

Sr. No	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	17.06.2019	<p align="center"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u> Service Appeal No. 407/2018</p> <p align="center">Date of Institution 22.03.2018 Date of Decision 17.06.2019</p> <p>Muhammad Usman S/o Shahzada Office Chowkidar (Watchman) office of the Executive Engineer Public Health Engineering Division Karak.</p> <p align="right">Appellant</p> <p align="center">Versus</p> <ol style="list-style-type: none"> Government of Khyber Pakhtunkhwa through Secretary Public Health Engineering Department, Khyber Pakhtunkhwa Peshawar. The Chief Engineer (South) Public Health Engineering Department Khyber Pakhtunkhwa, Peshawar. The Executive Engineer, Public Health Engineering Division Karak. Asad Farooq S/o Asif Farooq R/o Mir Hawas Banda, Tehsil Tekht-e-Nasrati, District Karak Chowkidar of Office of the Executive Engineer Public Health Division Karak. <p align="right">Respondents</p> <p>Mr. Muhammad Hamid Mughal-----Member(J) Mr. Hussain Shah-----Member(E)</p> <p align="center"><u>JUDGMENT</u> <u>MUHAMMAD HAMID MUGHAL, MEMBER:</u> Appellant present. Learned counsel for the appellant present. Mr. Riaz Paindakheil learned Assistant Advocate General present.</p> <p>2. The appellant has filed the present service appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 13.12.2017 of respondent No.3 whereby the appellant was</p>

Handwritten signature and initials.

relieved from his duties as Office Chowkidar PHE Division Karak and was directed to report his arrival to the concerned Division of PHED due to his promotion as Junior Clerk vide order dated 28.11.2017.

3. Learned counsel for the appellant argued that the appellant is performing his duties as Chowkidar in the office of respondent No.3; that promotion order dated 28.11.2017 of 19 Class-IV employees to the post of Junior Clerk was issued and the appellant is also amongst those promotees and was adjusted as Junior Clerk at PHE Division Hangu; that father of the appellant being hurt patient, needs proper care and look after; that the appellant therefore informed respondent No.3 about his decision that he was not willing to accept promotion and joining of duties at Hangu; that the appellant also submitted undertaking to the effect of declining the benefit of promotion; that despite the fact that the appellant has declined to accept his promotion, respondent No.3 vide impugned order dated 13.12.2017 relieved the appellant as Chowkidar from PHE Division Karak and vide order dated 04.12.2017 appointed the private respondent No.4 at the same post; that the private respondent No.4 is the son of SDO of the office of respondent No.3 ; that the respondent No.3 has also stopped the salary of the appellant; that the respondent No.3 without any advertisement and without any recommendation of the DSC appointed private respondent No.4 as Chowkidar in the clandestine manner. Learned counsel for the appellant while relying upon Rule-7 Sub Rule-5 of Khyber

SP

Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 stressed that since the appellant had already declined to accept the promotion as Junior Clerk, therefore, respondent No.3 had got no legal authority to compel the appellant for accepting promotion; that the appointment of private respondent No.4 at the post of the appellant is illegal and void. Learned counsel for the appellant vehemently stressed that the impugned relieving order dated 13.12.2017 may be set aside.

4. As against that learned Assistant Advocate General argued that the appellant has been adjusted/posted against the vacant post of Junior Clerk in PHE Division Hangu by promotion; that due to the promotion of the appellant from the rank of Office Chowkidar to the rank of Junior Clerk, private respondent No.4 was appointed as Office Chowkidar on need basis; that the appellant did not timely inform the respondent department that he was not willing to accept the post of Junior Clerk.

5. Arguments heard. File perused.

6. Rule-7 Sub Rule-5 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 clearly envisages about the discretion of a civil servant to forego his right of promotion.

7. From the departmental appeal/application dated 15.12.2017 filed by the appellant and office letter dated 03.01.2018 of respondent No.2 addressed to respondent No.3 leads to the conclusion that the appellant has timely communicated to the



respondent department his decision to forego his promotion.

8. In view of above, this Tribunal is constrained to hold that the appellant cannot be forced to accept promotion as Junior Clerk against his will. Consequently the present service appeal is accepted and the impugned order is set aside. Parties are left to bear their own costs. File be consigned to the record room.



(Hussain Shah)
Member



(Muhammad Hamid Mughal)
Member

ANNOUNCED

17.06.2019

5. ¹[Departmental Promotion and Selection Committee/Board].-- (1) In each Department or office of Government there shall be one or more Departmental Promotion Committee and Departmental Selection Committee ²[or, as the case may be, Departmental Selection Board], the composition of which shall be determined by the Services and General Administration Department or the Department in consultation with the Services and General Administration Department.

(2) Each such Committee ³[or the Board, as the case may be], shall consist of at least three members, one of whom shall be appointed as Chairman.

⁴[6. Procedure when recommendation is not accepted.]---When an appointing authority for Basic Pay Scale 17 or below does not accept the recommendation of a Departmental Promotion or Selection Committee, or the Departmental Selection Board, as the case may be, it shall record its reasons and obtain orders of the next higher authority.]

PART-II APPOINTMENT BY PROMOTION OR TRANSFER

7. Appointment by Promotion or Transfer.---⁵[(1) Except as otherwise provided in any service rules for the time being in force, appointment by promotion or transfer to posts in respect whereof the appointing authority under rule 4 is the Chief Minister shall ordinarily be made on the recommendation of the Provincial Selection Board and promotion and transfer to posts other than those falling within the purview of the Provincial Selection Board shall ordinarily be made on the recommendation of appropriate Departmental Promotion Committee.]

(2) Appointment by transfer shall be made from amongst the persons holding appointment on regular basis in the same basic pay scale, in which the posts to be filled, exists.

(3) Persons possessing such qualifications and fulfilling such conditions as laid down for the purpose of promotion or transfer to a post shall be considered by the Departmental Promotion Committee or the Provincial Selection Board for promotion or transfer, as the case may be.

⁶[(4) No promotion on regular basis shall be made to posts in Basic Pay Scale 18, unless the officer concerned has completed such minimum length of service as may be specified from time to time, or, in case of posts in Basic pay Scale 19 to 21, the officer, besides having the minim length of service for the time being required for promotion, has also attended such training and passed such departmental examination as may be prescribed from time to time.]

1. The Heading substituted by Notification No. SORI(S&GAD)2-7/86, dated 08-12-1994.
2. Inserted by Notification No. SORI(S&GAD)2-7/86, dated 08-12-1994.
3. The words inserted by Notification No. SORIII(S&GAD)2-7/86, dated 08-12-1994.
4. Rule 6 substituted by Notification No. SORIII(S&GAD)2-7/86, dated 08-12-1994.
5. Sub-rule(1) of rule 7 substituted by Notif. No. SORI(S&GAD)4- 1/80(Vol.II), dated 14-01-1992.
6. Sub-rule 4 of Rule 7 substituted by Notif. No. SOR-I(S&GAD)4-1/80 (Vol-III) dated 30-12-1999.

Please see Next Page No 21.

on behalf of appellant.

ESTA CODE Establishment Code Khyber Pakhtunkhwa

¹[(5) If on an order of promotion or before promotion any civil servant declines in writing, to accept promotion, such civil servant shall not be considered for such promotion for the next four years following the order:

Provided that if he declines to avail the benefit of promotion for the second time, then he shall stand superseded permanently for such promotion.]

8. Inter-Provincial Transfer.---(1) Persons holding appointment in BPS 1 to 15 under Federal Government and other Provincial Government may, in deserving cases, be transferred to equivalent posts under these rules:--

Provided that:-

- (i) the Federal Government or the Government of the Province concerned, as the case may be, has no objection to such a transfer;
- (ii) the person seeking transfer possesses the requisite qualification and experience and the post to which his transfer is intended can, under the rules, be filled by transfer;
- (iii) the person concerned holds appointment to the post in his parent Department on regular basis;
- (iv) the person concerned is a bonafide resident of the Khyber Pakhtunkhwa;
- (v) a vacancy exists to accommodate the request of such a transfer; and
- (vi) provided further that in most deserving cases, the merit of which shall be determined on case to case basis and the decision of the Competent Authority in that behalf shall be final, Government may allow transfer of a civil servant in BPS-16 and above, subject to the aforesaid conditions.

(2) A person so transferred shall be placed at the bottom of the cadre strength which he joins for the purposes of determining his seniority vis-a-viz other members borne on the cadre.

(3) It will be the sole discretion of the appointing authority to accept or refuse a request of transfer under this rule and any decision made in this behalf shall be final and shall not be quoted as precedence in any other case.

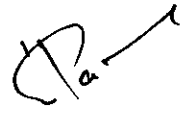
9. Appointment on Acting Charge or current Charge Basis.---

(1) Where the appointing authority considered it to be in the public interest to fill a post reserved under the rules for departmental promotion and the most senior civil servant belonging to the cadre or service concerned, who is otherwise eligible for

17.06.2019

Learned counsel for the appellant present. Mr. Riaz Paindakheil learned Assistant Advocate General present. Vide separate judgment of today of this Tribunal, placed on file, the present service appeal is accepted and the impugned order is set aside. Parties are left to bear their own costs. File be consigned to the record room.


(Hussain Shah)
Member

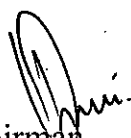

(Muhammad Hamid Mughal)
Member

ANNOUNCED
17.06.2019

17.1.2019


Counsel for the appellant and Addl. AG alongwith Muhammad Yasin, Superintendent for the respondents present.


Reply on behalf of respondents No. 1, 2 & 3 received and placed on record. To come up for arguments before D.B on 28.03.2019. The respondents shall pay cost of Rs. 1000/- as ordered on 23.11.2018 positively on next date of hearing. The appellant may submit rejoinder, if so desires, within a fortnight.


Chairman

28.03.2019

Due to general strike of the bar, the case is adjourn. To come up for further proceeding on 17.06.2019 before D.B.


Member


Member

23.11.2018

Appellant alongwith his counsel present. Mr. Kabirullah Khattak, Additional AG on behalf of official respondents No. 1 to 3 present. Written reply by private respondent No 4 has already submitted. Written reply on behalf of official respondents No. 1 to 3 not submitted despite last chance. Learned Additional AG requested for further adjournment. Last opportunity is further extended subject to payment of cost of Rs. 1000/- which shall be borne by the respondents from their own pockets. Representative of the department is also not in attendance therefore, notice be also issued to official respondents No. 1 to 3 with the direction to direct the representative to attend the court and submit written reply on the next date positively. Adjourned. To come up for written reply/comments and cost of Rs. 1000/- on behalf of official respondents No. 1 to 3 on 11.12.2018 before S.B.


Muhammad Amin Khan Kundi
Member


11.12.2018

Appellant alongwith his counsel present. Mr. Muhammad Yasin, Superintendent alongwith Mr. Kabirullah Khattak, Additional AG on behalf of official respondents No. 1 to 3 present. Written reply by private respondent No. 4 has already submitted. Written reply on behalf of official respondents No. 1 to 3 not submitted. Representative of the department requested for further time for filing of written reply. Adjourned. To come up for written reply/comments on behalf of official respondents No. 1 to 3 on 17.01.2019 before S.B.


Muhammad Amin Khan Kundi
Member

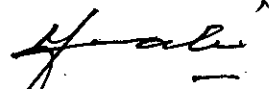
17.10.2018

Counsel for the appellant present. Mr. Muhammad Yaseen B&AO alongwith Mr. Kabirulalh Khattak, Addl: AG for official respondents present. Counsel for private respondent no.4 present. Written reply on behalf of official respondents not submitted. Requested for further adjournment. Granted but as a last chance. Case to come up for written reply/comments of official respondents on 30.10.2018 before S.B. The restraint order shall continue till the date fixed.


(Ahmad Hassan)
Member

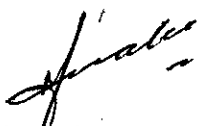
30-10-18

Due to Retirement of Honorable
Chairman the Tribunal is nonfunctional
therefore the case is adjourned to come up
for the same on 12-11-2018


Reader

12.11.2018

-Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 23.11.2018. Written reply not received. Mr. Saleem Ur Rehman Admin Officer representative of respondents absent.


Reader

09.08.2018

Appellant Muhammad Usman in person present. Mr. Kabirullah Khattak, Addl: AG for official respondents no. 1 to 3 present. Mr. Farooq, private respondent no.4 present and submitted written reply which is placed on file. Learned AAG sought some time to submit written reply. Case to come up for written reply/comments by official respondents on 20.08.2018 before S.B.


Chairman


20.08.2018

Appellant in person and Mr. Kabirullah Khattak alongwith Mr. Saleem ur rehman Admin officer for the official respondent present. Private respondents no.4 already submitted written reply. Learned AAG seek time to submit written reply. To come up for written reply/comments on 05.09.2018 before S.B.


(Muhammad Amin Kundi)
Member

05.09.2018

Counsel for the appellant and Mr. Kabirullah Khattak, Additional Advocate General for respondents present. Written reply already submitted by the private respondent no.4. Written reply not submitted on behalf of the respondents. Learned Additional Advocate General requested for adjournment. Last opportunity is granted. To come up for written reply/comments on 17.10.2018 before S.B.


(Muhammad Amin Kundi)
Member

25.06.2018

Appellant alongwith his counsel present. Mr. Muhammad Jan, Deputy District Attorney alongwith Mr. Muhammad Asif, SDFO for official respondents No. 1 to 3 also present. None present on behalf of private respondent No. 4 therefore, proceeded ex-parte. Written reply on behalf of official respondents not submitted. Learned Deputy District Attorney requested for further time for filing of written reply. Granted. To come up for written reply/comments on 06.07.2018 before S.B. The restraint order shall continue till the date fixed.



(Muhammad Amin Khan Kundi)
Member

06.07.2018

Appellant with counsel present. Mr. Sardar Shoukat Hayat, Additional AG alongwith Mr. Saleem, A.O for official respondents No. 1 to 3 and private respondent No. 4 with counsel also present. On the previous date ex-parte proceedings order was passed against private respondent No. 4. Today learned counsel for private respondent No. 4 submitted application for setting-aside ex-parte proceeding against private respondent No. 4. Learned counsel for the appellant has expressed no objection on acceptance of the said application. The application is accepted and the ex-parte proceedings initiated against private respondent No. 4 is set-aside. Respondents are directed to submit written reply on the next date positively. Adjourned. To come up for written reply/comments on 09.08.2018. The restraint order shall continue till the date fixed.



(Muhammad Amin Khan Kundi)
Member

07.05.2018

The Tribunal is non functional due to retirement of the Honorable Chairman. Therefore, the case is adjourned. To come up for the same on ~~22.05.2018~~ before S.B.



Reader

22.05.2018

Appellant in person present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Saleem-ur-Rehman, AD for official respondents No. 1 to 3 also present. Private respondent No. 4 is not present, however, learned Additional AG informed the court that the mother of private respondent No. 4 has died today and due to this reason he cannot attend the court today. Written reply not submitted. Learned Additional AG seeks further adjournment. Last opportunity granted. Adjourned. To come up for written reply/comments on 04.06.2018 before S.B. The restraint order shall continue till the date fixed.



(Muhammad Amin Khan Kundi)
Member

04.06.2018

Counsel for the appellant and Addl: AG for respondents present. Written reply not submitted. Requested for adjournment. Adjourned. To come up for written reply/comments on 25.06.2018 before S.B. *The restraint order shall continue till the date fixed.*



(Ahmad Hassan)
Member

09/04/2018

A. No. 407/2018, M. Usman vs P.H.E Dept.

Learned counsel for the appellant preliminary arguments heard.

In the present appeal the appellant has filed the present service appeal against the order dated 13.12.2017 whereby respondent No.3 relieved him from his division and against the order dated 04.12.2017 whereby private respondent No.4 was appointed as Office Chowkidar against the post occupied by the appellant.

Points raised need consideration. The present appeal is admitted to regular hearing subject to all just/legal objections. The appellant is directed to deposit security and process within 10 days thereafter notice be issued to respondents for written reply/comments. To come up for written reply/comments on 24.04.2018 before S.B.

Learned counsel for the appellant stressed for the grant of ad-interim relief. Tentative assessment of the record constitutes prima facie case in favor of the appellant. In view of the grounds as agitated in the memo of appeal the operation of the impugned order dated 13.12.2017 and impugned appointment order dated 04.12.2017 is suspended till the date fixed.

Appellant Deposited
Security Process Fee


Member

24.04.2018 Clerk of the counsel for appellant and Addl: AG for the respondents present. Mr. Adnan Khattak Advocate present and submitted fresh wakalat nama on behalf of private respondents No. 4. Written reply not submitted. Requested for adjournment. Adjourned. To come up for written reply/comments on behalf of **07.05.2018** before ~~the~~ meanwhile operation of the impugned order dated 13.12.2017 and impugned appointment order dated 04.12.2017 is suspended till the date fixed.

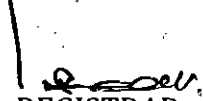


Chairman

Form-A

FORM OF ORDERSHEET

Court of _____

Case No. 407/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	22/03/2018	<p>The appeal of Mr. Muhammad Usman presented today by Mr. Abdul Nasir Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	26/03/18.	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>09/04/18.</u></p> <p style="text-align: right;"> MEMBER</p>

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

Service Appeal No 407 /2018

Muhammad Usman

(APPELLANT)

VERSUS

1. Govt of khyber pakhtunkhwa through secretary public health engineering Deptt khyber pakhtunkhwa & Others

(RESPONDENTS)

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S.No	Description of Documents	Annexure	Page
1	Memo of the Appeal		1-7
2	Copy of appointment order	"A"	8
3	Copy of the promotion order as junior clerk	"B"	9-10
4	Copy of affidavit regarding unwillingness for promotion	"C"	11
5	Copy of impugned relieving order dated:13-12-2017 & copy of impugned appointment order of respondent No.4 dated:04-12-2017	"D & E"	12 13
6	Copy of departmental representation address to respondent No.2	"F"	14
7	Copy of the explanation letter issued by respondent No.2 Dated:03-01-2018	"G"	15

Dated 27/03/2018

Appellant


Muhammad Usman

Through


Abdul Nasir Advocate
Karak

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA ,PESHAWARKhyber Pakhtunkhwa
Service TribunalDiary No. 442Dated 22-3-2018Service Appeal No 407 /2018Muhammad Usman S/o Shahzada office Chowkidar (watch man)office of the Executive engineer public health engineering DivisionKarak(APPELLANT)VERSUS

1. Govt of khyber pakhtunkhwa through secretary public health engineering Deptt khyber pakhtunkhwa Peshawar
2. The chief engineer (south) public health engineering Department khyber pakhtunkhwa, Peshawar.
3. The executive engineer, public health engineering division karak
4. Asad Farooq S/o Asif Farooq resident of Mir Hawas Banda, Tehsil Tekht-e-Nasrati, District Karak, Chowkidar office of the executive engineer public health Division Karak

(Respondents)

Appeal under section 4 of the Khyber Pakhtunkhwa service tribunal act 1974, against the impugned illegal, invalid, unfair, based on Malafide and against the rules and regulation order No. 89-90/E -10 Dated 13-12-2017 issued by the office of respondent No.3 i-e Executive engineer P.H.E Division Karak through which the

A. Nasir

Filed to-day

Registrar

22/3/18

appellant has illegally , unfairly , in-ethically and malafidely been relieved of performance of his lawful duty as chowkidar and respondent No.4 has illegally , unfairly and unlawfully been appointed as chowkidar on the post the appellant through order No.03-7/E-10 Dated :04-12-2017.

PRAYERS:

On acceptance of the instant service appeal the impugned orders having No.89-90/E-10 dated: 13-12-2017 and impugned order No.03-7/E-10 Dated:04-12-2017 may kindly be set aside after declaring the same unlawful , illicit and against rules regulations, ethics, natural Justice and Government policy.

Respectfully Sheweth:

The appellant submit as under:

1. That the appellant is performing his duty as chowkidar in the office of respondent No.3, Since 1993 i-e for the last 24 years. (Copy of appointment order is annexed as A)
2. That while performing his duty as class IV i-e chowkidar in the office of Respondent No.3, Respondent No.2 chief engineer (south) public health engineering department khyber pakhtunkhwa Peshawar issued General promotion order of nineteen (19) class IV employees to the post of junior clerk BPS No.11 in the various districts of the province on the basis of

A. Nasir

33% reserved quota for class IV employes (copy of promotion order annexed as B)

3. That the appellant is also among those promotees and has been placed at serial No . 4 of the promotion order has been adjusted in the office Ex-en PHE Division Hangu.
4. That father of the appellant is heart (cardiac) patient and is also old and weak and is confined to bed. It is pertinent to mention here that he needs proper care and look after.
5. That there is no one to take care of my old weak and patient father except me. So in such circumstances I preferred treatment and care of my father health.
6. That the appellant informed respondent No . 3 about the decision that I am not interested in promotion and not willing for joining my duty at Hangu and I fore go my promotion as junior clerk.
7. That respondent No. 3 (executive engineer P.H.E Division Karak) advised appellant to give undertaking of his submission in black and white.
So I provided the same but respondent No 3 then asked to provide affidavit on stamp paper than I produced it on 12-12-2017 duly attested by oath commissioner (copy annexed as C)
8. That on 13-12-2017 respondent No.3 vide his office order No.89-90/E-10, issued my reliving order of duty (relinquishment order) on 13-12-2017. without enquiring my consent and willingness. It is pertinent to mention here that

A. Nair

respondent No.3 stopped my salary on 13-12-2017. It is also amazing that respondent No.3 without any advertisement of vacant post and without any selection process and without any recommendation of selection committee appointed respondent No.4 as chowkidar on 04-12-2017. All these orders have been issued very secretly. More ever the respondent No. 4 is son of S.D.O of the office of the respondent No. 3 (copies of order annexed as D & E respectively)

9. That appellant preferred departmental application/ representation before the respondent No.2 against the impugned order of respondent No.3 (copy annexed as F) as)
10. That respondent No.2 has asked / called explanation form respondent No. 3 but respondent No.3 has turned deaf ear toward him and has kept mum / (silence) in this regard till date.(copy of letter No.03/B-7/Karak /PHE Dated:03-01-2018 is annexed as annexure G)
- 11.That now 90 days has been lapsed but respondent No.2 has not responded my representation till date.Hence it is requested that departmental representation / appeal of the appellant may kindly be treated (deemed) as a final order.
- 12.That feeling aggrieved by the impugned order of respondent No .3, the appellant now has no other adequate remedy except to approach the Honourable tribunal for provision of Justice.

A. Mar

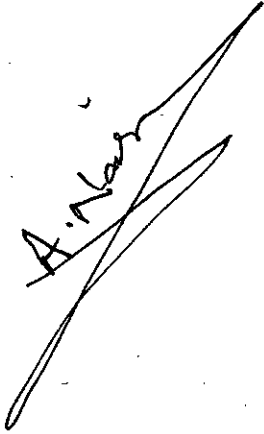
Hence the instant service appeal is filed on the following grounds:

GROUND:

- a. The respondent No.3 has no authority to compel the appellant for accepting promotion order.
- b. That after receiving of undertaking & affidavit on stamp paper from appellant regarding his unwillingness and non acceptance of promotion, relieving and relinquishing of appellant of his official duty against his will and consent is against law, rules, ethics and against the natural Justice.
- c. That before the relieving order of the appellant on 13-12-2017, issue of appoint order of respondent No.4 as chowkidar on 04-12-2017 i.e 9 days before the vacation of post reveals clear malafide on the part of respondent No.3. which is evident from the letter of respondent No.2 dated:03-01-2018.(copy already annexed as)
- d. Acceptance or forego of promotion depend on the option of appellant and is not discretion of respondent No.3 to compel appellant for acceptance of his promotion or otherwise relived him of his official duty without his consent and will.
- e. The respondent No.3 has no jurisdiction to ignore and violate rules and regulation prescribed by the provincial Govt.

~~A. N. N.~~

- f. The appellant has clearly mentioned and declared in his affidavit that he forego his promotion and wants continuation of his duty as chowkidar(class IV)in the office of respondent No.3. So after submission of affidavit the impugned relieving order issued by respondent No.3 is against rules, regulations , ethics , law and justice.
- g. The impugned relieving order of appellant and illegal appointment order of respondent No.4 reveals that respondent No.3 has no regards for rules and regulation and he considers himself above the all rules and laws and he follows policy of pick and choose and own like and dislike.



It is, therefore, humbly prayed that on acceptance of the instant service appeal the impugned relieving order dated:13-12-2017 issued by respondent No.3 may graciously be set aside and may be kindly be declared ineffective and null and vide.

INTERIM RELIEF:

By way of interim relief, operation of the impugned order of respondent No .3 dated:13-12-2017 may also be suspended till further order.

Dated 22/03/2018

Appellant



Muhammad Usman

Through




Abdul Nasir Advocate

karak

AFFIDAVIT

I, Muhammad Usman S/o Shahzada (Office Chowkidar) office of the Executive Engineer PHE Division Karak do hereby solemnly affirm and declare that the contents of the above noted appeal are true and correct to the best of my knowledge and belief and that nothing has been concealed from this honourable Tribunal.


DEPONENT

ATTESTED
IRFAN ULLAH ADVOCATE
NOTARY PUBLIC

22-03-18

OFFICE OF THE EXECUTIVE ENGINEER, PUNJAB PUBLIC HEALTH DIVISION: KARAK

APPOINTMENT

Mr. Muhammad Usman, Bahzada Villare, Bahail District: Karak is hereby appointed as Assistant Engineer (1930-3-1540) plus usual allowances against the vacant post in the office of the SDO (Govt) PHS Sub Divn: Kara with effect from the actual date of arrival for duty under the following terms and conditions.

1. The post is purely temporary but likely to continue.
2. His services may be terminated on one month notice without any reason being assigned at any time irrespective of the fact that he is holding a post other than the one to which he is originally recruited and the payment of one month salary in lieu of notice.
3. He shall not leave the service unless his resignation has been accepted by the competent authority. Should he desire to resign from the service he may apply for the same on one month notice or along with one month pay in lieu of notice period.
4. He will be governed by such rules and orders relating to leave, T.A/Medical attendance, Pay etc: as may be issued by the Govt: for the category of Govt: servant to which he will belong.
5. He will be governed under PHS services rules as regards service conditions.
6. He will have to furnish declaration in writing that (i) he has not already prescribed from service under the Govt: or any local body and (ii) that he was not dismissed by any other agency.
7. He will be on probation for initial period for 2 years extendable upto four years.
8. He will have to produce a medical certificate of fitness from Medical Superintendent of the District at the time of joining duty.
9. No TA/DA is allowed for joining the place of posting.

If he accepts the appointment on the terms and conditions specified above he should report to the SDO (Govt) PHS Sub Divn: Karak within 14 days of the issue of this letter failing which this order/offer shall stand cancelled automatically.

[Signature]
Executive Engineer,
Public Health Engg: Division
Karak.

At: Karak Date 8/9/1993.

Copy to:-

- 1. The Superintending Engineer PHE FATA Circle Kohat for information please.
- 2. The SDO (Govt) PHS Sub Divn: Karak for information.
- 3. Blank service book, arrival report, medical fitness certificate to be sent to this office for further action.
- 4. The D/O Karak for information.
- 5. The SA(Local)
- 6. The Applicant.

[Signature]
Executive Engineer,
Public Health Engg: Division
Karak.

ATTACHED
APPROVED
ASST. ENGINEER
PHS
10/11/1993

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" B "

9

FR. NO. :

DD No. 3017 10/4941 P1

Attention: Head Clerk PHE Division Karak.



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

No. 30 IE-9 /PHE

Dated Peshawar, the 28/11/2017

OFFICE ORDER

On the recommendation of the Departmental Promotion Committee (DPC) in its meeting held on 21.11.2017, at 02:00 PM under the Chairmanship of Chief Engineer (South) PHED, the competent authority is pleased to promote the following 19-Nos of Class-IV Establishment (BPS-03) to the rank of Junior Clerk (BPS-11), on regular basis, in the best interest of public.

- | | | |
|--------------------|----------------------|------------------------|
| 1. Muhammad Kafee | 2. Muhammad Saddique | 3. Akbar Ali |
| 4. Muhammad Usman | 5. Ajmal Khan | 6. Shaftullah |
| 7. Attiq-ur-Rehman | 8. Shereen Nawaz | 9. Aqal Hussain |
| 10. Fazal Hakim | 11. Bakht Zaman | 12. Muhammad Asif Khan |
| 13. Muhammad Ijaz | 14. Muhammad Rustam | 15. Zahoor-ud-din |
| 16. Liaqat Ali | 17. Akhtar Nawaz | 18. Alam Zeb |
| 19. Sajid Iqbal | | |

Consequent upon their regular promotion to the next rank, they will remain on probation for a period of one year, as per Civil Servants act 1973, read with appointment/promotion and transfer rules 1989, as such the following posting/transfer are hereby ordered, with immediate effect.

#	Name	From	To	Remarks
1	Mr. Muhammad Kafee Barkandaz	PHE Division Manshra	PHE Division Manshra	Against the existing vacancy
2	Mr. Muhammad Saddique Naib Qasid	PHE Division Manshra	PHE Division Torghar	Against the existing vacancy
3	Mr. Akbar Ali Barkandaz	PHE Division Charsadda	PHE Division Battagram	Against the existing vacancy
4	Mr. Muhammad Usman Chowkidar	PHE Division Karak	PHE Division Hangu	Against the existing vacancy
5	Mr. Ajmal Khan Naib Qasid	PHE Division FATA Kohat	PHE FATA Division Kohat	Against the existing vacancy
6	Mr. Shaftullah Naib Qasid	PHE Circle Kohat	PHE Circle Kohat	Against the existing vacancy
7	Mr. Attiq-ur-Rehman Naib Qasid	PHE Division Manshra	PHE Division Torghar	Against the existing vacancy
8	Mr. Shereen Nawaz Naib Qasid	PHE Division Karak	PHE Division Kohat	Against the existing vacancy
9	Mr. Aqal Hussain Chowkidar	PHE Division Shangla	PHE Division Shangla	Against the existing vacancy
10	Mr. Fazal Hakim Barkandaz	PHE Division Swat	PHE Division Shangla	Against the existing vacancy
11	Mr. Bakht Zaman Naib Qasid	PHE Division Battagram	PHE Division Battagram	Against the existing vacancy
12	Mr. Muhammad Asif Khan Naib Qasid	PHE Circle Mardan	PHE Division Kohistan	Against the existing vacancy
13	Mr. Muhammad Ijaz Chowkidar	O/o Chief Engg. North	PHE Division Battagram	Against the existing vacancy
14	Mr. Muhammad Rustam Naib Qasid	PHE Division Manshra	PHE Division Manshra	Against the existing vacancy
15	Mr. Zahoor-ud-din Chowkidar	PHE Division Chitral	PHE Division Dir Upper	Against the existing vacancy

Attested
Muhammad Sulaiman
C-1 BPS-11
GHS Tower
Peshawar

28

FR. NO. 3017 10/4941 P1

FR. NO. 3017 10/4941 P1

16	Mr. Liaqat Ali Barkandaz	PHE Division Dir Upper	PHE Division Dir Upper	Against the existing vacancy
17	Mr. Akhtar Nawaz Barkandaz	PHE Division Kohistan	PHE Division Kohistan	Against the existing vacancy
18	Mr. Aiam Zeb Naib Qasid	PHE Division Kohistan	PHE Division Kohistan	Against the existing vacancy
19	Mr. Sajid Iqbal Chowkidar	PHE Division Dir Upper	PHE Division Dir Upper	Against the existing vacancy

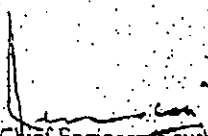
Chief Engineer (South)

Enlist: No. 20 IE-2-B/PHE,

Dated Peshawar, the 28 / 11 / 2017

Copy forwarded to:

1. The Chief Engineer (North) PHE Department Peshawar.
2. The Chief Engineer FATA Works & Services Department Khyber Pakhtunkhwa Peshawar.
3. All Superintending Engineers PHE Circle Settle/FATA Khyber Pakhtunkhwa.
4. The Section Officer (Estt) PHE Department Peshawar.
5. All Executive Engineers PHE Division Settle/FATA Khyber Pakhtunkhwa.
6. The District Accounts Officer Concerned.
7. The official concerned.


Chief Engineer (South)

Attested
Maharomazi
Maharomazi Sulaiman
S.C.T BPS-16
GHS Town Committee House

TO: CHIEF ENGINEER (SOUTH)

FROM: CHIEF ENGINEER (SOUTH)

FROM: CHIEF ENGINEER (SOUTH)

TO: CHIEF ENGINEER (SOUTH)

FROM: CHIEF ENGINEER (SOUTH)

FROM: CHIEF ENGINEER (SOUTH)

" D "

12



**OFFICE OF THE EXECUTIVE ENGINEER PUBLIC HEALTH
ENGINEERING DIVISION KARAK**

No 89-90/E-10

Dated PHE Karak the 13/12/2017

To,

✓
Muhammad Usman
Ex-Chowkidar PHE Division
Karak

Subject:-

PROMOTION

You have promoted by the competent authority from the Office Chowkidar of PHE Division Karak to the rank of Junior Clerk vide Chief Engineer (South) PHED Peshawar order No.20/E-9/PHE dated 28/11/2017 but you have non response/compliance orders of the competent authority and have not submit departure report to undersigned so far.

In this regard you are hereby relive from this division and directed to reported arrival in concerned posted division of PHED.


EXECUTIVE ENGINEER

Copy is-forwarded to:-

- 1 The Chief Engineer (South) PHED Peshawar for information with reference to above please.
- 2 The D.A.O (Local) for information. You are further directed to direct establishment clerk to immediate stop pay of the above named official.


EXECUTIVE ENGINEER

Attested
Muhammad Usman
Muzahid Usman
GHS Town Committee Karak
Subma.
C.T BPS-16



" E "

13

**OFFICE OF THE EXECUTIVE ENGINEER,
PUBLIC HEALTH ENGINEERING DIVISION KARAK**

No. 03-7/E-10 Dated PHE Karak the 4 /12/2017

OFFICE ORDER

In light of the recommendation of the SDO PHE Division Karak, Mr. Asad Farooq S/O Asif Farooq r/o Village Mir Hawas Banda Tehsil T/Nasrati District Karak is hereby appointed as a Office Chowkidar against the vacant post in PHE Division Karak on merit/need basis in BPS-03 (9610-390-21310) @ Rs: 9610/- Per Month per usual allowances as admissible under the rules from time to time with the following terms & condition:-

1. All the terms & conditions of provincial Govt: services rules /policies in vogue will be applicable.
2. His services will be transferable in the jurisdiction of the office of PHE Division Karak.
3. He will have to produce health & age certificate from the Medical Superintendent of District Head Quarter Hospital Karak.
4. The offer of appointment is valid for (15) Fifteen days from the date of issuance.
5. He will have to perform great duty on PHE Division Karak.

If the offer of appointment is acceptable to the applicant, he will report arrival for duty to office of the PHE Division Karak with the validity period of the offer of appointment.

Note:- No TA/DA will be allowed for joining duty.

**EXECUTIVE ENGINEER
PUBLIC HELTH ENGG: DIVISION
KARAK**

Copy is forwarded to:-

1. The Chief Engineer (South) PHED Peshawar for information please.
2. The Superintendent Engineer PHE Circle Kohat for information please.
3. The District Accounts Officer District Karak for information.
4. The D.A.O (local) for Information.
5. The applicant Mr. Asad Farooq S/O Asif Farooq r/o Village Mir Hawas Banda T/Nasrati District Karak.

Attested
Muhammad Subhan
S.C.T BPS-16
GHS Town Committee Karak

**EXECUTIVE ENGINEER
PUBLIC HELTH ENGG: DIVISION
KARAK**

خدمت صحت صیغہ اکیٹیز صواب (ساؤتھ) PHED ایشیا

حکومت پاکستان

UNWILLING FROM PROMOTION

صحت خدمات

نائب ڈپٹی کمشنر صحت ہے۔ یہ رقم تامل تقریباً 24 سال سے صوم PHED (رک) میں لاپرواہی سے

مدرستہ برائے اور بچہ اور مہینہ 2013-2014 PHED Peshawar اور 2013-2014 PHED

جس پر 28.11.17 رپورٹ جو نمبر 1068/17 ہے

یہ رقم جو تامل کے والد صلیب العمراد بیمار ہے اور ان کو بیمہ دہنت لڑائی کی قدرت

میں ہے اور وہی سب سے تامل نے جو 17-12-12 کو صواب آئین صواب

PHED (رک) کو درخواست اور بیان صحت پیر صحت (UNWILLING)

دینا چاہی۔ جو صواب آئین صواب کرنے کے لیے سے ایف اے اور حکم دیا

کہ صدر مالہ جینی ہلالہف سینٹور رپورٹ کرنے کا کیا ہے Relative

ازدہر تھا دیا۔ تامل نے بیت تامل نے صدر ترقی والد صواب کی بیماری

کو صواب سے لہجے سے خاطر ہے لہذا ہے این مران مکدس خوروں صدر ہے

دن سے آئین صواب بعد کو دن وہ ایسی صدر تامل کے ہے اور تامل کی ایک

میں رہ سکتی

یہ رقم تامل نے جو 17-12-15 کو صواب آئین صواب کو دوبارہ درخواست دی

جس کا تامل آج صواب کو بھی ہے۔ تامل صدر درخواست تامل کو اشر

میں اور حکم تامل کو بہت جلد تامل کے تامل کے تامل کے تامل کے

ساتھ طلبہ سکول کے ساتھ ساتھ ایف اے اور تامل کے تامل کے تامل کے

صحت کی تامل تامل کے تامل کے تامل کے تامل کے تامل کے

ان صدر کے تامل کے تامل کے تامل کے تامل کے تامل کے تامل کے

یہ رقم تامل کی صدر مالہ درخواست اور بیان صحت UNWILLING پر صدر

صدر تامل تامل تامل ہے۔ تامل کو ایسی تامل کے تامل کے تامل کے

اور تامل کے تامل کے تامل کے تامل کے تامل کے تامل کے

لہذا تامل سے استدعا حکیم تامل کے درخواست پر صدر مالہ درخواست

احکامات صدر مالہ کے صدر مالہ

2017-12-15

Attested
M. Mahmood
GHS Town, Legation
S. Suleman
S. T. BPS-16
Legation
Date: 12/12/17

محمد عثمان جو تامل PHED (رک) میں لاپرواہی سے



CG 22

15

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

Ph#091-9212984 Fax#091-9210228 E-mail: Ce.s.phed.pr5419@gmail.com

No. 03/B-7/Karak /PHE,

Dated Peshawar, the 03/01/2018

To,

The Executive Engineer,
Public Health Engg: Division,
Karak

E-103

Subject: **COMPLAINT / APPLICATION.**

Enclosed find herewith a copy of application received from Muhammad Usman office Chowkidar attached to your office, which is self-explanatory for detail report in the matter. You may also explain that how the post of office Chowkidar has been filled without departure of the office Chowkidar for joining new assignment.

DA/As above.

[Signature]
Chief Engineer (South)

Copy to the Superintending Engineer PHE Circle Kohat for information and comments in the matter.

[Signature]
Chief Engineer (South)

[Handwritten initials]

Attested
[Signature]
Muhammad Salamat
GHS Town Committee Kohat

قیمت
50 روپے



32474

ایڈوکیٹ: عبدالناہر
بار کونسل ایسوسی ایشن نمبر: 4514-10-BC
رابطہ نمبر: 03469777867

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: سروس ٹریبیونل فیمنہ پختونخواہ پشاور۔ Service Tribunal K.P. Peshawar.

مخاطب: ایڈوانٹ - Applicant	دعویٰ:
محمد عثمان	علت نمبر:
بنام محمد باقر حکومت بذریعہ ایڈووکیٹ عبدالناہر محکمہ ایجنٹس ٹریڈ و دیپارٹمنٹ	مورخہ:
	جرم:
	تھانہ:

باعت تحریر آئکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ

آن مقام پشاور کیلئے عبدالناہر ایڈووکیٹ کو وکیل مقرر

کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا

دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تارخ پیشی مقام دورہ یا حلف سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رسید

Attest
Accepted
A. Naveed

المقام: 29-3-2018
العبد: A. Naveed

مقام پشاور کے لیے منظور ہے۔

نوٹ: اس وکالت نامہ کی فونو کاپی ناقابل قبول ہوگی۔

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA.

S.A. No. 407/2018

*Placed in file
9.8.2018*

Muhammad Usman S/o Shahzada, Office Cowkidar (Water Man) Office of the Executive Engineer PHE Division Karak.....(Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Public Health Engineering Department, Khyber Pakhtunkhwa, Peshawar.....(Respondents)

REPLY ON BEHALF OF RESPONDENT

NO. 04.

Respectfully Sheweth:

Preliminary objections:

1. That the appellant has got no locus standi to challenge the preventive steps taken by the respondents and thus the present petition is liable to be dismissed.
2. That the appeal is not maintainable in the present forum.
3. That the appellant has concealed the material facts from this Hon'ble Tribunal.

4. That the appellant has not approached this Hon'ble Tribunal with clean hands.
5. That the appeal of the appellant is pre-mature at this stage.

ON FACTS:

1. Para No. 1 is correct, relates to record.
2. Para No. 2 relates to respondents No. 1 to 3.
3. Para No. 3 relates to respondents No. 1 to 3.
4. Para No. 4 needs no comments.
5. Para No. 5 needs no comments.
6. Para No. 6 relates to respondent No. 3.
7. Para No. 7 relates to respondent No. 3.
8. Para No. 8 relates to respondent No. 3. Whereas the respondent No. 4 applied through Employment Exchange Commission and there is no need of any advertisement and respondent No. 4 was appointed after all codal formalities on the vacant post.
9. Para No. 9 relates to respondent No. 2.
10. Para No. 10 relates to respondents No. 2 and 3.
11. Para No. 11 is formal, needs no comments.
12. Para No. 12 is formal, needs no comments.

REPLY AT TO GROUNDS:


1. No comments.
2. Relates to respondent No. 3, hence needs no comments.

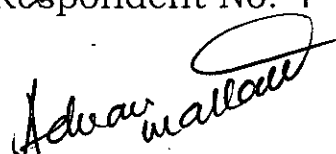
3. Relates to respondent No. 3, hence needs no comments.
4. Relates to respondent No. 3, hence needs no comments.
5. No comments.
6. Relates to respondent No. 3, however 05 vacant posts of Junior Clerks are available in the PHE District Karak and the appellant should file application for transfer to the Karak.
7. No comments.

It is, therefore, humbly prayed that on acceptance of this written reply, this Hon'ble Tribunal may please be to dismiss the appeal of the appellant with costs.

Dated: 08/08/2018

Through


Respondent No. 4


Adnan Khattak
Advocate High Court,
Peshawar.

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA.

S.A. No. 407/2018

Muhammad Usman S/o Shahzada, Office Cowkidar (Water Man) Office of the Executive Engineer PHE Division Karak.....(Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Public Health Engineering Department, Khyber Pakhtunkhwa, Peshawar.....(Respondents)

AFFIDAVIT

I, Asad Farooq S/o Asif Farooq R/o Mir Hawas Banda, Jahangiri Banda, Tehsil Takht-e-Nasrati, District Karak (Respondent No. 4), do hereby solemnly affirm and declare that the contents of the **Written Reply** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

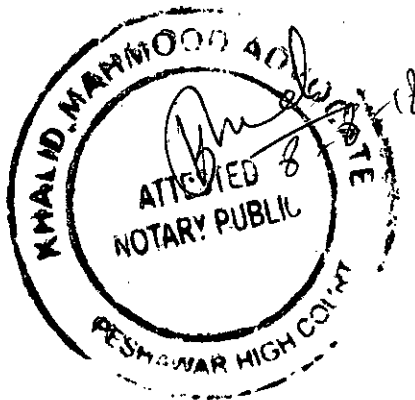

DEPONENT

CNIC: 14203-0491092-9

Identified By:



Adnan Khattak
Advocate High Court,
Peshawar.



KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 1217 /ST

Dated 18-7- / 2019

To

The Executive Engineer,
Office of the Public Health Engineering Division,
Karak.

Subject: -

JUDGMENT IN APPEAL NO. 407/2018, MUHAMMAD USMAN.

I am directed to forward herewith a certified copy of Judgement dated 17.06.2019 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

orgd

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No.

407/2018.

Muhammad Usman

Versus

1. Secretary, PHED, Secretariat, Peshawar.
2. Chief Engineer (South) PHE Department, Peshawar.
3. Executive Engineer, Public Health Engg: Division Karak.

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3	Copy of Order	B	11 to 14


DEPONENT

①

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No.407/2018

Mohammad Usman S/O Shahzada Office Chowkidar (Watch Man)

Office of the Executive Engineer PHE Division Karak ----- Appellant

Versus

Govt: of Khyber Pakhtunkhwa through Secretary Public Health Engineering
Department Khyber Pakhtunkhwa, Peshawar and others (Respondents)

Subject: **REPLY ON BEHALF OF RESPONDENT NO.1,2&3**

Respectfully Sheweth:

Preliminary objections

- 1 That the appellant has got no cause of action and locus stand to file the instant appeal.
- 2 The appeal is not maintainable in the present forum.
- 3 That the appellant has concealed material facts from this honorable Tribunal so his appeal is worth rejection.
- 4 That the appeal of the appellant is false, frivolous, malafide, vexatious, based on mis-statement of facts, as appellant promoted on his own request according to merit policy.
- 5 That the appeal of appellant is pre-mature at this stage.
- 6 That the appellant has not come to this honorable tribunal with clean hands and has suppressed material facts from this honorable tribunal.

ON FACTS

- 1 Correct.
- 2 Incorrect, all promotion have been made by the department, the appellant has promoted from the rank of office chowkidar (BPS-03) to the rank of Junior Clerk (BPS-11) from waiting list, according to policy Govt: of KPK PHED (*Annex-A*)
- 3 Incorrect. After promotion the appellant has been adjusted/ posted against existing vacancy of Junior Clerk (BPS-11) in PHE Division Hangu by the competent authority vide letter No.20/E-9/PHE dated 28/11/2017 (*Annex-B*)
- 4 Correct to extent that the appellant was promoted to high scale.
- 5 No Comments.
- 6 Incorrect. The appellant was informed to provide service documents to appear in the interview of Departmental Promotion Selection Committee

on due date, which have been attended by the appellant on due date accordingly.


- 7 Incorrect, that after promotion/posting order about Ten Days time, the appellant submitted application to respondent No.3 and excuses regarding non joining of duty to the rank of Junior Clerk (BPS-11) in PHE Division Hangu, which was against the law/DPC, as constituted by the high ups of PHED.
- 8 Incorrect, due to promotion of the appellant from the rank of Office Chowkidar (BPS-03) to the rank of Junior Clerk (BPS-11), due to non availability alternate Office Chowkidar, the respondent No.3 have made appointment of One Asad Farooq S/O Asif Farooq as a Office Chowkidar against the said existing vacancy on need basis.
- 9 No Comments.
- 10 Incorrect, that after promotion of the existing Chowkidar/petitioner, appointment order of Office Chowkidar has been made by the respondent No.3 on need basis, due to non availability alternate Office Chowkidar in office of respondent No.3 PHE Division Karak.
- 11 No Comments, law question.
- 12 No Comments, law question.

GROUND

- a. Incorrect. As replied in facts.
- b. Incorrect, it is to explain, that after promotion/posting order about Ten Days time, the appellant submitted application to respondent No.3 and refuses regarding non joining of duty to the rank of Junior Clerk (BPS-11) in PHE Division Hangu, which was against the law/DPSC, as constituted by the PHED.
- c. Incorrect, after promotion/transfer order of the appointment order of Chowkidar (BPS-03) has been made by the respondent No.3 on need basis, due to un-safe office building etc.
- d. Incorrect, the appellant was willing and appeared in interview of the promotion personally on due date, as constituted by the PHED and he was promoted to BPS-11.
- e. As replied above.
- f. Para this have already been explained in the facts para (7) and the ground of para (b).
- g. Incorrect, that appointment order of Chowkidar has been made by the respondent No.3 on need basis, due to un-safe office building etc and

no violation have been made by the respondent No.3 in appointment process of Office Chowkidar. (3)

It is therefore respectfully prayed that on acceptance of this written reply this honorable Tribunal may be pleased to dismiss the appeal of the appellant with costs.


Executive Engineer
Public Health Engg: Division
Karak on behalf of Respondents
(No.1,2 & 3)

(19)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

In Re: Service Appeal No.

407/2018

Muhammad Usman S/o Shahzada Office Chowkidar (Watch Man)

Office of the Executive Engineer, PHE Division Karak----- Appellant

VERSUS

Secretary Public Health Engineering Department,

Khyber Pakhtunkhwa, Peshawar and others ----- Respondents.

AFFIDAVIT

I, **Amil Muhammad Executive Engineer, PHE Division Karak** do hereby solemnly affirm and declare that the contents of the accompanying para-wise comments submitted by respondent No:1, 2 & 3 are true and correct to the best of my knowledge and belief and that nothing has been concealed from his honorable tribunal.

DEPONENT 

NIC NO. 111016571923-1

Amir

ISLAMIC REPUBLIC OF PAKISTAN NORTH-WEST FRONTIER PROVINCE
PUBLIC HEALTH ENGINEERING DEPARTMENT

73


NOTIFICATION

Peshawar, dated: 06-03-2010.

No. SO(CEH)PHED/1-9/2010 -In pursuance of the provisions contained in sub-rule (2) of rule 3 of the North-West Frontier Province Civil servants (Appointment, Promotion and Transfer) Rules, 1989 and in supersession of all previous notifications issued in this behalf, the Public Health Engineering Department in consultation with the Establishment Department and the Finance Department, hereby lays down the method of recruitment, qualifications and other conditions specified in Column No. 3 to 5 of the Appendix appended to this Notification which shall be applicable to the post as mentioned in Column No. 2 of the said Appendix.

Section Officer (Establishment)
Public Health Engg. Department
NWFP, Peshawar

10.	Assistant/Head Clerk (BS-14).	Second Class Bachelor's Degree from a recognized University.	21 to 32 years	<p>(a) Twenty-five per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Accounts Clerks, having graduation with five years service as such;</p> <p>(b) fifty per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Accounts Clerk other than Graduates, with five years service as such:</p> <p>Provided that if qualified persons are not available for promotion, against the quota at (a), then the vacancy shall be filled in by way prescribed at (b); and</p> <p>(c) Twenty-five per cent by initial recruitment.</p>
11.	Accounts Clerk (BS-11).	<i>Senior Clerk</i>		By promotion, on the basis of seniority-cum-fitness, from amongst the Senior Clerks with five years service as such. <i>In the work</i>
12.	Senior Clerk (BS-09)			By promotion, on the basis of seniority-cum-fitness, from amongst the Junior Clerks with three years service as such.
13.	Junior Clerk (BS-07).	<p>(a) Second Division Intermediate or equivalent qualification from a recognized Board; and</p> <p>(b) a speed of 30 words per minute in English typewriting.</p>	18 to 28 years	<p>(a) Twenty per cent by promotion, from amongst the Daftari, Record Lifter, Daffadar, Barkandaz, Naib Qasids and Chowkidars, who have passed Secondary School Examination and are under 45 years of age and have at least two years service as such; and</p> <p><u>Note:</u> For the purpose of promotion, the department shall maintain a joint seniority list of Daftary, Naib Qasids, Chowkidars, Record Lifter, Daffadar and Barkandaz based on the date of regular appointment to the post or that of acquiring the SSC whichever is later; provided that if two dates are the same the person older in age or having longer service, whichever is more beneficial to him, shall rank senior; and</p> <p>(b) eighty per cent by initial recruitment.</p>


 Section Officer (Establishment)
 Public Health Engineering Department
 NWFP, Peshawar



GOVERNMENT OF KHYBER PAKHTUNKHWA
PUBLIC HEALTH ENGG: DEPARTMENT

Dated Peshawar, the 31 / 10 / 2017

7

NOTIFICATION

No.SO(Estt)/PHED/1-9/2016-17: In pursuance of the provisions contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Public Health Engineering Department, in consultation with the Establishment Department and the Finance Department, hereby directs that in this Department's Notification No.SO (Estt)/PHED/1-9/2010, dated 06-03-2010, the following further amendments shall be made, namely:

AMENDMENTS

In the Appendix:-

- (1) Under the heading "Engineering Cadre",-
- (i) after serial No.2, the following new entries shall be inserted in the respective columns, namely:

1	2	3	4	5
2A	Senior Revenue Officer	-	-	By transfer or deputation, from amongst the Officers of Federal Government, Provincial Government, Corporation, Corporate Body, Autonomous Body, Statutory Body or Authority under the Federation or Province, having Master's Degree in Economics, Statistics, Business Administration (Finance) or Commerce (Finance, Accounts) from a recognized University preferably having basic Degree in Engineering.

- (ii) against serial No.5,-
- a. in column No.3, after the word and oblique "Electrical,, the word and oblique "Electronics/" shall be inserted;
- b. in column No.5, for the existing entries, the following shall be substituted, namely;
- (a) one percent by promotion, on the basis of seniority-cum-fitness from amongst the Work Superintendents with five years' service as such, having at least Second Class Diploma of Associate Engineering in Civil, Electrical, Electronics, Mechanical Technology from a recognized Board of Technical Education;
- (b) five percent by promotion, on the basis of seniority-cum-fitness, from amongst the Tracers with five years' service as such, having at least Second Class Diploma of Associate Engineering in Civil, Electrical, Electronics, Mechanical Technology from a recognized Board of Technical Education;

Provided that if no suitable person is available for promotion under clause (a) and (b) then by initial recruitment;

Note: For the purpose of promotion the seniority of Work Superintendents and Tracers shall be reckoned from the date of their regular appointment.

- (c) three percent by transfer, from amongst the Draftsman with at least seven years' service as such, having at least Second Class Diploma of Associate Engineering in Civil Technology from a recognized Board of Technical Education;
- (d) eighty-five percent by initial recruitment having at least Second Class Diploma of Associate Engineering in Civil Technology from a recognized Board of Technical Education;
- (e) three percent by initial recruitment having at least Second Class Diploma of Associate Engineering in (Electrical, Electronics) Technology from a recognized Board of Technical Education; and
- (f) three percent by initial recruitment having at least Second Class Diploma of Associate Engineering in (Mechanical) Technology from a recognized Board of Technical Education."

(2) under the heading "Ministerial Cadre",-

- (i) Against serial No.13, in column No.5, for the existing entries, the following shall be substituted, namely;
 - (a) Thirty-three percent by promotion, on the basis of seniority-cum-fitness from amongst the Daftaris, Record Lifters, Daffadars, Barkandazs, Naib Qasids and Chowkidars, having at least Second Class Secondary School Certificate from a recognized Board with at least two years' service as such; and
 - (b) sixty-seven percent by initial recruitment.

Note: For the purpose of promotion, there shall be maintained a joint seniority list of Daftaris, Record Lifters, Daffadars, Barkandazs, Naib Qasids and Chowkidars with reference to the date of their acquiring the Secondary School Certificate.

Provided that:

- a. if two or more officials have acquired the Secondary School Certificate in the same session, the inter-se-seniority in the lower post shall be maintained for the purpose of determining seniority in the higher post;
- b. where a senior official does not possess the requisite qualification at the time of filling up a vacancy the official next junior to him possessing the requisite qualification shall be promoted in preference to the senior official; and

- (ii) Against serial No.25, in column No.3, for the existing entry, the following shall be substituted, namely;

"At least Secondary School Certificate from a recognized Board"

(3) under the heading "Water Quality (WQ) Laboratory's Technical Staff",-

(i) Against serial No.26,-

- (a) the existing entries in column No.3, shall be deleted; and
- (b) in column No.5, for the existing entry, the following shall be substituted, namely;

"By promotion, on the basis of seniority-cum-fitness, from amongst the Research Officers (Water Quality) and Research Officers (Hydro-geologist) with seven years' service in BS-17 as such.

Note: For the purpose of promotion, a joint seniority list of Research Officers (Water Quality) and Research Officers (Hydro-geologist) shall be maintained."

(ii) Against serial No.27, in column No.3, for the existing entries, the following shall be substituted, namely;

"At least Second Class Master's Degree in Micro-Biology, Chemistry, Bachelor of Science (B.S) Medical Lab Technology (MLT) (four years Program) or equivalent qualification from a recognized University";

(iii) Against serial No.31, in column No.3, for the existing entries, the following shall be substituted, namely;

- (a) At least Second Class Master's Degree in Hydro-Geology, Water Resources Engineering, Civil Engineering or equivalent qualification from a recognized University; or
- (b) at least Second Class Bachelor's Degree (BSc) in Civil Engineering, Agriculture Engineering or equivalent qualification from a recognized University with two years relevant post qualification experience."

(iv) Against serial No.32, in column No.3, for the existing entries, the following shall be substituted, namely;

- (a) At least Second Class Master's Degree in Hydro-Geology, Water Resources Engineering, Civil Engineering or equivalent qualification from a recognized University; or
- (b) at least Second Class B.Sc Civil Engineering (four years), Agriculture Engineering (four years) or equivalent qualification from a recognized University"

(v) Against serial No.34, in column No.3, for the existing entry, the following shall be substituted, namely;

"At least Second Class Master's Degree in Social Sciences or equivalent qualification from a recognized University; and"

(vi) Against serial No.35, in column No.3, for the existing entry, the following shall be substituted, namely;

"At least Second Class Master's Degree in Environmental Sciences, Environmental Engineering or equivalent qualification from a recognized University; and

(10)

(vii) Against serial No.37,-

a. in column No.3, for the existing entry, the following shall be included, namely;

"At least Second Class Secondary School Certificate from a recognized Board with one year Course Certificate in the relevant field from a recognized Board of Technical Education or Institution;" and

b. in column No.5, for the existing entries, the following shall be substituted, namely;

(a) Fifty percent, by promotion, on the basis of seniority-cum-fitness, from amongst the Pipe Fitters with at least five years' service as such; and

(b) fifty percent by initial recruitment;

SECRETARY
PHE DEPARTMENT

No.SO(Estt)/PHED/1-9/2016-17:

Dated Peshawar, the 31 / 10 / 2017

Copy forwarded to the:-

- 1) All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
- 2) Secretary to Governor Khyber Pakhtunkhwa.
- 3) Principal Secretary to Chief Minister Khyber Pakhtunkhwa.
- 4) Accountant General Khyber Pakhtunkhwa.
- 5) Additional Accountant General (PR), Pakistan Revenue Sub Office Peshawar.
- 6) Chief Engineer (North/South) PHE Khyber Pakhtunkhwa Peshawar.
- 7) Secretary Public Service Commission Khyber Pakhtunkhwa Peshawar.
- 8) Registrar Peshawar High Court / Services Tribunal Peshawar.
- 9) All Superintending Engineers PHE Circles / XENs PHE Department.
- 10) Manager Government Stationary & Printing Department.
- 11) PS to Chief Secretary Khyber Pakhtunkhwa Province.
- 12) PS to Secretary PHE Department Khyber Pakhtunkhwa Peshawar.
- 13) PA to Deputy Secretary (Admn) PHE Department Khyber Pakhtunkhwa Peshawar.
- 14) Office Order File.

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SECTION OFFICER (ESTT)



Annex-B
(11)

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

No. 20 /E-9 /PHE

Dated Peshawar, the 28 /11/2017

OFFICE ORDER

On the recommendation of the Departmental Promotion Committee (DPC) in its meeting held on 21.11.2017, at 02:00 PM under the Chairmanship of Chief Engineer (South) PHED, the competent authority is pleased to promote the following 19-Nos of Class-IV Establishment (BPS-03) to the rank of Junior Clerk (BPS-11), on regular basis, in the best interest of public.

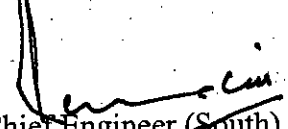
- | | | |
|--------------------|----------------------|------------------------|
| 1. Muhammad Kafeel | 2. Muhammad Saddique | 3. Akbar Ali |
| 4. Muhammad Usman | 5. Ajmal Khan | 6. Shafiullah |
| 7. Attiq-ur-Rehman | 8. Shereen Nawaz | 9. Aqal Hussain |
| 10. Fazal Hakim | 11. Bakht Zaman | 12. Muhammad Asif Khan |
| 13. Muhammad Ijaz | 14. Muhammad Rustam | 15. Zahoor-ud-din |
| 16. Liaqat Ali | 17. Akhtar Nawaz | 18. Alam Zeb |
| 19. Sajid Iqbal | | |

Consequent upon their regular promotion to the next rank, they will remain on probation for a period of one year, as per Civil Servants act 1973, read with appointment/promotion and transfer rules 1989, as such the following posting/transfer are hereby ordered, with immediate effect.

#	Name	From	To	Remarks
1	Mr. Muhammad Kafeel Barkandaz	PHE Division Mansehra	PHE Division Mansehra	Against the existing vacancy
2	Mr. Muhammad Saddique Naib Qasid	PHE Division Mansehra	PHE Division Torghar	Against the existing vacancy
3	Mr. Akbar Ali Barkandaz	PHE Division Charsadda	PHE Division Battagram	Against the existing vacancy
4	Mr. Muhammad Usman Chowkidar	PHE Division Karak	PHE Division Hangu	Against the existing vacancy
5	Mr. Ajmal Khan Naib Qasid	PHE Division FATA Kohat	PHE FATA Division Kohat	Against the existing vacancy
6	Mr. Shafiullah Naib Qasid	PHE Circle Kohat	PHE Circle Kohat	Against the existing vacancy
7	Mr. Attiq-ur-Rehman Naib Qasid	PHE Division Mansehra	PHE Division Torghar	Against the existing vacancy
8	Mr. Shereen Nawaz Naib Qasid	PHE Division Karak	PHE Division Kohat	Against the existing vacancy
9	Mr. Aqal Hussain Chowkidar	PHE Division Shangla	PHE Division Shangla	Against the existing vacancy
10	Mr. Fazal Hakim Barkandaz	PHE Division Swat	PHE Division Shangla	Against the existing vacancy
11	Mr. Bakht Zaman Naib Qasid	PHE Division Battagram	PHE Division Battagram	Against the existing vacancy
12	Mr. Muhammad Asif Khan Naib Qasid	PHE Circle Mardan	PHE Division Kohistan	Against the existing vacancy
13	Mr. Muhammad Ijaz Chowkidar	O/o Chief Engg: North	PHE Division Battagram	Against the existing vacancy
14	Mr. Muhammad Rustam Naib Qasid	PHE Division Mansehra	PHE Division Mansehra	Against the existing vacancy
15	Mr. Zahoor-ud-din Chowkidar	PHE Division Chitral	PHE Division Dir Upper	Against the existing vacancy

2

16	Mr. Liaqat Ali Barkandaz	PHE Division Dir Upper	PHE Division Dir Upper	Against the existing vacancy
17	Mr. Akhtar Nawaz Barkandaz	PHE Division Kohistan	PHE Division Kohistan	Against the existing vacancy
18	Mr. Alam Zeb Naib Qasid	PHE Division Kohistan	PHE Division Kohistan	Against the existing vacancy
19	Mr. Sajid Iqbal Chowkidar	PHE Division Dir Upper	PHE Division Dir Upper	Against the existing vacancy



Chief Engineer (South)

Endstt: No. 20 / E-2-B / PHE,

Dated Peshawar, the 28 / 11 / 2017

Copy forwarded to:

1. The Chief Engineer (North) PHE Department Peshawar.
2. The Chief Engineer FATA Works & Services Department Khyber Pakhtunkhwa Peshawar.
3. All Superintending Engineers PHE Circle Settle/FATA Khyber Pakhtunkhwa.
4. The Section Officer (Estt) PHE Department Peshawar.
5. All Executive Engineers PHE Division Settle/FATA Khyber Pakhtunkhwa.
6. The District Accounts Officer Concerned.
7. The official concerned.


Chief Engineer (South)

MINUTES OF THE DEPARTMENTAL PROMOTION/SELECTION COMMITTEE (DPC) MEETING OF CLASS-IV ESTABLISHMENT TO THE POST OF JUNIOR CLERK WAS HELD ON 21.11.2017 AT 02:00 PM UNDER THE CHAIRMANSHIP OF CHIEF ENGINEER (SOUTH) PHED.

A meeting of the Departmental Promotion Committee (DPC) was held under the chairmanship of Chief Engineer (South) PHED in his office on 21.11.2017 at 02:00 PM, which was attended by the following:

- 1. Mr. Nematullah Khan, Chief Engineer (South) PHED Chairman.
- 2. Mr. Rehmat Ali, Superintending Engineer PHE Circle Peshawar Member
- 3. Mr. Sajid Nawaz Section Officer (Estt) PHED. Member
- 4. Mr. Muhammad Saddique, Administrative Officer (South) PHED Secretary

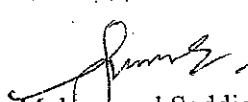
The committee discussed promotion case of Naib Qasid, Barkandaz, and Chowkidar in detail and after detailed discussion, perusal of material on record, considered their promotion case to next higher rank of junior Clerk (BPS-11) and made recommendation as noted against each.

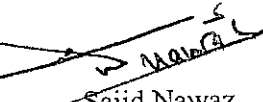
S.No.	Name of official	Total Marks	Obtained Marks	DPC recommendations
1	Faiz-ur-Rehman Barkandaz, PHE Division Chitral	-	-	Superseded due to Forgo Option
2	Muhammad Kafeel Barkandaz, PHE Division Mansehra	850	459/2 nd	Recommended/Approved for promotion to the post of Junior Clerk on regular basis. He will be on probation for a period of one year.
3	Muhammad Sadique Naib Qasid, PHE Division Mansehra	850	388/2 nd	Recommended/Approved for promotion to the post of Junior Clerk on regular basis. He will be on probation for a period of one year.
4	Zenat Hussain, Barkandaz PHE Division Dir Lower	850	323/3 rd	Superseded due to not fulfilling required qualification as per service rules.
5	Ahmad Ali Naib Qasid, C.E (South)	-	-	Superseded due to Forgo Option
6	Akbar Ali Barkandaz, PHE Division Charsadda	850	448/2 nd	Recommended/Approved for promotion to the post of Junior Clerk on regular basis. He will be on probation for a period of one year.
7	Muhammad Usman Chowkidar, PHE Division Karak	850	415/2 nd	Recommended/Approved for promotion to the post of Junior Clerk on regular basis. He will be on probation for a period of one year.
8	Syed Khalid Ashraf Barkandaz PHE Division Kohat	850	352/3 rd	Superseded due to not fulfilling required qualification as per service rules.
9	Zahidullah Khan Naib Qasid, PHE Division Lakki Marwat	-	-	Superseded due to Forgo Option
10	Abdul Qayum Barkandaz, PHE Division Lakki Marwat	850	369/3 rd	Superseded due to not fulfilling required qualification as per service rules.
11	Ajmal Khan Naib Qasid, PHE Division FATA Kohat	850	394/2 nd	Recommended/Approved for promotion to the post of Junior Clerk on regular basis. He will be on probation for a period of one year.
12	Shafiullah Naib Qasid PHE Circle Kohat	850	407/2 nd	Recommended/Approved for promotion to the post of Junior Clerk on regular basis. He will be on probation for a period of one year.
13	Attiq-ur-Rehman Naib Qasid, PHE Division Mansehra	850	399/2 nd	Recommended/Approved for promotion to the post of Junior Clerk on regular basis. He will be on probation for a period of one year.

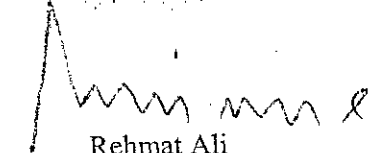
14	Shereen Nawaz Naib Qasid, PHE Division Karak	850	390/2 nd	Recommended/Approved for promotion to the post of Junior Clerk on regular basis. He will be on probation for a period of one year.
15	Aqal Hussain Chowkidar PHE Division Shangla	850	476/2 nd	Recommended/Approved for promotion to the post of Junior Clerk on regular basis. He will be on probation for a period of one year.
16	Fazal Hakim Barkandaz PHE Division Swat	850	443/2 nd	Recommended/Approved for promotion to the post of Junior Clerk on regular basis. He will be on probation for a period of one year.
17	Bakht Zaman Naib Qasid PHE Division Battagram	1100	622/2 nd	Recommended/Approved for promotion to the post of Junior Clerk on regular basis. He will be on probation for a period of one year.
18	Muhammad Asif Khan Naib Qasid, PHE Circle Mardan	850	515/1 st	Recommended/Approved for promotion to the post of Junior Clerk on regular basis. He will be on probation for a period of one year.
19	Muhammad Ijaz Chowkidar, CE North	850	395/2 nd	Recommended/Approved for promotion to the post of Junior Clerk on regular basis. He will be on probation for a period of one year.
20	Shārafat Khan Naib Qasid CE North	850	335/3 rd	Superseded due to not fulfilling required qualification as per service rules.
21	Muhammad Imran Naib Qasid, CE North	850	354/3 rd	Superseded due to not fulfilling required qualification as per service rules.
22	Muhammad Rustam Naib Qasid PHE Division Mansehra	850	489/2 nd	Recommended/Approved for promotion to the post of Junior Clerk on regular basis. He will be on probation for a period of one year.
23	Zahoor-ud-din. Chowkidar PHE Division Chitral	850	470/2 nd	Recommended/Approved for promotion to the post of Junior Clerk on regular basis. He will be on probation for a period of one year.
24	Liaqat Ali Barkandaz PHE Division Dir Upper	850	449/2 nd	Recommended/Approved for promotion to the post of Junior Clerk on regular basis. He will be on probation for a period of one year.
25	Akhtar Nawaz Barkandaz PHE Division Kohistan	850	474/2 nd	Recommended/Approved for promotion to the post of Junior Clerk on regular basis. He will be on probation for a period of one year.
26	Alam Zeb Naib Qasid PHE Division Kohistan	900	474/2 nd	Recommended/Approved for promotion to the post of Junior Clerk on regular basis. He will be on probation for a period of one year.
27	Sajid Iqbal Chowkidar PHE Division Dir Upper	1050	606/2 nd	Recommended/Approved for promotion to the post of Junior Clerk on regular basis. He will be on probation for a period of one year.


Keeping in view the advice obtained from Board of Intermediate and Secondary Education Peshawar vide his No. 335/DRD/BISEP dated 09.11.2017, the Departmental Selection/Promotion Committee recommended promotion of following Class-IV Establishment to the post of Junior Clerk (BPS-11) against 23-Nos vacant posts as mentioned in working paper.

- | | | |
|--------------------|----------------------|------------------------|
| 2. Muhammad Kafeel | 2. Muhammad Saddique | 3. Akbar Ali |
| 4. Muhammad Usman | 5. Ajmal Khan | 6. Shafiullah |
| 7. Attiq-ur-Rehman | 8. Shereen Nawaz | 9. Aqal Hussain |
| 10. Fazal Hakim | 11. Bakht Zaman | 12. Muhammad Asif Khan |
| 13. Muhammad Ijaz | 14. Muhammad Rustam | 15. Zahoor-ud-din |
| 16. Liaqat Ali | 17. Akhtar Nawaz | 18. Alam Zeb |
| 19. Sajid Iqbal | | |


 Muhammad Saddique
 Administrative Officer
 (South) PHED
 (Secretary)


 Sajid Nawaz
 Section Officer (Estt)
 PHE Department
 (Member)


 Rehmat Ali
 Superintending Engineer
 PHE Circle Peshawar
 (Member)


 Engr. Nematullah Khan,
 Chief Engineer (South)
 PHED/Chairman

20 **ESTA CODE [Establishment Code Khyber Pakhtunkhwa]**

5. [Departmental Promotion and Selection Committee/Board].

(1) In each Department or office of Government there shall be one [or more] Departmental Promotion Committee and Departmental Selection Committee [or, as the case may be, Departmental Selection Board], the composition of which shall be determined by the Services and General Administration Department or the Department in consultation with the Services and General Administration Department.

(2) Each such Committee [or the Board, as the case may be], shall consist of at least three members, one of whom shall be appointed as Chairman.

6. Procedure when recommendation is not accepted.---When an appointing authority for Basic Pay Scale 17 or below does not accept the recommendation of a Departmental Promotion or Selection Committee, or the Departmental Selection Board, as the case may be, it shall record its reasons and obtain orders of the [next higher authority.]

**PART-II
APPOINTMENT BY PROMOTION OR TRANSFER**

7. Appointment by Promotion or Transfer.---⁵[(1) Except as otherwise provided in any service rules for the time being in force, appointment by promotion or transfer to posts in respect whereof the appointing authority under rule 4 is the Chief Minister shall ordinarily be made on the recommendation of the Provincial Selection Board and promotion and transfer to posts other than those falling within the purview of the Provincial Selection Board shall ordinarily be made on the recommendation of appropriate Departmental Promotion Committee.]

(2) Appointment by transfer shall be made from amongst the persons holding appointment on regular basis in the same basic pay scale, in which the posts to be filled, exists.

(3) Persons possessing such qualifications and fulfilling such conditions as laid down for the purpose of promotion or transfer to a post shall be considered by the Departmental Promotion Committee or the Provincial Selection Board for promotion or transfer, as the case may be.

⁶[(4) No promotion on regular basis shall be made to posts in Basic Pay Scale 18, unless the officer concerned has completed such minimum length of service as may be specified from time to time, or, in case of posts in Basic pay Scale 19 to 21, the officer, besides having the minim length of service for the time being required for promotion, has also attended such training and passed such departmental examination as may be prescribed from time to time.]

1. The Heading substituted by Notification No. SORI(S&GAD)2-7/86, dated 08-12-1994.
2. Inserted by Notification No. SORI(S&GAD)2-7/86, dated 08-12-1994.
3. The words inserted by Notification No. SORIII(S&GAD)2-7/86, dated 08-12-1994.
4. Rule 6 substituted by Notification No. SORIII(S&GAD)2-7/86, dated 08-12-1994.
5. Sub-rule(1) of rule 7 substituted by Notif. No. SORI(S&GAD)4- 1/80(Vol.II), dated 14-01-1992.
6. Sub-rule 4 of Rule 7 substituted by Notif. No. SOR-I(S&GAD)4-1/80 (Vol-III) dated 30-12-1999.

On behalf of Appellant - Please see Page 21

Next Page

ESTA CODE [Establishment Code Khyber Pakhtunkhwa]

¹[(5) If on an order of promotion or before promotion any civil servant declines in writing, to accept promotion, such civil servant shall not be considered for such promotion for the next four years following the order:

Provided that if he declines to avail the benefit of promotion for the second time, then he shall stand superseded permanently for such promotion.]

8. Inter-Provincial Transfer.---(1) Persons holding appointment in BPS 1 to 15 under Federal Government and other Provincial Government may, in deserving cases, be transferred to equivalent posts under these rules:--

Provided that:-

- (i) the Federal Government or the Government of the Province concerned, as the case may be, has no objection to such a transfer;
- (ii) the person seeking transfer possesses the requisite qualification and experience and the post to which his transfer is intended can, under the rules, be filled by transfer;
- (iii) the person concerned holds appointment to the post in his parent Department on regular basis;
- (iv) the person concerned is a bonafide resident of the Khyber Pakhtunkhwa;
- (v) a vacancy exists to accommodate the request of such a transfer; and
- (vi) provided further that in most deserving cases, the merit of which shall be determined on case to case basis and the decision of the Competent Authority in that behalf shall be final, Government may allow transfer of a civil servant in BPS-16 and above, subject to the aforesaid conditions.

(2) A person so transferred shall be placed at the bottom of the cadre strength which he joins for the purposes of determining his seniority vis-a-viz other members borne on the cadre.

(3) It will be the sole discretion of the appointing authority to accept or refuse a request of transfer under this rule and any decision made in this behalf shall be final and shall not be quoted as precedence in any other case.

9. Appointment on Acting Charge or current Charge Basis.---

(1) Where the appointing authority considered it to be in the public interest to fill a post reserved under the rules for departmental promotion and the most senior civil servant belonging to the cadre or service concerned, who is otherwise eligible for

1. Sub-rule (5) of Rule 7 added by Notif. No. SOR-VI(E&AD)1-3/2009/Vol-VIII dated 22-10-2011