Before the Service Tribunal, Peshawar

Shakirullah & 29 others

V/s

Director Education

Submission of Record

vide Order dated 29/9/2022

of this Honorable Service

Tribunal

Respectfully Sheweth:

1) That vide Order dated 29/9/22, the Respondent has made compliance and submitted the record.

It is, therefore, requested to allow the instant Application.

Respondent in person

/

Brief in Service Appeal No. 7623/2021 under case titled Shakir Ullah & (39) Others

1. That vide order dated 29-09-2022, the Honorable Service Tribunal, Peshawar has directed the Respondent Department for provision of the following record along with direction to the worthy Director E&SE for appearing in person before the Honorable court on dated on 13/10/2022.

a. Notification bearing Endst: No. 3506-13 dated 25/05/2012 vide which five (05) SST (G) were appointed including Shakir Ullah at serial No 5 as the Department has declared the said Notification as fake and bogus.
(Copy of the Notification is attached as Annx-A)

b. Notification in respect of the following four SSTs falling from S.No.1 to 4
   i. Maqsood Anwar S/O Saqi Muhammad FR Bannu
   ii. Muhammad Naeem S/O Muhammad Saleem Bajawar,
   iii. Atta ullah S/O Abdul jaber Mohmand Agency,
   iv. Ahmad shah S /O Suleman shah Mohmand Agency,

c. Notification bearing endorsement No. 3506 along with proper register in order to show dispatch of the said Notification on Dated 25/05/2012.
(Copy of the Notification is attached as Annx-B)

2. That the desired record was traced out and collected from the establishment section as well as from diary-dispatched section of this directorate E&SE would be submitted to the Honorable Court on dated 13/10/2022.

3. Dispatch register for the year-2012 would show that the Notification bearing Endst No. 3506-13 was issued on dated 24/5/2012 not on 25/05/2012. Moreover, Notification bearing Endst No. 3506-13, was issued by this Directorate pertains to earned-leave which was dully approved by the competent authority vide para-124/N in the light of PUC Para-119/N dated 22/05/2012. The appellants are claiming the Notification bearing Endst: No 3506-13 as their appointment orders against SSTs posts which is against the facts & available record. **(Dispatch Register Dated 24-05-2012 & 25-05-2012 are attached as Annx C & D)**

4. That the ***Dispatch*** register further reveals that the Notification bearing Endst No. 3506-13 dated 25/05/2012, reflecting the appointments of the following appellants was not issued by the Directorate E&SE which confirms that the appellants inducted their self through fake & bogus appointment order.

   i. Maqsood Anwar S/O Saqi Muhammad FR Bannu
   ii. Muhammad Naeem S/O Muhammad Saleem Bajawar,
   iii. Atta ullah S/O Abdul jaber Mohmand Agency,
   iv. Ahmad shah S /O Suleman shah Mohmand Agency,
   v. Shakir Ullah S/o Zargar Mohmand Agency

Respondents

Notes Both the Inquiry report are attached.

Director E&SE

116 Ref Para IX-115/N

Re Submitted after clearing the need

117. AO/E Ref Paras-138 to 115

FC/OC on page-77 is submitted for sign/issue pl.

10/3/11

118. DF/P signed & issue

Dep.

10.3.2011

1680-82

11/3/11

119. Pre-page-78-79.

The RDO order has recorded/recommended the removal here in the MSA, whereas equal opt chances prong Dist. order was 1-4-12 to 14-6-12 (75) days on half pay.

120. My the Supt due be allowed to the other removed opt in light of the acquit of DAD order vide p-78 at cells ibid

121. Submitted for order please.

23/5/12

Supdt

122. Ref Para - 119 & 120

Earned leave in r/o Mst. Waheeda Gul SST GGHS Peang w.e.f 1/4/2012 to 14/6/2012 (75) days as per report of DAOs, on page - 78 may be sanctioned pl.

22/5/12

DDE/F

123. Para - 122 submitted for approval

22/5/12

124. DE/FSE

Approved para 122

22/5/2012

125. DDE/S

126. DA Para-124/100

23/5/12

P/case is submitted for sig/view please.

Supdt

P.T.O. 23/5/12

Page 80 submitted for sign & issue pl.

23.5.12

127 AD(F)

Ref Para-124

DDE(F)/out

Signed/DSP

DESP

24/5/12

128 Pre page 81 to 82

The DRO & Chevadda has submitted R/leave w.e.f 10-7-2013 to 10-8-2013 32 days on full pay with ret sabreena Rayaz AD o o/o the RDO & Chevadda vide P-82 The leave admissibility report of DDO vide P-81

129 If agreed the above R/leave may be sanctioned pl

31/7/13

SR
AD

DIRECTORATE OF ELEMNTARY & SECONDARY EDUCATION KHYBER PAKHTUNKHWA PESHAWAR.

NOTIFICATION.

Sanction is hereby accorded to the grant of Earned leave in respect of Mst. Waheeda Gul SST GGHS; Prang District Charsadda w.e.f. 01-04-2012 to 14-06-2012 (75) days on half pay as due and admissible to her under the Revised Leave Rules, 1981.

DIRECTOR

Endst: No. 3486-3591/F.No.262/A-17 /SST (F) Leave Cases Dated Peshawar the 24/5/2012

Copy of the above is to:-

7. Executive District Officer (E&SE) Charsadda.
8. District Accounts Officer Charsadda.
9. Headmistress GGHS Prang Charsadda..
10. SST concerned.
11. PA to Director (E&SE) Khyber Pakhtunkhwa, Peshawar.
12. M/File.

Deputy Directress (Estab)
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar.

23/5/12

N.W.F.P. Routine No. 30

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REGISTER OF ISSUES

24/5/12

Serial No.	Branch	Inward Register Daily or General No.	To whom and number of enclosures	Subject or File No.	Remarks (record reference amount or stamps, etc.)	Stamp Value (Rs.)
3394	A-12/E-1/P. Tr/ Swabi		Supp: Edu: W.P.		Request for Transfer.	
3395	A-12/E-1/P.Tr./Shangla		Supp:	Edu: W.P.	Allowing TA Advance.	
3396-97	— do —		— do —		— do —	
3397-3404	F.No. 33/A-14 Set		All C — do		Notification	
3405-3406-8	SNE1 & Pur. — do —		S.O	B & A	Upgd. of GGPS Hassan Khel — do —	
3409-36	DD Rel (D)/SNE		All Concerned		Rationalization of PST teachers at UPE level and charge assumption within 15 days after posting/transfer order.	
3437-62 3463-64	F1/Relese — do —		All EDOs, All Concd		Submission of Utilization Report of DD Relem 2011-12	
3465	Eng. Dir/Sanit.		[illegible]			

3465	PA6.8C/SNE.		EDO	Bannu	Submission of Relevant Paper	
3466-68	—		—	—	—	
3469	PA6.30/V-6/SET(P)		PS to Minister (RBE)		Summary.	
3470	AD Lot: II S.T.		EDO	Haripur	S.A. No. 1/Implementation. Application No. 49/2012	
3471	—		PA To DSE.		—	
3472	—		EDO	Karak	Executive Petition No. 32/10.	
3473	—		PA To DSE.		—	
3474	—		EDO	Karak	S.A. No. 832 titeled Mold: Ishaq CT	
3475-76	—		—	—	—	
3477-80	A-23/MS/Kohat		—	—	Notification.	
3481-85	A-23/MS/Rot:/V-IV		—	—	—	

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REGISTER OF ISSUES

Serial No.	Branch	Inward Register Daily or General No.	To whom and number of enclosures	Subject or File No.	Remarks (record reference amount or stamps, etc.)	Stamp Value (Rs.)
34501						
~~3485-3485~~	~~F (H) 262/SET(F)~~		~~All Concerned~~	~~Notification~~	~~Earned leave~~	
3486-3591		262/SET(F)	All Concerned	Notification	Earned leave	
3592-3594	HRC No. 30715-K/2010		Secretary Education Govt. Education Department K.P.K	HRC Appts	Gulam Rasool	
			D.H. Res cell	do		
			Supreme Court of Islamabad	do		
			P.A to P.S K.P.K			
3595/F	No. 21/SNE/PVD/		Secretary	Submission	SNE	
3596-3646	do		all Concerned	do		
3647-3647	PVD/K-1/DCC		all EDOs all XEN C&W	Approval	Desig.	

[illegible]	[illegible]	[illegible]	[illegible]	Submission	SNE	(4)
3597-97	do		all Concerned	do		
3598-3647	P&D/R-1/PCC		all EDOs all XEN CVW	Approval	Desig.	
3648-51	do		all Concerned	do		
3652-56	A-28/C-IV/Kohat/II		do	do	notification	
3657-61	F No (F) Transfer		All C	do	Office order	[illegible] TT
3662-66	F No 10/GPF-Advi		All C	do	G.P. Fund Advance Sanction	
3667						
3668						

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REGISTER OF ISSUES

Serial No.	Branch	Inward Register Daily or General No.	To whom and number of enclosures	Subject or File No.	Remarks (record reference amount or stamps, etc.)	Stamp Value (Rs.)
3669	F.No. 9/PST (M) Swat		EDO	Swat.	Application.	
3670	F.No. 350/vol-II/SET(M)		C.d Saeed	v/Principal, GHS Edan	Disciplinary Action Mr Mohd. Farooq	Against
3671-75	do		—	—	—	
3676	F.No. 485/SET (M)		Mohd. Rashid Pd. GHS, Noor, Tangi, Charsadda.		Disciplinary Action Mohd Rashid.	Against
3677-80	—		—	—	—	
3681	F.No. 71/vol-VII/Int: Distt.		EDO	Swat.	Transfer.	
3682	F.No. 2/vol-II/SET(M)		EDO	Shangla.	Application.	
3683	F.No. 46/vol-II/(F)		Mgr. M.Sub. Jonas Vakshal	The VP. GHS No. 4 Peshawar	Enquiry Report Against Mst Neelam	Against Peshawar
3684-87	—		—	—	—	
3688	F.No. 3/Appeal		Emp.	Educ. C.S.	Execution Petition	No. 85/P.O.
3689	F.No. 1/Appeal/Int.					

3688	File No. 3/Appeal	Secy.	Educ. C.S.	Execution Petition	No. 85/10.
3689	File No. 1018/A-15/Ex-Post facto	E&SE	Swabi	Application for the grant of Ex-Post facto Sanction.	
3690-94	File No. 124/vol-1/PST(M)/Gen.	—	—	visit Report of Monitoring Officer ESRU	E&SE.
3695	—	Monitoring	Officer, E&SE,	—	
3696/LPR/HM/SS	F. No 3.	Secy. E&SE KPK.		Encashment/Retirement	Urgent
3697-3702/F. No 33/A-14/SET/leave/Ret/Dis(L)		All	—	Notification LPR	SST, GCET
3703-07/Audit		All concerned		Audit of ETEA Faculty Hostel	colleges
3707-11	-do-	All concerned		-do-	university Public sch: Pesh:
3712-16	-do-	All concerned		-do-	university model school Pesh:
3717-21	-do-	All concerned		-do	Islamia collegiate Pesh:
3722-25	-do-	All Concerned		-do-	university Public School Mkd.

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REGISTER OF ISSUES

Serial No.	Branch	Inward Register Daily or General No.	To whom and number of enclosures	Subject or File No.	Remarks (record reference amount or stamps, etc.)	Stamp Value (Rs.)
3726-30	Audit		All Concerned	Audit of	Peshawar Public school Peshawar	
3731-35	-do-		All Concerned	-do- of	Abbottabad Public sch.	
3736-40	-do-		All Concerned	-do-	university women coll. D.I.K	
3741-45	-do-		All Concerned		Darsana Public school Bannu	
3746	Est. 5/Ret. Grant/B.F/DD(E&A)		Director Secy. Govt. KP Adm. Deptt. B.F.A. all.		Application for Retirement	
3747-51	—		—	—	Lump sum Grant	
3752-56	Est. 1/GPF Adv./Vol-III		—	—	G.P.F. Sanction	
3757	A-23/MS/ S. List/S. Clerk		Director	Curriculum &	Appeal Against	Seniority list
3758-59	—		Teachers	Edu. Int	—	

3757	A-23/MS/	S. List/S. Clerk	Director	Curriculum &	Appeal Against	Seniority List
3758-59	—		Teachers	Edu: W.P.	—	
3760-65	A-23/MS/	Retirment	—	—	Notification	
3766	P-7/Deptt./	SHH, Shorshing Dir(L)	H/M	SHS, Shorshing Dir(L)	Comments on annotated Replies	
3767	—		EDO	Dir(L)	—	
3768-72	A-167/Vol-III/	Tonk (E)	—	—	Office order	
3773-77	P-7/Deptt./	Gen: NDC	—	—	NDC	
3778	Verification of Degree		Controller of Exam:	Sarhad University	verification of Degree	
3779	—			DSE	—	
3780	PC-1/	DCE.	Emp:	Edu: W.P.	Submission of PC-1/DCE	
3781	—		EDO	Pakhtun	—	
3782	PAD		Emp:	Edu: W.P.	Submission of PC-1/DCE	
3783	Pakhtun		EDO	Pakhtun	—	
3784	—		Emp:	Edu: W.P.	PC-1 (For Approval)	
3785	—		EDO	NSR	—	
3786-87	P-7/Deptt./	SHH Sangar, Marden	—	—	Audit Note	
3788	PC-1/	DCE	Emp:	Edu: W.P.	PC-1/ Bomb Blast	
3789	—		EDO	NSR	—	

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REGISTER OF ISSUES

Serial No.	Branch	Inward Register Daily or General No.	To whom and number of enclosures	Subject or File No.	Remarks (record reference amount or stamps, etc.)	Stamp Value (Rs.)
3790	MNo. 167	Vol-III/Estate	Surg.	Rdr.	Mutual Transfer from Estate to Settle Area.	
3791/	F. No A-12	E-1/Complain	Surg.	EDSE	Explanation	
3792-93	—	—	EDO (EDSE) Tonk & PA to DEDSE	—	—	
3794-95	P&D		—	—	110439 - Construction	
3796	P&D	Tank	Surg.	Estt.	Provision of N.O.C.	
3797	—		EDO	Tank	—	
3798	DD	(P&D)	D.G.	Sports & Youth Affairs	Issuance of NOC.	
3799	—		PA to	DSE	—	

3800	TA Investigation/FAA,		Secy:	Exec:	Investigation of TA Bills	
3801	— do —		AA	— do —	— do —	
3802	/01/DD(FAA)		EDC(Edsey)	Peshawar	Application for grant of group insurance (G/C)	
3803	— do —		DD(F)	Peshawar	— do —	
3804	149/NGO/SC/FLCPD		E.D.O	Peshawar	Implementation of Save —	
3805-7	— do —		All-Con	Field Program Managers	— do —	
~~3808~~	~~H Subsidy/C.B~~		~~[illegible]~~	~~[illegible]~~	~~Implementation of Sarp~~	
3808	H Subsi	C.B	S.O	S.O	House Subsidy Allowance Charge	
3809	— do —		E.O	Admin Deptt.	— do —	
3810/F	NOA-12/E-1/Complaint Distt.		E.O	Secy: FWSE NDK	Notification/Ongoing Report	4/E
3811	— do —		PA to DEASE	— do —		Budget: Actual Disbursed PSD
3812-17	/999/A-15/CT/Kshat			All — do —	Office order:	C/O 3/8/06

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REGISTER OF ISSUES

Serial No.	Branch	Inward Register Daily or General No.	To whom and number of enclosures	Subject or File No.	Remarks (record reference amount or stamps, etc.)	Stamp Value (Rs.)
3818-22	A-20/C-IV/Promotion		—	—	Office order	
3823-27	F.No. 21/Gen. Tr. of DPE		—	—	Notification.	
3828-31	A-20/C-IV/2012		—	—	Appointment order	
3832-	A-3/Pension		DAO	Pension	Revised Pension Rs. [illegible] SET	
3833	F.No. 29/SET(M)		DE (Peta) Khyber Road	Extension in Deputation Period of Bait Ullah K		
			Dated 28-5-2012			
3834	AD. Inf-II		Secretary Bar Council Peshawar		Civil Revision in Next High Court	
3836	AD. Inf		Secretary Bar Council	WBGA	SA No 126/11	
3837-38	II		1 Registrar Board Tribunal		Badshah 2 copies	

3835			PA	West	Civil Revision in Next Hin Term
3836	AD		Secretary		
3837-38			1 Respondent 2 PA		Badshah 2 cons
3839	P235/AIS DM		FD 2 P Sameer		Appeal 2- Nand Mehta
3840			Mace Music	4 SPS	Shah 4
3841	F 141/100/111 PST CM		SO 4	W2 SA	Open Engineering
3842			FD 2 Maldar		84/10 Bdw / Ag- Th connected 4
3843-45	A23MS		All		S/ Ku S/Clerk
3846	A23MS P Sanjay		Secretary	Bdw	Dfc n Recording
3847-49			All		

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REGISTER OF ISSUES

Serial No.	Branch	Inward Register Daily or General No.	To whom and number of enclosures	Subject or File No.	Remarks (record reference amount or stamps, etc.)	Stamp Value (Rs.)
3875	75	FRISNB/75	All EDO		Subject in Detail 2. Ree.	
3876	77	—	1 of SO Secretary BOE 2 of AO		Essl. —	
3878	A12 Essl-1		Secretary BOE NWFP		Management / Misappropriation in the Goods Sector	
3879	—		of AO		—	
3880	A3 Non pension		EDO		Pension papers Nusrat Bibi SST	
3881	FSA		Secretary BOE NB. Esl/Bodily Pay/ocr Remarks of the Student		Pension Paper	

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REGISTER OF ISSUES

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3881	FSH		Secretary Pak/ocr Rehman & HS Shahidan			
3882	P7	Audit	Secretary Pak wtr		Audit	
3883	A12	HW	— do —		Appeal Regularization	
3884	A31		Secretary Pak wtr & Board Estate Ag HW. SAE College		Pension Papers	
3885-90	— do		— do —		Charge Report of Muscawar Shah Badin	
3891	F.No. A-17/SST.F	Cont. Appt	EDO Adm.	Application for appointment as SST Sindhi at GSHS Rustam		
3892/	PC-1/DCE		EDO		PC-1/DCE & Tank	
3893/	— do —		EDO بنوں		— do —	
3894/	— do —		Secretary		PC-1/DCE & DIJ	یونیسیف
3895/	— do —		EDO یونیسیف		— do —	

Received by Sajjad Pun 28/5/012

IN THE COURT OF MUHAMMAD YOUNAS, JUDGE ACCOUNTABILITY COURT-V, PESHAWAR.

New Reference No. 13/2021 corresponding to Old Reference No. 04/2019.

With Misc. Application Nos. 04/2021, 06/2021, 19/2021, 20/2021, 08/2022 & 12/2022.

Date of Original Institution: 12-11-2019

Date of Institution of this court: 30-09-2021

Date of Return of Challan: 21-05-2022

NAB through Public Prosecutor

.....**(Claimant)**

Versus

Fazal Manan S/o Fazal Hanan Ex-Director Education FATA, R/o Hasil Kotina Mian Essa, P.O Shabqadar for Charsadda. (CNIC No: 17101-0309708-1)

&

63 others

.....**(Accused)**

Consolidated Judgement:

Since all the aforesaid miscellaneous petitions have been filed in connection with one and the same reference bearing No. 13/2021 corresponding to its previous No. 04/2019 titled State/NAB Vs Fazal Manan etc, therefore, all of them are chosen for discussion and disposal together through the consolidated judgement in hand.

FACTUAL BACKGROUND OF THE MAIN REFERENCE:

On receipt of complaints against officers/officials of Directorate of Education Khyber Pakhtunkhwa about the illegal appointments of secondary school teachers herein after called as SSTs in various agencies and the then FATA areas of the province, the NAB initiated an inquiry which was subsequently converted into an investigation vide NAB letter No. 1/654/IW-II/NAB/KP97266/755 dated 06-07-2018.

During the course of inquiry/investigation, NAB dug out such appointments to be illegal and finalized through corrupt practices

Judge Accountability Court-V Peshawar

21/5/22

certain appointments were also found to be fake. The individual responsibilities as well as collective responsibilities of the accused were also worked out in the inquiry/investigation report concluded and such allegations have been attributed to the accused during the course of trial when they were charge sheeted. The present reference was initially sent up before learned Judge Accountability Court-I, Peshawar, where it remained pending till 15-09-2021 and was thereafter transferred to this court for disposal. After framing of charge, trail has been commenced since 12-11-2019 and so far the statement of five (5) prosecution witnesses have been recorded. When in the meanwhile, the aforesaid applications have been submitted on behalf of the accused.

Brief facts of the individual petitions are as follows:

1. **Miscellaneous Application No. 04/2021.**

This application has been submitted by accused Badre Harran Wife of Farooq and Mr. Kashif Khan s/o Muhammad Hayat on the mandate of section 4 sub-section 2 (d) r.w sub-section 3 of section 4 of the second amendment ordinance 2021 of the NAO, 1999. It has been submitted inter alia:

That petitioner No. 1 is Ex-Deputy Director (Estb), while petitioner No. 2 is Ex-Assistant Director in the Directorate of Education FATA and were implicated in the instant reference which was initially submitted under the provisions of National Accountability Ordinance, 1999.

That during the continuation of trial, the second amendment was introduced in the abed ordinance and on the mandate of section 4 sub-section 2/d, the instant case is not maintainable before this court and as such necessary orders and directions on the mandate of section 4 (3) of the National Accountability Ordinance have been solicited.

ATTESTED

Grounds

A) Because the applicants are innocent and have falsely been implicated.

B) Because the allegation leveled against the applications does not attract the penal provisions of NAO, 1999 and even does not constitute a

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criminal act/offence, therefore, the applicants cannot be prosecuted at all in the light of the judgement of the apex court.

C) Because the prerequisites of offence i.e. mens-rea and actus-rea is missing in the reference in hand, rather the applicants have been appointed/regularized after fulfillment of all codal formalities. Moreover, the applicants have neither been attributed any illegal act nor an iota of evidence is available to establish the allegations.

2. **Miscellaneous Application No. 06/2021.**

The application in hand has been submitted by accused Fazal Manan u/s 3 & 4 of the amended ordinance of 2021 r.w section 265-K Cr.P.C and other enable provision of law for filing/rejection of the cited reference against the accused. He contends inter alia:

That not only reference is hit by the amended provisions of NAO, 1999, but also the petitioner was not the appointing authority. Hence, no misuse of authority could be attributed to him and only procedural omissions may be attributed to him which by no means constitute an offence under the relevant provisions of NAO nor under the existing service laws. The detailed grounds are thus reproduced as follows:

Grounds: -

a) Because it has been provided in Presidential order (No. XIII of 1972) regarding the employees' status of Centrally Administered Tribal Area, that "all the employees shall, from the appointed day, be employees of the Provincial Government on deputation to the Federal Government and shall work under the overall administrative control of the Provincial Government on the same terms and conditions of service as respects remuneration, leave and pension and the same rights as respects disciplinary matters or tenure of office as were applicable to them immediately before that day; provided that the employees shall not be entitled to deputation allowance for their services after the appointed day"(Page 209 of the Reference Book).

b) Because, as per Rule 4 (2) (c) of the Khyber Pakhtunkhwa (Civil Servants Appointment, Promotion, and Transfer Rules, 1989), the Appointing Authority for Provincial cadre posts in BPS 16, is the Head of attached department. In case of SST (BPS 16) in education department FATA/KP, the Director Elementary and Secondary

ATTESTED

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Education Khyber Pakhtunkhwa was the Appointing Authority. He was also the transferring authority for SSTs from Ex-FATA to KP and vice versa. The Director Education FATA had neither possessed the powers of an appointing authority in the instant case nor had he made any appointment of SSTs in FATA. Hence, the charge of misuse of authority in the appointments of 60 SSTs leveled against the Applicant/Accused No. 1 is wrong, misleading, incorrect and illegal.

c) Because during the tenure of Applicant/Accused No. 1, Ex-Director Education FATA (from 20-10-2006 to 31-10-2012), 25 out of 60 teachers have been indicated as fake teachers adjusted in FATA vide Para 5 (G), 28-1 (w-x) and list of accused beneficiaries No 5-29 at pages (Z, AA, AB) of the Reference Book. The rest of 35 (25-60) teachers at pages (AB, AC, AD, AE, AF, AG of the Reference Book) belong to the tenure of successive Directors of Applicant/Accused No. 1. But, they have neither been charged or included in the Reference Book nor have been cited as witnesses to clarify their position. Similarly, the actual appointing authority i.e. Director Elementary and Secondary Education Khyber Pakhtunkhwa, who had issued appointment orders of these SSTs, has also been excluded in the matter. The tenure of incumbent Directors Education FATA can be seen at page 222 and 222-A of the Reference Book. Only Fazal Manan Ex-Director Education FATA has been charged for the adjustment of all the 60 SETs which is illegal, wrong, amounts to sheer injustice and speaks in volumes about the high handedness of NAB officials in dispensing selective accountability of their own choice.

d) Because, the only requirement Indicated in the appointment order issued by Director E&SE KP was that of verification of their documents before release of pay. The Director Education, FATA had clearly mentioned in the adjustment orders of these teachers that the Agency Education Officer concerned would verify their documents before release of pay. The Source -1 and other forms required for release of pay were to be signed by the Principal/DDO concerned. The Applicant/Accused No. 1 (DE FATA) had no role in the release of payment of salary to these teachers.

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e) Because, a copy of each and every appointment Notification of SSTs issued by Director, E&SE KP had been endorsed to the Secretary, KP Public Service Commission. Similarly, a copy of each and every adjustment order issued by DE, FATA was endorsed to Director E&SE KP. But neither the Public Service Commission had objected or disowned their recommendations nor the Directorate of E&SE KP had withdrawn their appointment orders or objected to their adjustment at any stage. Nobody had ever objected or raised a voice against these appointments or adjustment orders to be fake or illegal. Even the Applicant /Accused (Ex-DE FATA) had never received any kind of complaint in writing or verbal from any quarter in this regard.

f) Because, the prescribed procedure for putting up files to the DE FATA was that the appointment notifications of teachers were to be checked and draft proposal of their adjustment against vacant posts put up by the concern Dealing Assistants to the Superintendent of Establishment Section for further processing. The Superintendent, after examining the PUC and note sheet, had to mark the file to Assistant Director (Estb) with his remarks. The AD had to check the proposal and PUC and mark the file to Deputy Director (Estb) for further action. The DD (E) then examined the proposal and marked it to the Additional Director (Estb). The proposal was then checked by the Additional Director (Estb) and proposal given on file to the Director Education for approval. Based on comments of all these incumbent officials, the proposals were agreed/ approved by the Director. This channel was in the same way followed downwards. It was the Dealing Assistant who typed the adjustment orders of the SETs, already appointed by Director E&SE KP. The said process of typing was carried out through Computer Operator also. It was the official working in the establishment section, who maintained the record pertaining to the number of vacancies, notifications of appointment, personnel files, promotion files, ACRs etc. After scrutiny of the cases by a channel of all these officials/officers it was not felt that further verification was needed. Similarly, there was neither an established procedure nor any precedent in the history of Directorate of Education FATA that appointment Notifications issued

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by the Director E&SE KP were to be verified before making adjustment against vacant posts in FATA. The recruitment policy of SETs also didn't indicate the requirement of verification of appointment notification issued by the respective appointing authority before making adjustment/placement of the already appointed teachers. So, there was no legal obligation in this regard.

g) Because, the Directorate E&SE in its scrutiny report has verified the appointment of (18) SSTs included in the list under reference vide its letter No. 1820/01/SET(M&F) FATA/Verification, dated 12-06-2017, (Pages 44 to 48 pages 298-302 of the Reference Book). Similarly, the seniority list of SSTs (female) recently issued by the Directorate of Elementary and Secondary Education, KPK contains the names of certain female SSTs included in the Reference Book. It means that the service record of these teachers was available at the level of Directorate of Elementary and Secondary Education, Khyber Pakhtunkhwa.

h) Because, as pointed out in Para 21 (T) at page 10 and 25 of the Reference Book, appointment of 46 out of 60 fake SSTs were declared as disowned by the Director, E&SE KP on the basis of inquiry report of Director Education, FATA. Copies of their disowned Notifications have been placed at page 355-400 of the Reference Book. But, these are the substituted copies of the original disowned notifications which contained the adjustment orders of these teachers also. The original notifications were changed and modified on the directive of Investigation Officer NAB through call up notices to Director, E&SE KP and Deputy Director (Estab), newly merged districts. They, along with Mr. Hanif ur Rahman ADDE (Estab) newly merged districts and Mr. Jahangir, Dealing Assistant, accordingly attended NAB office on 16.05.2019 and 17.05.2019 wherein they were directed to issue substituent notifications excluding the adjustment orders, which they did on 21.05.2019. But, as the adjustment orders of these teachers were consequential upon the appointment notification of Director E&SE KP, so the adjustment orders also remained ineffective and void when the appointment notification were disowned. The Director E&SE KP would be in a better position to explain the reason of not

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taking action against the remaining 14 (46-60) fake teachers whose names have been included in the Reference Book but have not been disowned by the Director E&SE KP.

i) Because, During the applicant/accused's tenure as Director Education, FATA (from 20-10-2006 to 31-10-2012), the applicant performed his official duties in staunch compliance to the code of conduct, in good faith and in best interest of the people of FATA in general and children of FATA in particular. The applicant/accused always tried his best to provide them better education opportunities and facilities to bring them at par with the students of settled area. The applicant had no ulterior motives and worked hard with devotion and sincerity. The applicant/accused possesses a splendid track record stretching over long span of about 40 years' meritorious service in the Education Department KP as a teacher and manager and never misused his official authority in any capacity. The seniors/supervisors were entirely satisfied with the duties, work, behavior and integrity of the applicant/accused.

j) Because, from the cursory perusal of the instant reference it is Crystal Clear, that the Applicant/ accused No. 1 neither is a direct or indirect beneficiary nor has accumulated any monetary benefit or asset. None of the teachers alleged to have been appointed illegally were by any means known to the applicant/ accused. The Applicant/ Accused had no relationship of any kind with them. Their adjustment against vacant posts in FATA schools was based on the appointment notifications already issued by the respective appointing authority i.e. Director E&SE KP, which was a routine matter as done by my predecessors and successors. But, even if there was any procedural lapse that may not be construed as a misuse of official authority or an offence of corruption or corrupt practices.

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3. **Miscellaneous Application No. 19/2021.**

This application is submitted by accused No. 2 namely Syed Manzar Jan, Ex-Additional Director Education, FATA on the grounds of inter alia:

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Grounds-

A) That for the whole accusation/charge against the applicant only one reason/ground has been stated in the reference book, that he has not verified the orders, but in this regard it is submitted that it has clearly and specifically been mentioned in all the adjustment orders that "the terms and conditions of their posting will be the same as already prescribed in the above mentioned notification of Director E&SE KP, Peshawar. However, the Agency Education Officer concerned will verify their documents before release of pay". So, source 1 and other form required for release of pay were to be signed by the principal/DDO concerned and the applicant has got no concern with the verification and has/had no role in the release or payment of salary to the teachers. Moreover, it is submitted that neither the verification of orders is/was legal requirement, nor it was established procedure or precedent in the history of Directorate of Education FATA that appointment notifications issued by the appointing/competent authority i.e. the Director E&SE KP were to be verified before making adjustments against vacant posts in FATA schools. The recruitment policy of SETS (SSTs) also did not indicate the requirement of verification of the appointment notifications issued by respective appointing authority before making adjustment/posting of the already appointed teachers and as according to the prescribed procedure of dealing the adjustment/posting files was that the appointment notifications of teachers were to be checked and draft proposal of their adjustment against vacant post put up by the concerned dealing Assistant to the Superintendent of the Establishment Section for further proceedings. The Superintendent after examining the PUC and note-sheet had to mark the file to the Assistant Director (Estb) with his remarks. The Assistant Director (Estb) had to check the proposal and PUC and mark the file to Deputy Director (Estb) for further action. The Deputy Director (Estb) then examine the proposal and mark it to the Additional Director (Estb) (applicant/accused No. 2). The Additional Director then checked the proposal by him and so based on the comments of all these officers/officials the proposal given on file to the Director Education for approval. This channel in the same way is followed down ward. It was the dealing Assistant,

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who typed the adjustment orders of the SETs already appointed by the Director E&SE KP. The said process of typing was carried out through Computer Operator also. So after scrutiny of the cases by the said channel of all these officers/officials in good faith it was not felt that further verification was needed.

B) That as the reasons/grounds for accusation i.e. dishonestly, excess of domain or ulterior motives stated in the charge are concerned in this regard it is submitted that during his tenure 16/11/2010 to 18/12/2013 the applicant performed his official duties honestly and in stanch compliance to the code of conduct, in good faith and in best interest of the people of FATA in general and children of FATA in particular, the applicant always tried his best to provide them better education opportunities and facilities to bring them at par with the students of settled area. The applicant had no ulterior motives and worked hard with devotion and sincerity. The applicant possesses a splendid track record stretching over long service period in the Education Department on various positions and has never misused his official authority in any capacity.

C) That as evident from the record that the case is that of illegal appointment of SSTs, but admittedly for the appointment of SSTs the appointing authority is the Director E&SE KP the applicant/respondent NO 2 being an Ex-Additional Director Education FATA has got no concern with the appointment of SSTs, because he had neither possessed the power of an appointing authority or adjustment/posting authority, nor he had made any appointment of SSTs in the instant case, therefore, the charge of misuse of authority in the appointment of 60 SSTs leveled against the applicant/accused No 2 is wrong, misleading, incorrect and illegal.

D) That the copies of each and every appointment order made by Director E&SE KP and adjustment order of SSTs had been endorsed to all concern including the KP Public Service Commission and the Director E&SE KP, but neither the Public service commission had objected or disowned their recommendations, nor the Director E&SE

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KP had withdrawn his appointment order or objected to their adjustment at any stage and even nobody had ever objected or raised a voice against the appointment or adjustment orders to be fake and or illegal. Even the applicant/respondent (accused No 2) (Ex-Additional Director Education FATA) had never received any kind of complaint in writing or verbal from any quarter in this regard.

E) That as the matter of 60 fake and illegal appointments is concerned in this respect it is submitted that as pointed out in Para 21 (T) at Page 10 & 25 of the reference book, appointment of 46 out of 60 fake SSTs were declared as disowned by the Director, E&SE KP on the basis of enquiry report of Director Education FATA. Copies of their disowned Notification have been placed at Page 355-400 of the Reference Book. But, these are the substituted copies of the original disowned notification which contained the adjustment orders of these teachers also. The Original notifications were changed and modified on the directive of investigation Officer NAB through call up notices to Director, E&SE KP and Deputy Director (Estab), newly merged district. They alongwith Mr. Hanif ur Rehman ADDE (Estab) newly merged Districts and Mr. Jahangir, Dealing Assistant, accordingly attended NAB Office on 16/05/2019 and 17/05/2019 wherein they were directed to issue substituent notifications excluding the adjustment orders, which they did on 21/05/2019. But, as the adjustment orders of these teachers were consequential upon the appointment notification of Director E&SE KP, so the adjustment orders also remained ineffective and void when the appointment notification were disowned. The Director E&SE KP would be in a better position to explain the reason of not taking action against the remaining 14 (60-46) fake teachers whose names have been included in the Reference Book but have not been disowned by the Director E&SE KP.

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F) That the Directorate of E&SE KP in its scrutiny report has verified the appointments of so many SSTs included in the column of accused in the Reference Book vide its letter No. 1820/01/SET(M&F) FATA/verification dated 12/06/2017 (Page No 44 to 48 & 298 to 302)

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[illegible]

of the Reference Book similarly the seniority list of SSTs (female) recently issued by the Directorate of E&SE KP contains the names of certain female SSTs included in the Reference Book, this means, shows and proves that the service record of these teachers is/was available at the level of Directorate E&SE KP.

G) That admittedly the appointing authority is the Director E&SE KP, who had issued the appointment order of SSTs, but he has been excluded in the matter and even he has not been shown as witness, which make the case against the applicant not only doubtful, but illegal, wrong, amount to sheer injustice and speaks in volumes about the high handedness of NAB in dispensing selective accountability of their own choice.

H) That during the whole service period in the education department, the applicant has left no stone unturned and performed his duties with great zeal and zest and to the entire satisfaction of not only his superiors, but of his inferiors also and without giving any chance of complaint to his superior or inferiors.

I) That recently the president of Islamic Republic of Pakistan has promulgated an Ordinance called as "The National Accountability (Second Amendment) Ordinance, 2021, which has brought drastic changes/amendments in National Accountability Ordinance, 1999.

4. **<u>Miscellaneous Application No. 20/2021.</u>**

This application has been submitted by accused Badre Harran Wife of Farooq and Mr. Kashif Khan s/o Muhammad Hayat on the mandate of section 4 sub-section 2 (d) r.w sub-section 3 of section 4 of the second amendment ordinance 2021 of the NAO, 1999. It has been submitted inter alia:

That petitioner No. 1 is Ex-Deputy Director (Estb), while petitioner No. 2 is Ex-Assistant Director in the Directorate of Education FATA and were implicated in the instant reference which was initially

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submitted under the provisions of National Accountability Ordinance, 1999.

That during the continuation of trial, the second amendment was introduced in the abed ordinance and on the mandate of section 4 sub-section 2/d, the instant case is not maintainable before this court and as such necessary orders and directions on the mandate of section 4 (3) of the National Accountability Ordinance have been solicited.

Grounds: -

A) Because the applicants are innocent and have falsely been implicated.
B) Because the allegation leveled against the applications does not attract the penal provisions of NAO, 1999 and even does not constitute a criminal act/offence, therefore, the applicants cannot be prosecuted at all in the light of the judgement of the apex court.
C) Because the prerequisites of offence i.e. mens-rea and actus-rea is missing in the reference in hand, rather the applicants have been appointed/regularized after fulfillment of all codal formalities. Moreover, the applicants have neither been attributed any illegal act nor an iota of evidence is available to establish the allegations.

5. **Miscellaneous Application No. 08/2022.**

This application has been submitted by accused Iftikhar Ali and others on the mandate of section 4 sub-section 2 (d) r.w sub-section 3 of section 4 of the second amendment ordinance 2021 of the NAO, 1999. It has been submitted inter alia:

That during the continuation of trial, the second amendment was introduced in the abed ordinance and on the mandate of section 4 sub-section 2/d, the instant case is not maintainable before this court and as such necessary orders and directions on the mandate of section 4 (3) of the National Accountability Ordinance have been solicited.

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Grounds: -

A) Because the applicants are innocent and have falsely been implicated.
B) Because the allegation leveled against the applications does not attract the penal provisions of NAO, 1999 and even does not constitute a

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criminal act/offence, therefore, the applicants cannot be prosecuted at all in the light of the judgement of the apex court.

C) Because the prerequisites of offence i.e. mens-rea and actus-rea is missing in the reference in hand, rather the applicants have been appointed/regularized after fulfillment of all codal formalities. Moreover, the applicants have neither been attributed any illegal act nor an iota of evidence is available to establish the allegations.

6. **Miscellaneous Application No. 12/2022.**

This application has been submitted by accused Abdul Baseer and others on the mandate of section 4 sub-section 2 (d) r.w sub-section 3 of section 4 of the second amendment ordinance 2021 of the NAO, 1999. It has been submitted inter alia:

That during the continuation of trial, the second amendment was introduced in the abed ordinance and on the mandate of section 4 sub-section 2/d, the instant case is not maintainable before this court and as such necessary orders and directions on the mandate of section 4 (3) of the National Accountability Ordinance have been solicited.

Grounds: -

A) Because the applicants are innocent and have falsely been implicated.

B) Because the allegation leveled against the applications does not attract the penal provisions of NAO, 1999 and even does not constitute a criminal act/offence, therefore, the applicants cannot be prosecuted at all in the light of the judgement of the apex court.

C) Because the prerequisites of offence i.e. mens-rea and actus-rea is missing in the reference in hand, rather the applicants have been appointed/regularized after fulfillment of all codal formalities. Moreover, the applicants have neither been attributed any illegal act nor an iota of evidence is available to establish the allegations.

ATTESTED

Pro and contra arguments have been heard and with the valuable assistance of prosecutor as well as defence counsel, I have perused the available material on file.

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No doubt, the matter has been inquired into twice by the subordinate employees of education department and mostly Principals and Head Masters of schools. Penal provisions of service laws have also

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been pressed into service against the alleged illegal appointees while the present reference has been sent up before this court.

Without dilating upon the factual as well as legal backgrounds of all these miscellaneous petitions, I am constrained to restrict my findings to the deficiencies worked out in the present reference as well as penalties imposed in the service laws. Such deficiencies are pointed as follows:

i) The departmental inquiry in the matter was required to have been ordered by the Chief Secretary, because the stakeholders including the director E&SE as well as director FATAs were under the kind command and control of Chief Secretary and the important stakeholder being the appointing authority was and is, the director E&SE who has not been cited as an accused or complainant because the alleged fake appointment orders were issued under his authority and signature. The NAB was required to have consulted the Chief Secretary and could bring about its case in concurrence with the latter. It is well settled that no civil servant could be arrested, apprehended or even investigated by the Anti-Corruption authorities or other authorities without the prior permission of Chief Secretary. Had departmental inquiry been ordered by the Chief Secretary and conducted either by the Secretary Education or Secretary S&GAD then such inquiries could entail penalties under the Anti-Corruption laws or under the NAB laws with the concurrence of Chief Secretary. Such formalities have admittedly not been observed in the present reference.

ii) Accused Fazal Manan and Syed Manzar Jan have sought their exoneration simply on the basis of an inquiry conducted by incompetent officers, therefore, no case of discharge/acquittal may be based on such inquiry.

iii) The Director E&SE should have been the principal accused or complainant after disciplinary proceedings that should have been conducted under the supervision and authority of the Chief Secretary which in the instant case has not been carried out.

iv) The corrupt practices allegedly exercised in the matter should also have been worked out specifically and individually obtained gains also worked out.

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v) There should have been bifurcation of procedural lapses and gross illegalities with detail and specification of the delinquent authority during a lawful inquiry.

vi) For the aforesaid reasons, the main reference cannot be effectively answered affirmatively.

Although the prosecutor strongly opposed the return of challan to NAB and contended during the course of arguments that the NAB law has got an overriding effect over all other laws of the land and it could exclusive investigate the matter. There is no denial of this effect that NAB law has got an overriding effect but yet a clog over the jurisdiction of Chairman NAB is available in section 22 (B) of the NAO 1999, the same is, therefore, reproduced as follows:

<u>Enabling Provision of Nab Ordinance for Concurrence of the Competent Authority</u>

22. Jurisdiction:

a) *The Chairman NAB may inquire into and investigate any suspected offence which appears to him on reasonable grounds to involve an offence under this Ordinance, and has been referred to him, or of his own accord.*

b) *The Chairman NAB may, if he thinks fit, conduct any such investigation in conjunction with any other agency or any other person who is, in the opinion of the Chairman NAB, a proper Agency or person to be concerned in it.*

To answer the aforesaid queries, the Chairman NAB should have associated Chief Secretary Khyber Pakhtunkhwa with the process of investigation and particularly to ascertain the patent defect in the investigation as well as departmental inquiries.

For the forgoing reasons, it is deemed appropriate and for safe administration of Justice that without going deeply into the merits of the matter, let the instant reference be returned to the prosecution with direction to associate Chief Secretary of the province with the investigation of the case. The Chief Secretary to conduct proper inquiry and fix criminal as well as civil liabilities of recoveries and thereafter to decide forum for trial either NAB or Anti-Corruption.

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Judicial record be consigned to the record room for safe custody and may be restored in case challan is resubmitted before this court, while reference book alongwith copy of this Judgement be returned to NAB for further necessary action and resubmission of challan or report as soon as possible.

All the miscellaneous petitions stand infructuous and dismissed as such. The respective petitioners are however, at liberty to re-agitate the same in case challan is submitted before this court.

ANNOUNCED
21-05-2022

Judge
Accountability Court-V
Peshawar

(Mohammad Younas)
Judge
Accountability Court-V,
Peshawar 21/5/22

(Certificate)

Certified that this judgement consists of sixteen pages. Each and every page has been signed by me and corrections wherever necessary have been made.

Judge
Accountability Court-V
Peshawar

(Mohammad Younas)
Judge
Accountability Court-V,
Peshawar 21/5/22

ACCOUNTABILITY COURT-V PESHAWAR

Annex-G

(13)

OFFICE OF THE PRINCIPAL GOVT SHAHEED SHER NAWAZ CMHS NO.1

TANK.

No. 7781 Dated: 24/04/2021.

To

The Director Elementary and Secondary Education
Department Khyber Pakhtunkhwa Peshawar.

Subject: - INQUIRY REPORT

Memo,

Reference to your kind Notification No. 1911-16/F.No.E-06/Khyber (KC now) Dated Peshawar the 08-02-2021.Enclosed find here with Inquiry report consists of (19) pages along-with supporting documents (182 pages) for further necessary process as desired please.

Enclose: (As above).

Muhammad Salim
Principal/Chairman Inquiry Committee.

ADDE(MMD)

DDE(M)

(14) (A) (A) 2 89

INQUIRY REPORT

'TLE OF INQUIRY:

Denovo inquiry on the direction of the Honorable KP Service Tribunal against the SSTs inducted in the stem illegally and unlawfully in various Districts/ Sub Division Khyber Pakhtunkhwa.

INQUIRY COMMITTEE

1. Muhammad Salim Khan Principal (BPS-19) GSSNCMHS No.1Tank (Chairman Inquiry Committee)
2. Munawar Gul Principal (BPS-19) GHSS Tarnab Farm Peshawar(Member Inquiry Committee)

BACKGROUND OF INQUIRY:

The Secondary School Teachers (SSTs) previously known as SETs are usually appointed/ recruited through Departmental Promotion Committees (DPC)or Public service commission. It is provincial cadre post and the Director E&SE Department Khyber Pakhtunkhwa Peshawar is appointing authority for appointment against the said post in Khyber Pakhtunkhwa and Ex- FATA, while Director Education FATA was only limited to the adjustment of the SST, whose services were placed at his disposal for further posting in various Agencies/ FRs of Ex-FATA. Previously as per recruitment policy 50% SSTs were directly recruited/ appointed through Public Service Commission whereas 50% through departmental promotion committee from different junior teaching cadres. According to the existing policy 75% SSTs are promoted from various junior teaching cadres and 25% through initial recruitment. Recruitment of SST, were lastly made through Public Service Commission in 2012 while in 2008 a large number of SSTs were recruited on contract basis and were later on regularized since 01-01-2009.

In the 1st quarter of 2014 some reports/complaints were received to the Director of Education FATA from various quarters that some SETs/SSTs have been inducted in the system without proper recommendations of KP Public Service Commission or approval of the departmental promotion committee and all these illegally and unlawfully inducted teachers are properly working in various Agencies / FRs of FATA. On this the Director FATA assigned the task to 02 Assistant Directors to probe into the matter. They were required to check credentials of all the SSTs Male / Female working in Ex-FATA and cross match their selection and appointment orders with the record of the Directorate of Elementary and Secondary Education and that of KP Public Service Commission. Subsequently after cross checking of the data provided by the AEOs with record provided by KPPSC and Director Elementary and Secondary Education, appointment orders of 158 teachers working in Ex-FATA were found/ declared as suspected and recommended for conducting broad based inquiry to probe appropriately into the matter.

Consequently, a broad based committee under the chairmanship of the then Director Education FATA was constituted with the approval of Additional Chief Secretary FATA to conduct proper inquiry in this regard. Meanwhile, the KP NAB also intervened in the said case/issue. The inquiry committee in coordination with NAB authorities decided to conduct a fresh inquiry in the said case by obtaining list of all recommended candidates from FATA (Zone I) for the post of SST under advertisement No.01/2009 from KP PSC and list of SSTs promoted / recruited on contract basis and later on regularized against SETs / SSTs post, from the Directorate of Elementary and Secondary Education Department.

The inquiry committee completed the task and submitted report to the authorities concerned. According to the findings and conclusion of the said inquiry committee 69 SETs / SSTs working in various Tribal

districts and Ex FATA were found directly inducted in the system illegally and unlawfully by producing fake appointment orders.

The Director Elementary and Secondary Education being competent authority in the said case proceeded against all the aforementioned SETs /SSTs and after proper verification and personal hearing, while appointment orders of 46 SETs /SSTs were disowned by issuing disowned Notification in respect of each.

40 out of 46 disowned appointees filed departmental appeal to the Appellate Authority. However, their appeals were not honored. Then all the 40 appellants filed appeal before KP Service Tribunal against the disowned Notification issued by the Director Elementary and Secondary Education Department. While the remaining 06 appointees did not file appeal against their disowned Notifications and they are still out of system.

The Honorable Service Tribunal issued order in the service appeal 1-40 and set aside the disowned Notifications issued by the Director E&SE Department and re-instated the appellant in service with directions to the department to conduct proper inquiry.

The operational part of the judgment is quoted as under:

"In view of the situation, the impugned orders stand set aside and the appellant are re-instated in service with direction to the department to conduct proper inquiry. They shall investigate the issue through a proper inquiry reaching to a logical conclusion to find out the real culprit who maneuvered to make it possible and thereafter, the fate of the appellants be decided in the light of said inquiry. The respondents shall conclude the proceeding within 90 days after receipt of this judgment. The issue of back benefit shall be subject to the outcome of inquiry. With no order as to costs."

The Director E&SE Department Peshawar in compliance with the judgment of the Honorable Court ordered the instant inquiry vide Endst: No. **1911-16/F.No.E-06/Khyber (KC now) Dated Peshawar the 08-02-2021**, with the TORs given below.**(Annex A)**

The Director E&SE Department Peshawar being respondent in the said service appeals also set aside the disowned Notifications issued in respect of all the 40 appellants and they were allowed to join their duties against their previous positions.

TERMS OF REFERENCES:

1. To compare and cross examine/ check the lists of SSTs provided by the AEOs offices with the list of SSTs provided by Public Service Commission.
2. To determine that whether the SSTs working in various Director E&SE Department Khyber Pakhtunkhwa Peshawar had been recommended by the Public Service Commission or otherwise.
3. To examine whether the adjustment / transfer orders of the said SSTs has been issued by the Directorate of Education.
4. To examine whether, the record viz a personal file etc of these SSTs exist in the Directorate Education (FATA) and in the respective Agency Accounts Offices.
5. To dig out their 1st date of induction in the system and present status of the inducted SSTs.
6. To propose proper strategy keeping in view all the relevant legal aspects for proceeding against these inducted teachers.

7. To propose/ suggest further course of legal proceedings to be followed by the competent authority against these SSTs in case of their names do not exist in the list provided by the Public Service Commission, keeping in view the following two lines:

a. If the competent authority proceeds against them under KPK Government Servants E&D rules 2011, will they not be given the status of a civil servant? While they are not.

b. If the competent authority straight away lodged an FIR against them in the respective political agent office/ police station, avoiding KPK Government Servants E&D rules 2011, then the question of their status will not arise that if they were not civil servants then how they remained on the strength/ acquaintance role of education department for such a period of time?

8. To examine/ scrutinize the reply in response to the statement of allegations so far issued by the competent authority and suggest further line of action to the competent authority.
9. To verify/examine/ scrutinize their all relevant service record along with qualification both general and professional.
10. To fix responsibility on officers/ officials with the convenience of whom these induction have been made.
11. Any other related issue/ problem the committee may like to consider for probe.

PROCEDURE OF INQUIRY:

The instant inquiry committee initiated fresh process in order to obtain complete record/ data of the working as well as disowned SSTs in order to conduct proper inquiry in the instant case. Some written complaints were also found on the record submitted by those SSTs whose appointment orders were disowned; requesting for proceeding against some SSTs who were inducted directly and illegally but were not proceeded against and are still working.**(Annex B P 3 to 5)**The committee visited Tribal Districts Orakzai, Kurram, Mohmand, Khyber, Bajour, Sub Division Darazinda D.I.Khan and Tribal District South Wazirisitan, as almost all the alleged illegal appointees were reported to have been working in these Districts. The available record pertaining to the instant inquiry was obtained and thoroughly examined. The committee further obtained available data of SETs/SSTs working in all the Tribal Districts and Sub Divisions, complete record of recommended candidates for the post of SST under Advertisement No.01/2009 from KPPSC and recruitment record of contract employees and their regularization notifications from Director E&SE Department Peshawar. The data obtained from KP PSC and Director E&SE Department Peshawar was cross checked with the data of working SSTs provided by DEOs Tribal Districts and Sub Divisions.

The committee also cross checked the appointment and adjustment orders in respect of all the appointees who were found working but could not be verified as recommended by the KP PSC with the record maintained by the Directorate of E&SE Department Peshawar and Directorate of Ex-FATA.

Opportunity for personal hearing and cross examination the evidences was offered to all the SSTs **who had produced appointment orders, taken over charge against SST post and had been working in various Tribal Districts and Sub Divisions** but their recommendations against the SST posts were not verified by the Public Service Commission and their appointment orders were found suspicious. **(Annex C P 6 to 10)** However, most of them refused to avail such opportunity on the plea that they wanted to change the instant inquiry committee and they had also submitted a written application in this regard to the authorities concerned.**(Annex D P 11&12)** However ten (10) accused teachers appeared before the inquiry committee, were properly heard. **(Annex E P 13 to 25)**

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The following officers/ officials of Ex Directorate of FATA were also interrogated and their statements were obtained:

1. Mr. Fazali Manan Ex- Director.
2. Mr. Syed Manzar Jan Ex- Additional Director.
3. Mst. Badr -E- Haram Ex- Deputy Directress.
4. Mr. Muhammad Kashif Ex Assistant Director.
5. Mr. Farid Ullah Ex Superintendent.
6. Mr. Naik Muhammad Ex- Dealing Assistant.
7. Mr. Aftab Ahmad Ex- Dealing Assistant.
8. Mr. Muhammad Anwar Ex C/O.
9. Mr. Muhammad Fayaz Dispatcher.

OBSERVATIONS

The available recruitment record of SST (M&F) provided by the Director E&SE Department Peshawar reveals that 2136 SSTs were appointed through online submission of application to Director E&SE Department Peshawar in 2008 on contract basis for 01 year. Later on they were regularized in service with effect from 01-01-2009 through proper notifications made by the Director E&SE Department Peshawar under the NWFP Employees Regularization Act 2009.

On the other hand KP PSC under Advertisement No.01 2009 offered 2852 posts of SST M/F for NWFP/FATA domicile candidates. Tests and interviews were held and PSC recommended more than 2500 candidates M/F for appointment against SETs/SSTs posts out of which 367 candidates (291 Male and 76 Female) were selected from zone 01 and recommended to be appointed in various Agencies and FRs of Ex- FATA. (Annex F P 26 to 52)

During cross checking of all the appointment orders issued by the Director E&SE Department Peshawar under various notifications and posted in almost all the Districts including FATA and regularization notification issued in this regard, appointment of only two appointees who claimed to be appointed by the DE E&SE on contract basis were found fake and forged. However, during cross checking of the SST data provided by the DEOs of all the Tribal Districts, Sub Divisions with the record provided by KP PSC, it was found that 59SSTs who had taken over charge and have been working against SST post in Ex-FATA (some of them transferred to other Districts) could not be matched with the candidates recommended by KPPSC. Hence, it is evident that they were not selected by KP PSC and their appointment orders and service against SST post are illegal, unlawful, irregular and unauthorized. Some of these illegal appointees were even not eligible to apply for the post Advertised by KP PSC because they did not possess prescribed qualifications required for the post as per Advertisement, which reveals that they have neither applied for the post through PSC nor have been gone through the recruitment process.(Annex G P 53 to 63)

After thorough examination of the mode of induction of the aforementioned appointees it was found that their way of induction and present status is not the same. Therefore they are divided into three main categories as per given detail.

CATEGORY A.

34 accused appointees whose appointment orders could neither be verified from KP Directorate nor their adjustment orders from Director Ex FATA. They have not been recommended by the KP PSC for appointment against SST post. They have managed their appointment orders through their own sources. Their detail particulars and irregularities observed by the inquiry committee are elaborated as under: (Annex H P 64 to 113)

S#	Name	Father's Name	Place of posting	Order No.	Remarks/ Comments of inquiry Committee
1.	Muhammad Sohail	Ghuncha Khan	GMS Bahai Dag Mohmand	5139-97 dt: 16-09-2008. Rg: 2221-27 dt: 11-02-2010.	He claims to be appointed by the Director E&SE D on contract basis and then regularized. However, his appointment/ regularization order was found fake and fabricated. He was offered opportunity for personal hearing and cross examination the evidences but he refused to avail such opportunity. **(Annex D P 11 & 12)** His appointment order was disowned. Now the said notification has been set aside on the directions of the Court and he is working.
2.	Kifayat Ullah	Rahim Ullah	GHS Loi Shalman Khyber	13731-35 dt: 25-10-2012.	He was offered proper opportunity for personal hearing and cross examination the evidences but he refused to avail such opportunity. **(Annex D P 11 & 12)** His appointment order was disowned. Now the said notification has been set aside on the directions of the Court and he is working.
3.	Luban Ali	Mohib Ali	GMS Suleman Khel Orakzai	13736-41 dt: 25-10-2012.	He was offered proper opportunity for personal hearing and cross examination the evidences but he refused to avail such opportunity. **(Annex D P 11 & 12)** His appointment order was disowned. Now the said notification has been set aside on the directions of the Court and he is working.
4.	Hazrat Jan	Akhtar Jan	GHS Gato Warsak Mohmand	13736-41 dt: 25-10-2012.	He was offered proper opportunity for personal hearing and cross examination the evidences but he refused to avail such opportunity. **(Annex D P 11 & 12)** His appointment order was disowned. Now the said notification has been set aside on the directions of the Court and he is working.
5.	Ishfaq Ahmad	Fazal Raziq	GHS Angori Kurram	17510-16 dt: 31-10-2012.	He was offered proper opportunity for personal hearing and cross examination the evidences but he refused to avail such opportunity. **(Annex D P 11 & 12)** His B.Ed result was declared on January 14, 2010 while last date of submission of application to KP PSC was 26-02-2009. **(Annex G P 53)** Hence, he was not even eligible to apply for the post. His appointment order was disowned. Now the said notification has been set aside on the directions of the Court and he is working.
6.	Muhammad Iqbal	Khan Bahadar	GHS Angori Kurram	17510-16 dt: 31-10-2012.	He was offered proper opportunity for personal hearing and cross examination the evidences but he refused to avail such opportunity. **(Annex**

					D P 11 & 12) His appointment order was disowned. Now the said notification has been set aside on the directions of the Court and he is working.
7.	Nargis	Bahadur Khan	GGMS Khuna Bajour	12414-17 dt: 02-11-2012.	She was offered proper opportunity for personal hearing and cross examination the evidences but she refused to avail such opportunity. (Annex D P 11 & 12) Her appointment order was disowned. Now the said notification has been set aside on the directions of the Court and she is working.
8.	Shabana Bibi	Abdul Sattar	GGHS Nayat Killi Bajour	12414-17 dt: 02-11-2012.	She was properly summoned through DEO Bajour to appear before the inquiry committee for personal hearing but she failed to avail such opportunity. Her appointment order was disowned. Now the said notification has been set aside on the directions of the Court and she is working.
9.	Inayat Ur Rehman	Abdur Rehman	GMS Laza Banda Bajour	1138-43 dt: 22-01-2013.	He was offered proper opportunity for personal hearing and cross examination the evidences but he refused to avail such opportunity. (Annex D P 11 & 12) His appointment order was disowned. Now the said notification has been set aside on the directions of the Court and he is working.
10.	Muhammad Tariq	Sher Muhammad	GHS Inzar Patti Orakzai	1138-43 dt: 22-01-2013.	He was offered proper opportunity for personal hearing and cross examination the evidences but he refused to avail such opportunity. (Annex D P 11 & 12) His B.Ed result was declared on February 10, 2010 while last date of submission of application to KP PSC was 26-02-2009. (Annex G P 54) Hence, he was not even eligible to apply for the post. His appointment order was disowned. Now the said notification has been set aside on the directions of the Court and he is working.
11.	Abdul Hai	Muhammad Tayyab	GHS Tangi Charmana Bajour	6231-36 dt: 23-01-2013.	He was offered proper opportunity for personal hearing and cross examination the evidences but he refused to avail such opportunity. (Annex D P 11 & 12) His appointment order was disowned. Now the said notification has been set aside on the directions of the Court and he is working.
12.	Muhammad Naeem	Maneen Khan	GHS Mandati Orakzai	6231-36 dt: 23-01-2013.	He was offered proper opportunity for personal hearing and cross examination the evidences but he refused to avail such opportunity. (Annex D P 11 & 12) His appointment order was

					disowned. Now the said notification has been set aside on the directions of the Court and he is working.
13.	Noor Muhammad	Muqeem Khan	GHS Jalat Milla Orakzai	6231-36 dt: 23-01-2013.	He was offered proper opportunity for personal hearing and cross examination the evidences but he refused to avail such opportunity. **(Annex D P 11 & 12)** His appointment order was disowned. Now the said notification has been set aside on the directions of the Court and he is working.
14.	Basra Begum	Fazli Wahab	GGHS Ragagan Bajour	2672-76 dt: 19-02-2013.	She was offered proper opportunity for personal hearing and cross examination the evidences but she refused to avail such opportunity. **(Annex D P 11 & 12)** Her appointment order was disowned. Now the said notification has been set aside on the directions of the Court and she is working.
15.	Nusrat	Hayat Khan	GGHS Bandgai Bajour	2672-76 dt: 19-02-2013.	She was offered proper opportunity for personal hearing and cross examination the evidences but she refused to avail such opportunity. **(Annex D P 11 & 12)** Her appointment order was disowned. Now the said notification has been set aside on the directions of the Court and she is working.
16.	Asad Rahim	Noor Rahim	GHSS Pidas Orakzai	3238-43 dt: 05-03-2013.	He was offered proper opportunity for personal hearing and cross examination the evidences but he refused to avail such opportunity. **(Annex D P 11 & 12)** His appointment order was disowned. Now the said notification has been set aside on the directions of the Court and he is working.
17.	Bashir Ahmad	Khan Muhammad	GHS Inzar Patti Orakzai	3238-43 dt: 05-03-2013.	He was offered proper opportunity for personal hearing and cross examination the evidences but he refused to avail such opportunity. **(Annex D P 11 & 12)** His B.Ed result was declared on 18, 2009 while last date of submission of application to KP PSC was 26-02-2009. **(Annex P 55)** Hence, he was not even eligible to apply for the post. His appointment order was disowned. Now the said notification has been set aside on the directions of the Court and he is working.
18.	Ishtiaq Ahmad	Roman Shah	GHS Baza Kurram	3236-41 dt: 05-03-2013.	He was offered proper opportunity for personal hearing and cross examination the evidences but he refused to avail such opportunity. **(Annex D P 11 & 12)** His appointment order was disowned. Now the said notification has been

					set aside on the directions of the Court and he is working.
19.	Shahid Hussain	Nadar Khan	GHS Kochi Kurram	3236-41 dt: 05-03-2013.	His appointment order was disowned; however, he did not file appeal against the disowned notification before the KP Service Tribunal. He was not summoned for personal hearing.
20.	Mahmood Alam	Nazir Gul	GHS Kochi Kurram	3236-41 dt: 05-03-2013.	His appointment order was disowned; however he did not file appeal against the disowned notification before the KP Service Tribunal. He was not summoned for personal hearing.
21.	Shah Nawaz Khan	Shah Nazar Khan	GHS Badshah Mir Kali Khyber	3242-45 dt: 05-03-2013.	He was offered proper opportunity for personal hearing and cross examination the evidences but he refused to avail such opportunity. **(Annex D P 11 & 12)** His appointment order was disowned. Now the said notification has been set aside on the directions of the Court and he is working.
22.	Muhammad Zeb	Haji Dilawar Khan	GHS Badshah Mir Khyber	3242-45 dt: 05-03-2013.	He was properly heard by the inquiry committee. According to his statement he has been appointed through legal process and has been working regularly, devotedly and honestly since his taken over charge against the SST post. However, he failed to provide recommendation letter of KP PSC. His appointment order has not been disowned and has been working since taken over charge till date.
23.	Shabeena Naz	Noor Hassan	GGHS Gumbat Mardan	6134-38 dt: 16-04-2013.	She was offered proper opportunity for personal hearing and cross examination the evidences but she failed to avail such opportunity. Her B.A result was declared on August 27, 2009 and B.Ed result on July 18, 2011 while last date of submission of application to KP PSC was 26-02-2009. **(Annex G P 56 & 57)** Hence, She was not even eligible to apply for the post. Her appointment order was disowned. Now her disowned notification has been set aside on the directions of the Court and she is working.
24.	Ghazala	Ikram Ud Din	GGMS Zarif Dheri Mardan	6134-38 dt: 16-04-2013.	She was offered proper opportunity for personal hearing and cross examination the evidences but she failed to avail such opportunity. Her appointment order was disowned. Now her disowned notification has been set aside on the directions of the Court and she is working.

25.	Seema	Ikram Ud Din	GGMS Sahib Dad Nahqi Mohmand	3247-51 dt: 30-04-2013.	She was offered proper opportunity for personal hearing and cross examination the evidences but she refused to avail such opportunity. **(Annex D P 11 & 12)** Her appointment order was disowned. Now her disowned notification has been set aside on the directions of the Court and she is working.
26.	Nizakat	Shah Said	GGHS Shah Alam Salay Mohmand	3627-33 dt: 03-09-2013.	She was offered proper opportunity for personal hearing and cross examination the evidences but she refused to avail such opportunity. **(Annex D P 11 & 12)** Her B.Ed result was declared on January 14, 2010 while last date of submission of application to KP PSC was 26-02-2009. **(Annex G P 58)** Hence, she was not even eligible to apply for the post. Her appointment order was disowned. Now her disowned notification has been set aside on the directions of the Court and she is working.
27.	Shazia Jan	Jan Afzal	GGHS Manga Mardan	2479-84 dt: 19-03-2013.	She availed opportunity for personal hearing in spite of the fact that she had signed refusal statement along with other appellants. She was properly heard by the inquiry committee. According to her statement she has appointed through legal process and no forgery has been committed by her. She failed to provide recommendation letter of KP PSC. Her appointment order was disowned. Now her disowned notification has been set aside on the directions of the Court and he is working.
28.	Seema Mujahid	Mujahid Ali	GGHSS Takhtbai Mardan	2479-84 dt: 19-03-2013.	She was offered proper opportunity for personal hearing and cross examination the evidences but she refused to avail such opportunity. **(Annex D P 11 & 12)** Her seniority has been determined and finalized by the Director E&SE Department Peshawar being competent authority in spite of the fact that she is not included in the inter Se merit list of SST(F) provided by the KP PSC and has been promoted to SS post on the basis of illegally occupied post of SST. Her appointment order was disowned by the department but she had been promoted to SS post before the issuance of such notification. She is regularly working against SS post.
29.	Alia	Ithbar Gul	GGHS Haryan Kot Malakand	13727-33 dt: 25-10-2012.	She was properly heard. During personal hearing she stated that she has been appointed legally and has been serving regularly since taken over charge. She refused charges and evidences of illegal appointment lodged against her.

					However, she failed to provide recommendation letter issued by KP PSC. Her appointment order has not been disowned and she has been working since taken over charge till date. She has been transferred from FATA to District Malakand.
30.	Salma Jabeen	Abdul Ghaffar	Not traced	13727-33 dt: 25-10-2012.	She was transferred from District Bajour to District Mohmand but she did not take over charge there. She could not be traced and was therefore not summoned for interrogation.
31.	Anila	Nader Shah	GGHS Azim Kor Mohmand	3491-96 dt: 04-03-2013.	She was properly heard by the inquiry committee. According to her statement she has been appointed through legal process and no forgery has been committed by her. She failed to provide recommendation letter of KP PSC. Her appointment order has not been disowned and she has been working since taken over charge till date.
32.	Sania Wali	Khan Wali	Not traced	3251-56 dt: 04-09-2013.	She was transferred from District Bajour as per statement of DEO Bajour. However, she could not be traced and was therefore not summoned and interrogated.
33.	Kalsoom Shah	Qeemat Shah	GGHS Merubak Mohmand	4271-76 dt: 05-03-2013.	Her appointment order was disowned; however, she did not file appeal against the disowned notification before the KP Service Tribunal. She was not summoned for personal hearing.
34.	Saima Abdul Wadood	Abdul Wadood	GGHS Merubak Mohmand	4271-76 dt: 05-03-2013.	Her appointment order was disowned; however she did not file appeal against the disowned notification before the KP Service Tribunal. Therefore, she was not summoned for personal hearing.

CATEGORY B.

25 accused appointees whose appointment orders bearing No. and Date of Directorate of E&SE D KP Peshawar are fake. However their adjustment orders issued by Director Ex- FATA were found verified from the issue record. (Annex J P 114 to 135)

S#	Name	Father's Name	Place of posting	Order No.	Remarks/ Comments of the Inquiry Committee
1.	Iftikhar Ali	Mir Salam Khan	GMS Jan Noor Baka Khel Wazir SD Bannu	955-59 dt: 05-03-2012.	He was properly heard. According to his statement, he had applied to PSC. He further stated that he has been serving in the department since his taken over charge till date and nobody has asked about his illegal status. However, he failed to provide recommendation letter of PSC. His appointment order has not been disowned and he has been working.

2.	Abdul Baseer	Gulshan Khan	Ex- AAEO FR D.I.Khan DEO Office SD Darazinda	955-59 dt: 05-03-2012.	He was offered proper opportunity for personal hearing and cross examination the evidences but he refused to avail such opportunity. **(Annex D P 11 & 12)** His appointment order was disowned. Now the said notification has been set aside on the directions of the Court and he is working.
3.	Muhammad Farooq	Muhammad Yousaf	GMS Alingar Mohmand	955-59 dt: 05-03-2012.	He was offered proper opportunity for personal hearing and cross examination the evidences but he refused to avail such opportunity. **(Annex D P 11 & 12)** His appointment order was disowned. Now the said notification has been set aside on the directions of the Court and he is working.
4.	Abdul Malik	Said Muhammad	GMS Taj Muhammad Mohmand	955-59 dt: 05-03-2012.	He was offered proper opportunity for personal hearing and cross examination the evidences but he refused to avail such opportunity. **(Annex D P 11 & 12)** His appointment order was disowned. Now the said notification has been set aside on the directions of the Court and he is working.
5.	Yar Khan	Ali Rehman	GMS Bahadar Killi Mohmand	955-59 dt: 05-03-2012.	He was offered proper opportunity for personal hearing and cross examination the evidences but he refused to avail such opportunity. **(Annex D P 11 & 12)** His appointment order was disowned. Now the said notification has been set aside on the directions of the Court and he is working.
6.	Zafar Iqbal	Gul Rehman	GMS Ashraf Abad Mohmand	955-59 dt: 05-03-2012.	He was offered proper opportunity for personal hearing and cross examination the evidences but he refused to avail such opportunity. **(Annex D P 11 & 12)** His appointment order was disowned. Now the said notification has been set aside on the directions of the Court and he is working.
7.	Muhammad Naeem	Muhammad Salim	GMASCMHS Landi Kotal Khyber	4057-70 dt: 30-05-2012.	He was offered proper opportunity for personal hearing and cross examination the evidences but he refused to avail such opportunity. **(Annex D P 11 & 12)** His appointment order was disowned. Now the said notification has been set aside on the directions of the Court and he is working.
8.	Atta Ullah	Abdul Jabbar	GHS Kharghali Khyber	4057-70 dt: 30-05-2012.	He was offered proper opportunity for personal hearing and cross examination the evidences but he refused to avail such opportunity. **(Annex D P 11 & 12)** His appointment order was disowned. Now the

					said notification has been set aside on the directions of the Court and he is working.
9.	Ahmad Shah	Suleman Shah	GHS Subhan Khur Mohmand	4057-70 dt: 30-05-2012.	He was properly heard. According to his statement he had applied to PSC and has been serving in the department for the last 9 years and his appointment is legal. However he failed to provide recommendation letter of PSC. His appointment order has not been disowned. He has been working since taken over charge till date.
10.	Shakir Ullah	Zargar	GMS Halki Gandao Mohmand	4057-70 dt: 30-05-2012.	He was offered proper opportunity for personal hearing and cross examination the evidences but he refused to avail such opportunity. **(Annex D P 11 & 12)** His appointment order was disowned. Now the said notification has been set aside on the directions of the Court and he is working.
11.	Zia Ur Rehman	Atta Ur Rehman	GHS Ekka Ghund Mohmand	5644-50 dt: 20-04-2012.	He was properly heard. According to his statement he had applied to PSC and attended the interview and had been recommended for the post of SST. His appointment order has not been disowned and he has been working since taken over charge till date.
12.	Sarwat Jahan	Gul Rehman	GGHSS Landi Kotal Khyber	2408-13 dt: 16-02-2012.	She was offered proper opportunity for personal hearing and cross examination the evidences but she refused to avail such opportunity. **(Annex D P 11 & 12)** Her seniority has been determined and finalized by the Directorate E&SE Department Peshawar in spite of the fact that she is not included in the inter Se merit list of SST(F) provided by the KP PSC and she has been promoted to SS post on the basis of illegally occupied post of SST. Her appointment order against SST was disowned by the department but she had been promoted to SS post before the issuance of such notification and she has been regularly working against SS post.
13.	Robia Shams	Shams Ur Rehman	GGHSS Ghallanai Mohmand		She was summoned to appear before the inquiry committee for personal hearing and cross examination the evidences but she failed to avail such opportunity. Her appointment order has not been disowned and has been working since taken over charge till date.

14.	Tahira Naz	Fazal Dayan	GGHS Prang Ghar Mohmand		She was offered proper opportunity for personal hearing and cross examination the evidences but she refused to avail such opportunity. **(Annex D P 11 & 12)**Her appointment order was disowned. Now the said notification has been set aside on the directions of the Court and she is working.
15.	Asma	Muhammad Akbar	GGMS Sabaz Ali Baro Khel Mohmand	11174-86 dt: 15-08-2012.	She was offered proper opportunity for personal hearing and cross examination the evidences but she refused to avail such opportunity. **(Annex D P 11 & 12)** Her B.Ed result was declared on January 14, 2010 while last date of submission of application to KP PSC was 26-02-2009. She is domiciled of district Charsada **(Annex G P 59&60)** Her appointment order was disowned. Now the said notification has been set aside on the directions of the Court and she is working.
16.	Zubaida Begum	Gul Akbar	GGMS Kuta Trap Mohmand	11174-86 dt: 15-08-2012.	She was properly heard. According to her statement she had applied to PSC for recruitment against SST post and had been recommended. However she failed to provide recommendation letter issued by PSC. Her statement against alleged illegality and forgery on his part was found unsatisfactory. Her appointment order has not been disowned. She has been working since taken over charge till date.
17.	Alia Taj	Taj Ud Din	GGMS Sro Killi Mohmand	11174-86 dt: 15-08-2012.	She was properly heard. According to her statement she had applied to PSC and was recommended for posting. She refused any act of illegal appointment. However she failed to provide recommendation letter of PSC. Her B.Ed result was declared on July 18, 2009 while last date of submission of application to KP PSC was 26-02-2009. **(Annex G P 61)** Hence, She was not even eligible to apply for the post. Her appointment order has not been disowned. She has been working since taken over charge till date.
18.	Ghazala Sana	Sana Ullah	GGMS Kashmir Kore Mohmand	11174-86 dt: 15-08-2012.	She was offered proper opportunity for personal hearing and cross examination the evidences but she refused to avail such opportunity. **(Annex D P 11 & 12)** Her appointment order was disowned. Now the said notification has been set aside on the directions of the Court and she is working.

19.	Hira Shams	Shams Ur Rehman	GGHS Mian Mandi Mohmand	11174-86 dt: 15-08-2012.	She was summoned to appear before the inquiry committee for personal hearing and cross examination the evidences but she failed to avail such opportunity. Her BA result was declared on March 31, 2009 and herB.ED result was declared on September 06, 2010 while last date of submission of application to KP PSC was 26-02-2009. **(Annex G P 62&63)** Her appointment order has not been disowned and she has been working since taken over charge till date.
20.	Fazli Raziq	Fazli Rabi	GHS Sra Mila Orakzai	12614-19 dt: 04-10-2012.	He was offered proper opportunity for personal hearing and cross examination the evidences but he refused to avail such opportunity. **(Annex D P 11 & 12)** His appointment order was disowned. Now the said notification has been set aside on the directions of the Court and he is working.
21.	Muhammad Qasim	Mukamil Shah	GHS Mandati Orakzai	12614-19 dt: 04-10-2012.	He was offered proper opportunity for personal hearing and cross examination the evidences but he refused to avail such opportunity. **(Annex D P 11 & 12)** His appointment order was disowned. Now the said notification has been set aside on the directions of the Court and he is working.
22.	Naheed Akhtar	Musafar Khan	GGHSS Landi Kotal Khyber	9074-82 dt28-06-2012.	She was properly heard. According to her statement she had applied to PSC. She further stated that she has been serving in the department till date and nobody has asked about her illegal status. However she failed to provide recommendation letter of PSC. Her appointment has not been disowned and she is working since taken over charge till date.
23.	Basmina Begum	Mir Alam Khan	GGHS Jalala Mardan	9074-82 dt 28-06-2012.	Her appointment order was disowned, however she did not file appeal against the disowned notification before the KP Service Tribunal. She was not summoned for personal hearing.
24.	Farzana	Riwaj Ud Din	GGMS Gujar Gari Mardan	2816-23 dt: 25-06-2012.	She was summoned for personal hearing and cross examination the evidences but she failed to avail such opportunity. Her appointment order has not been disowned. According to the statement of her Head Mistress she is missing since 06-06-2019.
25.	Ishrat	Bahadur Sher	GGHS Kachkool Khwazai	2816-23 dt: 25-06-2012.	She was offered proper opportunity for personal hearing and cross examination the evidences but she refused to avail such

			Mohmand		opportunity. **(Annex D P 11 & 12)**Her appointment order was disowned. Now the said notification has been set aside on the directions of the Court and she is working.

CATEGORY C.

02 number of accused appointees whose appointment orders were not provided to the inquiry committee. Their status was checked from the available record. Their appointment were neither verified by the Directorate of E&SE Peshawar nor they have been recommended by the KP PSC for the posting against SST post. However they have been taken over charge against SST post and had also been working for some time.

Sl#	Name	Father's Name	Place of posting	Order No.	Remarks/ Comments of inquiry committee.
1.	Ahmad Shah	Feroz Shah	GHS Spin Qabar Khyber	Appointment order not provided by the office	He had taken over charge against SST post at GHS Spin Qabar Khyber but has been struck off from the system before issuance of disowned notification as per record. He could not be traced. He was not summoned for personal hearing.
2.	Fazli Haleem	Kalim Hussain	GHS Mawaz Killi Khyber	Appointment order not provided by the office	He had been taken over charge against SST post in District Khyber and has been working there. His appointment order was disowned by the Director E&SE Department Peshawar, however he did not file appeal against disowned notification before the KP Service Tribunal. He was not summoned for personal hearing.

It is evident from the above-mentioned detail of alleged illegal appointees that:

a. 34 numbers of the said appointees have been inducted in the system by producing fake and forged appointment as well adjustment orders managed by themselves through their own sources. Therefore no one other then the beneficiaries can be held responsible for such illegality and forgery with huge loss to the public exchequer.

b. 25 alleged illegal appointees who claimed to be appointed on the recommendations of public service commission have been inducted in the system by producing adjustment order issued by the Director Ex-FATA on the basis of fake appointment orders not verified from the record of Directorate of Elementary and Secondary Education Department KP being appointing authority.

Mr. Fazal Manan has been posted as Director Ex-FATA since 20-1-2006 to 31-10-2012.He was summoned by the Inquiry committee and properly interrogated. According to him it is retreated that the adjustment orders of SSTs made by DE FATA were based on the appointment notifications already issued by the competent authority, as specified at serial No.4 (2)(c) of the APT rules, 1989 and the adjustment orders would have not been issued by DE FATA if the appointments had not been ordered by the director E&SE KP. He further stated that all the perquisites of appointments were to be full filled by the respective appointing authority before issuance of appointment notifications. According to him

there was neither any established mechanism/procedure not any precedent available in the history of directorate of Education FATA that appointment notification issued by the E&SE KP were to be verified before making adjustment against vacant post in FATA and recruitment policy of SETs also did not indicate the requirement of verification of such notification issued by the respective appointing authority before making adjustment of already appointed teachers. He also stated that the adjustment of hundreds of SETs had been made in FATA schools and even a single notification of appointment has not been verified before adjustment. He further clarified that a copy of each and every adjustment notification of SSTs issued by the DE FATA was endorsed to the Director E&SE KP with reference to his notification and also to KP Public service commission. But neither the Public Service Commission had raised any objection or disowned its recommendation nor the DE E&SE KP had raised any objection on the adjustment made on the basis of its appointment notification at any stage.

According to him he had not given any specific orders or decisions to issue adjustment order without processing the case on file and it was a routine matter and the case had to be examined and put up on file as PUC with a note sheet and process through the proper channel of officers on the concerned sections for approval of the Director. He also provided detail of some appointees adjusted in FATA whose services were verified by the Director E&SE which certify availability of their service record at the level of Directorate E&SE KP. He further added that the illegal and unlawful adjustment orders had been stood automatically void and ineffective when the appointment orders were declared as fake and disowned by the appointing authority as the content of their adjustment orders were very much clear and consequential to the appointment notification. He further added that the Director FATA did not have any authority of appointment of SSTs/SETs (BS-16) and being the provincial cadre employees they are to be appointed by DE E&SE KP. According to him the DE FATA had just to adjust the teacher already appointed and their services placed at his disposal by the Director DE S&SEKP. He stated that he did not accept any kind of responsibility in this regard and he had made adjustment as per procedure already in vogue followed by his predecessors and successors and had not made any violation of prescribed policy and procedures.

He also stated that adjustment of the candidates would not have been made without the appointment orders of the respective teachers issued by the appointing authority and the DE FATA may not be held responsible for the illegal and invalid appointment orders of SSTs as he did not enjoy any legal authority for appointment. **(Annex K P 136 to 142)**

Mr. Syed Manzar Jan remained as Deputy Director Ex-FATA since November 16,2010 to April 05, 2011.Accordingto his statement his job was to confirm the vacancies, tally names given in the appointment orders with names proposed for adjustment on file proceeded on the directions of the Director. He further stated that no process for verification of letters existed at the office as a lot of letter and orders etc were received on daily basis, action were taken and copies for information were sent to the concerned quarters. In the said case according to him, copies for information were regularly sent to the appointing authorities i.e. Director E&SE Department Peshawar as well as other quarter but no illegality or irregularity was pointed out so far by any of the office. He also stated that Director E&SE Department Peshawar is the appointing authority for SSTs and the candidates appointed were kept at the disposal of the Director Ex-FATA for further adjustment only, so the Director E&SE Department Peshawar is responsible for any irregularity being appointing authority. He denied any type of illegality or irregularity committed by him during all his service tenure.**(Annex L P 143 & 144)**

Mst:Badr-E- Haram was posted as Deputy Directress FATA since 16-7-2011 to 30-03-2014.According to her statement her job during posting at Directorate of Education Ex FATA was to ensure that the corresponding vacancies exist in the agency, to tally the names of SST given in the order

by the Director E&SE Department Peshawar with the name in the adjustment order and ensure that the draft prepared for adjustment is duly endorsed to all the stack holder including the appointing authority.

According to her there was no such practice mechanism / policy for formal verification of letter/ orders / notifications of the parent directorate and the undersigned was also not assigned any such task. She further stated that as the appointment orders were received from the Directorate of Elementary and secondary Education and the Adjustment orders were properly intimated to them who acknowledged the same, so the responsibility may be traced at the level of Director E&SE Department Peshawar. According to her she has fulfilled her duty honestly throughout her professional career and no illegality regarding the adjustment orders had come into her knowledge.**(Annex M P 145 & 146)**

Mr. Kashif Khan posted as Assistant Director Colleges and schools in Ex-FATA since 24-11-2011 to 18-05-2015 and AD training DE Ex-FATA since 15-04-2016 to 26-04-2018 was heard in length. According to his statement his job as Assistant Director was to ensure that corresponding vacancies existed in the Districts and also to ensure that the draft proposed for adjustment is duly endorsed to all stakeholders including the appointing authority. He further stated that for the first time a complaint regarding bogus / fake appointment of 04 numbers SSTs in Orakzai Agency was received from KP PSC and in pursuance of the above the Director E&SE Department Peshawar was approached for verification of the said order. According to him the Director E&SE Department Peshawar responded that no such appointment order have been issued by the appointing authority. He added that an enquiry committee including him as member was constituted to unearth the factual position. The committee submitted its report and declared all the 04 SSTs as fake and recommended action against them. According to him some illegal transfer orders of SST issued by Director E&SE Department Peshawar are also on the record and he has also persuaded such cases for verification and action.

He further stated that he along with another Assistant Director was assigned the task by Director E&SE Ex-FATA to carry out a comparative study of the KP PSC selectees and the incumbent SST "list provided by the AEOs" in FATA. According to him thorough scrutiny was made and 158 number of suspected SST were detected and recommended for in depth inquiry. He further stated that he feels proud to say that this grey list of 158 number of suspected SST provided a base for all the succeeding inquiries carried out by the NAB as well as the department.

He also stated that there was no precedent of verification of appointment orders issued by the Director E&SE Department Peshawar in the history of DE FATA since its establishment in 1972/75. In the instant case copies of each appointment order has been endorsed to the Director E&SE Department Peshawar for verification. He also provided documentary evidence in support of his statement.**(Annex N P 147 to 171)** Statements of all the four officers mentioned above were found comprehensive, reasonable, genuine and convincing.

Mr. Fareed Ullah Khan Ex Superintendent Establishment, Naik Muhammad DA, Aftab Ahmed DA, Muhammad Anwar C/O and Fayaz Ahmed Dispatch In-charge were also interrogated. They were of the view that they have obeyed their superiors and had followed their directions as subordinate staff. They further stated that no irregularities have been observed by them and adjustment orders have been issued on the provision of appointment orders issued and received from Director E&SE Department Peshawar. Mr. Fayaz Khan the dispatcher in his statement said that copy of each and every order issued by DE FATA had been delivered for information and verification to the Director E&SE Department Peshawar. He provided some photo copies of peon book which reveals the delivery of adjustment orders in question to the Directorate of E&SE Department Peshawar.**(Annex P P 172 to 182)**

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c. One alleged illegal appointee Mr. Ahmed Shah S/O Firozshah on S.No01 in category C has already been struck off from the system before the issuance of disowned notification and could not be traced. While another appointee Mr.Fazli HaleemS/O Kalim Hussain was declared fake by the previous inquiry committee and his appointment order was disowned by the Director E&SE Department Peshawar. He did not file appeal against the disowned notification before theService Tribunal and therefore was not summoned for interrogation.

FINDING:

In view of the above narrated facts, perusal of the available office record and the documentary evidence, the committee has come to the conclusion that:

1. All 61 accused appointees mentioned above were found inducted in the system illegally and unlawfully without going through proper recruitment process, recommendations of the KP PSC and appointment by Director E&SE Department Peshawar. Their appointment notifications are baseless, fake and forged. They have managed their appointment orders on their own level through scanning or other techniques. Their adjustment orders based upon their appointment notificationsare also void and ineffective. Their appointment orders being fake and forged are liable to be disowned.

2. 07 Nos of appointment orders bearing fake numbers and dates of the office of the Director E&SE Department Peshawar in respect of **25** SSTs generated by the accused appointees through their own sources have been submitted to the then Director FATA for further adjustment against vacant posts. On provision of all such orders proper files have been processed as per routine practice through all the concerned officer/ official and adjustment orders have been issued on approval accorded by the Ex-Director FATA Mr. FazleManan.

It is pertinent to mention that the Director Ex-FATA was neither appointing authority of SSTs nor appointment recordexcept their appointment notifications were provided to the Directorate of Ex-FATA. No formal practice of verification of the appointment letters received to DE FATA was available as per policy in vogue. Moreover, copies of all such adjustment appointment orders were endorsed and delivered to the Director E&SE KP with reference to his appointment orders for information but no any objection were raised by the quarter concerned regarding invalid status of such appointees. All such adjustment orders have been issued as per established routine procedure on the provision of appointment orders. Hence, the DE FATA and his team may not be held responsible for illegal induction of appointees in the system through the said adjustment orders. The beneficiaries/illegal appointees alongwith those who provided themtechnical and other support are sole responsible for this act of forgery and illegalitywith huge loss to the public exchequer.They know better how did they come into system and who did facilitate them to get their fake appointment orders.

Moreover the Director Ex-FATA has made a lot of correspondence with the Director E&SE Department Peshawar since 2013 to 2017 for verification of appointment orders of suspicious SSTs inducted in the system. Various inquiries have also been conducted by the DE FATA to scrutinize and verify, appointment status of the suspicious SSTs. A committee comprising two Assistant Directors at DE FATA Mr. Muhammad Kashif Khan and Muhammad Ullah ordered by the DE Ex-FATA was assigned the task to carry out a comparative study of the KP PSC selectees and the incumbent SSTs working in Ex-FATA. The committee after thorough scrutiny detected 158 number of suspicious SSTs and recommended for a broad based inquiry for further verification. Such efforts of the committee provided a base for all the succeeding inquiries including the instant inquiry. Hence all the efforts made by the Ex-Directorate to unearth the defaulters may not be ignored.

RECOMMENDATION.

The committee hereby recommends that:

1. The Previous "Disowned" notifications set asaid on the direction of Honorable KP Service tribunal in respect of 38 illegally inducted appointees on serial No.01 to 18, 21, 23 and 24 to 27 in category A and on serial No.02 to 08, 10, 14, 15,18,20,21 and 25in Category B of the instant report may be restored with the same directionto the DEOs concerned already communicated through the said notifications.

2. 12 numbers of illegal appointees on serial No.22, 29 and 31 in category A and on S.No.01,9,11,13,16,17,19,22 and 24 in category B have also been proved to join their services on producing fake appointment orders. But their appointment orders were not disowned. They possess the same illegal status as the previously disowned appointees have. Hence, they may be treated accordingly.

3. 02 numbers of illegal appointees on serial No.28 in category A and on serial No.12 in category B were recommended for promotion to SS posts before issuance of their disowned notification and they were promoted on the basis of illegally occupied SST posts. Their case may be sent to the competent authority to be proceeded against for their illegal and unlawful induction in the system.

4. 02 numbers of illegal appointees on serial No 30 and 32 in category A mentioned above could not be traced. Reportedly they are working in District Charsada/ Mardan. Hence,they both may be traced and treated accordingly.

5. 06 numbers of illegally inducted employees on serial No.19,20,33 and 34 in category A , on serial No.23 in category B and on serial No.2 in category C whose appointment orders were disowned but they did not file appeal against the said notification before the service tribunal and they are still out of system. Hence, no further proceeding is required against them as their previous status is intact.

6. 01illegal appointee on serial No.1 in category C has already been struck off from the system. Hence, He may not be proceeded against for further action.

Dated: 24/ 04 /2021.

Muhammad Salim, Principal
Chairman Inquiry Committee

Munwer Gul, Principal
Member Inquiry Committee