules in his Department/Component of offices assigned to him and if any doubt or dispute arises as to the interpretation of these rules, it shall be referred to Government through District Coordination Officer, whose decision shall be final. The District Coordination Officer shall obtain the orders of the Zilla Nazim, where necessary.

(2) Instructions ancillary to these rules shall, wherever considered necessary, be issued by the District Coordination Officer:

Provided that any special or general orders required to be made by the Departments in terms of these rules may be issued by them in consultation with the District Coordination Officer.

14. **Authentication of orders, instruments, agreements, contract, etc.**— (1) All executive action of a District Government shall be expressed to be taken in the name of the Nazim of the respective District Government.

215

- iii. interpretation of rules and orders relating to service matters, other than rules and orders issued by the District Government; and
- iv. any change in the terms and conditions of service or the statutory rights and privileges of Federal/Provincial Government Servants serving in the District.

(4) No order in respect of the emoluments, promotion or condition of service of any officer employed in the Finance and Planning Department shall be passed and no expenditure proposal relating to that Department shall be sanctioned without prior concurrence of the Coordination Department. The District Coordination Officer shall exercise in respect of such matters, the functions of the Executive District Officer, Finance and Planning Department.

17. Consultation with Finance and Planning Departments.--- (1) No Department shall, without previous consultation with the Finance and Planning Department, authorize any orders, other than orders in pursuance of any general or special delegation made by the Finance and Planning Department, which directly or indirectly affects the finances of the District, or which in particular involves-

- (a) relinquishment, remission or assignment of revenue, actual or potential, or grant of guarantee against it or grant of lease of land or mineral, forest or water power rights;
- (b) expenditure for which no provision exists;
- (c) levy of taxes, duties, fees, or cesses;
- (d) re-appropriation within budget grants; and
- (e) alteration in financial procedure or in the method of compilation of accounts or of the budget estimates.

(2) No amendment or interpretation of the District Services Rules, if any, as have no financial implication shall be made or issued by the Finance and Planning Department without the prior concurrence of the Coordination Department.

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216

(3) No proposal, which requires previous consultation with the Finance and Planning Department under sub-rule (1) but in which the Finance and Planning Department has not concurred, shall be proceeded with, unless a decision to that effect has been taken by the Zilla Council. Formal order shall, nevertheless, issue only after the Finance and Planning Department has exercised scrutiny over the details of the proposal.

(4) Except to the extent that power may have been delegated to Departments under rules framed by the Finance and Planning Department, every order of a Department conveying a sanction to be enforced in audit shall be communicated to the audit authorities through the Finance and Planning Department.

18. Consultation with Provincial Law, Parliamentary Affairs and Human Rights Department.— (1) The Provincial Law, Parliamentary Affairs and Human Rights Department shall be consulted by the District Government—

- (a) on all legal questions arising out of any case;
- (b) on the interpretation of any law;
- (c) before instituting criminal or civil proceedings in a court of law in which Government is involved; and
- (d) wherever criminal or civil proceedings are instituted against District Government.

The Public Prosecutor, Government Pleader, Additional Public Pleader and Additional Government Pleader shall conduct civil and criminal cases against a District Government on behalf of that Government on a case-to-case basis, by the District Coordination Officer or the District Government.

The District Government shall adopt and follow the model bye-laws and any other bye-laws under the ordinance, not to be inconsistent with the bye-laws, which shall be sent to the Law Department and may, after such vetting and approval,

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94

19. **Consultation between the District Departments and Provincial Offices.**--- Cases requiring the approval of the Provincial Government shall be referred in as complete form as possible to the Administrative Department concerned by the Heads of District Departments through District Coordination Officer and shall ordinarily be settled in personal discussion between the Head of the District Department and the Secretariat Officers dealing with the case.

20. **Relations with Provincial Local Government Commission.**--- (1) The Zila Nazim shall cooperate with the Provincial Local Government Commission in the due discharge of its functions under Article 132 of the Ordinance.

(2) Between any department of Government and the District Government or between two District Governments, the Nazim shall cause to prepare a complete case with all the documents required and require the District Coordination Officer to forward the same to the secretariat of the Provincial Local Government Commission;

Provided that if the dispute is not amicably resolved, the aggrieved party may move the case before the Chief Executive of the Province for resolution through the Chief Secretary of Government and the decision of the Chief Executive thereon shall be final.

21. **Executive District Officers' Committee.**---(1) There shall be constituted an Executive District Officers' Committee with the District Coordination Officer as its Chairman, to facilitate coordination amongst Government Departments, to provide a venue for the consideration of matters of common interest and to tender a venue for the consideration of matters of common interest and to tender advice on any case that may be referred to it by the Zilla Nazim or the Zilla Council.

(2) An Executive District Officer who wishes that a particular matter be discussed in the Executive District Officers' Committee meeting shall inform the Coordination Department of his intention of doing so and forward twenty copies of a brief note on the subject which would form the basis of discussion.

218

(3) The Coordination Department shall issue notice of a meeting, together with the agenda, well in advance of the meeting, except that urgent items may be considered at short notice.

(4) Executive District Officers' Committee meeting shall be attended only by Executive District Officers and Assistant Executive District Officers of District Departments, or such other officers as may be required by the District Coordination Officer.

(5) Minutes of the meeting shall be recorded by an officer of the Coordination Department, who shall attend the meeting for the purpose, and shall be circulated, after approval by the District Coordination Officers as soon as possible.

(6) Conclusion reached at the meeting of the Executive District Officers' Committee shall not be taken as decision of the District Government. Any further action required shall be taken by the Department concerned in accordance with the rules.

22. **Relations of the District Government and Zilla Council.**— (1) The District Government shall present all the bye-laws prepared under the Ordinance to the Zilla Council for approval.

(2) The District Government shall obtain approval of the Zilla Council for imposition of taxes on the subjects specified in Para-I of the Schedule-II.

(3) The District Government shall get approval of the Zilla Council for long term and short term development plans, annual and supplementary, budgetary proposals of the District Government and where required intra-district fiscal transfers.

219
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PART-C

SERVICES

23. **Public Service Commission.**— The advice of the Public Service Commission shall ordinarily be accepted by the District Government(s) in all matters where it is obligatory to consult the Commission under any rules or regulations for the time being in force. If it is proposed not to accept the advice of the Commission, it shall be submitted to the Chairman, Local Government Commission, who may give an opportunity to the Public Service Commission of further justifying its recommendation before a final decision is taken.

24. **Selection Board.**— (1) District Government may constitute one or more Selection Boards and specify the appointments and promotions to posts, other than those to be made on the advice of the Public Service Commission, to be made on the advice of such Selection Boards, under the District Service Rules, when framed.

(2) In case, a Department does not propose to accept the advice of Selection Board in regard to a matter in which its advice is required under sub-rule (1), the case shall be returned to the Selection Board for reconsideration, and the Selection Board shall reconsider such case. If on reconsideration the difference still persists, the case shall be submitted to the Zilla Nazim through the Coordination Department, for his orders.

25. **Posting and transfer.**— (1) Posting/Transfer of Officers/Officials shown in Column 2 of Schedule-IV shall be made by the authorities shown against such officers/officials in column 3 thereof.

(2) the District Coordination Department of the District shall consult Government if it is proposed to-

(a) transfer the holder of a tenure post before the completion of his tenure or extend the period of his tenure; and

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PART-D

ZILLA COUNCIL

26. **Manner of submission of cases to the Zilla Nazim.**— (1) The Executive District Officer of the Department concerned shall transmit to the District Coördination Officer, a concise and lucid memorandum of the cases (hereinafter referred to as the "Summary") giving the background and relevant facts, the points for decision and the recommendation of the Executive District Officer, for appropriate orders of the Zilla Nazim.

(2) The summary shall be self-contained as far as possible, and may include as appendices such relevant papers as are necessary for the proper appreciation of the case.

(3) Where a case concerns more than one Department, the summary shall not be forwarded to the Zilla Nazim unless the case has been considered by all the Departments concerned. In the event of a difference of opinion, the points of difference between them, shall be clearly stated in the Summary, a copy of which shall be sent by the sponsoring Department to other Department concerned simultaneously with the transmission of the Summary to the Zilla Nazim.

(4) No Summary containing a proposal involving financial implications shall be submitted to the Zilla Nazim unless the Finance and Planning Department has been consulted and its views incorporated in the Summary.

(5) The Coordination Department shall satisfy itself that the papers submitted by the Executive District Officer are complete and in appropriate form. It shall ordinarily return a case which does not meet the requirements of these rules, or any other instructions on the subject.

27. **Procedure regarding meetings of the Zilla Council.**— (1) Regular meetings of the Zilla Council to discuss ordinary business shall normally be held once a month on a day and time to be fixed by the Zilla Nazim;

222

Provided that the Zilla Nazim may direct any variation in day and time, may call for special meetings of the Zilla Council at any time on any day to discuss urgent business.

(2) All drafts of bye-laws or orders having the force of law shall be submitted to the Zilla Council after the same have been vetted by the Law Department, and no changes shall be made therein except with the knowledge of the Law Department.

(3) No case for inclusion in the agenda shall be accepted unless it reaches the Convener of the Zilla Council at least four clear days in advance of the meeting.

(4) The Convener of the Zilla Council shall ordinarily issue notices to the members of the Zilla Council at least three days in advance of a meeting, the agenda of the meeting, together with the summaries relating to the items on agenda. In the case of special meetings, the circular notice may be issued less than three days in advance.

(5) The Executive District Officer concerned with a case shall attend the meeting of the Zilla Council in which the case is under discussion. He shall, however, take no part in the discussion unless invited to do so.

(6) The District Coordination Officer shall attend all meetings, prepared record of the discussion and submit the same for approval of the Zilla Nazim.

28. Action on the decisions of the Zilla Council.— (1) When a case has been decided by the Zilla Council, the Department concerned shall take prompt action to give effect to the decision.

(2) To ensure implementation of the Zilla Council's decisions, the Executive District Officer of each Department shall keep a record of all the decisions conveyed to him and shall watch progress of action until it is completed. It shall be his responsibility as Executive District Officer of the Department sponsoring the

223

case, to consult or inform any other Department concerned, in order to ensure full implementation of the decision.

(3) The District Coordination Officer shall watch the implementation of each decision of the Zilla Council, and the Executive District Officer in the Department concerned shall supply to the District Coordination Officer such documents as the latter may, by general or special request, require to enable him to complete his record of the case.

(4) Each Department shall maintain record of cases submitted to the Zilla Council.

(5) The Governor and the Chief Minister of the North-West Frontier Province may require to submit for their consideration any matter on which a decision has been taken by the Zilla Nazim or the Zilla Council, as the case may be.

29. **Procedure regarding Committees of the Zilla Council.**--- (1) Meetings of the Committees of the Zilla Council shall be convened by the District Coordination Officer under the direction of the Convener/Chairman of the Committee, who shall preside over the meeting(s).

(2) Officers/Officials of the Department concerned may be associated with the deliberations of the Committees as and when considered necessary.

(3) The provision of rule 20, 21, and 22 shall apply mutatis mutandis to the manner of submission of cases to, and the procedure for the meetings of the Committees.

28

224

PART-E
MISCELLANEOUS PROVISIONS

30. **Protection and Communication of Official Information.**--- (1) No information, acquired directly or indirectly from official documents or relating to official matters, shall be communicated by a District Government servant to the press, to non-official or officials belonging to other Government offices, unless he has been generally or specially empowered to do so.

(2) Detailed instructions shall be issued by the District Coordination Officer for the treatment and custody of official documents and information of a confidential character.

(3) Ordinarily all official news and information shall be conveyed to the press through the Public Relation Officer to the Zilla Nazim and the manner in which this may be done shall be prescribed, generally or specially in each case by the District Coordination Officer. The District Coordination Officer and such officers as may be authorized, shall act as official spokesman of the District Government.

31. **Channels of communication.**--- (1) Correspondence with the Provincial Government shall be conducted directly by the Departments in respect of subjects allocated to them, and it shall ordinarily be addressed to the Head of the Attached Department concerned.

(2) All correspondence between District Governments and the Secretary of the Provincial Government Departments shall be conducted through the Heads of the Attached Department concerned.

(3) All inter District correspondence shall be conducted by the Executive District Officer of the Departments through the District Coordination Officer.

(4) All correspondence within a District between the Departments shall be conducted through the Executive District Officers.

(IFTIKHAR ALI SHAH)
SECRETARY, LOCAL GOVERNMENT &
RURAL DEVELOPMENT DEPARTMENT,
NORTH-WEST FRONTIER PROVINCE

SCHEDULE - I

See rule 3 (2)

DISTRIBUTION OF BUSINESS AMONG GROUPS OF DISTRICT OFFICES

Sr. No.	Group of District Offices	Allocated Business
1.	Agriculture	Agriculture (Extension, Livestock, On Farm Water Management, Soil Conservation, Cooperatives, Wild Life, Fisheries and Forests).
	a: <u>Agriculture (Extension)</u>	<ol style="list-style-type: none">(1) Administration, financial and technical control of the field formation in the district.(2) Achievement of area and production targets of crops.(3) Implementation of crop production strategy including agronomy and plant protection prepared by the Provincial Agriculture Department.(4) Preparation of detailed training schedule of all trainers within the frame work of phases decided by Provincial Agriculture Department and dissemination of production technology through training programme in every village of the district.(5) Feedback of researchable problems to Provincial Agriculture Department.(6) Identification, preparation and implementation of projects approved by competent authorities.(7) Implementation, preparation and implementation of projects approved by

226

competent authorities.

- (8) Implementation of Agriculture laws.
- (9) Management of agriculture extension farms and gardens.
- (10) Service matters relating to the district cadre.
- (11) Maintenance of government buildings.
- (12) Purchase of stores and capital goods.
- (13) Participation alongwith requisite data in review meetings held by Provincial Agriculture Department.
- (14) Feedback to Provincial Agriculture Department on all the above, as per time to time instructions.
- (15) Implementation of crop production strategy including agronomy and plant protection.
- (16) Achievement of area and production targets of all crops.

b: Livestock

Matters relating to:

- (1) Artificial Insemination
- (2) Promotional efforts for establishment of Dairy Farms in Private Sector.
- (3) Promotional efforts for establishment of Poultry Farms in Private Sector.
- (4) Prevention of animal/poultry diseases, extension services.
- (5) Training of Villagers on:
 - (i) Prophylactic vaccination
 - (ii) Management aspects
 - (iii) First Aid Treatment
- (6) Enforcement of Prevention of Cruelty to Animals Act, 1890.
- (7) Prophylactic Vaccination.

227

- (16) Child Welfare.
- (17) Dar-ul-Aman.
- (18) Prisoner's Welfare.
- (19) Patient Welfare.
- (20) Eradication of Beggary.
- (21) Senior Citizens Homes.

e: Zakat and Usher:

**District Zakat and Ushar
Office:**

In each District, a District Zakat and Usher Committee shall be constituted by the Provincial Zakat Council.

(a) Subject to such guidelines, as given by the Central Zakat Council or Provincial Zakat Council, the District Zakat Committee, under the Zakat and Ushar Ordinance, 1980, is required to:

- (i) Eversee, generally, the functioning of administrative organization of Zakat and, more particularly, the assessment of Ushar and Attiyat and the disbursement and utilization of the moneys in the District Zakat Fund and the local Zakat Funds.
- (ii) For the purposes mentioned in clause (a) make plans for the district in such form and manner as may be prescribed.
- (iii) Prepare and maintain accounts of the District Zakat fund in such form and manner as prescribed by the Central or Provincial Zakat Council.
- (iv) Compile accounts of the local Zakat funds for the district in such form and manner as

228

prescribed.

- (v) Arrange, in the prescribed manner, audit of the Local Zakat funds in the district, and
- (vi) Constitute Tehsil Zakat Committee and Local Zakat Committee in the district.

**Tehsil Zakat and Ushar
Office:**

Each Tehsil Zakat Committee, as constituted by the respective District Zakat Committee, performs the following functions, subject to the laid down guidelines of either the Central Zakat Council or the Provincial Zakat Council or the District Zakat Committee.

- (a) Oversee assessment of Ushar and collection of Zakat, Ushar and Atfiyat and the disbursement and utilization of the moneys in the local Zakat funds by the Local Zakat Committees in the Tehsil or sub-divisions.
- (b) For the purposes mentioned in clause (a), make plans for the Tehsil or sub-division as the case may be in such form and manner as may be prescribed.
- (c) Compile accounts of the Local Zakat funds for the Tehsil or sub-division as the case may be in such form and manner as may be prescribed; and
- (d) Tender to the District Zakat Committee advice on any matter connected with the collection, disbursement or utilization of Zakat and Ushr.

II Works and Services:

a: Government Buildings

229

- (1) Planning, designing, construction, equipment, maintenance and repairs of all district specific Government Buildings, residential and non-residential including rest houses, but excluding inspection Huts' Bungalows which shall be under the Administration/jurisdiction of the District Works and Services Department.
- (2) Evaluation, fixation of rent, control, management, lease of district specific Government buildings and sale of those government buildings where prior permission of Provincial Government has been obtained.
- (3) Water Supply and Sanitary Works, pertaining to government buildings and government estates except provincial assets and those assigned under main heading S&GAD under Sr. No. 24 in the schedule-II of the N.-W.F.P. Government Rules of Business 1947.
- (4) Preparation of architectural plans/drawings of buildings under control of district government.

b: District Roads

- (1) Administration of West Pakistan Highway Ordinance, 195 (Amended) wherever it pertains to District.
- (2) Laying standards and specifications for various types of roads and bridges for the district.
- (3) Planning and designing roads and connected works for the district roads financed from district (Provincial and/or Central Funds).
- (4) Construction, maintenance, repairs and improvement of roads, bridges, culverts, causeways, boat bridges and ancillary bridges under the control of District Government and

34

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230

financed from District Provincial and / or Central Funds.

- (5) Administration of roads, bridges and boat bridges toll collection and leases of land for filling/service stations and access roads thereof on roads wider the control of district.
- (6) District Testing Laboratories for works but other than the 'Divisional Level Testing Laboratories' already established at Divisional Head Quarters and under the Administrative Jurisdiction of the Frontier Highway Authority.
- (7) Execution of works on behalf of other Agencies/ Departments as Deposit works.
- (8) Service matters except those entrusted to Works and Services Department or/and Establishment and Administration Department.
- (9) Purchase of stores and capital goods for the District Government.

Designing and implementation of inter-district Water Supply Schemes.

e: Water Supply and Sanitation:

35

231
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SCHEDULE – II.

See rule 4 (3)

1. Annual Budget Statement.
2. Laying of supplementary statement of expenditure before the Zila Council.
3. Cases in which Provincial Government has issued directions.
4. Complaints to the Provincial Government Commission about disputes between any department of the Government and District Government or between two District Governments.
5. All cases which are liable to involve District Government into controversy with Provincial Government or with another District Government.
6. Recommendations for the grant of honours and awards.

232

SCHEDULE - III

See rule 3 (2)

1. All periodical reports of District Coordination Officer, District Police Officer and Executive District Officers.
2. Press notes issued by District Coordination Officer, District Police Officer and Executive District Officers.
3. All Periodical and special reports relating to law and order such as fortnightly situation reports submitted by the police.
4. Intelligence reports.
5. Report of Committees of inquiry appointed by District Government.

233
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FIRST SCHEDULE
[See sections 14 and 35]]

Part-A

Decentralized Offices

- i) Civil Defence
- ii) Agriculture (Extension)
- iii) Livestock
- iv) On-Farm Water Management
- v) Soil Conservation
- vi) Soil Fertility
- vii) Fisheries
- viii) Farm-forestry ✓
- ix) Labour
- x) Social Welfare
- xi) Sports and Culture
- xii) Cooperatives
- xiii) Boys Schools
- xiv) Girls Schools
- xv) Technical Education
- xvi) Colleges, (other than professional)
- xvii) Sports
- xviii) Special Education
- xix) Accounts, (excluding District Accounts Offices)
- xx) Basic & Rural Health
- xxi) Child & Woman Health
- xxii) Population Welfare
- xxiii) Hospitals
- xxiv) Environment
- xxv) Land Revenue, Estate
- xxvi) Excise and Taxation
- xxvii) Housing Urban and Physical Planning and ~~Public Health Engineering~~
- xxviii) Local Government & Rural Development
- xxix) District Roads and Buildings
- xxx) Transport.

38

GOVERNMENT OF NORTH-WEST FRONTIER PROVINCE,
LOCAL GOVERNMENT, ELECTIONS AND RURAL
DEVELOPMENT DEPARTMENT

234*

NOTIFICATION

Dated Peshawar, the 7th October, 2005

No. SO(LG-I)3-196/E.M/05.- In exercise of the powers conferred by section 31 of North-West Frontier Province Local Government Ordinance, 2001 (N.W.F.P. Ordinance No. XIV of 2001), the Government of North-West Frontier Province is pleased to make the following amendment in the North-West Frontier Province District Government Rules of Business, 2001:

AMENDMENT

In rule 6, in sub-rule (1) (b), except the provisions thereunder, the following shall be substituted; namely

"(b) The District Coordination Officer shall have the powers of the appointing authority in respect of officials in BPS-11 to 15 in all the devolved departments while the Executive District Officer shall be the appointing authority in respect of officials in BPS-1 to BPS-10 in the concerned department."

SECRETARY TO GOVERNMENT OF N.W.F.P.
LOCAL GOVT. ELECTIONS AND RURAL
DEVELOPMENT DEPARTMENT

Endst. No. SO(LG-I)3-196/E.M/05 Dated Peshawar, the 7th October, 2005

Copy is forwarded to:-

1. The PS to Chief Minister, N.W.F.P., Peshawar.
2. The PS to Senior minister, N.W.F.P., Peshawar.
3. All the Provincial Ministers in N.W.F.P.
4. The PS to Chief Secretary, N.W.F.P., Peshawar.
5. All the Administrative Secretaries in N.W.F.P.
6. All Heads of the Attached Departments in N.W.F.P.
7. All the Administrators/Districts Coordination Officers in N.W.F.P.
8. The Manager, Government Printing press, N.W.F.P., Peshawar for publication in the official gazette. He is requested to provide 100 printed copies of the said notification for official use to this Department.

J. I. Muhammad

(JIL MUHAMMAD)

SECTION OFFICER (ESTAB.)

39

- (viii) Shirani Area.
- (ix) Merged Areas of Hazara and Mardan Division and Upper Tanawal.
- (x) Swat District.
- (xi) Upper Dir District.
- (xii) Lower Dir District.
- (xiii) Chitral District.
- (xiv) Buner District.
- (xv) Kala Dhaka Area.
- (xvi) Kohistan District.
- (xvii) Shangla District.
- (xviii) Gadoon Area in Swabi District.
- (xix) Backward areas of Mansehra and District Batagram.
- (xx) Backward areas of Haripur District, i.e. Kalanjar Field Kanungo Circle of Tehsil Haripur and Amazai Field Kanungo circle of Tehsil Ghazi.

(iii)

(iv)

RECRUITMENT INCLUDING AGE RELAXATION POLICY

Subject:- RECRUITMENT POLICY FOR THE PROVINCIAL SERVICES AGE RELAXATION FOR SPECIAL POSTS.

I am directed to refer to this Department circular letter of even number dated 1st February, 1993, on the subject cited above, and to say that new recruitment policy has been reviewed by the Provincial Government. It has been decided to revise the existing policy as under:-

- (a) Recruitment to posts in BPS-16 and above as well as the posts of Assistant Sub-Inspectors of Police, Naib Tehsildars, Zilladars and Sub-Engineers will continue to be made through the NWFP Public Service Commission. However, the Commission may make efforts to finalize the recruitment within six months of the receipt of the requisition duly completed from the Administrative Department.
- (b) Recruitment to posts in the various Government Departments as indicated below will also henceforth be made by the NWFP Public Service Commission:-

(v)

(vi)

(i) **All Departments including Board of Revenue, NWFP-**

- (1) Senior Scale Stenographer (B-15)
- (2) Data Processing Supervisor (B-14)
- (3) Junior Scale Stenographer (B-12)
- (4) Assistant (B-11)
- (5) Draftsman (B-11)

(vii)

(ii) **Board of Revenue-**

- (1) Sub-Registrar (B-14)
- (2) Excise and Taxation Inspector (B-11)

(viii)

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the existing policy as

he posts of Assistant
d Sub-Engineers will
service Commission.
lize the recruitment
completed from the

rtments as indicated
NFP Public Service

ue, NWFP-

(iii) Home & Tribal Affairs Department

- (a) Police Department;
(1) Prosecuting Sub-Inspector(B-14)
- (b) Inspectorate of Prisons:
(1) Assistant Jail Superintendent(B-11)
- (c) Reclamation and Probation Department;
(1) Parole/Probation Officer(B-11)

(iv) Industries, Commerce, Mineral Development, Labour and Transport Department-

- (a) Directorate of Industries:
(1) Assistant Industrial Development Officer/
Assistant Price Stabilization Officer(B-11)
(2) Royalty Inspector(B-11)
(3) Surveyor(B-11)
- (b) Directorate of Manpower and Training:
(1) Instructor.T.T.C(B-14)

(v) Cooperative Societies:

- (1) Inspector(B-11)

(vi) Communication and Works Department-

- (1) Assistant Architectural Draftsman(B-14)
(2) Senior Draftsman(B-13)

(vii) Public Health Engineering Department-

- (1) Motivation Officer(B-15)
(2) Assistant Motivation Officer(B-14)
(3) Lady Health Educator(B-12)

(viii) Electric Inspectorate:-

61

(1) Sub-Inspector(B-11)

(ix) **Food Department-**

(1) Assistant Food Controller(B-8)

(2) Food Grain Inspector(B-6)

(x) **Directorate of Archives and Libraries-**

(1) Preservation Assistant (B-11)

(2) Cataloguer / Classifier (B-11)

(c) Initial recruitment to posts in BPS-15 and below other than the posts in the purview of the Public Service Commission, in all the departments shall continue to be made in accordance with Rule 10, 11 and 12 (Part-III) of the NWFP Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the criteria as laid down in S&GAD letter No.SORI(S&GAD)4-1/75, dated 11.2.1987 and the zonal allocation formula contained in S&GAD Notification NO.SOS.III(S&GAD)3-39/70, dated 2.10.1973 as amended from time to time.

(d) No adhoc appointment against any post in any pay scale shall be made.

(e) Relaxation in maximum age limit may be allowed to candidates for various posts having prescribed qualifications in specific fields upto a period of 5 years by the Competent Authority and for not more than 10 years by the S&GAD. The details of such posts are indicated in the Annexure to this letter.

The age relaxation in respect of posts other than posts mentioned above may be confined to 5 years only. The competent Authority may allow relaxation upto 2 years whereas the S&GAD may relax the age upto a period of 5 years.

²"The age limit in respect of Government Servants who have completed at least four years service in the Government, on the closing day for submission of applications for the posts, shall be automatically relaxed by 10 years or a number of years an officer/official has actually served, whichever is less"

All the proposals for the grant of relaxation in upper age shall continue to be accompanied by:-

(i) Full justification in support of the proposal; and

1. Now for the para (e) Please see initial Appointment to Civil Posts (Relaxation of Upper Age Limit) Rules, 2008.

2. New sub-para added by Notification No.SO-I(S&GAD)1-117/91(C)Vol-I, dated 7.1.1999 & 17.3.1999.

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Chief Secretary NWFP

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**GOVERNMENT OF N.W.F.P.
ESTABLISHMENT & ADMN: DEPARTMENT
(REGULATION WING)**

No.SOR-V(E&AD)2-7/2003.
Dated Pesh: the 17th November, 2005.



To
All District Coordination Officer,
N.W.F.P.

SUBJECT - CONSTITUTION OF SELECTION BOARD.

Dear Sir,
I am directed to refer to this Department letter bearing No.SOR-V(E&AD)2-7/2003 dated 30-7-2003 on the subject noted above and to state that due to amendment in Rule-6 in sub rule 1(b) of District Government Rules of Business 2001 notified vide Local Government Elections and Rural Development Department No.SO(LG-1)3-190/E.M/05 dated 7-10-2005, the Departmental Selection Committees at District level are reconstituted as under:-

A) DEPARTMENTAL SELECTION COMMITTEE AT DISTRICT LEVEL FOR POSTS IN BS-11 TO BS-15.

- i. DCO. Chairman
- ii. EDO concerned. Member
- iii. One member to be nominated by the Admn: Deptt: concerned. Member.
- iv. One member to be nominated by the Appointing Authority. Member.

B) DEPARTMENTAL SELECTION COMMITTEE AT DISTRICT LEVEL FOR POSTS IN BS-1 TO BS-10.

- i. EDO concerned. Chairman.
- ii. One member to be nominated by the DCO. Member.
- iii. District Officer concerned. Member.

Yours faithfully,

(MUSHARAF KHAN)
SECTION OFFICER (R-V).

43

A.C.O
Copy to all EDOs/Dos

One
DCO's copy

Encl: of even No & Date:

Copy forwarded to

All Administrative Secretaries to Govt. of NWFP.

4115
23/11/2005

SECTION OFFICER (R-V).

Ph: 9082235
Fax:9220406

REGISTERED

Nos. C.P. 2026 & 2029 of 2013 - SCJ
SUPREME COURT OF PAKISTAN.

Islamabad, dated 16/11/2014.

The Registrar,
Supreme Court of Pakistan,
Islamabad.

The Registrar,
Peshawar High Court,
Peshawar.

Subject: **CIVIL PETITION NOS. 2026 & 2029 OF 2013.**
Mushtaq Ahmed & another ...in C.P. 2026/2013
Muhammad Nasir Ali & others ...in C.P. 2029/2013
VERSUS
Government of Khyber Pakhtunkhwa through Chief Secretary,
Peshawar & others ...in both cases

**On appeal from the Judgment/Order of the
Peshawar High Court, Peshawar dated
02.10.2013 in W.P. 271-P & 663-P/2013**

Dear Sir,

I am directed to enclose herewith a certified copy of the Order of this Court dated 15.01.2014 **dismissing** the above cited civil petitions with **directions** for information and further necessary action.

I am also to invite your attention to the directions of this Court contained in the enclosed Order.

Please acknowledge receipt of this letter along with its enclosure immediately.

Encl: Order

Yours faithfully,



(NAZAR ABBAS)
ASSISTANT REGISTRAR (IMP)
FOR REGISTRAR

Copy with a certified copy of the Order of this Court dated 15.01.2014 is forwarded to Mr. Sikandar Khan, Chief Engineer, Public Health Engineering Department, Khyber Pakhtunkhwa, Peshawar for immediate necessary action and report compliance.

Encl: Order


ASSISTANT REGISTRAR (IMP)
FOR REGISTRAR

IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

PRESENT:

MR. JUSTICE ANWAR ZAHEER JAMALI.
MR. JUSTICE EJAZ AFZAL KHAN.

C. Ps. No. 2026 and 2029 of 2013.

(On appeal against the judgment
dt. 2.10.2013 passed by the
Peshawar High Court, Peshawar in
W. Ps. No. 271-P and 663-P of 2013).

Mushtaq Ahmed and another.
Muhammad Nasir Ali and others.

(in CP. 2026/13)

(in CP. 2029/13)

...Petitioners

Versus

Government of KPK through Chief Secretary,
Peshawar and others.

(in both cases)

...Respondents

For the petitioners: Mr. Ghulam Nabi Khan, ASC.
Syed Safdar Hussain, AOR.

For the respondents: Sikandar Khan, Chief Engineer, PHEK, KPK.
(on court notice)

Date of hearing: 15.01.2014.

ORDER

ANWAR ZAHEER JAMALI, J. - After hearing the arguments of the learned ASC for the petitioners and careful perusal of the case record particularly the reasons assigned in the impugned judgment, we are satisfied that no case for grant of leave to appeal is made out, including the plea of discrimination raised by the petitioners, as one wrong or any number of wrongs, cannot be made basis to justify an illegal action under the garb of Article 25 of the Constitution. Both these petitions are, therefore, dismissed. Leave is refused.

2. So far as some other illegalities in the appointments brought to our notice is concerned, in response to our earlier order dated 09.01.2014, Mr. Sikandar Khan, Chief Engineer, Public Health Engineering, Department, KPK is present in Court, he states that

ATTESTED

Superintendent
Supreme Court of Pakistan
Islamabad

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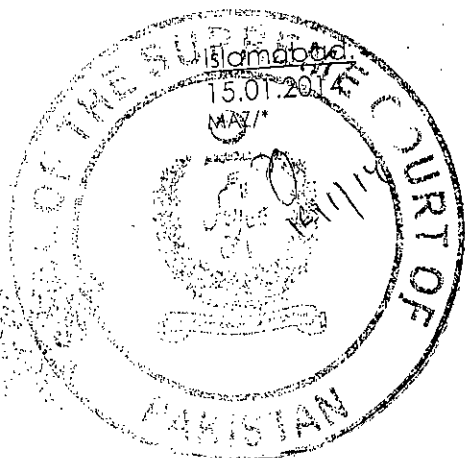
although many other illegal appointees in his department have been removed from service, but against many others such action is in process at various stages and they are still in service.

3. In view of the above statement, he is directed to finalize the action against such illegal appointees within one month from today and submit his report through Registrar of this Court. In case, he faces any difficulty in this regard, those difficulties may also be brought to our notice so that appropriate orders may be passed.

Sd/- Anwar Zaheer Jamali, J
Sd/- Ejaz Afzal Khan, J

Certified to be True Copy

Supintendent
Supreme Court of Pakistan
Islamabad



GR No:	640/14	Civil/Criminal
Date of Presentation:	15-1-14	
No. of Words:	600	
No. of Pages:	6	
Requisition Fee Rs:	5.00	
Copy Fee in:	3.22	
Court Fee stamps:	8.22	
Date of Completion of Copy:	18-1-14	
Date of delivery of Copy:		
Compared by:		
Received by:	Zahid Jam	

46

28

In the Supreme Court of Pakistan
(Appellate Jurisdiction)

Present:

Mr. Justice Anwar Zaheer Jamali
Mr. Justice Asif Saeed Khan Khosa
Mr. Justice Mushir Alam

**Constitution Petition No.6 of 2011, C.M.A.
No.5216 of 2012 and H.R.C. No.49012-P of 2010**

Constitution Petition No. 6 of 2011
(Against illegal appointments and corruptions in EOBI)

Syed Mubashir Raza Jaffri, etc.

Petitioners

Versus

Employees Old Age Benefits Institutions (EOBI) through its
President of Board, Board of Trustees, & others

Respondents

Petitioners No.1 & 2:

In person.

For respondents No. 1 & 3: Mr. Saiful Malook, ASC
Mr. M. S. Khattak, AOR

On behalf of Federation: Mirza Waqas Rauf, DAG
Mr. Pervaiz Khan, D.G., H.R.

On Court Notice: Mr. Abdul Latif Yousafzai,
Advocate General, KPK
Malik Faisal Rafique, Addl. A.G,
Punjab.

Other respondents:

N.R.

AND

**C.M.A. No. 5216 of 2012 in
Constitution Petition No. 6 of 2011**
(Against appointment of Raja Azeemul
Haq as Executive Director of the World Bank)

For the Federation: Mirza Waqas Rauf, DAG
Mr. Pervaiz Khan, DG, HR, EOBI.

On behalf of Raja
Azeemul Haq: Ch. Afrasiab Khan, ASC
Mr. M. S. Khattak, AOR *a/w applicant.*

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AND**H. R. C. No. 48012-P of 2010**
(Application by Tajamal Hussain against illegal appointments and massive corruption in EOBI)

For the applicant: In person.

For appointed officials: Sardar M. Aslam, ASC

For Chairman EOBI: Mr. Saiful Malook, ASC
Mr. M.S. Khattak, AOR

For Raja Azeemul Haq: Ch. Afrasiab Khan, ASC
Mr. M. S. Khattak, AOR *a/w applicant*

For applicants Mutali Khan, etc: Mr. Athar Minallah, ASC
Mr. M. S. Khattak, AOR

For applicants/Intervener: Mr. Abdul Hafeez Pirzada, Sr. ASC
Mian Gul Hassan Aurangzeb, ASC

For applicants in CMA 1720/2011: Nemo.

Date of hearing: 11.12.2013

Judgment

Anwar Zaheer Jamali, J - On 2.2.2011, the petitioners brought Constitution Petition No.6 of 2011, under Article 184(3) of the Constitution of Islamic Republic of Pakistan 1973 ("the Constitution"), for agitating their two fold grievances against the Employees Old Age Benefit Institution ("EOBI"), a body established under the Employees Old Age Benefit Act XIV of 1976 ("the Act 1976"), and its management, arraying EOBI, the Federation of Pakistan through Ministry of Labour and Manpower, M/s Zafar Iqbal Gondal, Chairman, EOBI, Mushtaq Samoo, Director, EOBI/Secretary Board of Trustees, Kanwar Waheed Khursheed, Director General

48

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(Investment)/Convener of Selection Committee-2, Muhammad Hanif, Officiating Director General/ Convener of Selection Committee-I and Mirza Imtiaz Ahmed, Acting Director General (Finance & Accounts), Convener of Selection Committee-3, as respondents. The averments made in the petition reveal that the first grievance of the petitioners is regarding appointment of more than 213 persons in BPS-16 to BPS-20, as detailed in the petition, in a patently illegal manner on the basis of political influence, nepotism and cronyism, under the chairmanship of respondent No.3 (Zafar Iqbal Gondal), in league with respondents No.4 to 7, while the other grievance is as regards large scale financial corruption and mismanagement of funds of the EOBI, as detailed in the petition. Based on such allegations, reliefs prayed for in the petition read as under:-

- i) Declare that all the impugned appointments made in the Respondent No.1/EOBI are unlawful, illegal and void ab initio and in violation of prescribed recruitment procedure/ operating manual.
- ii) Declare that EOB Fund cannot be utilized or invested in contravention and violation of EOB Act 1976 and EOB (Investment) Rules, 1979.
- iii) Declare that any amount utilized in corrupt practices by the EOBI Management/Respondents and others are without lawful authority and the same may be recovered from the Respondents.
- iv) Direct that the respondents that any Fund invested against the spirit of EOB Act 1976 and EOB (Investment) Rules 1979 shall be disinvested.

49

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- v) Grant any other relief which as deemed appropriate, just and proper by this Hon'ble Court in very circumstances of the case."

2. Since thereafter, during the proceedings of this petition, several orders of interim nature have been passed by the Court, primarily, to find out the substance of these allegations against the respondents, whereupon several miscellaneous applications/concise statements/replies and documents have been submitted and brought on record by the respondents in an attempt to justify such appointments and to explain their position as regards mismanagement of funds of the EOBI. In addition to it, in response to our order dated 12.9.2013, directing publication of general notice regarding the present proceedings in some newspapers of wide circulation from Islamabad and Karachi, for information of the appointees of EOBI whose appointments have been challenged or who are likely to be affected with the outcome of these proceedings, many miscellaneous applications for impleadment as party to these proceedings have been received from various groups/individuals, who, according to their claim are such appointees or are likely to be affected from any final outcome of these proceedings, which have been entertained and allowed.

3. Another human rights case on the same subject and relating to similar grievances, bearing No.48012-P of 2010, which is based on the complaint dated 30.9.2010, made by

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one Tajamul Hussain has also been tagged with this petition, in terms of order dated 20.4.2011, which has thus proceeded along with this petition. In the said human rights case, inter alia, illegal appointments allegedly made in EOBI have been brought to the Court's notice and challenged on the basis of facts detailed in the said complaint.

4. It seems that while proceedings in these two cases were sub-judice before the Court, with reference to a programme aired through some T.V. channel on 27.6.2013, titled as "corruption scandal of more than forty billion rupees in the EOBI" on 29.6.2013, a detailed note was submitted by the Registrar of the Court before the Honourable Chief Justice of Pakistan, unfolding therein the attributions of the participants of the said programme against EOBI with specific reference to the (i) purchase of plots in DHA, (ii) purchase of Crown Plaza in F-7 Markaz, Islamabad, (iii) purchase of two controversial plots in Sukkur, (iv) development of cricket ground in Islamabad, (v) purchase of several plots from CDA, (vi) purchase of forty kanals sixteen marlas land in Lahore, (vii) purchase of four floors of plaza/hotel in Lahore, (viii) construction of seven star hotel in front of Lahore Airport, (ix) construction of M-9 motorway by EOBI, (x) purchase of twenty acres land near Karachi Airport in billions and (xi) purchase of two 4300 cc parado jeeps for personal use of the Chairman, EOBI. Taking notice of such allegations contained in the note

51

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of the Registrar, per order of the Honourable Chief Justice dated 29.6.2013, it was converted into Constitution Petition No.35 of 2013, which is now separately proceeding to probe into the allegations of financial corruption and misuse of funds allegedly made in the EOBI by its management and other high ranking Government officials involved in the said scam. Since the issue of financial corruption and misuse of funds etc. in EOBI has now been taken up separately in the said Constitution petition of which this Court is seized, and proceedings are pending, we deem it appropriate to proceed further and adjudicate the present petition alongwith HRC No.48012-P of 2010 and CMA No.5216 of 2012, only to the extent of the case of the petitioners/complainant regarding illegal appointments in EOBI, leaving the other aspects relating to the financial corruption, misuse of funds and mismanagement etc. in EOBI to be exclusively dealt with in other Constitution petition No.35 of 2013.

5. Reverting to the facts and the grounds stated in Constitution Petition No.6 of 2011 and HRC No.48012-P of 2010 in this context and for their proper understanding, it will be useful to summarize the same as under:

6. The petitioners in Constitutional Petition No.6/2011 have called in question the manner in which more than 213 appointments were made in EOBI (which is said to form almost 40% of the total strength of its Officer cadre)

52 34

alleging that as such appointments were made in flagrant violation of the prescribed recruitment procedure set out, *inter alia*, in Clause No. 02.05.2 of the EOBI Operating Manual Chapter 2, they are therefore unlawful, illegal and liable to be set aside.

7. It has been contended that in April 2009, EOBI advertised vacancies inviting applications to fill a large number of posts from grades 16 to 20 against which 23648 applications were received and from which suitable applicants were to be shortlisted. It was alleged that even before commencement of the normal recruitment procedure, appointments against 132 vacancies were already finalized and made on the basis of political pressure, nepotism and cronyism, while some other persons managed their appointments on deputation basis against regular posts for which vacancies had already been advertised. Many of whom were later absorbed as Regular Officers in violation of the quota earmarked for different provinces, they did not belong to. The petitioners have also submitted that some lists of names were sent by the Personal Secretary to the Federal Minister of Labour and Manpower, which were then forwarded to the then Deputy Director General (HRD) Javed Iqbal and these persons were later appointed in Grade 16 and above, as opposed to those individuals who had applied through the advertisement. Moreover, as per the regulations, shortlisted candidates were

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to be called for a written test on the basis of the requirement of Operating Manual as well as the resolutions passed by the Board of Trustees, but this procedure was completely ignored. The petitioners have been further aggrieved by the purported act of the respondents for allegedly issuing back-dated appointment letters to various handpicked persons in order to avoid being in contempt of an interim order of the Peshawar High Court passed in Writ Petition No. 209/2010 whereby the respondents were restrained from issuing any appointment letters till the disposal of the said petition.

8. The petitioners in this case have further raised their finger towards the manner in which appointments were fast-tracked; the committees established to interview applicants concluded their interviews on 1st June 2010 and appointment letters were issued on 2nd June 2010, indicating that the committee's recommendations were approved by Respondent No. 3 within one day, after which appointment letters were sent to all within the span of one working day. The petitioners have also been aggrieved by the fact that these unlawful appointees did not provide any documents proving their educational qualifications etc. that had to be attached with each candidate's application, subject to verification by the HEC. Indeed, there were apparently many appointees who claimed to have completed their education in 2010, whereas

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the selection process called for all applications that fitted the requisite educational criteria in the year 2009.

9. In Human Rights Case No. 48012/P-2010, nearly identical allegations regarding irregular appointments have been levelled against the respondents (EOBI). It has been forcefully alleged that the recruitments were made in a *mala-fide* manner whereby those individuals who had links with politically influential persons within the then ruling PPP government were appointed. The petitioner reiterated and drew court's attention towards the fact that all posts had been filled without completion of the requirement of written tests which is against the EOBI recruitment procedure. Moreover, the then Chairman EOBI, Mr. Zafar Iqbal Gondal, was also accused of making a large number of appointments from the elected constituencies of his elder brother, Mr. Nazar Muhammad Gondal, former Federal Minister of Food and Agriculture, District Mandi Bahauddin and Mr. Nadeem Afzal Chann, MNA (NA 64 Sargodha) sitting Chairman, PAC, on the basis of nepotism and corruption.

10. In addition to it, another action regarding the purported irregular appointment of Mr. Raja Azeem-ul-Haq Minhas, as Executive Director, World Bank has been challenged through CMA No 5216/2012 in Constitutional Petition No.6/2011. In this regard, notice was taken by the Court after certain news reports highlighting the issues

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surrounding his appointment, promotion, deputation etc. It was contended that he did not have the requisite experience or qualifications for the job and was appointed Executive Director in the World Bank due to political pressure as he was son-in-law of the then Prime Minister, Raja Pervez Ashraf at the time of his appointment to the World Bank. A look at his service record reveals that Mr. Minhas was serving as Senior Joint Secretary on a grade 21 post because of out of turn promotions received by him due to his personal affiliations with persons who held high political offices, otherwise he was an officer of the income tax group, working in grade 18 when the PPP government came into power. He left this post and was hired by the EOBI in grade 20 on 2.6.2010 and then went on to hold the Acting Charge of the post of Director General on BS 21 from 15.02.2012 till 23.05.2012, after which he assumed the post of Senior Joint Secretary on deputation basis at the Prime Minister Secretariat. To examine these aspects, on 21.2.2013 notices were ordered to be sent to the Establishment Division, Federation of Pakistan to furnish details regarding his appointment to the World Bank. However, during the course of such proceedings on 6.6.2013 he resigned from the post of Executive Director, World Bank. Nevertheless, his appointment in EOBI pursuant to the aforesaid advertisement or otherwise is to be examined like other cases of appointment in order to

56 38

see whether there was any illegality or irregularity attached to it or it was made in a transparent manner on merit criteria.

11. It will be pertinent to mention here that in their detailed reply earlier submitted by respondent No.1, though they conceded to certain material illegalities/irregularities committed in the process of appointments by the management of EOBI, still they attempted to defend and justify these appointments on the pretext that all individuals were appointed on the basis of recruitment procedure laid down in the relevant rules and regulations. However, due to the qualifications of some candidates and urgency in the matter regarding filling up the vacant seats, candidates were only called for interviews, without written test. Such a decision, it was submitted, was not contrary to rule regulation or earlier practice of the EOBI and that it was settled law that a practice followed persistently by a department itself takes the place of a 'rule'. Furthermore, according to the 'Investment Personnel (Contract Appointment) Regulations, 2007 issued by the Board of Trustees u/s 45 of the Act, it allows selection committees to conduct "interviews or tests". Moreover the respondents strongly challenged the maintainability of the petition, protesting that the petitioner had neither pointed towards any fundamental right that was being adversely affected, nor the core requirement of "public interest" was fulfilled as the issue

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revolved around a restricted group of persons appointed in the EOBI and not in respect of the nation or the public at large.

12. We have heard the arguments of learned ASCs, who are representing different parties to these proceedings as well as for the interveners, and with their assistance carefully perused the bulky case record of these proceedings. As called upon by the Court, the petitioner Syed Mubassar Raza Jaffery in Const. P. No.6 of 2011 and Mr. Tajammal Hussain in HRC No.48012-P of 2010 made their respective submissions only to the extent of allegations of illegal appointments in EOBI, which are in line with the contentions raised in their respective petitions. In this regard, they further made reference to several documents as well as applicable service/ appointment rules and regulations of EOBI, which were daringly and dishonestly circumvented and violated by the officials of EOBI, at the helm of the affairs at the relevant time. The pith and substance of their arguments was that whatever grievances they have voiced in the present proceedings, those has been fully substantiated and corroborated from the documents produced by them and the report of fact finding committee on recruitment/appointments constituted by the present management of EOBI, has remained undisputed/ uncontroverted, rather conceded by the learned ASC for the official respondents Mr. Saiful Malook, Mirza Waqas Rauf, D.A.G. for the Federation of Pakistan and even learned ASCs

58 40

for the interveners have not ventured to say much to the contrary regarding the authenticity of such report, except that all this has happened due to change in the management of EOBI.

13. Mr. Abdul Hafeez Pirzada, learned Sr. ASC for the interveners during his arguments firstly stressed upon the humanitarian aspect of the case. According to him it will be highly unjust, unfair and harsh that in case these petitions are allowed so many appointees in the EOBI, who have been performing well to the satisfaction of the institution for many years, for no fault on their part, will now be removed from service and rendered jobless. More particularly, in the circumstances when already percentage of unemployment in the country has reached at a very high level, which is resulting in sheer frustration amongst the educated class of the country. He, however, seriously questioned the maintainability of the petition and H.R.C. within the ambit of Article 184(3) of the Constitution. According to him, such course, if followed by the Court, will negate the vested rights of the appointees with reference to Articles 4 and 10A of the Constitution, which ensures that every citizen is to be dealt with in accordance with law and has a right to fair trial. In support of his submissions, he placed reliance on the cases of Managing Director, SSGC Ltd. Versus Ghulam Abbas (PLD 2003 S.C. 724) and All Pakistan Newspapers Society versus Federation of

59 41

Pakistan (PLD 2004 S.C. 600). In the 1st case the apex Court dealt with hundreds of petitions of the employees of Sui Southern Company Limited in relation to their service dispute and in that context also considered the question of discrimination on the yardstick of Article 25 of the Constitution and scope of review under Article 188 of the Constitution. As a result the review petitions were allowed and cases were remanded to the Federal Service Tribunal for decision of their dispute afresh. In the 2nd case, broad principles for invoking jurisdiction of the Supreme Court under Article 184(3) of the Constitution were discussed. It was held that it provided an expeditious and inexpensive remedy for protection of fundamental rights from legislative and executive interference, particularly, in a situation when there is no other adequate remedy and that question of public importance with reference to enforcement of fundamental rights was involved. With these observations, the petition under Article 184(3) of the Constitution, challenging the vires of 7th Wage Board Award was held not maintainable, as the said award was only valid to the extent of working journalists and did not affect the public at large qua fundamental right of speech under Article 19 of the Constitution.

14. In the end Mr. Abdul Hafeez Pirzada reiterated his submission that for the sake of smooth functioning of the institution (EOBI) and to save the families of such appointees

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from starvation, a lenient view of the matter may be taken as regards the purported irregularities in their appointments. However, those responsible for such illegalities may be separately taken to task in accordance with law.

15. We have given due consideration to the submissions of the learned Sr. ASC, relating to exercise of our jurisdiction under Article 184 (3) of the Constitution, but are in disagreement with him for the reason that the controversy involved in the present petition and connected human rights case is clearly within the domain of public interest litigation qua violation of fundamental rights of citizens at large by a public body (EOBI) in the matter of selection and appointments. In such circumstances, it is the respondent No.1 EOBI, whose affairs are being probed and looked into by the Court and not the individual grievance by or against the appointees, who may be the affectees of the ultimate decision of the Court in these proceedings. As a matter of fact, on 12.9.2013 order for publication of general notice regarding the pendency of these proceedings was passed by this Court in order to afford an opportunity of hearing to the appointees of EOBI, whose appointments are under challenge in these proceedings or who are likely to be affected with the outcome of these proceedings. It was for this reason that office was directed to publish a general notice in few newspapers of wide circulation from Islamabad and Karachi, apprising all such

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43

employees of EOBI about the pendency of these proceedings so that in case, anyone of them has any interest in the fate of these proceedings, may appear and contest the matter. Thus, it was in the larger interest of justice and for the above reason that all the applications of interveners, who are more than 190 in number, were entertained and opportunity of hearing was allowed. Otherwise, they had no independent right to participate in the proceedings of this case or to allege violation of Articles 4 & 10A of the Constitution in their individual cases. If any case law is needed to fortify this view, reference can be made to the case of Sindh High Court Bar Association versus Federation of Pakistan (PLD 2009 S.C. 879), wherein the Court while expounding upon the ambit of Article 184 (3) settled the law by stating that it is now a well-entrenched principle that the breach of fundamental rights of a "class of persons, who collectively suffer due to such breach, and there does not seem to be any possible relief being granted from any quarter due to their inability to seek or obtain relief, ... are entitled to file petition under Article 184(3)". Such a view lends full support to the maintainability of the petition as the grievance in hand concerns the rights of more than 23,127 applicants whose applications were passed over due to nepotism and political pressure, in contravention of their fundamental rights enshrined under the Constitution, which in turn also affects the public at large as it calls into question

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the manner in which the bureaucratic system is being abused by the ruling elite. Such a view is also supported by another case of Syed Mahmood Akthar Naqvi v. Federation of Pakistan, (PLD 2013 SC 195) wherein the Court held that as the issue under examination concerned political pressure placed on the civil service by the executive, the petition was maintainable under Article 184(3) as it relates to the infringement of fundamental rights of civil servants under Article 9, 14 and 18 of the Constitution. It was recognized as being an issue of public importance as the civil service is deemed to be an essential component of the executive arm of the state. Yet another judgment of five member Bench of this Court, which supports the maintainability of this petition under Article 184(3) of the Constitution, is in H.R.C. No.40927-S of 2012 regarding pensionary benefits of the Judges of Superior Courts (PLD 2013 S.C. 829), wherein combined effect of Articles 184(3), 187 and 188 of the Constitution has been dilated with the observation that the apex Court has unlimited jurisdiction to set the law correct, to cure injustice, save it from becoming an abuse of the process of law and the judicial system and for this pass any order to foster the cause of justice; eliminating the chances of perpetuating illegality and to save an aggrieved party from being rendered remediless. Thus we have no doubt about the maintainability of this petition and the human rights case and the arguments of learned Sr. ASC Mr. Pirzada as

63 45

regards the limited scope of Article 184(3) of Constitution are devoid of force.

16. M/s Sardar M. Aslam and Athar Minallah, two other learned ASCs for some other appointees/respondents in these proceedings, have adopted the arguments of Mr. Pirzada with their additional submissions that in case an adverse order is passed against the appointees, whose appointments have been assailed in these two cases, their future will be ruined, therefore, a via media may be sorted out to accommodate them at their jobs or atleast in the fresh process of selection and appointments in the EOBI.

17. Ch. Afrasiab Khan, learned ASC for Raja Azeem-ul-Haq Minhas has made reference to various replies submitted on his behalf in response to C.M.A. No.5216 of 2012, which has been heard together with these petitions and contended that since during the pendency of these proceedings on 6.6.2013 he has resigned from his post in the World Bank, therefore, any further action against him would not be justified. However, as regards the irregularities highlighted by the petitioners in the appointment of Raja Azeem-ul-Haq Minhas in the EOBI qua his rapid promotions and deputation etc., he insisted that there is no such procedural lapse in this regard, which can be termed as illegal or mala-fide. Mere fact that he is son-in-law of the then Prime Minister Raja Pervaiz Ashraf cannot be taken as his disqualification to hold such

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46

high posts or get rapid promotions as it was done solely on merit criteria. However, he did not argue much as to the manner of his appointment and frequent promotions in the EOBI as mentioned in the report of fact finding committee, which also forms part of this judgment.

18. Conversely, Mr. Saiful Malook, learned ASC for respondents No.1 to 3, has uprightly supported the case of petitioners as regards hundreds of illegal appointments made in the EOBI during the period from January, 2009 to May 2012 and onwards, which are now under challenge in these two petitions or subject matter of contempt proceedings regarding other appointments made in EOBI during the pendency of these proceedings. He candidly stated that the earlier reply to these petitions submitted on behalf of EOBI was based on concocted facts and managed at the behest of the then Chairman, EOBI, who thought that he was above all laws of the land. He made reference to several documents, particularly, the lists of illegal appointees given in the memo of these petitions and the detailed report of fact finding committee on recruitment/appointments to show that how the practice of nepotism, corruption and political exigencies was rampantly followed in a *mala-fide* manner for making such illegal appointments. To sum up, he stated that all illegal appointments challenged in these proceedings or otherwise made during the pendency of these proceedings may be set

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aside and directions be issued to the management of EOBI for undertaking this exercise afresh in a transparent manner strictly in accordance with the rules and regulations of appointment and on merits.

19. Detailed facts recorded in the preceding paragraphs of this judgment, particularly, with reference to the undisputed documents gain full support from the report of fact finding committee on recruitment/appointments submitted by respondent No.1 before the Court on 28.8.2013. Therefore, before proceeding further it will be useful to reproduce the same as under:-

"Report of Fact Finding Committee on Recruitment/Appointment"

Recruitments made in the Institution (EOBI) since 2009 are under judicial scrutiny of the Hon'able Supreme Court of Pakistan in constitutional petition No.6 of 2011 and Human Rights Case No.48012-P of 2010.

2. In order to firm-up its position in the matter subjudice before the apex court and to examine the process of recruitment adopted in the Institution during the last three years, the new management of EOBI decided to carry out a fact finding exercise. A Committee comprising of the following officers was constituted to ascertain the facts of the recruitment made by the Institution during these years commencing from January 2009 vide Office Order No.259/2013 dated 25.7.2013 (Annex-I). The Committee was required to indicate irregularities/ violation of codal formalities of the prescribed procedure/ process of recruitment.

- | | | |
|------|---------------------------------|-------------------|
| i. | Pervaiz Ahmed, DG (Audit) | Convener |
| ii. | Javed Iqbal DG (HR &GAD) | Member |
| iii. | M. Meraj Nezamuddin, DDG (HR) | Member/ Secretary |
| iv. | Ch. Abdul Latif, Director (Law) | Member |

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48

v. Ferozuddin Sheikh, AD (Recruitment) Member

Mr. Ayaz Ahmed Uqaili DDG, IT has been co-opted as member vide Office Order No.286/2013 dated 26.8.2013.

3. EOBI (Employees' Service) Regulations, 1980 having been framed under Section 45 of EOB Act, 1976 and notified vide S.R.O. 413(1)/81 of Ministry of Labour, Manpower and Overseas Pakistanis (Labour Division) dated 9th May, 1981 published in the Gazette of Pakistan (Extra ordinary), EOBI Recruitment Procedures framed under Regulations-10 of EOBI (Employees' Service) Regulations, 1980 and relevant provisions of the Operating Manual (clause 02.4.3) approved in 64th meeting of the Board of Trustees held on 09.05.2003 regulate Recruitment in EOBI.

4. History of recruitment in EOBI reveals that whenever appointments to the posts of Executive Officer (Grade-6/BPS-16) & Assistant Director (Grade-07/BPS-17) had been made, written tests of the shortlisted candidates had been done. In 2007 written tests were held to short list the applicants even for the post of Deputy Director (Finance) in view of the large number of applications received for the posts so advertised.

5. From the records maintained in HR Department, EOBI Head Office, Karachi, it was observed that following recruitments had been carried out during the relevant period.

- A. Recruitment of 132 officers in June 2010 as per advertisement of 16.4.2009 (Annex-II)
- B. Recruitment by Absorption of seven (07) deputationist in March 2010 (Annex-III).
- C. Contract Appointment of 238 officials and their subsequent regularization by the Cabinet sub-committee from Sept 2011 to May 2012.

A. **Recruitment of 132 Officers:**

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6. It has been observed that the Institution (EOBI) called for applications through public notice published in leading newspapers on 16.4.2009 to fill up 213 vacant posts of officers and staff. Applications for the advertised posts were called through a Web-Portal specifically hosted for the purpose besides through P.O Box as per convenience of the applicants. (Annex-II).

7. As per record of the IT Department, which was managing the data of applicants, 23,137 applications (officers-19,195), staff-3,942) were received through post and e-mail. 17,979 applications were received by the cut-off date (15.5.2009) by web portal, whereas data entry of 5,158 applications received by post was completed by 14th July, 2009. After necessary filtration, data of 21,236 (officers-17,569 and staff-3,667) (Annex-IV) emerged to be referred as the "Original List" in the report subsequently. Post wise break-up of the applications received is detailed as under:-

i.	Dy. Director General	124
ii.	Director (Ops)	158
iii.	Director (Law)	48
iv.	Dy. Director (Ofc)	157
v.	Dy. Director (Ops)	411
vi.	Assistant Director (Ofc)	2502
vii.	Assistant Director (Ops)	4345
viii.	Assistant Director (Finance)	3925
ix.	Assistant Director (Law)	197
x.	Assistant Director I.T (Net Working)	1646
xi.	Assistant Director I.T (Software)	491
xii.	Assistant Director I.T (S&C)	542
xiii.	Executive Officer (Office)	3023
	Total (Officers)	17569
	Staff	3667
	Total (Officers and Staff)	21236

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8. While the HR Department in close liaison with IT Department (**Annex-V**) was gearing up to further process the recruitment against 132 posts of Officers, the EOBI management was changed. Mr. Mushtaq Ahmed Samo assumed additional charge of the Head of H.R Department in addition to his own duties as Secretary BoT. Complete data file was handed over to Mr. Mushtaq Ahmed Samo who under supervision of Dr. Imtiaz, then Special Assistant to the Chairman further processed the recruitment. Short-listing of the candidates were not done by the relevant Departmental Selection Committees. Three different Selection Committees were notified for conducting interviews for the posts of Executive Officers, Assistant Directors and Deputy Directors for all cadres viz. Operations, Office, Finance, IT and Law on geographical basis. Whereas, EOBI Recruitment Procedures prescribe one standing Departmental Selection Committees for each Cadre. (**Annex-VI**). Therefore, seven selection committees were required to be constituted for conducting interviews for the posts of Executive Officer, Assistant Director & Deputy Director in Operation/Office, Finance, I.T. and Law Cadres and for Director (Law), Director (Operations) and Deputy Director General (Operations).

9. Written Test for short listing of the large number of applications as detailed above should have been held as per practice and as required under clause 02.5.2.1(b) of the Operating Manual (**Annex-VII**). However, the recruitment process was finalized without any such written tests for the positions of Dy. Director/Assistant Director/Executive Officer and offers of appointment were issued (**Annex-VIII**). The whole process was completed by 01.06.2010.

10. Number of applications at the time of interview subsequently risen to 23,648 (**Annex-IX**). No record of call letters issued was maintained and original evaluation sheet (grade assessment) filled by the members of the Selection Committees were not preserved and placed on records to scrutinize/authenticate average marking prepared for appointments. Similarly police verification and medical tests of the appointed persons were not carried out in most of the cases.

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11. Scrutiny of the records reveal that 132 appointment letters were issued on 02.06.2010 to various persons across Pakistan on 01.06.2010 perhaps to escape from the injunctive order dated 02.06.2010, passed by the Peshawar High Court, Abbottabad Bench in writ petition No.209/2009 (Annex-X) restraining EOBI to issue appointment letter to any person. These appointment letters had been sent without any dispatch numbers and entering into the register for record maintenance and tracking.

12. Scrutiny of the records, relevant files and data submitted by IT Department during the process of recruitment, the Committee observed that a number of discrepancies/irregularities in the process of recruitment were carried out in these appointments. Defective short-listing owing to which candidates having un-matched/irrelevant qualifications, acquiring qualification after appointment, deficient post qualification experience, over-age and without required domiciles were entertained as indicated below:

- i. Unmatched/irrelevant qualifications: 21 cases
- ii. Acquiring qualifications after appointments: 29 cases
- iii. Deficient post qualification experience: 8 cases
- iv. Over age: 21 cases

B. Recruitment by absorption of seven (07) deputationists in March 2010.

13. Seven officials working on deputation in Grade-03, 06 & 07 as Assistant, Executive Officer and Assistant Director respectively were absorbed in EOBI w.e.f. 30th March 2010 vide Office Order No.53/2010 (Annex-III). It was observed that while absorbing these deputationists requirement of provincial/regional quota was not observed. It was also noted that in one case qualification prescribed for the post was also not observed.

C. Contract Appointment of 238 officials on contract/daily wages/contingent basis/internee & their subsequent regularization by the Cabinet sub-committee from September 2011 to May 2012:

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management of EOBI speaks volumes about the mismanagement, corruption, nepotism and politicising of the disputed appointments in a mala-fide manner, thereby crushing the merit criteria in a public owned establishment of the Government. It is extremely sad that despite the guidelines given by the apex Court in a series of judgments with reference to fundamental rights guaranteed to each citizen of this country in terms of Articles 4, 9 & 25 of the Constitution, qua selection and appointments in government service and public owned corporations and institutions, many persons like the then Chairman, did not realize or adhere to the reality of merit criteria and were adamant to play with the future of the younger generation for their own good and to achieve their nefarious designs. Though there is ample material available on record, *inter alia*, in the form of detailed list of hand picked appointees, reproduced in paragraph 14 of the memo of petition No.6 of 2011, and several others such lists placed on record of connected human rights case, containing large number of names of politicians, elected members of the National and Provincial Assemblies, Ministers and other persons of so called elite class in the country, however, we have purposely refrained from reproducing such lists to avoid exposing these persons at this stage as it may scandalize them or otherwise cause prejudice to their interest. But as a test case, to demonstrate how persons belonging to one political

72

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group and from two constituencies/areas (Mandi Bahauddin/Sargodha) from where Mr. Nazar Muhammad Gondal, brother of Chairman, EOBI Mr. Zafar Iqbal Gondal, was the elected M.N.A. (N.A. 109 Mandi Bah-u-din) and sitting Minister of Food & Agriculture/CADD from the ruling party, while Mr. Nadeem Afzal Chann, M.N.A. (N.A. 64 Sargodha) and sitting Chairman, PAC, nephew of Mr. Zafar Iqbal Gondal, Chairman, EOBI, were out of way, in an illegal manner obliged and accommodated in the matter of their appointments in bulk, and for the sake of ready reference, a chart prepared and produced by the petitioners, which remained uncontroverted, is reproduced as under to fortify this position:-

Sr. No	Name of Employee	Designation	Personal No	District / Domicile
1	Mutalli Khan Gondal	Director	924345	Mandi Baha-u-din
2	Muhammad Tahir	Asstt Director	924583	Mandi Baha-u-din
3	Pervez Iqbal Mughal	Asstt Director	927844	Mandi Baha-u-din
	Amir Shoaib	Asstt Director	924572	Mandi Baha-u-din
5	Shehzad Aleem	Asstt Director	925906	Mandi Baha-u-din
6	Wajid Waseem	Asstt Director	924629	Mandi Baha-u-din
7	Sheraz Tanveer	Asstt Director	925315	Mandi Baha-u-din
8	Faisal Shehzad	Asstt Director	925622	Mandi Baha-u-din
9	Imtiaz Ahmad	Asstt Director	928007	Mandi Baha-u-din
10	Khawaja Zulqarnain	Asstt Director	925166	Mandi Baha-u-din
11	Waqas Noor	Asstt Director	925984	Mandi Baha-u-din
12	Hafiz Qamar Abbas	Asstt Director	924594	Mandi Baha-u-din
13	Zaman Gondal	Asstt Director	924801	Mandi Baha-u-din
15	Sarfraz Ahmad Gondal	Executive Officer	925995	Mandi Baha-u-din
16	Imran Gondal	Executive Officer	924618	Mandi Baha-u-din
17	Syed Asad Ali	Executive Officer	926001	Mandi Baha-u-din

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18	Zaheer Abbas	Executive Officer	925600	Mandi Baha-u-din
19	Aftab Gondal	Executive Officer	925224	Mandi Baha-u-din
20	Gulzar Ahmad Tulla	Superindent	924083	Mandi Baha-u-din
21	Mudassar Shehzad Gondal	Asstt.	926669	Mandi Baha-u-din
22	Muqaddas Shehzad Gondal	Asstt.	927402	Mandi Baha-u-din
23	Muhammad Nawaz	Asstt.	927377	Mandi Baha-u-din
24	Muhammad Bux Tahir	Asstt.	926976	Mandi Baha-u-din
25	Muhammad Arshad	Asstt.	927479	Mandi Baha-u-din
26	Mukhtar Ahmad	Asstt.	928018	Mandi Baha-u-din
27	Naeem Abbas	Asstt.	927004	Mandi Baha-u-din
28	Nadeem Akhtar	Asstt.	927162	Mandi Baha-u-din
29	Sumera Yaseen	Asstt.	926987	Mandi Baha-u-din
30	Muhammad Razaq	Asstt.	926692	Mandi Baha-u-din
31	Rizwan Farooq	Asstt.	927275	Mandi Baha-u-din
32	Sajjad Akbar	Asstt.	926307	Mandi Baha-u-din
33	Irfan Ali	Asstt.	926921	Mandi Baha-u-din
34	Qamar Zaman	Asstt.	928041	Mandi Baha-u-din
35	Muhammad Bashir	Asstt.	928030	Mandi Baha-u-din
36	Iqbal Hussain	Asstt.	926829	Mandi Baha-u-din
37	Syed Qasim Raza	Asstt.	926512	Mandi Baha-u-din
38	Shama Mughees	Asstt.	926998	Mandi Baha-u-din
39	Tahlra Najaf	Asstt.	928029	Mandi Baha-u-din
40	Aoon Raza	Asstt.	927048	Mandi Baha-u-din
41	Maryam Noreen	Asstt.	926830	Mandi Baha-u-din
42	Umer Draz	Asstt.	927991	Mandi Baha-u-din
43	Nisar Ahmad	Asstt.	927037	Mandi Baha-u-din
44	Muhammad Shoab	Asstt.	926614	Mandi Baha-u-din
45	Shahwez Ahmad	Driver	926545	Mandi Baha-u-din
46	Malik Ahsan Sajjad	Driver	928074	Mandi Baha-u-din
47	Imran Nazeer	N.Q	926272	Mandi Baha-u-din
48	Naveed Hayder	N.Q	927151	Mandi Baha-u-din
49	Umair Ul Hassan	NQ	926374	Mandi Baha-u-din
50	Safdar	NQ	928198	Mandi Baha-u-din
51	Nasar Abbas	NQ	927140	Mandi Baha-u-din
52	Mohsan Raza	NO.	927071	Mandi Baha-u-din
53	Adnan Raza	NQ	927082	Mandi Baha-u-din
54	Umer Draz	N.Q	927297	Mandi Baha-u-din
55	Kashif Nawaz	N.Q	927300	Mandi Baha-u-din
56	Sajid Naeem	NQ	926750	Mandi Baha-u-din
57	Amjad Farooq	N.O.	927184	Mandi Baha-u-din

74

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58	Sajid Mehmood	N.Q	927322	Mandi Baha-u-din
59	Nadeem Hayat Gondal	Asstt Director	925939	Sargodha
60	Anees Ul Hassan Naqvi	Asstt Director	926636	Sargodha
61	Rizwan Ajmal Bhatti	Asstt Director	924641	Sargodha
62	Abdul Hafeez	Asstt Director	924607	Sargodha
63	Shoaib Harral	Asstt Director	925597	Sargodha
64	Qaisar Zaman	Asstt Director	925326	Sargodha
65	Muhammd Farman	Executive Officer	926896	Sargodha
66	Imran Faisal	Executive Officer	924709	Sargodha
67	Anjad Umer	Asstt.	927264	Sargodha
68	Muhammad Arshad	Asstt.	926965	Sargodha
69	Aoon Abbas Shah	Asstt.	927253	Sargodha
70	Ejaz	Asstt.	927311	Sargodha
71	Faisal Nadeem	Asstt	926910	Sargodha
72	Abdul Ghaffar	Asstt.	927286	Sargodha
73	Junaid Hassan	Assn.	926681	Sargodha
74	Muhammad Imran	Asstt.	927106	Sargodha
75	Muhammad Saglain	Asstt.	927242	Sargodha
76	Liaquat All	N.Q	924141	Sargodha
77	Azhar Abbas	NQ	928187	Sargodha
78	Muhammad Ijaz	NQ	927311	Sargodha
79	Mumtaz Ahmad	NQ	927446	Sargodha
80	Punan Khan	NQ	928085	Sargodha
81	Tauseef Ahmad	NQ	927435	Sargodha
82	Nadeem Akhtar	Asstt.	927162	Sargodha

Thus, to cut the long story short, the respondents and the interveners have nothing with them to defend these palpable illegalities in the process of appointments.

21. A careful examination of the whole record appended with these petitions, in particular the detailed order dated 25.3.2011, thereby taking cognizance of these allegations of corruption in the matter of appointments in EOBI, under Article 184(3) of the Constitution, and various subsequent orders passed in this case, go to show that ample opportunity was allowed to the respondents to defend their misdeeds in

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this regard, but to no avail, rather in the form of the report of the fact finding committee on recruitment/appointment, as reproduced above, eventually the respondents have conceded to the case of the petitioners in this regard, we, therefore, need no further deliberations and reasons to undo such wrongs and illegalities. If any case law is needed to fortify our view, a reference can be made to the following cases:-

- (1) Muhammad Yasin versus Federation of Pakistan (PLD 2012 S.C. 132)
- (2) Muhammad Ashraf Tiwana versus Pakistan (2013 SCMR 1159)
- (3) Tariq Aziz-ud-Din: in re (2010 SCMR 1301)
- (4) Mahmood Akhtar Naqvi versus Federation of Pakistan (PLD 2013 S.C. 195)
- (5) Contempt proceedings against Chief Secretary, Sindh and others (2013 SCMR 1752).

22. In the 1st case of **Muhammad Yasin** (*supra*) the appointment of Chairman Oil and Gas Regulatory Authority (OGRA) was declared illegal. In the 2nd case of **Muhammad Ashraf Tiwana** (*supra*) the appointment of the Chairman Securities and Exchange Commission of Pakistan (SECP) was held to be in contravention to statutory requirements. Both these cases reiterated the principle that appointments made in a statutory body or Corporation under the control of Provincial or Federal Government in an arbitrary and capricious manner cannot be allowed to hold the field. In the 3rd case of **Tariq Aziz-ud-Din** (*supra*) this Court

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underscored the integral link between good governance and a strong and honest bureaucracy. It was stated that this could only come about if appointments made were based on a clear merit criterion, in accordance with the relevant laws and rules as opposed to favouritism and nepotism. In the 4th case of **Syed Mahmood Akthar Naqvi** (*supra*) the Supreme Court, examining the issue of political pressure placed on the civil service by the executive, held that the matter was one of public importance as such undue influence by political powers infringed the fundamental rights under Articles 9, 14, 18 and 25 of the Constitution. In the 5th case, which is a more recent judgment of this Court, relating to **contempt proceedings against the Chief Secretary Sindh and others** (2013 SCMR 1752), wherein, *inter alia*, vires of certain legislative instruments introduced by the Sindh Government regarding regularization and absorption of civil servants (particularly, in the police department) was under scrutiny/challenge, the Court examined all the relevant aspects of the case in detail and expressed its views about the maintainability of petitions, absorption, deputation, out of turn promotions and reemployment in Government service qua their subsequent validation through some legislative instruments; principle of locus poenitentiae and effect of such legislation attempting to nullify the effect of the judgments of the Superior Courts. In this regard, while striking down these pieces of legislation,

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being contrary to the spirit of Articles 240 and 242 of the Constitution and various provisions of Sindh Civil Servants Act 1973, it laid down several guiding principles. The principle of law propounded in this judgment, with reference to many other earlier judgments of the Apex Court, lend full support to the case of the present petitioners, as regards illegal appointments, contract appointments, absorptions and their regularization etc., particularly, when these acts are motivated to frustrate and nullify some earlier judgments/orders of the Superior Court in a dishonest, colourful and *mala-fide* manner, as discussed in the earlier part of this judgment and hereinafter. All the cases discussed above reveal that the jurisprudence of this Court has been clear and consistent with regard to the manner in which appointments to public offices are to be made strictly in accordance with applicable rules and regulations, without any discrimination and in a transparent manner. Thus, it is essential that all appointments to public institutions must be based on a process that is palpably and tangibly fair and within the parameters of its applicable rules, regulations and bye-laws. But conversely, it is a sad fact of our bureaucracy that it can be so susceptible to the whims and wishes of the ruling elite class etc, which results in an obvious weakening of state institutions such as the EOBI, whereby the general public, whose interest such establishments have been

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charged with protecting, are adversely and heavily affected in different ways.

23. Indeed, if we allow these petitions substantial hardship is likely to be caused to many of the respondents/appointees who will lose their appointment/jobs because of the illegalities in their respective appointments committed by EOBI, but the fact remains that such ill-gotten gains cannot be defended/protected under any cannon of law or even on humanitarian considerations, as, such gains availed by the illegal appointees were at the cost of other deserving candidates who had applied for these posts, being citizens of this country, with a legitimate expectation that they would be able to seek appointment on the basis of their eligibility-cum-merit criteria to be observed as per the applicable rules and regulations of the EOBI. From the material available on record, it is crystal clear that even the respondents in EOBI against whom allegations of nepotism, corruption and mala-fide have been levelled have offered no legitimate defence except to say that such exercise may be protected for the benefit of appointees. Similar is the position in the case of appointment of Raja Azeem-ul-Haq Minhas, as evident from the material placed on record, which shows that how after his resignation from a post in BS-18 in the Income Tax Group, he jumped in the EOBI, got appointment and promotions from one step to another to reach BS-21 within a short period of three years.

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We have specifically asked Chaudhry Afrasiab Khan, learned ASC to show us any provision of law, whereby an employee of the institution like EOBI can be appointed on deputation in the Prime Minister Secretariat as Joint Secretary (BS-20) and within no time of his coming back, promoted as Director General (BS-21), but he had no plausible answer to such query. As a matter of fact, looking to the material available on record, the discussion about illegal appointments in the EOBI, made in the preceding paragraphs of this judgment is a drop in the bucket what has exactly happened in this whole process during the year 2009 and thereafter from time to time.

24. Having discussed as above, another important aspect of the case, which needs serious consideration is about the fate of the illegal appointees, which is subject matter of consideration in the present proceedings. If we look at this aspect of the case from the angle of those who have succeeded to get appointments in the manner, as discussed above, some of them may claim that since they met the requisite qualifications for the posts and were thus appointed, they cannot be made to suffer due to illegalities committed by the management of EOBI. However, when we place their cases for appointment in juxtaposition to the other applicants, who had applied for these vacancies and are 23648 in number, we find that these candidates having equal right of opportunity as citizens of this country, in terms of Article 25 of the

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Constitution were thrown out of the competition despite the fact that they also met the requisite qualifications and might have been more meritorious, but could not exert either political pressure or avail the fruits of nepotism and corruption, forming basis for the selection and appointment of other candidates, many of whom had not even applied for the job in terms of the advertisement for these vacancies made in the month of April, 2009, and in this manner they succeeded in getting entry from the backdoor at the cost of many other *bona-fide* candidates, whose applications were literally thrown in the dust bin in an un-ceremonial manner just for the sake of accommodating the blue eyed ones. All these factors, are over and above the violation of rules, regulation and other codal formalities meant for these appointments, *inter alia*, highlighted by the fact finding committee on recruitment/ appointment in its report, which is a serious subject for the reason that it is based on examination of the entire original record of such proceedings of appointments, right from the date of publication of advertisement regarding these vacancies, and till date none has come forward to question the impartiality of the committee or the authenticity and correctness of such report. In these circumstances, in our opinion, if the appointment of any single appointee during this process is protected on one or the other pretext or for any other consideration it will amount to protecting their ill-gotten

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gains, acquired through unlawful means, and to perpetuate corruption and discrimination under the disguise of sympathetic consideration for such appointees for the sake of their economic well being.

25. In the same context, we have also considered as to whether the appointees in the EOBI, who may be the ultimate affectees of this judgment's fall out, could be allowed to participate in the fresh process of selection and appointments in terms of this order? Our answer to this question is twofold. Firstly, though the appointments of these persons have been challenged under Article 184(3) of the Constitution within the ambit of public interest litigation and none of other applicants, who were more than 23127 in numbers, has come forward to agitate/assert his own individual grievance before the Court, nevertheless, their legal and Constitutional rights have been widely infringed at the hands of the then management of EOBI. Thus, even in their absence their interest is to be equally safeguarded on the principle of justice and fair play; secondly, it may amount to giving a premium to the appointees coming from the backdoor if we allow their participation in the forthcoming process of appointment in the EOBI as a special case. In these circumstances, we deem it proper to leave it open for the management of EOBI to decide the question of participation of the affectees of this judgment in the fresh/new process of

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selection and appointments in the affirmative or otherwise. But in case decision of the management of EOBI is in the affirmative, it will be implementable only in the situation when the record of other applicants in response to the earlier advertisement of April, 2009 etc., is intact with them and they are also allowed equal opportunity of participation. To put it in other words, in case the management of EOBI decides to allow all those applicants who have submitted their applications in response to the advertisement made in April, 2009 or thereafter, which as per report of the fact finding committee are more than 23,127 in numbers, then the affectees of this judgment will also be entitled for similar treatment. Needless to observe that for the process of selection and appointments as per criteria fixed by the management of EOBI fresh applications will also be invited and processed in a transparent manner without any discrimination, on requisite merit criteria for each post.

26. Another aspect of the case, which needs further examination, is the appointment of 238 employees/officials in the EOBI on contract/daily and contingency basis during the period September, 2011 to May, 2012 and their purported regularization. In this regard, apart from the material placed on record by the petitioners alongwith the contempt application in HRC No.49012-P of 2010, duly accompanied with requisite documents in support thereof,

there is also the report of the fact finding committee on recruitment/ appointment, reproduced above, which goes to show that these 238 employees in Grade-1 to Grade-9 were initially appointed on contract basis and for this purpose procedure prescribed under the rules and regulations of respondent EOBI was again flagrantly and ruthlessly violated. Not only this, subsequently, in a colourable and *mala-fide* manner, for their regularization some summaries were floated and their illegal approval was obtained from the Cabinet Sub-Committee, which otherwise neither figures anywhere in the hierarchy of EOBI nor has any legal authority to rectify such illegal, wrong and corrupt practice of appointments. It is strange to notice that these appointments were made at a time when there were no available posts for these persons and this whole exercise was, on the face of it, undertaken on the basis of nepotism and political pressure in vogue during that period. The learned ASC for the respondent EOBI and the D.A.G. have not defended this action, while the learned ASCs representing some of these appointees have also not been able to satisfy this Court that how the Cabinet Sub-committee can intervene in the functioning of the EOBI and commit such illegality in violation of its rules and regulations to protect these illegal appointments or to bless them with any form of legitimacy. In addition to it, it is also pertinent to mention that all this exercise was undertaken by the respondents despite specific

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64

stay order issued by this Court on 21.1.2011, which reads as follows:-

"Mr. Tajammal Hussain son of Khadim Hussain, Senior Assistant, EOBI has moved an application to Honourable Chief Justice of Pakistan alleging serious allegations qua fresh recruitments made by the Chairman, EOBI in flagrant violation of the prevalent rules, regulations and policy.

2. After having gone through the entire record furnished by the complainant as well as press clippings (Daily News & Jang), wherein all the necessary details qua each of the new appointee have been furnished. We are tentatively of the view that prima facie the prescribed procedure was never followed and for the sake of arguments if it is admitted that there is no prescribed procedure, the principles of natural justice have been violated ruthlessly. It is worth mentioning that on 15.5.2009, applications were called against 250 vacant vacancies in EOBI. It is amazing that no short listing could be made, no interview or written test whatsoever was got conducted, but on the contrary the vacant vacancies have been distributed under political pressure and to oblige the people of 'Mandi Bahauddin' which is the constituency of the Chairman.

3. Chairman, EOBI is present and has attempted to justify his actions but failed to point out that under which provision of the law of Employees' Old Age Benefit Act, 1976 (in short EOBI Act) he was competent to make all such appointments, including appointments on contract basis that too from Mandi Bahauddin. It is conceded that no advertisement was made for contract appointments as the nature whereof was ad-hoc and temporary.

4. Be as it may, it appears that every appointment has been made in a reckless, careless and irresponsible manner without adhering to the relevant procedure and provisions of law enumerated in the EOBI Act and rules/regulations made there under. The explanation furnished by the Chairman, EOBI and Secretary, Ministry of Labour and Manpower is

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unsatisfactory. However, in the interest of justice matter is adjourned enabling the Chairman, EOBI and Secretary, Ministry of Labour and Manpower to furnish a concise statement indicating all the details qua appointments made pursuant to the advertisement appeared in various newspapers, whereby applications were invited on 15.5.2009 or otherwise. The details regarding appointments made on contract basis shall also be furnished. Entire record regarding above mentioned appointments shall be produced on the next date of hearing. Chairman, EOBI and Secretary, Ministry Labour and Manpower may also furnish additional documents, if need be, before the next date of hearing. Similarly, the complainant is also at liberty to file additional documents. It is, however, directed that till disposal of this human rights case, no more appointment shall be made by the Chairman EOBI, Secretary Ministry of Labour and Manpower and at the direction of concerned Minister. Matter adjourned and shall be treated as part heard. To come up on 8.2.2011." (underlining given for emphasis)

Obviously, in such circumstances all the appointments made in violation of the directions/order of this Court are nullity in the eyes of law, thus, cannot be blessed with any legitimacy or protection under any canon of law. As a matter of fact, this matter would require further probe into these allegations in the context of violation of the stay order dated 21.1.2011. To sum-up, the 238 appointments, separately referred to and discussed in the report of fact finding committee are also to be struck down, being illegal, void and of no legal consequence, while contempt proceedings against those responsible for this highhandedness and illegality are to be initiated and continued separately, for which the office shall prepare a separate file and issue notices to the concerned officials of EOBI and all others found involved in this scam.

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27. As a sequel of above discussion, both these petitions are allowed and disposed of in the following terms:-

- (a) All the illegal appointments, deputations and absorptions made in the EOBI, as detailed in the report of fact finding committee on recruitment/ appointment, are declared to be without lawful authority and of no legal effect. Accordingly their services stand terminated forthwith;
- (b) All these vacancies and other available vacancies in EOBI shall be advertised and filled afresh strictly in accordance with applicable rules and regulations, subject to prescribed quota, requisite qualifications and merit criteria, for which the Chairman, EOBI shall be personally responsible to ensure transparency;
- (c) The matter regarding all the illegal appointments, including the appointment of Raja Azeemul Haq Minhas in the World Bank, shall be investigated by the NAB authorities; the respondents No.3 to 7 and all others directly or indirectly involved in the process of such illegal appointments on the basis of corruption, nepotism and political exigencies shall be proceeded against in accordance with law with intimation regarding compliance of these directions to this Court within two months.

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(d) Office shall prepare and maintain a separate file for initiating contempt proceedings, under Article 204 of the Constitution and other enabling provisions of contempt laws, against all those who are, *prima-facie*, found guilty of violation of order dated 21.1.2011 in H.R.C. No.48012 of 2010, particularly in the process of appointment of 238 employees/officials during the period September 2011 to May 2012.

In view of the above, other miscellaneous applications filed in the Constitutional Petition No.6 of 2011 and H.R.C. No.49012-P of 2010 also stand disposed of.

Judge

Judge

Judge

Announced at Islamabad
on 17th March, 2014

Judge

Approved for reporting
Riaz

98

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No.615/2014

Muhammad Jamil

(Appellant)

Versus

Government of Khyber Pakhtunkhwa through its Chief Secretary, Civil
Secretariat, Peshawar, Peshawar and 07 others.

(Respondents)

WRITTEN REPLY ON BEHALF OF RESPONDENT NO.5

Respectfully Stated:-

Para wise reply on behalf of respondent No. 5 is submitted as follows:-

OP' FACTS

- 1- The para is not denied.
- 2- Dose not concerned with respondent, hence no need to reply.
- 3- Dose not concerned with respondent, hence no need to reply .
- 4- Dose not concerned with respondent, hence no need to reply

TO GROUNDS

a to e- All the grounds do not pertain to respondent, hence no need to reply.

f- legal points, hence no need to reply .

PRAYER:

In view of the above made submissions the answering respondent has no objection to disposal of the appeal by this Honorable Tribunal according to law & justice.

Humbly,

Dated 29/12/2014


Deputy Commissioner/
(Former DCO) Tank

AFSIDAVIT

I, Muhammad Kashif Nadeem, the representative for answering respondent, hereby solemnly affirm and declare on oath that contents of the para wise reply are correct as per official records and that nothing is willfully concealed or kept from the Tribunal.

Dated

28-01-015


Deponent