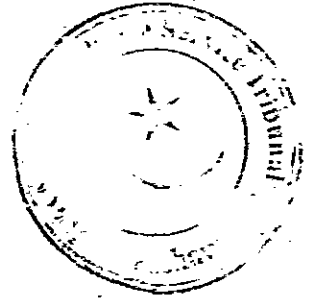


**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**CAMP COURT D.I.KHAN**

**SERVICE APPEAL NO. 707/2014**

Date of institution ... 20.05.2014

Date of judgment ... 28.12.2017



MuhammmadAsif, Ex-Junior Clerk, Gomal Medical College, D.I.Khan.

... (Appellant)

**VERSUS**

1. Govt. of Khyber Pakhtunkhwa through Secretary Health Department, KPK Peshawar.
2. Secretary to Govt. of Khyber Pakhtunkhwa, Health Department, Peshawar.
3. Director General Health Services, Khyber Pakhtunkhwa Peshawar.
4. Chief Executive Gomal Medical College, D.I.Khan.
5. Principal, Gomal Medical College, D.I.Khan.

... (Respondents)

**APPEAL UNDER SECTION-4 OF KPK SERVICE TRIBUNAL ACT,**  
**1974 AGAINST THE TERMINATION LETTER NO. 312-17 DATED**  
**22.01.2014 ISSUED BY THE RESPONDENT NO. 5.**

**ATTESTED**

Mr. Ahmad Ali, Advocate.

Mr. FarhajSikandar, District Attorney,

.. For appellant, K.S.  
 .. For respondents, Sec. of Tribunal,  
 Peshawar

Mr. MUHAMMAD AMIN KHAN KUNDI

MR. MUHAMMAD HAMID MUGHAL

.. MEMBER (JUDICIAL)

.. MEMBER (JUDICIAL)

**JUDGMENT**

**MUHAMMAD AMIN KHAN KUNDI, MEMBER:-** Counsel for the appellant.

Mr. FarhajSikandar, District Attorney for the respondents also present. Arguments heard and record perused.

2. Brief facts of the present service appeal are that the appellant was serving as Class-IV (Chowkidar) in Gomal Medical College D.I.Khan. That in the year 2008 when some vacancies of Junior Clerk were advertised by respondent No. 5 the appellant being


graduate alongwith Diploma in Information Technology, applied for the post of Junior Clerk and after completion of test 9 candidates including the appellant out of 73 total candidates were directed to appear in the interview and only two candidates were recommended for appointment to the post of Junior Clerk whereas the appellant was placed in waiting list and the then Principle Gomal Medical College D.I.Khan promised the appellant to be appointed as Junior Clerk as and when the posts will become available and after some time when the post of Junior Clerk become vacant than the appellant submitted application to the said Principal for appointment which was also recommended by Health Minister and ultimately the appellant was appointed as Junior Clerk vide order dated 26.11.2010. However, in the meanwhile respondent No. 2 issued letter dated 06.07.2011 to respondents No. 4 & 5 to cancel the appointment order of the appellant, the appellant challenged the said letter in Writ Petition No. 692 of 2011 and the Honorable High Court vide judgment dated 19.09.2013 allowed the writ petition and canceled the letter dated 06.07.2011 however, the department was left at liberty to proceed in accordance with law after fulfilling codal formalities. Record further reveals that after some time respondent No. 4 issued show-cause notice to the appellant under the Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules 2011 on 19.11.2013 on the allegation that he was appointed without observing proper codal formalities therefore, why he should not be removed from service. That after replying to the show-cause notice the appellant was removed from service vide order dated 22.01.2014. Feeling aggrieved, the appellant preferred departmental appeal but the same was also rejected vide order dated 21.04.2014 hence, the present service appeal on 20.05.2014.

3. Learned counsel for the appellant contended that the appellant was appointed as Class-IV employee (Chowkidar) in the Gomal Medical College D.I.Khan. It was further contended that later on some vacancies of Junior Clerk were advertised by respondent No. 5 in the year of 2008 and after observing codal formalities two candidates were recommended to the post of Junior Clerk whereas the appellant was placed in the waiting

APPEALED

list. It was further contended that the then Principal Gomal Medical College D.I.Khan promised the appellant that he will be appointed as Junior Clerk when the post of Junior Clerk will become available. It was further contended that in the year 2010 appellant submitted application to respondent No. 5 for his appointment as Junior Clerk and on the recommendation of Health Minister the appellant was appointed as Junior Clerk by respondent No. 5. It was further contended that later on respondent No. 2 issued letter dated 06.07.2011 directing the respondents No. 4 & 5 to cancel the appointment order of the appellant however, the appellant challenged the said letter in Writ Petition No. 692 of 2011 which was allowed vide judgment dated 19.09.2013 and the letter dated 06.07.2011 was canceled by the worthy High Court however, the department was left at liberty to proceed the appellant in accordance with law after fulfilling codal formalities. It was further contended that later on respondent No. 5 issued show-cause notice to the appellant that he was appointed without observing codal formalities therefore, why major penalty of removal from service should not be imposed upon him. It was further contended that after reply to the show-cause notice the appellant was again removed from service vide order dated 22.01.2014. It was further contended that neither proper inquiry was conducted nor the appellant was given opportunity of personal hearing and defence. It was further contended that there was no irregularity in the appointment of appellant and if it is presumed that the appointment of the appellant was an irregular appointment even than the appellant cannot be held responsible for the act done or not done by the then appointing authority therefore, the impugned order of removal of the appellant from service is illegal and liable to be set-aside.

4. On the other hand, learned District Attorney for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant was serving as Chowkidar in Gomal Medical College D.I.Khan and in the year 2008 some vacancies of Junior Clerk were advertised and after observing codal formalities only two candidates were recommended for appointment as Junior Clerk in the year 2008 whereas

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the appellant was placed in the waiting list. It was further contended that the appellant was appointed by the appointing authority as Junior Clerk in the year 2010 on the recommendation of Health Minister without observing codal formalities. It was further contended that neither any advertisement before the appointment of the appellant in the year 2010 was published for the post of Junior Clerk nor any Departmental Selection Committee was constituted nor proper interview was conducted nor any merit list was prepared therefore, the appointment of the appellant has rightly been canceled and the appellant has rightly been removed from service.

5. Perusal of the record reveals that the appellant was serving as Class-IV employee (Chowkidar) in the Gomal Medical College D.I.Khan. The record further reveals that in the year 2008 some vacancies of Junior Clerk were advertised and out of 73 candidates only two candidates were recommended for the post of Junior Clerk whereas the appellant was placed in the waiting list in the year 2008. The record further reveals that the appellant was appointed by the appointing authority as Junior Clerk vide order dated 26.11.2010 but neither any advertisement for the said post was published in newspaper nor any departmental selection committee was constituted nor proper interview was conducted nor any merit list was made nor any call letter was issued therefore, the appellant was illegally appointed by the appointing authority. As such the respondent-department has rightly removed the appellant from service hence, the appeal has no force which is hereby dismissed. Parties are left to bear their own costs. File be consigned to the record room.

*Sd/- M. Amin Khan Khundi,*  
Member

*Sd/- M. Hamid Mughal,*  
Member

Certified to be true copy

Klo.  
Scr.  
Postmaster

**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**CAMP COURT D.I.KHAN**

**SERVICE APPEAL NO. 707/2014**

Date of institution ... 20.05.2014

Date of judgment ... 28.12.2017

MuhammmadAsif, Ex-Junior Clerk, Gomal Medical College, D.I.Khan.

... (Appellant)

**VERSUS**

1. Govt. of Khyber Pakhtunkhwa through Secretary Health Department, KPK Peshawar.
2. Secretary to Govt. of Khyber Pakhtunkhwa, Health Department, Peshawar.
3. Director General Health Services, Khyber Pakhtunkhwa Peshawar.
4. Chief Executive Gomal Medical College, D.I.Khan.
5. Principal, Gomal Medical College, D.I.Khan.

... (Respondents)

**APPEAL UNDER SECTION-4 OF KPK SERVICE TRIBUNAL ACT,**  
**1974 AGAINST THE TERMINATION LETTER NO. 312-17 DATED**  
**22.01.2014 ISSUED BY THE RESPONDENT NO. 5.**

Mr. Ahmad Ali, Advocate.

.. For appellant.

Mr. FarhajSikandar, District Attorney.

.. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI

.. MEMBER (JUDICIAL)

MR. MUHAMMAD HAMID MUGHAL

.. MEMBER (JUDICIAL)

**JUDGMENT**

**MUHAMMAD AMIN KHAN KUNDI, MEMBER:** - Counsel for the appellant.

Mr. FarhajSikandar, District Attorney for the respondents also present. Arguments heard and record perused.

2. Brief facts of the present service appeal are that the appellant was serving as Class-IV (Chowkidar) in Gomal Medical College D.I.Khan. That in the year 2008 when some vacancies of Junior Clerk were advertised by respondent No. 5 the appellant being

graduate alongwith Diploma in Information Technology, applied for the post of Junior Clerk and after completion of test 9 candidates including the appellant out of 73 total candidates were directed to appear in the interview and only two candidates were recommended for appointment to the post of Junior Clerk whereas the appellant was placed in waiting list and the then Principle Gomal Medical College D.I.Khan promised the appellant to be appointed as Junior Clerk as and when the posts will become available and after some time when the post of Junior Clerk become vacant than the appellant submitted application to the said Principal for appointment which was also recommended by Health Minister and ultimately the appellant was appointed as Junior Clerk vide order dated 26.11.2010. However, in the meanwhile respondent No. 2 issued letter dated 06.07.2011 to respondents No. 4 & 5 to cancel the appointment order of the appellant, the appellant challenged the said letter in Writ Petition No. 692 of 2011 and the Honorable High Court vide judgment dated 19.09.2013 allowed the writ petition and canceled the letter dated 06.07.2011 however, the department was left at liberty to proceed in accordance with law after fulfilling codal formalities. Record further reveals that after some time respondent No. 4 issued show-cause notice to the appellant under the Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules 2011 on 19.11.2013 on the allegation that he was appointed without observing proper codal formalities therefore, why he should not be removed from service. That after replying to the show-cause notice the appellant was removed from service vide order dated 22.01.2014. Feeling aggrieved the appellant preferred departmental appeal but the same was also rejected vide order dated 21.04.2014 hence, the present service appeal on 20.05.2014.

3. Learned counsel for the appellant contended that the appellant was appointed as Class-IV employee (Chowkidar) in the Gomal Medical College D.I.Khan. It was further contended that later on some vacancies of Junior Clerk were advertised by respondent No. 5 in the year of 2008 and after observing codal formalities two candidates were recommended to the post of Junior Clerk whereas the appellant was placed in the waiting

list. It was further contended that the then Principal Gomal Medical College D.I.Khan promised the appellant that he will be appointed as Junior Clerk when the post of Junior Clerk will become available. It was further contended that in the year 2010 appellant submitted application to respondent No. 5 for his appointment as Junior Clerk and on the recommendation of Health Minister the appellant was appointed as Junior Clerk by respondent No. 5. It was further contended that later on respondent No. 2 issued letter dated 06.07.2011 directing the respondents No. 4 & 5 to cancel the appointment order of the appellant however, the appellant challenged the said letter in Writ Petition No. 692 of 2011 which was allowed vide judgment dated 19.09.2013 and the letter dated 06.07.2011 was canceled by the worthy High Court however, the department was left at liberty to proceed the appellant in accordance with law after fulfilling codal formalities. It was further contended that later on respondent No. 5 issued show-cause notice to the appellant that he was appointed without observing codal formalities therefore, why major penalty of removal from service should not be imposed upon him. It was further contended that after reply to the show-cause notice the appellant was again removed from service vide order dated 22.01.2014. It was further contended that neither proper inquiry was conducted nor the appellant was given opportunity of personal hearing and defence. It was further contended that there was no irregularity in the appointment of appellant and if it is presumed that the appointment of the appellant was an irregular appointment even then the appellant cannot be held responsible for the act done or not done by the then appointing authority therefore, the impugned order of removal of the appellant from service is illegal and liable to be set-aside.

4. On the other hand, learned District Attorney for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant was serving as Chowkidar in Gomal Medical College D.I.Khan and in the year 2008 some vacancies of Junior Clerk were advertised and after observing codal formalities only two candidates were recommended for appointment as Junior Clerk in the year 2008 whereas

the appellant was placed in the waiting list. It was further contended that the appellant was appointed by the appointing authority as Junior Clerk in the year 2010 on the recommendation of Health Minister without observing codal formalities. It was further contended that neither any advertisement before the appointment of the appellant in the year 2010 was published for the post of Junior Clerk nor any Departmental Selection Committee was constituted nor proper interview was conducted nor any merit list was prepared therefore, the appointment of the appellant has rightly been canceled and the appellant has rightly been removed from service.

5. Perusal of the record reveals that the appellant was serving as Class-IV employee (Chowkidar) in the Gomal Medical College D.I.Khan. The record further reveals that in the year 2008 some vacancies of Junior Clerk were advertised and out of 73 candidates only two candidates were recommended for the post of Junior Clerk whereas the appellant was placed in the waiting list in the year 2008. The record further reveals that the appellant was appointed by the appointing authority as Junior Clerk vide order dated 26.11.2010 but neither any advertisement for the said post was published in newspaper nor any departmental selection committee was constituted nor proper interview was conducted nor any merit list was made nor any call letter was issued therefore, the appellant was illegally appointed by the appointing authority. As such the respondent-department has rightly removed the appellant from service hence, the appeal has no force which is hereby dismissed. Parties are left to bear their own costs. File be consigned to the record room.



**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**CAMP COURT D.I.KHAN**

**SERVICE APPEAL NO. 707/2014**

Date of institution ... 20.05.2014

Date of judgment ... 28.12.2017

Muhammad Asif, Ex-Junior Clerk, Gomal Medical College, D.I.Khan.

... (Appellant)

**VERSUS**

1. Govt. of Khyber Pakhtunkhwa through Secretary Health Department, KPK Peshawar.
2. Secretary to Govt. of Khyber Pakhtunkhwa, Health Department, Peshawar.
3. Director General Health Services, Khyber Pakhtunkhwa Peshawar.
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APPEAL UNDER SECTION-4 OF KPK SERVICE TRIBUNAL ACT,  
1974 AGAINST THE TERMINATION LETTER NO. 312-17 DATED  
22.01.2014 ISSUED BY THE RESPONDENT NO. 5.

Mr. Ahmad Ali, Advocate.

.. For appellant.

Mr. Farhaj Sikandar, District Attorney.

.. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI

.. MEMBER (JUDICIAL)

MR. MUHAMMAD HAMID MUGHAL

.. MEMBER (JUDICIAL)

**JUDGMENT**

**MUHAMMAD AMIN KHAN KUNDI, MEMBER:-** Counsel for the appellant.

Mr. Farhaj Sikandar, District Attorney for the respondents also present. Arguments heard and record perused.

2. Brief facts of the present service appeal are that the appellant was serving as Class-IV (Chowkidar) in Gomal Medical College D.I.Khan. That in the year 2008 when some vacancies of Junior Clerk were advertised by respondent No. 5 the appellant being

Muhammad Amin  
28/12/2017

graduate alongwith Diploma in Information Technology, applied for the post of Junior Clerk and after completion of test 9 candidates including the appellant out of 73 total candidates were directed to appear in the interview and only two candidates were recommended for appointment to the post of Junior Clerk whereas the appellant was placed in waiting list and the then Principle Gomal Medical College D.I.Khan promised the appellant to be appointed as Junior Clerk as and when the posts will become available and after some time when the post of Junior Clerk become vacant than the appellant submitted application to the said Principal for appointment which was also recommended by Health Minister and ultimately the appellant was appointed as Junior Clerk vide order dated 26.11.2010. However, in the meanwhile respondent No. 2 issued letter dated 06.07.2011 to respondents No. 4 & 5 to cancel the appointment order of the appellant, the appellant challenged the said letter in Writ Petition No. 692 of 2011 and the Honorable High Court vide judgment dated 19.09.2013 allowed the writ petition and canceled the letter dated 06.07.2011 however, the department was left at liberty to proceed in accordance with law after fulfilling codal formalities. Record further reveals that after some time respondent No. 4 issued show-cause notice to the appellant under the Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules 2011 on 19.11.2013 on the allegation that he was appointed without observing proper codal formalities therefore, why he should not be removed from service. That after replying to the show-cause notice the appellant was removed from service vide order dated 22.01.2014. Feeling aggrieved the appellant preferred departmental appeal but the same was also rejected vide order dated 21.04.2014 hence, the present service appeal on 20.05.2014.

3. Learned counsel for the appellant contended that the appellant was appointed as Class-IV employee (Chowkidar) in the Gomal Medical College D.I.Khan. It was further contended that later on some vacancies of Junior Clerk were advertised by respondent No. 5 in the year of 2008 and after observing codal formalities two candidates were recommended to the post of Junior Clerk whereas the appellant was placed in the waiting

*M. Amin*  
28.12.2018

list. It was further contended that the then Principal Gomal Medical College D.I.Khan promised the appellant that he will be appointed as Junior Clerk when the post of Junior Clerk will become available. It was further contended that in the year 2010 appellant submitted application to respondent No. 5 for his appointment as Junior Clerk and on the recommendation of Health Minister the appellant was appointed as Junior Clerk by respondent No. 5. It was further contended that later on respondent No. 2 issued letter dated 06.07.2011 directing the respondents No. 4 & 5 to cancel the appointment order of the appellant however, the appellant challenged the said letter in Writ Petition No. 692 of 2011 which was allowed vide judgment dated 19.09.2013 and the letter dated 06.07.2011 was canceled by the worthy High Court however, the department was left at liberty to proceed the appellant in accordance with law after fulfilling codal formalities. It was further contended that later on respondent No. 5 issued show-cause notice to the appellant that he was appointed without observing codal formalities therefore, why major penalty of removal from service should not be imposed upon him. It was further contended that after reply to the show-cause notice the appellant was again removed from service vide order dated 22.01.2014. It was further contended that neither proper inquiry was conducted nor the appellant was given opportunity of personal hearing and defence. It was further contended that there was no irregularity in the appointment of appellant and if it is presumed that the appointment of the appellant was an irregular appointment even than the appellant cannot be held responsible for the act done or not done by the then appointing authority therefore, the impugned order of removal of the appellant from service is illegal and liable to be set-aside.

4. On the other hand, learned District Attorney for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant was serving as Chowkidar in Gomal Medical College D.I.Khan and in the year 2008 some vacancies of Junior Clerk were advertised and after observing codal formalities only two candidates were recommended for appointment as Junior Clerk in the year 2008 whereas

*M. Anwar*  
28.12.2018

the appellant was placed in the waiting list. It was further contended that the appellant was appointed by the appointing authority as Junior Clerk in the year 2010 on the recommendation of Health Minister without observing codal formalities. It was further contended that neither any advertisement before the appointment of the appellant in the year 2010 was published for the post of Junior Clerk nor any Departmental Selection Committee was constituted nor proper interview was conducted nor any merit list was prepared therefore, the appointment of the appellant has rightly been canceled and the appellant has rightly been removed from service.

5. Perusal of the record reveals that the appellant was serving as Class-IV employee (Chowkidar) in the Gomal Medical College D.I.Khan. The record further reveals that in the year 2008 some vacancies of Junior Clerk were advertised and out of 73 candidates only two candidates were recommended for the post of Junior Clerk whereas the appellant was placed in the waiting list in the year 2008. The record further reveals that the appellant was appointed by the appointing authority as Junior Clerk vide order dated 26.11.2010 but neither any advertisement for the said post was published in newspaper nor any departmental selection committee was constituted nor proper interview was conducted nor any merit list was made nor any call letter was issued therefore, the appellant was illegally appointed by the appointing authority. As such the respondent-department has rightly removed the appellant from service hence, the appeal has no force which is hereby dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
28.12.2017

*Mughal*

(MUHAMMAD HAMID MUGHAL)  
MEMBER  
CAMP COURT D.I.KHAN

*Muhammad Amin*  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER  
CAMP COURT D.I.KHAN

Service Appeal No. 707/2014

28.12.2017

Counsel for the appellant present. Mr. Farhaj Sikandar, District Attorney for the respondents also present. Arguments heard and record perused.


Vide our detailed judgment of today consisting of four pages placed on file, the appeal has no force which is hereby dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

28.12.2017



(MUHAMMAD HAMID MUGHAL)  
MEMBER  
CAMP COURT D.I.KHAN



(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER  
CAMP COURT D.I.KHAN

25.10.2017

Counsel for the appellant and Mr. Farhaj Sikandar, District Attorney for respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 28.11.2017 before D.B. at Camp Court D.I.Khan for view of prosecution. File be consigned to the record again.

Member  
(Executive)

Member  
(Judicial)  
Camp Court D.I.Khan

Member  
(Executive)

28.11.2017

Appellant in person present. Mr. Farhaj Sikandar, District Attorney for respondents present. Appellant requested for adjournment on the ground that learned counsel for the appellant is not available today. Adjourned. To come up for arguments on 27.12.2017 before D.B at Camp Court D.I.Khan.

(Gul Zeb Khan)  
Member

(Muhammad Amin Khan Kundi)  
Member  
Camp Court D.I.Khan

27.12.2017

Learned counsel for the appellant present. Mr. Farhaj Sikandar, District Attorney for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 28.12.2017 before D.B at Camp Court D.I.Khan.

(Muhammad Amin Khan Kundi)  
Member  
Camp Court D.I. Khan

(Muhammad Hamid Mughal)  
Member  
Camp Court D.I.Khan

707/2014

27.07.2015

Appellant Deposited  
Security & Process Fee



Counsel for the appellant present. Preliminary arguments heard. The learned counsel for the appellant submitted that facts and legal points of this appeal are identical with service appeal No. 886/2014 of Shahid Masood which has been admitted for regular hearing to-day. On the analogy of order of to-day in appeal No. 886/2014, this appeal is also admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. Case to come up for written reply/comments on 24-08-2015 at camp court, D.I.Khan.



MEMBER  
Camp court, D.I.Khan

26.10.2015

Clerk of counsel for the appellant and Mr. Farhaj Sikandar, GP present. Fresh notices be issued to the respondents through registered post and case to come up for written reply at camp court, D.I.Khan on 29-12-15.



MEMBER  
Camp court, D.I.Khan

30-12-14, No one is present on behalf  
of appellant. Case adjourned to 31-3-15  
for preliminary hearing at Camp Court,  
D.I. Khan.  
Registrar  
Camp Court, D.I.K.

30.3.2015

Appellant present in person and Mr Farhaj Sikander, GP  
for respondents present. Counsel for appellant is not available. To  
come up for preliminary hearing on 25.5.15. at Camp Court  
D.I.Khan..



MEMBER  
Camp Court, D.I.Khan

25.05.2015

Clerk of counsel for the appellant present. Due to general  
strike of the legal fraternity, counsel for the appellant is not  
available. To come up for preliminary hearing on 27.7.2015 at camp  
court, D.I.Khan.



MEMBER  
Camp Court, D.I.Khan



Form- A

FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 707/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	20/05/2014	<p>The appeal of Mr. Muhammad Asif presented today by Mr. Ahmad Ali Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR</p>
2	11-6-2014	<p>This case is entrusted to Touring Bench D.I.Khan for preliminary hearing to be put up there on <u>24-6-2014</u></p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>
3	24-6-2014	<p>No one is present on behalf of appellant - notice be issued to appellant/counsel for preliminary hearing on 27-10-2014 at Camp Court, D.I.Khan.</p> <p style="text-align: right;">Member Camp Court, D.I.K</p>
4	27-10-14	<p>Counsel for the appellant present. Case adjourned to 30-12-14 for preliminary hearing at Camp Court, D.I.Khan</p> <p style="text-align: right;"><i>[Signature]</i> Registrar Camp Court, D.I.K</p>

**BEFORE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.**


Service Appeal No. 707 of 2014

**Muhammad Asif Vs. Govt. of K.P.K etc  
Service Appeal**


**Index:**

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1.	Grounds of Service Appeal.	---	1-7
2.	Copies of the previous service record of	A	8
3.	Copies of the record i.e. advertisement, typing test etc & merit list of year 2008	B	9-21
4.	Copies of the application and appointment letter of appellant	C & D	22-23
5.	Copy of the letter No.SOH-III/8-89/2011 (Yasmin Bibi) dated 06/07/2011	E	24
6.	Certified copies of the WP No.692/2011, Judgment dated 19/09/2013, 526/2013 Judgment dated 28/11/2013	F	25-39
7.	Copy of the letter No.GMC/Estt:/4685-88 dated 28/10/2013 issued by respondent No.6	G	40
8.	Copy of the reply	H	41
9.	Copy of the letter dated 19/11/2013 and show-cause notice	I	42-43
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11.	Copy of departmental appeal	K	45-47
12.	Copy of the order dismissing departmental appeal	L	48
13.	Vakalatnama	---	49

Yours Humble Appellant

  
(Muhammad Asif)  
Through Counsel

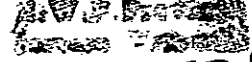
Dt. 19/05/2014

  
**Ahmad Ali**  
Advocate Supreme Court,  
Stationed at D.I.Khan.

  
**Miss Shumaila Awan**  
Advocate High Court, D.I.Khan

**BEFORE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**PESHAWAR.**

Service Appeal No. 707 of 2014

  
73/  
20/5/2014

Muhammad Asif, Ex. Junior Clerk, Gomal Medical College, D.I.Khan.  
(Appellant)

**VERSUS**

1. Govt. of Khyber Pakhtunkhwa through Secretary Health Department, KPK, Peshawar.
2. Secretary to Govt. of Khyber Pakhtunkhwa, Health Department, Peshawar.
3. Director General Health Services, Khyber Pakhtunkhwa Peshawar.
4. Chief Executive Gomal Medical College, D.I.Khan.
5. Principal, Gomal Medical College, D.I.Khan.


(Respondents)

*U/S-4 of KPK Service Tribunal Act 1974*  
**SERVICE APPEAL/ AGAINST THE TERMINATION LETTER**  
**No.312-17 DATED 22/01/2014 ISSUED BY THE**  
**RESPONDENT No.5.**

**Prayer:**

**ON ACCEPTANCE OF THE INSTANT SERVICE APPEAL AND BY SETTING**  
**ASIDE THE IMPUGNED TERMINATION LETTER, THE APPELLANT MAY**  
**PLEASE BE REINSTATED AS JUNIOR CLERK WITH ALL BACK**  
**BENEFITS.**

**Note:** The appellant on 25/04/2014 received a lettered dated 21/04/2014 by the respondent No.5 whereby appellant was communicated with the result of his Departmental Appeal. Hence, from 25/04/2014 the service appeal is within time.

  
20/5/14

**Respectfully Sheweth,**

1. That the addresses of parties as given above are correct and sufficient for the purpose of service.
2. That previously the appellant was serving as Class-IV (Chowkidar) in the Gomal Medical College, D.I.Khan, copies of the previous service record of appellant are **Annexure A.**
3. That in the year 2008 some vacancies of Junior Clerk were advertised by the respondent No.5. The appellant being graduate along with Diploma in Information Technology, applied for the post of Junior Clerk, competed test and finally 09 candidates including appellant, out of 73 total candidates, were directed to appear in the interview. Only six candidates appeared in the interview per according to merit list and only two candidates were recommended for appointment as Junior Clerk whereas, the appellant was placed in the 'waiting list' and the then Principal Gomal Medical College D.I.Khan promised the appellant to be appointed as Junior Clerk as and when the posts will become available. Copies of the record in this regard like advertisement, typing test etc & merit list are jointly enclosed as **Annexure B.**
4. That thereafter a post of Junior Clerk become vacant and the appellant requested Principal, Gomal Medical College, for his appointment as Junior Clerk and also submitted an application to the Health Minister, and ultimately, the appellant was appointed as Junior Clerk vide appointment letter No.3980 dated 26/10/2010. Copies of the application and appointment letter of appellant are enclosed as **Annexure C & D** respectively.
5. That the appellant took over the charge as 'Junior Clerk' and started to perform his official duties honestly, efficiently and

devotedly to the satisfaction of his superiors. However in the meanwhile, respondent No.2 issued a letter No.SOH-III/8-89/2011 (Yasmin Bibi) dated 06/07/2011 (**Annexure E**) directing the respondents No.4 & 5 to cancel the appointment of appellant. The appellant challenged the said letter in Writ Petition No.692 of 2011 and this Honourable Court vide Judgment dated 19/09/2013 was pleased to allow the writ petition and thereby cancelled the letter dated 06/07/2011 (*Annexure E*) however, the department was set at liberty to proceed in accordance with law after fulfilling codal formalities. Certified copies of the WP No.692/2011 and Judgment dated 19/09/2013 are enclosed as **Annexure F**.

6. That thereafter, the respondent No.5 issued letter No.GMC/Estt:/4685-88 dated 28/10/2013 (**Annexure G**) requiring the appellant to attend his office on 30/10/2013 for personal hearing regarding appointment of appellant along with written statement on the points mention in the said letter.
7. That the appellant accordingly replied the ibid letter No.GMC/Estt:/4685-88 of respondent No.5. Copy of the reply is enclosed as **Annexure H**.
8. That the respondent No.5 also in capacity of respondent No.4 issued a show-cause notice under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rule 2011 vide letter No.GMC/Estt:/4873-74 dated 19/11/2013 to the appellant showing intention to impose penalty of **Removal From Service** under Rule 4 of the said Rules. Copy of the letter dated 19/11/2013 and show-cause notice are enclosed as **Annexure I**.
9. That the appellant submitted reply of the show-cause and the respondent No. 5 vide letter No. 312-17 dated 22/01/2014

terminated the services of appellant. Copy of the termination letter is enclosed as Annexure J.

10. That aggrieved of the termination letter, the appellant preferred a departmental appeal (Annexure K) which was dismissed as communicated to the appellant vide letter dated 21/04/2014 (Annexure L) which was received to appellant on 25/04/2014.
11. That being aggrieved of the termination letter as well as dismissal of his Departmental Appeal, the appellant is approaching this Honourable Tribunal for restoration of his service as Junior Clerk along with all back/future benefits on, inter alia, the following grounds:

**GROUND:**

- i)- That the impugned termination of the appellant is illegal, unlawful, without jurisdiction, without any lawful authority, based on political victimization and in violation of the service law and also in contravention of the verdict of superior courts.
- ii)- That the appointment of appellant was made in response to the advertisement and he also appeared in the test & interview, where after appellant was placed in the waiting list, and finally appointed as Junior Clerk.
- iii)- That the appellant was appointed legally and lawfully and after adopting all the legal & codal formalities. He applied for his appointment in response to advertisement, appeared in test & interview, merit list was prepared where the appellants was initially placed in waiting list and thereafter he was awarded promotion to the post of Junior Clerk. Now after termination, the appellant has been reverted to the post of ~~Naib Qasid~~  
Chowkidar
- iv)- That there is no allegation against the appellant regarding inefficiency, misconduct, corruption, habitual absenting, indulgence in subversive activities or plea-bargain; rather appellant after his appointment as Junior Clerk served honestly,

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چاروں صوبوں کے سنگم سے شائع ہونے والے روشن خیال اور بروقی اخبار

Daily APNA AKHBAR روزنامہ Certified ABC

اپنا اخبار  
بانی  
عبدالمجید نازک

Ph#0966-730900-Fax#717585\_email-apna@brain.net.pk

جلد نمبر 7 | بدھ 26 نومبر 2008ء | زلیقہ 1429 | 12 مگھہ قیمت 5 روپے | شمارہ 71

**اطلاع نامہ**

گول میڈیکل کالج میں خالی آسامیوں پر تعیناتی کے لئے جو انٹرویو مورخہ 22 نومبر 2008ء کو ہوا تھا۔ لوکل تعلیمی اداروں میں چھٹی ہونے کی وجہ سے ملتی کرنا پڑے۔ نظر ثانی شدہ شیڈول کے مطابق اب جو نئے کلرک، سٹور کیم اور کمپیوٹر آپریٹر کے لئے انٹرویو 30 نومبر بوقت 9 بجے صبح اور جو نئے کلینیکل ٹیکنیشن، الیکٹریشن، ہاسٹل سپرنٹنڈنٹ اور کاروبار منیجر کے لئے انٹرویو یکم دسمبر بوقت 11 بجے دن گول میڈیکل کالج میں منعقد کئے جائیں گے۔ حکم پر عمل

گول میڈیکل کالج ڈیرہ اسماعیل خان

INF/DIK/60

26/11/08

Attested  
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**List of Candidates Appeared in written Test for the Post of Junior Clerk**

S.No	Dy. No	Name/Father Name	DOB	Age	Domicile	Qualification	Result
1.	143	Aas Muhammad S/O Muhammad Ilyas	05.03.79	29	D.I.Khan	B.A	6/12
2.	57	Abdul Basit S/O Abdul Qadeer	03.02.81	27	D.I.Khan	F.A	6/12
3.	150	Abdul Rauf S/O Khuda Bakhsh	20.03.80	28	D.I.Khan		02/12
4.	437	Abdul Samad Khan S/o Nadir Khan	24-02-84	24	D.I.Khan	SSC	4/12
5.	82	Abdul Waheed S/O Abdul Latif	02.04.81	27	D.I.Khan	B.A	6/12
6.	271	Abdur Rehman S/o Wahid Bakhsh	15-01-88	20	D.I.Khan	ICS	6/12
7.	160	Abid Nawaz S/O Ajmal Khan	20-10-79	29	Lakki Marwat	B.A	10/12
8.	121	Abubakar Siddiq S/O Ghulam Yasin	28.02.81	27	DIKhan	S.S.C.	4/12
9.	448	Ahmad Nawaz s/o Allah Nawaz	01-04-79	29	D.I.Khan	FA	01/12
10.	447	Ahmad Saeed s/o Abdul Majeed	02-01-86	22	D.I.Khan	SSC	02/12
11.	518	Ahtisham ul Haq s/o Inam ul Haq	17-05-87	21	D.I.Khan	SSC	4/12
12.	409	Aman-ullah s/o Ghulam Hassan	22-12-71	37	D.I.Khan	BA + D.Com	04/12
13.	383	Amin ullah s/o Noor Bad' shah	15-09-74	34	D.I.Khan	FA	7/12
14.	481	Amin-ullah s/o Obaidullah	07-04-78	3	Tank	BA	4/12
15.	96	Amir Hamza S/O Guldad Khan	02.04.74	34	Lakki Marwat	F.A	4/12
16.	30	Amjad Ali Shah S/O Ahmad	28.12.80	28	DIKhan	S.S.C	5/12
17.	274	Amjad Hussain S/o Iqbal Hussain	09-03-81	27	D.I.Khan	BA	4/12
18.	566	Amjad khan s/o Ajab khan, Panyala	17-09-78	30	D.I.Khan	FA	7/12
19.	522	Anwar Ahmad s/o Saeed Ahmad Mushtaq	23-10-80	28	D.I.Khan	FA	3/12
20.	548	Arif shah s/o Gul shah, D.I.Khan	06-04-78	30	D.I.Khan	B.A	3/12
21.	325	Asmat-ullah s/o Mohamimad Nawaz, D.I.Khan	06-04-86	22	D.I.Khan	FA	4/12
22.	256	Asmat-ullah s/o Shah Jahan, D.I.Khan	10-08-72	36	D.I.Khan	FA	5/12
23.	493	Aziz-ullah s/o Sarfaraz, Draban Khurd	05-03-80	28	D.I.Khan	FA	4/12
24.	346	Aziz-ullah s/o Sarfaraz. D.I.Khan	05-03-80	28	D.I.Khan	SSC	3/12
25.	557	Ejaz Ahmad S/o M. Sharif, D.I.Khan	02-05-77	31	D.I.Khan	SSC	5/12
26.	84	Fahim Gul S/O Abdul Latif, DIKhan	06.03.86	22	D.I.Khan	F.A	5/12
27.	110	Faqir Khalil Ahmad S/o Faqir Shabir Ahmad	10-11-83	25	Budh	BA	7/12
28.	300	Farakh Rabbani S/o M. Salim Rabbani	24-11-83	25	D.I.Khan	SSC	4/12
29.	282	Ghulam Abbas S/o Muhammad Afzal	03-01-84	24	D.I.Khan	BA	7/12
30.	348	Ghulam Akbar S/o Ghulam Sarwar				FA	9/12
31.	540	Ghulam Qasim s/o Allah Ditta	11-12-87	21	D.I.Khan	FA	4/12
32.	70	Gulzar Hussan S/O Allah Diwaya	08.11.77	31	D.I.Khan	B.Com	4/12
33.	60	Habibullah S/O Ghulam Akbar	20.04.86	22	D.I.Khan	S.S.C	8/12
34.	350	Haq Nawaz S/o Rab Nawaz.	12-09-78	30	D.I.Khan	BA	6/12
35.	54	Hizb-ullah Khan S/O Aman-ullah	01.04.77	30	DIKhan	M.Sc	9/12
36.	197	Hussain Ahmad S/O Noor Muhammad	16.08.86	22	D.I.Khan	B.B.A	4/12
37.	513	Imran s/o Abdur Rehman					

Attested  




38.	495	Imran s/o M. baraan, D.I.Khan					
39.	379	Imtiaz Ahmad s/o Dawood, Parova	15-01-84	24	D.I.Khan	SSC	4/12
40.	264	Inam-ullah S/o Hamid-ullah, D.I.Khan	02-02-89	19	D.I.Khan	SSC	3/12
41.	359	Inam-ullah S/o M. Ramzan, Paharpur	16-03-86	22	D.I.Khan	F.Sc	4/12
42.	2	Inam-ullah S/O Qayyum Nawaz, DIKhan.	06-09-87	21	D.I.Khan	SSC	8/12
43.	337	Inayat ullah s/o Ghulam Rabbani, D.I.Khan	09-11-80	28	DIKhan	S.S.C	5/12
44.	324	Ishaq Ahmad s/o Haji Sher Dad, Tank	25-11-82	26	D.I.Khan	SSC	5/12
45.	544	Jahan Zeb khan s/o Derya Khan, Panyala	09-09-79	29	Tank	BA, D. COM	9/12
46.	320	Jahan Zeb Khan S/o Orange Zeb, D.I.Khan	01-02-79	29	D.I.Khan	FA	6/12
47.	298	Jalal Iqbal s/o Iqbal Ahmad, D.I.Khan	12-09-67	41	D.I.Khan	SSC	4/12
48.	374	Jamil Ahmad, S/o Habib Sultan,			D.I.Khan	SSC	5/12
49.	459	Kaleem Ullah Kamran S/o Muhammad Ayaz	03-01-82	26	Lakki Marwat	BA	4/12
50.	103	Kamal Nawaz S/O Muhammad Nawaz,	25-03-86	22	D.I.Khan	SSC	5/12
51.	65	Kamran Ali S/O Hakim Aziz, D.I.Khan			D.I.Khan	S.S.C	2/12
52.	435	Karamat-ullah S/o M. Zaman, Tank	06.03.87	21	D.I.Khan	S.S.C	8/12
53.	512	Khalid Saleem s/o M. Arif, D.I.Khan	01-03-88	20	Tank	FA	3/12
54.	345	Khyzar Hayat s/o M. Sadiq, D.I.Khan	03-03-81	27	D.I.Khan	D.Com	2/12
55.	45	Kifayat-ullah S/o Inayat-ullah, D.I.Khan	28-03-85	22	D.I.Khan	DAE	4/12
56.	434	Latif-ullah s/o Pir khan, Tank	05-02-83		D.I.Khan		10/12
57.	384	Liaqat Ali s/o M. Sharif, D.I.Khan	06-05-86	22	Tank	B.Sc	03/12
58.	571	M Bilal s/o Iqbal Ahmad Khan	03-02-85	23	D.I.Khan	M. Com	08/12
59.	498	M. Ali Mahar s/o Ghulam Mahar Ali shah	07-01-77	31	D.I.Khan	FA	05/12
60.	318	M. Altaf s/o Haq Nawaz			D.I.Khan	D.Com	07/12
61.	436	M. Aqeel s/o M. Ismail khan,	10-05-85	22	D.I.Khan	FA	4/12
62.	35	M. Arshad S/O Ghulam Shabir	12-04-87	21	D.I.Khan	SSC	4/12
63.	263	M. Asif Mujtaba S/o Shaukat Naveed,			D.I.Khan	F.S.C	8/12
64.	323	M. Asif s/o M. Iqbal, D.I.Khan	11-12-89	19	D.I.Khan	SSC	4/12
65.	309	M. Aslam s/o Nawab Din, D.I.Khan	14-04-84	24	D.I.Khan	BA, DIT	4/12
66.	249	M. Bilal s/o Khan Sardar, D.I.Khan	27-05-77	31	D.I.Khan	SSC	3/12
67.	526	M. Ilyas s/o Nawab Din, D.I.Khan	31-07-79	19	D.I.Khan	SSC	4/12
68.	389	M. Imtiaz s/o Falak Sher, D.I.Khan			D.I.Khan	SSC	3/12
69.	265	M. Jalal Ud Din S/o Hamid ullah	01-04-85	22	D.I.Khan	FA	01/12
70.	572	M. Jamil Gul S/o M. Jahagir, D.I.Khan	15-02-87	21	D.I.Khan	FA	07/12
71.	380	M. Jamshaid S/o M. Ramzan, D.I.Khan	17-03-89	19	D.I.Khan	FA	03/12
72.	321	M. Kamran s/o M. Iqbal, D.I.Khan	05-02-80	28	D.I.Khan	M. Sc	4/12
73.	523	M. Nadeem s/o Abdul Qayyum, D.I.Khan	20-03-89	19	D.I.Khan	-----	7/12
74.	550	M. Riaz S/o Sarfaraz, D.I.Khan			D.I.Khan	FA	4/12
75.	385	M. Saeed s/o Ghulam Rasool, D.I.Khan			D.I.Khan	FA	4/12
76.	538	M. Sajid s/o M. Ramzan, Paharpur	20-03-71	37	D.I.Khan	SSC	2/12
77.	280	M. Sher Zaman S/o Muhammad Akram, D.I.Khan	26-06-87	21	D.I.Khan	SSC	0/12
			18-09-81	27	D.I.Khan	SSC	8/12

Admitted



78.	567	M. Shoaib S/o Atta-ullah, D.I.Khan	02-09-88	20	D.I.Khan	SSC	3/12
79.	553	M. Suleman s/o Shahjahan, Village Awan	02-04-88	20	D.I.Khan	B.Sc	6/12
80.	347	M. Umar Farooq S/o Mumtaz ahmad, D.I.Khan	18-06-87	21	D.I.Khan	FA	6/12
81.	363	M. Wasim s/o Abdur Rasheed, D.I.Khan	10-04-87	21	D.I.Khan	FA	2/12
82.	334	M. Yasir Khan s/o Muhammad Ramzan	06-04-86	22	D.I.Khan	FA	3/12
83.		Muhammad Irfan S/o M. Suleman			D.I.Khan		3/12
84.	46	M; Rizwan S/O M: Ramzan, DIKhan	12.03.90	18	DIKhan	S.S.C	7/12
85.	471	Manzoor Nadeem S/o M. Jaffar, D.I.Khan	08-02-83	25	D.I.Khan	FA	3/12
86.	440	Maqbool Hussain s/o M. Bilal, D.I.Khan	20-04-83	25	D.I.Khan	BA	3/12
87.	284	Mian Naveed Iqbal S/o Mian M. Iqbal Nadeem	24-11-83	25	D.I.Khan	BA	10/12
88.	502	Mohammad Adnan S/o Jahangir khan	28-07-88	20	D.I.Khan	SSC	3/12
89.	31	Mohammad Akram Khan S/O M. Nawaz	24.04.82	26	DIKhan	S.S.C	4/12
90.	457	Mohammad Asif s/o Mohammad Abid	06-09-77	31	D.I.Khan	BA	7/12
91.	464	Mohammad Farooq s/o Ghulam Hussan	01-01-76	32	D.I.Khan	SSC	3/12
92.	21	Mohammad Farooq S/O Taj Muhammad	28.04.72	18	DIKhan	B.A	4/12
93.	360	Mohammad Iftakhar S/o Mohammad Afzal	12-02-90	18	D.I.Khan	SSC	7/12
94.	24	Mohammad Ismail S/O Sher Zaman	01.03.80	28	Paharpur	S.S.C.	2/12
95.	453	Mohammad Kaleem S/o Bashir Ahmad	30-12-89	19	D.I.Khan	SSC	5/12
96.	469	Mohammad Rafiq s/o Umar Hayat			D.I.Khan	SSC	3/12
97.	216	Mohammad Safdar S/o Noor Zaman			D.I.Khan	SSC	3/12
98.	497	Mohammad Sajid s/o Habibullah	18-02-88	20	D.I.Khan	FA	3/12
99.	516	Mohammad Saleem s/o Allah Bakhsh	01-03-81	27	D.I.Khan	SSC	3/12
100.	25	Mohammad Tanveer Aslam S/O M; Asla	04.04.88	20	DIKhan	S.S.C	3/12
101.	565	Muhammad Nasir S/o Muhammad Ramzan	02-04-60	48	D.I.Khan	SSC	4/12
102.	229	Muhammad Asif S/O Muhammad Ismail	01-04-85	23	D.I.Khan	BA	5/12
103.	10	Muhammad Asif Sultan S/O Abdul Hameed	11.03.86	22	DIKhan	S.S.C	4/12
104.	115	Muhammad Atiq S/O Abdul Latif	02.04.86	22	D.I.Khan	B.Com	3/12
105.	14	Muhammad Bilal S/O Haq Nawaz	13.04.88	20	DIKhan	S.S.C	3/12
106.	113	Muhammad Farooq S/O Mahmood Jan	19.02.78	30	Chodhwan	D.Com	6/12
107.	134	Muhammad Furqan S/O Ghulam Abbas	20.12.80	28	D.I.Khan	S.S.C	7/12
108.	137	Muhammad Haroon-Ur-Rashid, Kulachi	12.04.79	29	D.I.Khan	F.A	7/12
109.	183	Muhammad Hussain Shah S/O Ahmed Shah	30/01/83	25	D.I.Khan	S.S.C	4/12
110.	153	Muhammad Imran S/O Muhammad Ramzan	05.02.90	18	D.I.Khan	D.Com	4/12
111.	8	Muhammad Irfan S/O Haji Ahmad Shah	06.08.82	26	D.I.Khan	F.A	5/12
112.	228	Muhammad Irfan S/O Naimat-ullah Khan	04.04.88	20	D.I.Khan	DBA, DIT	5/12
113.	7	Muhammad Jamil Gul S/O Muhammad Jahangir	17.03.89	19	DIKhan	Diploma	3/12
114.	98	Muhammad Javed S/O Ghulam Shabir	13.12.80	28	D.I.Khan	F.A	3/12
115.	180	Muhammad Kaleem Rizwan S/O Ghulam Ali	20/07/87	21	D.I.Khan	B.A	10/12
116.	220	Muhammad Kashif S/O Fazal Karim	8/04/76	32	D.I.Khan	F.A	4/12
117.	80	Muhammad Muhtiar S/O Muhammad Ramzan	1979	29	D.I.Khan	F.A	3/12

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195	Muhammad Noman S/O Ghulam Sarwar	02.02.82	26	D.I.Khan	B.A	3/12
19 93	Muhammad Ramzan S/O Muhammad Ismail	10.04.82	26	D.I.Khan	S.S.C	3/12
120 176	Muhammad Rashid S/O Sohna Khan	01/01/89	19	Tank	D.B.A	9/12
121 217	Muhammad Safdar S/O Noor Zaman	01/03/85	23	D.I.Khan	F.A	3/12
122 242	Muhammad Saleman S/O Shah Jahan	1987	21	D.I.Khan	FA	6/12
123 233	Muhammad Saqlain S/O Muhammad Sibtain	20.06.83	25	D.I.Khan	SSC	3/12
124 200	Muhammad Shafiq Anjam S/O Abdul Aziz	01.04.84	24	D.I.Khan	S.S.C	8/12
125 72	Muhammad Tallah S/O Hussain Ahmad	10.03.88	20	D.I.Khan	S.S.C	0/12
126 252	Muhammad Umair s/o Abdul Jabbar	08-02-87	21	D.I.Khan	BA + DIT	4/12
127 108	Muhammad Yaqub S/O Muhammad Yousaf	02.02.79	29	D.I.Khan	S.S.C	5/12
128 77	Muhammad Zubair S/O Abdul Saeed,	16.08.84	24	D.I.Khan	B.S.C	9/12
129 19	Muhammad Zubair S/O Khan Sardar	-----	----	D.I.Khan	F.A	4/12
130 450	Mujeeb ur Rehman s/o Anwar ur Rehman	17-01-76	32	D.I.Khan	SSC	4/12
131 366	Munir Ahmad S/o Taj Muhammad	15-06-74	34	D.I.Khan	BA	4/12
132 390	Nadir Hussan S/o M. Aslam	03-02-89	19	D.I.Khan	F.Sc	4/12
133 239	Nafees Jamal S/o Liaqat Ali	26-07-80	28	D.I.Khan	SSC	6/12
134 429	Nasir Ahmad S/o Zulfiqar Ahmad	08-11-75	33	Tank	BA	7/12
135 248	Naveed Anjam s/o Umar Khitab	03-06-83	25	D.I.Khan	MA	7/12
136 328	Noman Ahmad s/o Ahmad Nawaz,	03-10-81	27	D.I.Khan	BA + DIT	8/12
137 255	Qasier Mehmood s/o Muhammad Sadiq	07-04-88	20	D.I.Khan	FA	5/12
138 123	Qayyum Nawaz S/O Mohammad Ramzan	18.05.77	31	DIKhan	M.A	4/12
139 236	Qazi Armughan Subhan S/o Qazi Fazal Subhan	28-03-83	25	D.I.Khan	M.Sc	9/12
140 33	Razaq Ahmad S/O Ahmad Bakhsh	10.04.82	26	DIKhan	B.A	8/12
141 268	Saadat Khan S/o Muhammad Yousaf	01-04-87	21	Tank	BA + DIT	8/12
142 317	Sadiq Akbar s/o Abdul Razaq	15-04-90	18	D.I.Khan	SSC	6/12
143 539	Safdar Hussain s/o Malik Makhna	03-11-83	25	D.I.Khan	SSC	2/12
144 343	Safdar Zaman s/o Ali Zaman, Ladha	06-07-80	28	SWA	MA Islamiyat	9/12
145 99	Safir-ullah s/o Fazal Ahmad,	30-12-80	28	D.I.Khan	SSC	5/12
146 32	Saif-ullah S/O Abdul Latif	21.03.88	20	DIKhan	S.S.C	3/12
147 413	Saif-Ur-Rehman s/o M. Saif-ullah	01-01-83	25	D.I.Khan	MA	7/12
148 543	Saif-ur-Rehman s/o Muhammad Jan	15-03-90	18	D.I.Khan	SSC	3/12
149 95	Salim-ullah Khan S/O Amir Hussan	04.01.88	20	D.I.Khan	B.A	5/12
150 157	Sami-ullah Khan S/O Atta-ullah Khan	15.03.80	28	D.I.Khan	MCS + DIT	9/12
151 467	Sami-ullah S/o Asmat-ullah	4-4-78	30	DIKhan	MA	4/12
152 71	Sami-ullah S/o Inayat-ullah	08-01-86	22	D.I.Khan	F.Sc	8/12
153 43	Sami-ullah S/O Khuda Bakhsh	10.09.84	18	DIKhan	D.Com	4/12
154 344	Sami-ullah S/o Nawaz Khan,	28-12-85	22	D.I.Khan	FA	7/12
155 91	Sana Ullah S/O Malik Bahawal	20.10.79	29	D.I.Khan	B.A	4/12
156 165	Shaifullah S/O Obaid Ullah	19-07-78	30	D.I.Khan	SSC	6/12
157 399	Shazad Sohail Abbas S/o Khuda Bakhsh	01-01-78	30	D.I.Khan	D.COM	4/12

159	364	Sheikh Rizwan-ullah s/o Abdur Rauf	01-07-86	22	D.I.Khan	B.A	10/12
160	51	Sher Akbar S/O Ghulam Qasim	02.04.79	29	D.I.Khan	F.A	4/12
161	191	Shkhi Zaman S/O Noor Ahmad	1978	30	D.I.Khan	—	4/12
162	233	Syed M. Saqlain Mehdi S/o Syed M. Sibtain Shah	20-06-83	25	D.I.Khan	FA	6/12
163	416	Tauqir Hussain S/o Nazir Hussain	20-04-88	20	D.I.Khan	FA	6/12
164	545	Tiamoor Ahmad S/o M. Khalid	14-10-84	24	D.I.Khan	FA	4/12
165	356	Umar Abbas S/o Ghulam Abbas	03-05-88	20	D.I.Khan	FA	7/12
166	211	Umber Farooq S/O Bakht Jamal	15/03/85	23	D.I.Khan	F.A	4/12
167	142	Wafa-ullah S/O Sana Ullah	1972	36	D.I.Khan	S.S.C	5/12
168	313	Waheed Abbas s/o Khuda Bakhsh	06-04-79	29	D.I.Khan	FA	4/12
	260	Zia Ur Rehman S/o Shah Alam khan	08-05-81	27	D.I.Khan	FA	8/12

16  
17

*Attested*  
*[Signature]*


*[Signature]*  
Principal  
Gomal Medical College  
D.I.Khan (NWFP)


## Junior Clerks

17

Following Candidates have been qualified in written test of Junior Clerk. They will appear in Practical/Typing test at Govt. College of Commerce, D.I.Khan on Friday 05-12-08 at 1:30 p.m.

S. No	Name/Father Name	Address
1.	Aas Muhammad S/O Muhammad Ilyas	D.I.Khan
2.	Abdul Basit S/O Abdul Qadeer	Parova
3.	Abdul Waheed S/O Abdul Latif	D.I.Khan
4.	Abdur Rehman S/o Wahid Bakhsh	D.I.Khan
5.	Abid Nawaz S/O Ajmal	Lakki Marwat
6.	Amin ullah s/o Noor Bad shah	Paharpur
7.	Amjad khan s/o Ajab khan	Panyala
8.	Ejaz Ahmad S/o M. Sharif	D.I.Khan
9.	Fahim Gul S/O Abdul Latif	D.I.Khan
10.	Faqir Khalil Ahmad S/o Faqir Shabir Ahmad	Budh
11.	Ghulam Abbas S/o Muhammad Afzal	D.I.Khan
12.	Ghulam Akbar S/o Ghulam Sarwar	Lakki Marwat
13.	Habib-ullah S/O Ghulam Akbar	Paharpur
14.	Haq Nawaz S/o Rab Nawaz	Paharpur
15.	Hizb-ullah Khan S/O Aman-ullah,	DIKhan
16.	Inam-ullah S/o Muhammad Ranzan,	Paharpur
17.	Inam-ullah S/O Qayyum Nawaz	DIKhan
18.	Inayat ullah s/o Ghulam Rabbani	D.I.Khan
19.	Ishaq Ahmad s/o Haji Sher Dad	Tank
20.	Jahan Zeb khan s/o Derya Khan	Panyala
21.	Jalal Iqbal s/o Iqbal Ahmad	D.I.Khan
22.	Kaleem Ullah Kamran S/o Muhammad Ayaz	D.I.Khan
23.	Kamran Ali S/O Hakim Aziz	D.I.Khan
24.	Kifayat-ullah S/o Inayat-ullah	D.I.Khan
25.	Liaqat Ali s/o Muhammad Sharif	D.I.Khan
26.	Maqbool Hussain s/o Muhammad Bilal	D.I.Khan

  
 Principal  
 Govt. College of Commerce  
 D.I.Khan


Attested  


~~18~~

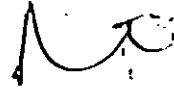
18

27.	Mian Naveed Iqbal S/o Mian M. Iqbal Nadeem	D.I.Khan
28.	Mohammad Kaleem S/o Bashir Ahmad	D.I.Khan
29.	Muhammad Ali Mahar s/o Ghulam Mahar Ali shah	D.I.Khan
30.	Muhammad Arshad S/O Ghulam Shabir	Paharpur
31.	Muhammad Asif S/O Muhammad Ismail	D.I.Khan
32.	Muhammad Asif s/o Mohammad Abid	D.I.Khan
33.	Muhammad Bilal s/o Iqbal Ahmad Khan	
34.	Muhammad Farooq S/O Mahmood Jan	Choudh wan
35.	Muhammad Furqan S/O Ghulam Abbas	Parova
36.	Muhammad Haroon-Ur-Rashid, Kulachi	D.I.Khan
37.	Muhammad Ifakhar S/o Mohammad Afzal	Paharpur
38.	Muhammad Irfan S/O Haji Ahmad Shah	Panyala
39.	Muhammad Irfan S/O Naimat-ullah Khan	D.I.Khan
40.	Muhammad Jalal Ud Din S/o Hamid ullah	D.I.Khan
41.	Muhammad Kaleem Rizwan S/O Ghulam Ali	Kulachi
42.	Muhammad Kamran s/o M. Iqbal	D.I.Khan
43.	Muhammad Rashid S/O Sohna Khan	Tank
44.	Muhammad Rizwan S/O Muhammad Ramzan	DIKhan
45.	Muhammad Saleman S/O Shah Jahan	D.I.Khan
46.	Muhammad Shafiq Anjam S/O Abdul Aziz	D.I.Khan
47.	Muhammad Sher Zaman S/o Muhammad Akram	D.I.Khan
48.	Muhammad Umar Farooq S/o Mumtaz ahmad	D.I.Khan
49.	Muhammad Yaqub S/O Muhammad Yousaf	D.I.Khan
50.	Muhammad Zubair S/O Abdul Saeed	D.I.Khan
51.	Muhammad. Suleman s/o Shah Jahan	Awan. D.I.Khan
52.	Nafees Jamal S/o Liaqat Ali	D.I.Khan
53.	Nasir Ahmad S/o Zulfiqar Ahmad	Tank
54.	Naveed Anjam s/o Umar Khitab	D.I.Khan
55.	Noman Ahmad s/o Ahmad Nawaz	D.I.Khan
56.	Qasier Mahmood s/o Muhammad Sadiq	D.I.Khan
57.	Qazi Armughan Subhan S/o Qazi Fazal Subhan	D.I.Khan
58.	Razaq Ahmad S/O Ahmad Bakhshi	D.I.Khan
59.	Saadat Khan S/o Muhammad Yousaf	Tank
60.	Sadiq Akbar s/o Abdul Razaq	D.I.Khan


MWR

Attested  


61.	Safdar Zaman s/o Ali Zaman	Ladha, SWA	<del>19</del>
62.	Safir-ullah s/o Fazal Ahmad,	D.I.Khan	<u>19</u>
63.	Saif-Ur-Rehman s/o M. Saif-ullah	D.I.Khan	
64.	Sami-ullah Khan S/O Atta-ullah Khan	D.I.Khan	
65.	Sami-ullah S/o Inayat-ullah	Kulachi	
66.	Sami-ullah S/o Nawaz Khan	D.I.Khan	✓
67.	Shafi-ullah S/O Obaid-ullah	Kulachi	
68.	Sheikh Rizwan-ullah s/o Abdur Rauf	D.I.Khan	
69.	Syed M. Saqlain Mehdi S/o.Syed M. Sibtain Shah	D.I.Khan	
70.	Tauqir Hussain S/o Nazir Hussain	Mandhran, D.I.Khan	
71.	Umar Abbas S/o Ghulam Abbas	D.I.Khan	
72.	Wafa-ullah S/O Sana-ullah	Kulachi	
73.	Zia Ur Rehman S/o Shah Alam khan	D.I.Khan	

  
 Principal  
 Gomal Medical College  
 DIKhan

**Note:** The above list has been arranged alphabetically and not a merit list.

Attested  



20

### Junior Clerks

The following candidates have qualified in the Practical/Typing Test. They are directed to appear in interview on 15-12-2008 at Gomal Medical College, D.I.Khan.

S. No	Name/Father Name	Address
1.	Kaleem Ullah Kamran S/o Muhammad Ayaz	D.I.Khan
2.	Kamran Ali S/O Hakim Aziz Baksh	D.I.Khan
3.	Muhammad Asif s/o Mohammad Abid	D.I.Khan
4.	Muhammad Farooq S/O Mahmood Jan	Choudh wan
5.	Muhammad Zubair S/O Abdul Saeed	D.I.Khan
6.	Noman Ahmad s/o Ahmad Nawaz	D.I.Khan
7.	Qazi Armughan Subhan S/o Qazi Fazal Subhan	D.I.Khan
8.	Saadat Khan S/o Muhammad Yousaf	Tank
9.	Sami-ullah Khan S/O Atta-ullah Khan	D.I.Khan

Note: The following list has been arranged alphabetically and not a merit list.

  
Principal  
Gomal Medical College  
D.I.Khan

Principal  
Gomal Medical College  
D.I.Khan

Attested





((2008))

MERIT LIST OF CANDIDATES FOR JUNIOR CLERK (BPS-07)

21

Annex-2

S. No	Name/Father Name	Qualification	Domicile	Required Qualification (SSC)	Higher Qualification	Written Test Max: 12	Typing Test Max: 50	Interview Marks Max: 20	Total Marks	Remarks
1.	Abdul Waheed S/O Abdul Latif	BA, DAE (Civil)	D.I.Khan	47	Stages 07	33	32	15	124	1 <sup>st</sup> Recommended for Appointment
2.	Haji Muhammad Zuhair S.O Abdul Saeed	B.Sc. DIT	D.I.Khan	45	Stages 07	29	33	14	108	2 <sup>nd</sup> Recommended for Appointment
3.	Muhammad Asif S.O Muhammad Abid	BA	D.I.Khan	45	Stages 07	07	27	14	100	
4.	Muhammad Farooq S.O Mahmood Jan	D.Com	D.I.Khan	45	Stage 05	26	29	12	97	4 <sup>th</sup>
5.	Keleem Ullah S/O Muhammad Azam	S.S.C	D.I.Khan	45	---	25	26	12	89	5 <sup>th</sup>
6.	Kamran Ali S.O Hakim Aziz Baksh	S.S.C	D.I.Khan	36	---	33	31	11	86	6 <sup>th</sup>

1. Prof Dr. Abdul Matin Khan  
Principal GMC/Chairman  
Departmental Selection Committee  
Gomal Medical College D.I.Khan
2. Dr. Shaukat Ali  
Associate Professor Head of Department Physiology  
Gomal Medical College D.I.Khan  
Member Departmental Selection Committee
3. Dr. Salim Khattak  
Associate Professor/HOD Surgery  
Gomal Medical College, D.I.Khan  
Member Departmental Selection Committee

4. Dr. Fazal-ur-Rehman  
Associate Professor/HOD Pediatrics  
Member Departmental Selection Committee  
Gomal Medical College, D.I.Khan
5. Mr. Ejaz Ahmad Jatoti  
Account Officer  
Gomal Medical College, D.I.Khan  
Member Departmental Selection Committee

*(Handwritten signatures and stamps)*

At

*(Signature)*

*(Signature)*

*(Signature)*

*(Signature)*

Attested

AMN. C 288

پرنسپل صاحب آؤل میڈیکل کالج ٹبرہ آؤل

لوساطات == موبائی وزیر صحت، حکومت، ٹبرہ

تعمیرات فرمایا جائے خالی پوسٹ جو پرنسپل کے لئے ہے

جناب عالی! زبردہ صورت سب سے زیادہ ضروری ہے

1۔ زبردہ صورت آؤل میڈیکل کالج ٹبرہ آؤل میں کلاس لانا فوراً ضروری ہے اور ایذا کا ڈر ہے کہ ان خطرات سے بچنے کے لئے

2۔ زبردہ صورت آؤل میڈیکل کالج ٹبرہ آؤل میں کلاس لانا فوراً ضروری ہے اور ایذا کا ڈر ہے کہ ان خطرات سے بچنے کے لئے اور شہداء اور غیرہ کو بھی ہلاک نہ کیا جاسکے اور ایذا کا ڈر ہے کہ ان خطرات سے بچنے کے لئے

3۔ زبردہ صورت آؤل میڈیکل کالج ٹبرہ آؤل میں کلاس لانا فوراً ضروری ہے اور ایذا کا ڈر ہے کہ ان خطرات سے بچنے کے لئے

اندر آؤل میڈیکل کالج ٹبرہ آؤل میں کلاس لانا فوراً ضروری ہے اور ایذا کا ڈر ہے کہ ان خطرات سے بچنے کے لئے

Principal, Jomal Medical College D. I. Khan

Mr. Mohd Asif may be appointed against the post of junior clerk

SYED ZAHIR ALI SHAH Minister for Health NWFP

العراق  
محمد رفیق احمد خان (کلاس فوراً)  
Attested

23

Ann. D. ~~23~~

OFFICE OF THE PRINCIPAL, GOMAL MEDICAL COLLEGE DERA ISMAIL KHAN

**OFFICE ORDER**

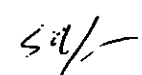
As desired by the Health Minister, Govt. of Khyber Pakhtunkhwa vide his D.O letter No. Nil, dated 26/11/2010.

Mr. Muhammad Asif S/o Muhammad Abid R/o Mohallah Farooqia near Chowk Seth Ashraf, Dist: D.I.Khan, at present working as Chowkidar (BPS-1) is hereby appointed as Junior Clerk (BPS-7) plus usual allowance as admissible under the Rules.

His appointment in the Health Department Govt. Khyber Pakhtunkhwa will be subject to the following terms and conditions.

1. He will be on probation initially for a period two (02) years extendable for a further period not exceeding one year.
2. His services can be dispensed with during the probation period, if his work and conduct found unsatisfactory.
3. His appointment will be subject to medical fitness and verification of character and antecedents.
4. He will not be entitled to any TADA for medical examination and joining the first appointment.
5. He will be governed by such Rules and Orders as may be issued by the Government for the category of Government Servant to which he belongs.
6. The original documents will be verified from the concerned Board/University by this college.
7. As laid down vide Govt. of Khyber Pakhtunkhwa Establishment and Administration Department Notification No. E&A(1-13)/2005 dated 10.08.2005, he will not be entitled to pension or gratuity however in lieu thereof, will be entitled to receive such amount of contribution made by the Government to his account in the said fund.
8. If he wishes to resign from service, he will have to submit resignation in writing one month in advance OR deposit one month's pay in the Govt. treasury. However, he will continue to serve the Govt. till his resignation is accepted by the competent authority.

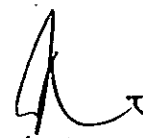
If the above terms and conditions are acceptable to him he should report to the undersigned within fourteen (14) days of the receipt of this order.

  
Prof. Dr. Abdul Mateen Khan  
Principal  
Gomal Medical College, DIKhan  
Dated the DIKhan 26/11/2010

No. 3981 INF

Copy is forwarded to the:-

1. The District Account Officer, DIKhan
  2. Official Concerned
  3. Personal File
  4. Account Clerk Gomal Medical College DIKhan.
- For Information and Necessary actions

  
Principal  
Gomal Medical College, DIKhan

Attested



Amal = 'E' (24) @

GOVERNMENT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT

No. SOH-III/8-89/2011 (Yasmeen Bibi)  
Dated the Peshawar 06<sup>th</sup> July 2011

To,

The Director General Health Services,  
Khyber Pakhtunkhwa, Peshawar.

SUBJECT: ENQUIRY AGAINST APPOINTMENT OF JUNIOR CLERKS IN  
GOMAL MEDICAL COLLEGE, D.I.KHAN.

I am directed to refer to your letter No.5137/Personnel dated 16.06.2011 on the subject noted above and to request you to direct the Chief Executive GMC D.I.Khan to cancel the irregular appointment of Junior Clerks and re-advertise/fill the posts after fulfilling the codal formalities immediately.

Copy forwarded to:-

SECTION OFFICER-III

1. Chief Executive, Gomal Medical College, D.I.Khan for similar necessary action.
2. PS to Secretary Health, Khyber Pakhtunkhwa.

Attested  




SECTION OFFICER-III

Annexure = 'F' 2/5

IN THE PESHAWAR HIGH COURT, BENCH, DERA ISMAIL KHAN

Writ Petition No. 682 / of 2011.



Muhammad Asif son of Muhammad Abid  
Resident of Mohallah Farooqia Chowk Seth Ashraf  
City Dera Ismail Khan.

... Petitioner.

Versus

1. Province - of Khyber Pakhtunkhwa  
through Secretary to Government of  
Khyber Pakhtunkhwa Health Department,  
Peshawar.
2. Secretary to Government of  
Khyber Pakhtunkhwa Health Department,  
Peshawar.
3. Director General Health Services,  
Khyber Pakhtunkhwa, Peshawar.
4. Chief Executive, Gomal Medical College,  
Dera Ismail Khan.
5. Principal,  
Gomal Medical College,  
Dera Ismail Khan.

... Respondents.

WRIT PETITION UNDER ARTICLE  
199 OF THE CONSTITUTION OF ISLAMIC REPUBLIC  
OF PAKISTAN, 1973.

Respectfully Sheweth:-

1. That the addresses of the parties  
as given above are correct and sufficient  
for the purposes of service.

EXAMINOR

Peshawar High Court  
Dera Ismail Khan

19/5/11

2. That the Petitioner is permanent resident of city Dera Ismail Khan and is born of parents permanently domicile in Khyber Pakhtunkhawa having been born in the said Province. The photo copy of the domicile certificate is

Annexure-A. enclosed as Annexure-A.

3. That the Petitioner is Graduate and has passed his B.A.Part-II, Examination from the Gomal University Dera Ismail Khan during the Session 2009/Annual under Roll No.9012. The copies of the Matriculation Certificate, F.A.Examination Certificate and B.A.Degree alongwith detailed

Annexure-BCD. marks certificates are enclosed as Annexures-B,C&D respectively.

4. That the Petitioner has also completed Diploma in Information Technology during the Session 2007-2008, from Government College of Commerce & Management Sciences, DIKhan. The copy of the course completion certificate is

Annexure-E. enclosed as Annexure-E.

5. That the Petitioner has also served as Junior Clerk in the Gomal University, DIKhan for a period of about 4 years commencing from September,2004 to June,2008, and is an experienced hand who also know typewriting very well.

6. That the Petitioner was appointed as Chowkidar in BPS-1, in Gomal Medical College, Dera Ismail Khan vide office order No.3220-23/P-7 dated 24.12.2008, issued by the Principal, Gomal Medical College, Dera Ismail Khan. The copy

Annexure-F. of the order is enclosed as Annexure-F.

*Handwritten signature and initials*

*Handwritten signature*

*MINOR COURT 9/5/19*

7. That due to his higher qualification being Graduate and his efficient performance, the Petitioner was given one step promotion by the competent authority and was appointed as Junior Clerk in BPS-7, by the Principal, Gomal Medical College, D.I.Khan vide his office order No.3980-83/PF dated 26.11.2010. The copy of which

Annexure-G.

Annexure-H.

is enclosed as Annexure-G, while the photo copy of his service book is enclosed as Annexure-H.

8. That the Petitioner was serving smoothly and very efficiently when the Secretary to Government of Khyber Pakhtunkhawa, Health Department, under the signatures of Section Officer-III, issued a letter No.SOH-III/8-89/2011 (Yasmeen Bibi) dated 6/7/2011, to the Director General Health Services, Khyber Pakhtunkhawa, Peshawar with a copy to the Chief Executive Gomal Medical College, D.I.Khan directing him to direct the Chief Executive, Gomal Medical College, D.I.Khan to cancel the irregular appointment of Junior Clerks in his office and re-advertise/fill the posts after fulfilling the codal formalities. The copy of the letter is enclosed as Annexure-I.

Annexure-I.

9. That the Petitioner seriously apprehend the adverse effect of the aforesaid letter so that his appointment as Junior Clerk may not be cancelled though it is not hit by the said directive, because the Petitioner had already undergone the prescribed test and interview for the post of Junior Clerk as per merit list copy attached as Annexure-K.

Annexure-K.

*[Handwritten signatures]*

*[Handwritten signature]*

EXAMINOR  
High Court  
Bench

18/5/19

10. That the Petitioner is left with no other adequate remedy but to invoke the extraordinary constitutional jurisdiction of this Honourable Court by way of present writ petition to declare the impugned letter No.SOH-III/8-89/2011 (Yasmeen Bibi) dated 6/7/2011, issued by the Secretary to Government of Khyber Pakhtunkhwa Health Department, Peshawar as illegal, void, arbitrary to the extent of the case of the Petitioner and to direct the Chief Executive Gomal Medical College, D.I.Khan as well as the Principal, Gomal Medical College, D.I.Khan, Respondents No.4 & 5, not to implement it to the extent of the case of the Petitioner and not to terminate the services of the Petitioner in the light of the aforesaid directive, on inter alia, the following grounds:-

GROUNDS.

- i. That it is an admitted fact that the Petitioner is a Graduate, has completed Diploma in Information Technology and is a highly qualified.
- ii. That it is also an admitted fact that the Petitioner is an experienced hand and had already served as Junior Clerk in the Gomal University, D.I.Khan for a period of about 4 years.
- iii. That it stands established from the Petitioner's service book and other record that the Petitioner was first appointed as Chowkidar in EPS-1, in the Gomal Medical College, D.I.Khan by the competent authority on 24/12/2008 and was having about two years qualifying service at his credit when the

Shaf  
17/8/14

EXAMINOR

Peshawar High Court  
Main Bench

19/5/14



competent authority taking into consideration the higher educational qualifications of the Petitioner and his efficient performance was pleased to award him one step promotion and appointed the Petitioner as Junior Clerk on 26/11/2010.

iv. That the appointment of the Petitioner as junior clerk cannot be termed as irregular appointment as according to service rules the competent authority is fully authorized to award one step promotions to his subordinate who otherwise fulfill the said qualifications.

v. That since the Petitioner was in service as Chowkidar, therefore, the competent authority was justified in his wisdom to award one step promotion to the Petitioner and to appoint him as Junior Clerk.

In wake of the above submissions, it is respectfully prayed that on acceptance of this writ petition the Respondents No.4 & 5 may graciously be directed not to implement the aforesaid directive of the Secretary to Government of Khyber Pakhtunkhwa, Health Department, Peshawar, Respondent No.2, to the extent of the Petitioner and not to terminate the Petitioner from his services as Junior Clerk in the Gomal Medical College, D.I.Khan, to meet the ends of justice.

Your humble Petitioner

(Muhammad Asif)  
Petitioner

Through Counsel.

(Ahmad Ali Khan)  
Advocate, High Court, D.I.Khan.

D/-16.8.2011.

17/8/11

EXAMINER

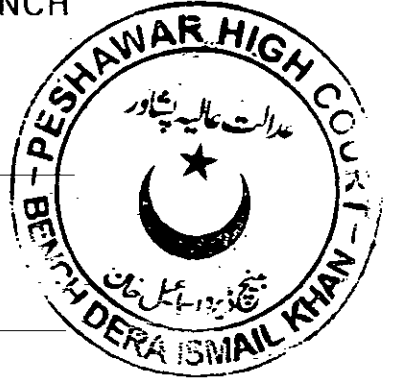
High Court  
Peshawar Bench

19/5/11

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JUDGMENT SHEET  
IN THE PESHAWAR HIGH COURT, D.I.KHAN BENCH  
(Judicial Department)



W.P. No. 692 of 2011.

JUDGMENT

Date of hearing 19-9-2013.

Appellant-petitioner Muhammed Asif by

Mr. Ahmad Ali Khan Advocate

Respondent KPK by Mr. Saman Ullah Shauhin

AAQ

ABDUL LATIF KHAN, J.- Through this single judgment, we propose to dispose of W.P.Nos.692/2011, 802/2011 and W.P.No.39-D/2012) as common question is involved in all the three petitions:

2. Learned counsel for the petitioners contended that the impugned order dated 06.7.2011 has been passed without any lawful authority and observing all legal formalities as required under the law. It was argued that the petitioners were initially appointed in BPS-1 and later on adjusted as Junior Clerks (BPS-7), after observing all the legal formalities and the respondents have no authority to cancel the appointment of the petitioners. It is added that the petitioners were condemned unheard, as no opportunity of hearing was

*DM*

TESTED

EXAMINOR  
Peshawar High Court  
Bench

19/5/13

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afforded to them, which is against the principles of natural justice.

3. The learned A.A.G contended that the initial appointment of the petitioners was made at the instance of Health Minister, which was against law, therefore, the impugned order has been properly passed.

4. We have given our anxious thought to the arguments of learned counsel for the parties and perused the record with their valuable assistance.

5. Perusal of the record shows that the appointment of the petitioners was made initially in a lower grade and were later on appointed as Junior Clerks in BPS-7 by the Principal, Gomal Medical College, D.I.Khan. The impugned order has been passed by the respondents on 06.7.2011 and the reason given in the letter is the irregular appointment of Junior Clerks and directions were given to the District General Health Services by the Secretary Health that the appointment of petitioners be cancelled and the posts be re-advertised and re-filled after fulfilling the codal formalities.

6. It is apparent on the record that no show cause notice was served upon the petitioners nor any explanation available on file. Similarly, neither inquiry has been conducted nor opportunity of hearing has been

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TESTED

EXAMINOR  
Suwar High Court  
Berch

19/5/14

afforded to the petitioner, which is violently against the principles of natural justice. Admittedly, no codal formalities have been observed in taking proposed action against the petitioners. The learned A.A.G was confronted with the situation, who candidly accepted that no formalities have been observed and the impugned letter has been issued straightaway, directing the Director General Health Services to cancel the appointment of petitioners on the ground of being irregular appointees.

7. Without touching the merits of the case, we are of the view that without observing codal formalities, the respondents were not competent to issue impugned order directly, which amounts to illegality and thus on acceptance of the above mentioned three petitions, the impugned order is declared as of no legal effect, hence annulled. However, the respondents are at liberty to proceed in accordance with law, after observing the legal and codal formalities, by affording opportunity of being heard to the petitioners, if so advised.

Announced.  
Dt: 19.9.2013.

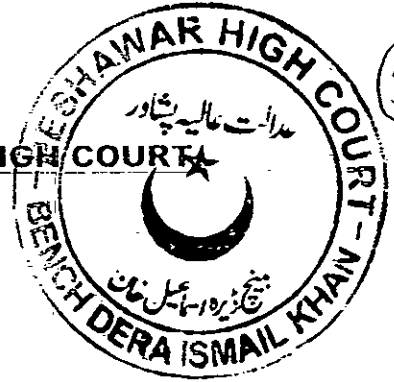
*[Signature]*  
JUDGE

*[Signature]*  
JUDGE

EXAMINOR  
High Court  
Bench  
19/5/13

*[Handwritten marks]*  
24/9

**BEFORE THE HONOURABLE PESHAWAR HIGH COURT  
DERA ISMAIL KHAN BENCH.**



Writ Petition No. \_\_\_\_\_ D of 2013

Muhammad Asif, Junior Clerk, Gomal Medical College, D.I.Khan.  
(Petitioner)

**VERSUS**

1. Govt. of Khyber Pakhtunkhwa through Secretary Health Department, KPK, Peshawar.
2. Secretary to Govt. of Khyber Pakhtunkhwa, Health Department, Peshawar.
3. Director General Health Services, Khyber Pakhtunkhwa Peshawar.
4. Chief Executive Gomal Medical College, D.I.Khan.
5. Principal, Gomal Medical College, D.I.Khan.
6. Inquiry Committee, Gomal Medical College, D.I.Khan.

(Respondents)

**WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION  
OF ISLAMIC REPUBLIC OF PAKISTAN, 1973.**

**Respectfully Sheweth,**

1. That the addresses of parties as given above are correct and sufficient for the purpose of service.
2. That previously the petitioner was serving as Class-IV (Chowkidar) in the Gomal Medical College, D.I.Khan, copies of the previous service record of petitioner are **Annexure A**.
3. That in the year 2008 some vacancies of Junior Clerk were advertised by the respondent No.5. The petitioner being graduate along with Diploma in Information Technology, applied for the post of Junior Clerk, competed test and finally 09 candidates including petitioner, out of 73 total candidates, were directed to appear in the interview. Only six candidates

EXAMINOR

Peshawar High Court  
Dera Ismail Khan Bench

19/5/14

appeared in the interview per according to merit list and only two candidates were recommended for appointment as Junior Clerk whereas, the petitioner was placed in the 'waiting list' and the then Principal Gomal Medical College D.I.Khan promised the petitioner to be appointed as Junior Clerk as and when the posts will become available. Copies of the record in this regard like advertisement, typing test etc & merit list are jointly enclosed as Annexure B.

4. That thereafter a post of Junior Clerk become vacant and the petitioner requested Principal, Gomal Medical College, for his appointment as Junior Clerk and also submitted an application to the Health Minister, and ultimately, the petitioner was appointed as Junior Clerk vide appointment letter No.3980 dated 26/10/2010. Copies of the application and appointment letter of petitioner are enclosed as Annexure C & D respectively.
5. That the petitioner took over the charge as 'Junior Clerk' and started to perform his official duties honestly, efficiently and devotedly to the satisfaction of his superiors. However in the meanwhile, respondent No.2 issued a letter No.SOH-III/8-89/2011 (Yasmin Bibi) dated 06/07/2011 (Annexure E) directing the respondents No.4 & 5 to cancel the appointment of petitioner. The petitioner challenged the said letter in Writ Petition No.692 of 2011 and this Honourable Court vide Judgment dated 19/09/2013 was pleased to allow the writ petition and thereby cancelled the letter dated 06/07/2011 (Annexure E) however, the department was set at liberty to proceed in accordance with law after fulfilling codal formalities. Certified copies of the WP No.692/2011 and Judgment dated 19/09/2013 are enclosed as Annexure F.

6. That thereafter, the respondent No.6 issued letter No.GMC/Estt:/4685-88 dated 28/10/2013 (Annexure G) requiring the petitioner to attend his office on 30/10/2013 for

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23-11-13

WITNESSED

EXAMINOR  
High Court  
Gomal Khan Bench

19/11/14

personal hearing regarding appointment of petitioner along with written statement on the points mention in the said letter.

7. That the petitioner accordingly replied the ibid letter No.GMC/Estt:/4685-88 of respondent No.6. copy of the reply is enclosed as **Annexure H.**
8. That the respondent No.5 also in capacity of respondent No.4 issued a show-cause notice under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rule 2011 vide letter No.GMC/Estt:/4873-74 dated 19/11/2013 to the petitioner showing intention to impose penalty of Removal From Service under Rule 4 of the said Rules. Copy of letter dated 19/11/2013 & show-cause notice are enclosed as **Annexure I.**
9. That this time again the proceedings conducted by respondents are violative of the law as well as the provisions of K.P.K. Government Servants (Efficiency & Discipline) Rules 2011; thus being aggrieved of the Inquiry Conducted and show-cause issued vide letter dated 19/11/2013 (*Annexure I*) the petitioner apprehends adverse effect of the same and hence, petitioner has been left with no efficacious remedy but to invoke Constitutional jurisdiction of this Honourable Court on, inter alia, the following grounds.

**GROUND:**

- i)- That the constitution of Inquiry Committee and its proceedings as well as the impugned show-cause notice are violative of law, based on malafide, without jurisdiction, without lawful authority and having no binding effect upon rights of the petitioner.
- ii)- That the main points of the respondents against petitioner are that:
  1. No any advertisement in the newspaper.
  2. No Departmental Selection Committee was constituted.

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23/11/13  
EXAMINOR  
High Court  
Khan Bench  
19/5/12


- 3. Proper Interview was not conduct.
- 4. No any merit list was made.
- 5. No Call letter issues.

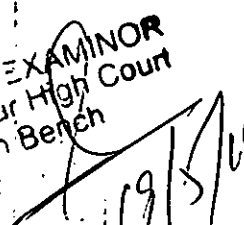
Upon these points the petitioner was proceeded against under K.P.K. Government Servants (Efficiency & Discipline) Rules, 2011 despite the fact that such points are not covered by the said Rules. Hence, petitioner cannot be made victim under the garb of ibid Rules of 2011. Copy of the Government Servants (Efficiency & Discipline) Rules, 2011 are enclosed as Annexure J.

iii)- That there is no allegation against the petitioner regarding inefficiency, misconduct, corruption, habitual absenting, indulgence in subversive activities or plea-bargain; rather petitioner after his appointment as Junior Clerk is serving honestly, devotedly, efficiently and to the satisfaction of his superiors without any complaint during the period. Thus there are no grounds as provided under Rule 3 of the KPK Government Servants (E&D) Rules 2011 to proceed against the petitioner. The impugned proceedings of Inquiry Committee and the impugned show cause notice are wanton aggression upon rights of petitioner.

iv)- That the appointment of respondent No.6 as an Inquiry Committee/Officer as well as proceedings conducted by the said respondent are also violative of the procedure provided under the law; likewise the impugned show cause notice is also in-derogations of the referred Rules of 2011. Thus the same are having no legal effect and are liable to be declared as null & void more particularly when the same are also in-derogation of the Judgment dated 19/09/2013 in WP No.692/2011.

v)- That the points raised against petitioner, pertains to the Appointing Authority who appointed the petitioner as Junior Clerk; whereas, provisions of KPK Government Servants (E&D)

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 Lower High Court  
 Khan Bench  
  
 19/5/14



Rules 2011 deals with the business, acts & deeds of a Civil Servant which he do/performs after indulging into civil service. Hence, a great injustice is being done to the petitioner.

vi)- That the petitioner in the year 2008 in response to an advertisement for the posts of Junior Clerks, competed the test, appeared in interview and placed at waiting list with a promise to be appointed after availability of further posts. Accordingly, on availability of the post of junior clerk, appointment of the petitioner was made. Even otherwise, being a Class-IV the petitioner had a right of one-step promotion to the post of Junior Clerk.

vii)- That the petitioner was already working as Class-IV employee in the Gomal Medical College and the petitioner was given one step promotion as 33% quota of Class-IV Employees to be promoted as Junior Clerk per policy in vogue of the Provincial Government. Moreover, if there was any irregularity (*though not admitted*) the petitioner could not be held responsible as per dictum of august Supreme Court of Pakistan, rather appointing authority should be penalized for the said act.

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28/11/19

viii)- That there was no irregularity in the appointment of petitioner. Moreover, if it is presumed that the appointment of petitioner was an irregular appointment (*although strongly denied*) even then the petitioner cannot be abused or held responsible for the acts done or not done by the then Appointing Authority.

ix)- That the counsel for petitioner may be allowed to raise additional grounds at the time of arguments.

It is, therefore, most respectfully prayed that on acceptance of the instant Writ Petition the impugned proceedings conducted by respondent No.6 as well as impugned show-cause notice, may very graciously be cancelled by declaring the same as null & void, without

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EXAMINOR  
Lawyer High Court  
Lahore Bench  
19/5/19

jurisdiction, without lawful authority and having no binding effect upon rights of the petitioner.

Or any other relief which this honourable Court in the given circumstances may deem appropriate in the best interest of justice, may also be granted to the petitioner.

Yours Humble Petitioner

(Muhammad Asif)  
Through Counsel

Ahmad Ali  
Advocate Supreme Court,  
Stationed at D.I.Khan.

Dt. 23/11/2013

Chaudhery Muhammad Shahid  
Advocate High Court, D.I.Khan

  
Miss Shumaila Awan  
Advocate High Court, D.I.Khan

BOOKS REFERRED:

- 1. Constitution of Islamic Republic of Pakistan, 1973.

CERTIFICATE

I, Ahmad Ali, Advocate Supreme Court, counsel for petitioner and on instructions of petitioner, do hereby certify that it is the first writ petition and no petition on the subject has earlier been filed.

Petitioner  
Through Counsel

AFFIDAVIT

I, Ahmad Ali, Advocate Supreme Court, counsel for petitioner and on instructions of petitioner, do hereby solemnly affirm and declare on oath that all the Para-wise contents of above Writ Petition are true & correct to the best of my knowledge and belief and nothing has been deliberately concealed from this Honourable Court.

Deponent  
Ahmad Ali,  
Advocate Supreme Court.

TESTE.

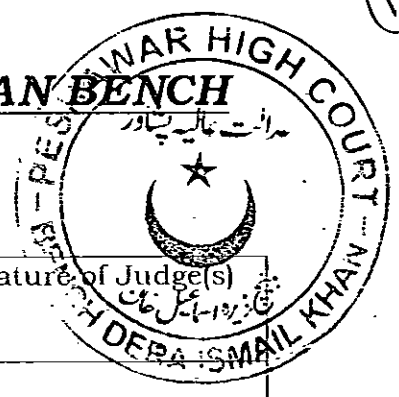
EXAMINOR

Advocate High Court  
D.I.Khan Bench

23/11/13

**PESHAWAR HIGH COURT D.I.KHAN BENCH**

**FORM OF ORDER SHEET**



Date of order or other proceedings	Order or other proceedings with signature of Judge(s)
28/11/2013.	<p>WP No.526 with CM No.564/2013.</p> <p>Present: Mr.Ahmad Ali Khan advocate for the petitioner.</p> <p>---</p> <p><b>ABDUL LATIF KHAN J.-</b> Wants to withdraw this petition being pre-mature with permission to file afresh if need be.</p> <p>2. Dismissed as withdrawn and the petitioner is at liberty to file afresh if so advised.</p> <p style="text-align: right;"><i>[Signature]</i> JUDGE</p> <p style="text-align: right;"><i>[Signature]</i> JUDGE</p> <p style="text-align: center;">EXAMINOR Peshawar High Court D.I. Khan Bench</p> <p style="text-align: center;"><i>[Signature]</i> 19/11/13</p>

*[Handwritten]*  
29/11



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**OFFICE OF THE PRINCIPAL/CHIEF EXECUTIVE/ GOMAL MEDICAL COLLEGE/DHQ/MMM TEACHING HOSPITAL DERA ISMAIL KHAN**

Exchange # 0966-9280338-39  
Fax: # 0966-9280340

Office # 0966-9280341  
Email: [gmc.principal@yahoo.com](mailto:gmc.principal@yahoo.com)

No. GMC/Estt: / 4685-88  
To

Dated. 28 / 10 / 2013

1. Mr. Muhammad Asif J/C GMC DIKhan
2. Mr. Shahid Masood J/C GMC DIKhan.
3. Mr. Raees Khan J/C GMC DIKhan.

**SUBJECT: OFFICE ORDER/ ENQUIRY**  
Memo:

You are hereby directed to attend the office of Professor Dr. Fidaullah Wazir Chairman Enquiry Committee 10:00 AM on 30/10/2013 for personal hearing regarding to your appointment along-with written statement on the following points are as under:

1	Mr. Muhammad Asif	<ol style="list-style-type: none"><li>1. No any advertisement in the news paper.</li><li>2. No Departmental Selection Committee was constituted.</li><li>3. Proper Interview was not conducted.</li><li>4. No any merit list was made</li><li>5. No Call letter issued.</li></ol>
2	Mr. Shahid Masood	<ol style="list-style-type: none"><li>1. No any advertisement in the news paper.</li><li>2. No Departmental Selection Committee was constituted.</li><li>3. Proper Interview was not conducted.</li><li>4. No any merit list was made</li><li>5. No call letter issued.</li></ol>
3	Mr. Rais Khan	<ol style="list-style-type: none"><li>1. No any advertisement in the news paper.</li><li>2. No Departmental Selection Committee was constituted.</li><li>3. Proper Interview was not conducted.</li><li>4. No any merit list was made</li><li>5. Overage</li><li>6. Absent from duty since 01/10/2011</li><li>7. No call letter issued.</li></ol>

**PROF: DR. FIDAULLAH**  
**CHAIRMAN ENQUIRY COMMITTEE**  
**ANATOMY DEPARTMENT**  
**GMC DI KHAN**

No. GMC/Estt: / \_\_\_\_\_

Dated. / / 2013

Copy to:

1. The Principal Gomal Medical College DIKhan for information.

**PROF: DR. FIDAULLAH**  
**CHAIRMAN ENQUIRY COMMITTEE**  
**ANATOMY DEPARTMENT**  
**GMC DI KHAN**

Ann: H 3/11/13

To

Prof: Dr. Fidaullah Wazir  
Chairman Enquiry Committee  
Anatomy Department  
GMC DIKhan.

Subject:- OFFICE ORDER / ENQUIRY

Respected Sir,

Kindly refer to your letter No.4685-87 Dated:-28-10-2013 on the subject cited above.

I have the honour to submit herewith the requisite written statement as under:-


1. The posts of Junior Clerk were advertised from GMC DIKhan and I was duly applied for the post of Junior Clerk (Copy of advertisement attached) written test was conducted and 73 candidates were qualified out of 168 candidates (Copy of appeared and qualified candidates attached).
2. All 73 qualified candidates were directed to appear for Practical / Typing test including me at Govt: Commerce College DIKhan (Copy attached).
3. Out of 73 candidates only 09 candidates qualified in typing test including me.
4. These 09 candidates were directed to appear in interview. Out of 09 only 06 candidates appeared in interview (Merit List is attached) 02 candidates were recommended for appointment on 02 vacant posts and I was kept on waiting list and the then principal GMC promised that you will be appointed as the post will become vacant being deserving candidate as per Merit List.
5. When the post of Junior Clerk became vacant I requested the principal GMC for appointment on the vacant post. I submitted application for appointment as Junior Clerk and Minister for Health NWPf directed the principal GMC to adjust him on the vacant post of Junior Clerk (Copy of application with the remarks of Minister for Health attached).
6. Respected Sir,  
I was purely appointed on merit basis duly completing all the standard procedure of appointment of Junior Clerk and performing duty with real zeal and honesty.  
It is therefore, humbly requested that I may kindly be allowed to continue my service as such.

I shall be very thankful to you for this act of kindness.

Your Obediently

  
Muhammad Asif  
Junior Clerk GMC DIKhan.

Dated:-04/11/2013

*Attached*  




OFFICE OF THE PRINCIPAL/CHIEF EXECUTIVE/ GOMAL MEDICAL COLLEGE/DHQ/MMM TEACHING HOSPITAL DERA ISMAIL KHAN

Exchange # 0966-9280338-39  
Fax:# 0966-9280340

Office # 0966-9280341  
Email: [gmc.principal@yahoo.com](mailto:gmc.principal@yahoo.com)

*Annexure I 42*

No. GMC/Estt./ 4873-74

Dated. 19/11/2013

To

Mr. Muhammad Asif  
Junior Clerk  
Gomal Medical College  
Dera Ismail Khan

SUBJECT: **SHOW CAUSE NOTICE**

A show cause notice serve upon you for information and further necessary action

Encl: Show Cause Notice

*[Signature]*  
PRINCIPAL/CHIEF EXECUTIVE

Cc:

The Accounts Officer Gomal Medical College DIKhan along-with copy of show cause notice for necessary action.

*[Signature]*  
PRINCIPAL/CHIEF EXECUTIVE

*Attested*  
*[Signature]*

# SHOW CAUSE NOTICE

43

I, **Professor Dr. Muhammad Saleem Khan Gandapur** Principal Gomal Medical College Dera Ismail Khan as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve you **Mr. Muhammad Asif Junior Clerk** GMC DI Khan as follow-

1. i. That consequent upon the completion of inquiry conducted against you by the inquiry officer/inquiry committee for which you were given opportunity of hearing vide letter No. GMC/Estt:/4685-88 dated 28/10/2013
- ii. On going through the findings and recommendations of the inquiry officer/ inquiry committee, the material on record and other connected papers including your defense the inquiry officer/inquiry committee.

I am satisfied that the proper codal formalities were not observed during your appointment and you have committed the following acts/omissions specified in rule 3 of the said rules:

1. No any advertisement in the news paper.
  2. No Departmental Selection Committee was constituted.
  3. Proper Interview was not conducted.
  4. No any merit list was made
  5. No Call letter issued.
2. As a result therefore, I, as competent authority, have tentatively decided to Impose upon you the penalty of removal from service under rules 4 of the said rules.
  3. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.
  4. If no reply to this notice is received within 07 days after the receipt of this letter, it shall be presumed that you have no defense to put in and in that case an ex-parte action shall be taken against you.
  5. A copy of findings of the inquiry officer/ inquiry committee is enclosed.

*Attested*  


  
**COMPETENT AUTHORITY**

6J2  
Annexure 448



**OFFICE OF THE PRINCIPAL/CHIEF EXECUTIVE GOMAL MEDICAL  
COLLEGE/DHQ/MMM TEACHING HOSPITALS  
DERA ISMAIL KHAN.**

No. 312=17 /

Dated

DIKhan

the

22/01/2014.

**OFFICE ORDER.**

1. I WHEREAS disciplinary proceeding under E & D Rules 2011, Section 2(l)(vi) read with section 3(b) Mr. Muhammad Asif S/O Muhammad Abid Junior Clerk Gomal Medical College DIKhan for his irregular appointment without observing codal formalities which is required under the appointment, promotion and transfer rules 1989 i.e advertisement in the news paper, departmental selection committee, proper interview etc, but the said irregular appointment has been made without adapting codal formalities by violation of rules regulations.
2. AND WHERE AS, an enquiry was conducted against him through enquiry committee as per provision of section-5 of E&D Rules 2011 and direction by the Honourable Peshawar High Court DIKhan bench.
3. AND WHERE AS opportunity for personal hearing has been given to you but in vain and no response by himself.
4. Therefore I Prof: Dr. Muhammad Saleem, Principal Gomal Medical College DIKhan competent authority in exercise of power conferred under Khyber Pakhtunkhwa Govt: E&D Rules 2011, impose major penalty of "removal from service" upon Mr. Muhammad Asif S/O Muhammad Abid Junior Clerk Gomal Medical College DIKhan with immediate effect.

*Principal/Chief Executive*

C.c:

1. The Secretary to Govt. of Khyber Pakhtunkhwa Health Department Peshawar.
2. The Director General Health Services Khyber Pakhtunkhwa Peshawar..
3. The Vice Principal (Administration) Gomal Medical College DIKhan
4. The District Accounts Officer DIKhan
5. Accounts Officer Gomal Medical College DIKhan
6. Official concerned

*Attested*

*Principal/Chief Executive*



To: **The Director General Health Services,  
Khyber Pakhtunkhwa,  
Peshawar.**

Subject: **DEPARTMENTAL APPEAL/REPRESENTATION AGAINST  
THE TERMINATION LETTER NO312-17 DATED  
22/01/2014 ISSUED BY THE PRINCIPAL GOMAL  
MEDICAL COLLEGE, D.I.KHAN.**

Respected Sir,

The applicant submits as under:

1. That I, the applicant, was serving as **Class-IV (Chowkidar)** in the Gomal Medical College, D.I.Khan. In the year 2008 some vacancies of Junior Clerks were advertised. I being eligible having prescribed qualification also **applied through proper channel** for the said post and also appeared/competed in the test as well as interview. In the result, I was at serial No.3 in the merit list for two vacancies of Junior Clerks. Thus the authority (Principal Gomal Medical College, D.I.Khan) placed the applicant in the waiting list and he also promised/assured that the applicant will be appointed as and when the posts of Junior Clerk become available. Thereafter, on availability of the vacancy of Junior Clerk, the applicant submitted an application to the Health Minister, and consequently, the applicant was appointed as Junior Clerk vide appointment letter No.3980 dated 26/10/2010 on the basis of 33% quota for promotion of Class-IV employees to the post of Junior Clerk.
2. That in the meanwhile, Secretary Health Department issued a letter No.SOH-III/8-89/2011 (Yasmin Bibi) dated 06/07/2011 directing the respondent Principal, G.M.C. D.I.Khan to cancel the appointment of applicant. The applicant challenged the said letter in Writ Petition No.692 of 2011 and the Honourable High Court vide Judgment dated 19/09/2013 was pleased to allow the writ petition and thereby

cancelled the ibid letter dated 06/07/2011; however, the department was set at liberty to proceed in accordance with law after fulfilling codal formalities.

3. That thereafter, a letter No.GMC/Estt:/4685-88 dated 28/10/2013 was issued requiring the applicant for personal hearing regarding appointment of applicant along with written statement on the points mention in the said letter. The applicant replied the letter. However, the Principal, G.M.C. D.I.Khan issued a show-cause notice under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rule 2011 vide letter No.GMC/Estt:/4873-74 dated 19/11/2013 to the applicant showing intention to impose penalty of Removal From Service under Rule 4 of the said Rules. The applicant also replied the same and justified his appointment, however, vide letter No.312-17 dated 22/01/2014 the applicant was removed from service.
4. That being aggrieved of the letter No.312-17 dated 22/01/2014 the applicant is filing present Department Appeal to please set aside the same on the following grounds, amongst others:
  - a. That after taking-over the charge as Junior Clerk, applicant performed the official duties honestly, efficiently and devotedly which fact is admitted by the Inquiry Officer in the inquiry report.
  - b. That the applicant was a Class-IV employee of this department and he was awarded promotion to the post of junior clerk. But while removing the applicant from service his previous regular service as Chowkidar has not been taken into account and as such a great, great injustice has been done to the applicant.
  - c. That appointment of the applicant was made on the basis of 33% quota for promotion of Class-IV employees to the post of Junior Clerk.
  - d. That '*K.P.K. Government Servants (Efficiency & Discipline) Rules, 2011*' are absolutely not applicable and not attracted against the applicant particularly

when the applicant is admittedly an efficient civil servant

- e. That the codal formalities cannot be covered under E&D Rules of 2011 nor any show-cause notice with regard to the Appointment, Promotion & Transfer Rules, 1989 was given to the applicant and similarly the alleged inquiry was also violative of the ibid Rules of 1989 and Rules of 2011.
- f. That appointment of applicant was in accordance with law and procedure and the applicant cannot be held liable for the fault (if any) on the part of the then appointing authority. The applicant being a civil servant, cannot be held responsible or penalized or abused for the acts done or not done (which were required to be done) by the then authority.
- g. That the rights of applicant being a Civil Servant are protected which cannot be subjected to any objection under any rules, regulations or law of the land.
- h. That the applicant is having prescribed qualification required for the post of Junior Clerk. There was no complainant against applicant with regard to his performance of duties.

In view of foregoing submissions, your good-self is the last resort for mine and I therefore, beg to your kind honour to please munificently set-aside the impugned termination letter and applicant may very graciously be re-instated into service.

Yours Obediently,



**(Muhammad Asif)**  
*Ex. Junior Clerk*  
*Gomal Medical College,*  
*Dera Ismail Khan.*

06 February 2014

Annexure 62<sup>9</sup> 48



DIRECTORATE GENERAL HEALTH  
SERVICES, GOVT. OF KHYBER  
PUKHTUNKHWA, PESHAWAR.  
NO 2863 /PERSONNEL  
DATED 21 /04/2014.

To,

The Chief Executive/Principal  
GMC D.I Khan.

Subject: **03-DECISIONS OF PESHAWAR HIGH COURT D.I KHAN  
BENCH ON DATED 19.09.2013.**

Dear Sir,

I am directed refer to letter No. 1280-81/Estt/PF dated  
09.04.2014, on the subject noted above.

The appeals of both the Ex: Junior Clerks of GMC D.I Khan in  
respect of Mr. Shahid Masood and Mr. Raees Khan have already been regretted  
by the competent authority (Copy attached for ready reference).

It is further to inform you that decision taken by you stands good  
and the appellants can re-apply for any post provided that they fulfilled the  
criteria/ qualification as and when advertised.

*[Signature]*  
18/4/14  
ASSISTANT DIRECTOR (P-II)  
DIRECTORATE GENERAL HEALTH  
SERVICES, K.P.K PESHAWAR

*Attested*

*[Signature]*

Hafiz S.M Ali Shah

*[Signature]*  
16/4/14

# وکالت نامہ



بدلت جناب ~~محمد اسحاق~~ سر و سسر ~~محمد اسحاق~~ لکھنؤ

منجانب ~~محمد اسحاق~~

محمد آصف بنام حکومت KPK وٹنہ

دعویٰ یا جرم

تفصیل دعویٰ یا جرم ~~محمد اسحاق~~

## باعث تحریر آنکہ

مقدمہ مندرجہ بالا عنوان میں اپنی طرف واسطے پیروی و جوابدہی برائے پیشی یا تصفیہ مقدمہ بمقام ~~محمد اسحاق~~ صاحب کو حسب ذیل شرائط پر وکیل مقرر کیا ہے، کہ میں ہر پیشی پر خود یا بذریعہ اختیار خاص اور عدالت حاضر ہوتا ہوں گا اور ہر وقت یکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دیکر حاضر عدالت کروں گا، اگر پیشی پر مظہر حاضر نہ ہوں اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور پر میرے برخلاف ہو گیا۔ تو صاحب موصوف اسکے کی طرح ذمہ دار نہ ہوں گے، نیز وکیل صاحب موصوف صدر مقام پکھری کے علاوہ کسی جگہ یا پکھری کے اوقات سے پہلے یا پیچھے یا بروز تعطیل پیروی کرنے کے ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام پکھری کے علاوہ کسی جگہ یا پکھری کے اوقات سے پہلے یا پیچھے یا بروز تعطیل پیروی کرنے کے ذمہ دار نہ ہوں گے اور مقدمہ صدر مقام پکھری کے علاوہ اور جگہ ساعت ہونے یا بروز تعطیل یا پکھری کے اوقات کے آگے پیچھے پیش ہونے پر مظہر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا جمانہ واپس کرنے کے بھی موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پر داخستہ صاحب موصوف مثل کردہ ذات خود منظور قبول ہوگا اور صاحب موصوف کو عرضی دعویٰ یا جواب دعویٰ یا درخواست اجراءے ڈگری یا نظر ثانی اپیل و جرم درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا۔ اور کسی حکم یا ڈگری کرانے اور جرم کاروبار وصول کرنے اور رسید دینے اور داخل کرنے اور جرم کے بیان دینے اور اس پر جانسی یا راضی نامہ و فیصلہ بر حلقہ کرنے، اقبال دہکوی کا بھی اختیار ہوگا اور بصورت مقرر ہونے تاریخ پیشی مقدمہ مذکورہ پیر دن از پکھری صدر پیروی مقدمہ مذکورہ نظر ثانی و اپیل و گمرانی و برآمدگی مقدمہ یا منسوفی ڈگری کی طرف یا درخواست حکم انتہائی یا ترقی یا گرفتاری قبل از فیصلہ اجراءے ڈگری بھی صاحب موصوف کو بشرط ادائیگی علیحدہ جمانہ پیروی کا اختیار ہوگا اور تمام ساختہ پر داخستہ صاحب موصوف مثل کردہ ذات خود منظور قبول ہوگا اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہوگا کہ مقدمہ مذکورہ مال اسکے کسی جزو کی کاروائی یا بصورت درخواست نظر ثانی اپیل یا گمرانی یا دیگر معاملہ مقدمہ مذکورہ کسی دوسرے وکیل یا پیر ستر کو اپنے بجائے یا اپنے ہمراہ مقرر کریں۔ اور ایسے شیر قانون کو بھی ہر امر میں وہی اور ویسے اختیارات حاصل ہوں گے، جیسے صاحب موصوف کو حاصل ہیں، اور دوران مقدمہ میں جو کچھ ہر جانب التواء پڑیگا، وہ صاحب موصوف کا حق ہوگا مگر صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا۔ تو صاحب موصوف کو پورا اختیار ہوگا کہ وہ مقدمہ کی پیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔

لہذا وکالت نامہ لکھ دیا ہے۔ تاکہ سند رہے  
 مورخہ 19 مارچ 201

مضمون وکالت نامہ سن لیا ہے۔ اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

العبد العبد العبد

محمد آصف لکھنؤ

Attest

Signature

Signature

**BEFORE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL CAMP AT  
DERA ISMAIL KHAN.**

In Service Appeal No. 707 / 2014

Muhammad Asif

**Versus**

Govt: of Khyber Pakhtunkhwa etc

**COMMENTS ON BEHALF OF RESPONDENTS NO.2,3,4,5.**

**RESPECTFULLY SHEWETH:**

Respondents humbly submit the following reply to the above cited Service Appeal.

**PRELIMINARY OBJECTIONS**

1. That the appellant has weak locus standi to file present service appeal.
2. That the Service Appeal is not maintainable.
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4. That the appellant has concealed the material facts.
5. That the appeal is badly time barred.
6. That the appellant is estopped due to his own conduct.
7. That the appeal is bad for misjoinder/non-joinder of necessary parties.
8. That the appellant has concealed the material facts from Honorable Tribunal.

**PARA-WISE REPLY ON FACTS**


1. No Comments.
2. No Comments.
3. Para No.3. is correct to the extent that two vacancies of junior clerks were advertised in the year 2008. Both the posts were filled up through proper process of recruitment though the appellant was 3<sup>rd</sup> in the merit list, but as such no waiting list was prepared or maintained by the office of the principal.
4. The appellant was appointed as junior clerk by the then Principal without reference of previous Interview / Waiting List as well as fresh advertisement / interview etc.
5. The Honorable Peshawar High Court cancelled the order of termination on the ground that no codal formalities were followed in the termination of appellant i.e. enquiry, show cause notice etc. The letter No.SOH-III/8-89/2011 (Yasmeen bibi) dated 06/07/2011 was issued by the Govt: of KPK Health Department for cancellation of appointment of appellant with the direction to re-advertise the post for proper interview etc.
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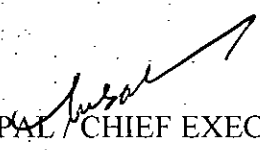
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9. The reply of the appellant was not satisfactory; therefore the termination order issued by the office of the principal is not wrongful.
10. The departmental appeal of appellant has been regretted by the higher authorities vide No.2863/Personnel dated 21/04/2014.
11. No Comments.

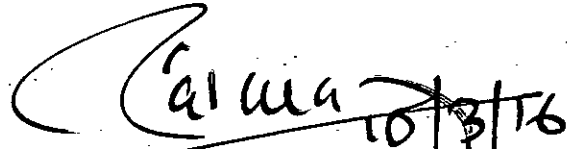
### ON GROUNDS

- A. Para-I incorrect thus denied.
- B. Correct to the extent that appellant in the year 2008 had applied for the post of Junior Clerk in response to an advertisement and was 3<sup>rd</sup> in merit list, however no waiting list was prepared or maintained and he was appointed almost 2 Years after the said interview.
- C. Incorrect thus denied. Detailed reply is given in Para B above.
- D. Correct to the extent that during his posting as Junior Clerk, the appellant served efficiently. Rest of the Para is denied.
- E. Incorrect.
- F. Incorrect and misconceived therefore, denied.
- G. Correct to the extent that appellant in the year 2008 had applied for the post of junior clerk and was 3<sup>rd</sup> in the merit list; however, he was appointed almost 2 years after the said interview while no waiting list was prepared or maintained by the office of the principal.
- H. Correct to the extent that the appellant was serving as Class-IV in the Gomal Medical College. Rest of Para is denied.
- I. Incorrect and misconceived thus denied.
- J. Appellant has no further legal grounds to urge.

It is therefore humbly prayed that in the light of above submission the Service Appeal may kindly be dismissed.

  
DIRECTOR GENERAL HEALTH SERVICES  
KHYBER PAKHTUNKHWA, PESHAWAR  
RESPONDENT NO.3

  
PRINCIPAL / CHIEF EXECUTIVE  
GOMAL MEDICAL COLLEGE  
DHQ/MMM TEACHING HOSPITAL DIKHAN  
RESPONDENT NO.4, 5

  
SECRETARY TO GOVERNMENT  
OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT PESHAWAR  
RESPONDENT NO.2

GOVERNMENT OF KHYBER PAKHTUNKHWA  
HEALTH DEPARTMENT

IAF

No. SOH-III/8-89/2011(Yasmeen Bibi)  
Dated the Peshawar 06<sup>th</sup> July 2011

To;

The Director General Health Services,  
Khyber Pakhtunkhwa, Peshawar.


**SUBJECT: ENQUIRY AGAINST APPOINTMENT OF JUNIOR CLERKS IN  
GOMAL MEDICAL COLLEGE, D.I.KHAN.**

I am directed to refer to your letter No.5137/Personnel dated 16.06.2011 on the subject noted above and to request you to direct the Chief Executive GMC D.I.Khan to cancel the irregular appointment of Junior Clerks and re-advertise/fill the posts after fulfilling the codal formalities immediately.

Copy forwarded to:-

SECTION OFFICER-III

1. Chief Executive, Gomal Medical College, D.I.Khan for similar necessary action.
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SECTION OFFICER-III





DIRECTORATE GENERAL HEALTH  
SERVICES, GOVT: OF KHYBER  
PUKHTUNKHWA, PESHAWAR.  
NO 2863 /PERSONNEL  
DATED 21 /01/2014.

To,

The Chief Executive/ Principal  
GMC D.I Khan.

Subject: **03-DECISIONS OF PESHAWAR HIGH COURT D.I KHAN  
BENCH ON DATED 19.09.2013.**

Dear Sir,

I am directed refer to letter No. 1280-81/Estt/PF dated  
09.04.2014, on the subject noted above.

The appeals of both the Ex: Junior Clerks of GMC D.I Khan in  
respect of Mr. Shahid Masood and Mr. Raees Khan have already been regretted  
by the competent authority (Copy attached for ready reference).

It is further to inform you that decision taken by you stands good  
and the appellant can re-apply for any post provided that they fulfilled the  
criteria/ qualification as and when advertised.

*D*  
*18/4/14*  
ASSISTANT DIRECTOR (P-II)  
DIRECTORATE GENERAL HEALTH  
SERVICES, K.P.K. PESHAWAR

*16/4/14*

Hafiz S.M Ali Shah

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In Service Appeal No. 707 / 2014

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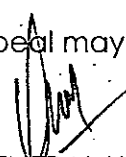
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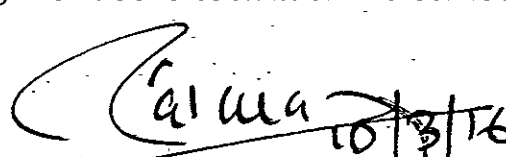
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- A. Para-I.incorrect thus denied.
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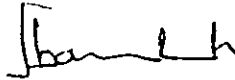
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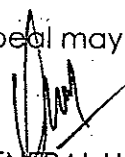
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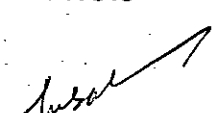
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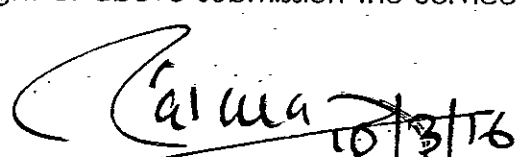
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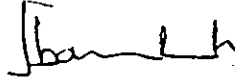
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I am directed refer to letter No. 1280-81/Estt/PF dated  
09.04.2014, on the subject noted above.

The appeals of both the Ex: Junior Clerks of GMC D.I Khan in  
respect of Mr. Shahid Masood and Mr. Raees Khan have already been regretted  
by the competent authority (Copy attached for ready reference).

It is further to inform you that decision taken by you stands good  
and the appellant, can re-apply for any post provided that they fulfilled the  
criteria/ qualification as and when advertised.

18/4/14  
ASSISTANT DIRECTOR (P-II)  
DIRECTORATE GENERAL HEALTH  
SERVICES, K.P.K PESHAWAR

Hafiz S.M Ali Shah

**BEFORE THE K.P SERVICE TRIBUNAL KHYBER  
PAKHTUNKHWA PESHAWAR**

Service Appeal No. 707/2014

Muhammad Asif..... Appellant

Versus

Govt. of Khyber Pakhtunkhwa and others

**REJOINDER AGAINST THE WRITTEN REPLY SUBMITTED  
BY RESPONDENTS**

Respectfully Sheweth:

**REPLY TO PRELIMINARY OBJECTIONS:**

1. Incorrect, the appellant has cause of action and locus standi against the respondents.
2. Incorrect. Service appeal of the appellant is maintainable in its present form.
3. Incorrect. The appellant has come to this honourable Tribunal with clean hands.
4. Incorrect. The appellant has never ever concealed any fact from this honourable Tribunal.
5. Incorrect. The appeal of the appellant is well within time.
6. Incorrect. Law of estoppel is attractive over the respondents rather the appellant.
7. Incorrect.
8. Incorrect. Detailed reply is given in above paras.

**Reply on Facts.**

1. No comments.
2. No comments.
3. In correct. Every department maintained its waiting list regarding appointment made in the concerned department

- and it is part of procedure regarding any recruitment and respondents are also bound to observe above said procedure.
4. Incorrect. The appellant has observed all coddle formalities and appellant's name appear on the top of waiting list. So there was no need <sup>of</sup> denovo process for appointment under discussion. The appellant has been appointed in accordance with law.
  5. Incorrect. The appellant has not been dealt in accordance with law because, termination of appellant is patently illegal and respondents erred in law to impose major penalty without any legal jurisdiction upon appellant.
  6. No comments.
  7. No comments.
  8. Incorrect. Detailed has been mentioned in para No. 5.
  9. Incorrect. Respondents action is against law, natural justice, and various precedents of Supreme Courts. Respondent have no jurisdiction to issue show cause notice without any allegation. Appellant reply to show cause has not been considered by respondent in proper sense <sup>and</sup> ~~either~~ without any cause/fault on behalf of appellant, respondents terminated the service of appellant.
  10. Incorrect. The appellant's appeal has not been disposed in judicious manner.
  11. No comments..

**REPLY ON GROUNDS:-**

- a) Incorrect. Hence not admitted.
- b) No comments. Detail is mentioned above.
- c) No comments. Hence not admitted.
- d) No comments.
- e) No comments.
- f) No comments.

g) Incurred. Hence not admitted.

h) No comments.

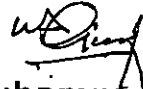
i) No comments.

j) No comments.

*It is therefore, humbly prayed that the appeal of the appellant may please be accepted and the appellant may please be allowed to join services with immediate effect along with all back benefits.*

Dated: 27/09/2016

Your Humble Appellant



**Muhammad Asif**

**BEFORE THE K.P SERVICE TRIBUNAL KHYBER**  
**PAKHTUNKHWA PESHAWAR**

Service Appeal No. 707/2016

Muhammad Asif ..... Appellant

Versus

Govt. of Khyber Pakhtunkhwa and others

**VERIFICATION:**

It is verified on oath, September 2016, that contents of the rejoinder are true and correct to the best of my knowledge and nothing has been concealed from this Honourable Tribunal.

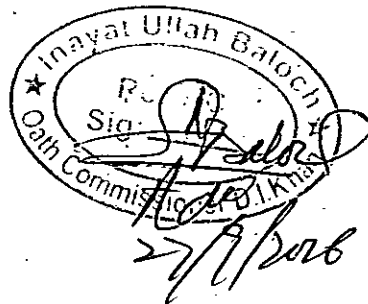
Dated: 27/09/2016

  
Deponent

**AFFIDAVIT:**

I, **Muhammad Asif**, do hereby solemnly affirm and declare on Oath that contents of the rejoinder are true and correct to the best of my knowledge and belief; and nothing has been deliberately concealed from this Hon'ble Tribunal.

Dated: 27/09/2016



  
Deponent

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,**

**PESHAWAR**

In service Appeal No.707/14

Muhammad Asif .....Versus.....Govt. Of Khyber PakhtunKhwa and others

**APPLICATION FOR THE GRANT OF TEMPORARY  
INJUNCTION TO EFFECT THAT THE RESPONDANTS BE  
RESTRAINED FROM FILLING THE POST OF JUNIOR  
CLERKS BY ANY MEAN IN GOMAL MEDICAL COLLEGE  
D.I.KHAN TILL FINAL DISPOSAL OF THE APPEAL**

**Respectfully Sheweth:**

1. That the above noted case is fixed for 27-09-16 at camp court D.I Khan.
2. That there is a good prima facie case in favor of the appellant/Petitioner who is very much sanguine about its success.
3. That the balance of convenience also lies in favor of the Applicant.
4. That in case of refusal of the injunction the Applicant will suffer irreparable loss and great hardship and damage to his future.
5. That the contents of the Appeal may also be considered as part and parcel of this application for its decision.

It is, therefore, prayed that relief as per heading of the Application may graciously be granted.

Dated 26/08/2016

Through

Petitioner/appelant




**Abdul Munim Khan**

Advocate, Peshawar.

**AFFIDAVIT:**

I, Muhammad Asif S/O Muhammad Abid do here by solemnly affirm and declare that the contents of the above applications are true and correct to the best of my knowledge and belief.

**ATTESTED**

  
Deponent



	
ایڈوکیٹ/دستخط: 4912 بارکونسل ابار ایسوسی ایشن خیبر پختونخواہ راولپنڈی: 9006556	61813 پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب:

منجانب: ایڈوکیٹ 	دعویٰ: علت: مورد: جرم: تھانہ: 
<b>بابت تحریر آنکہ</b>	

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ  
 ان مقام پر ایڈوکیٹ محمد اظہار الحق نے محمد اظہار الحق کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز دلیل صاحب کو  
 راضی نامہ کرنے و تقریر نمائندگی و فیصلہ برطین دینے جواب دعویٰ اقبال دعویٰ اور درخواست اذہر قسم کی تصدیق  
 زریں مدد مستحکم کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا تاخیر کی صورت میں یا اہل حق کی برآمدگی اور منسوخی، نیز  
 دائر کرنے اہل عمرانی و نظریاتی و پیروی کر کے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی  
 کاروائی کے واسطے اور دلیل یا اختیار قانونی کو اپنے ہمراہ یا اپنے بجائے قرار کا اختیار ہو گا اور صاحب  
 مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا ساتھ میں مذکورہ قبول ہوگا دوران مقدمہ  
 میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا وہ دلیل موصوف و قبول کرنے کا حقدار ہوگا کوئی تاریخ پیشی مقام  
 دوہ یا حد سے باہر ہو تو دلیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کر لیں، لہذا وکالت نامہ لکھ دیا تاکہ مندر ہے۔

المرقوم: 26/08/16

الع ————— واہ شد ————— الع  
 بد ————— بد

مقام

محمد اظہار الحق  
 ایڈوکیٹ/دستخط

وقت و جگہ: راولپنڈی، 26/08/16

acceptance  
 [Signature]

[Signature]