

Service Appeal No. 4281/2021

18.10.2022

Nemo for the appellant. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present.

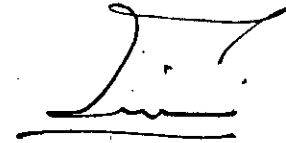
The appeal in hand was called on for hearing after various intervals, however none appeared on behalf of the appellant till the closing time, therefore, the appeal in hand stands dismissed in default. Parties are left to bear their own costs. File be consigned to the record room

ANNOUNCED

18.10.2022



(Mian Muhammad)  
Member (Executive)

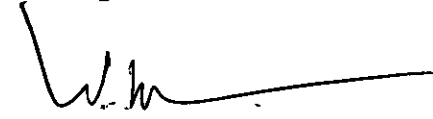


(Salah-ud-Din)  
Member (Judicial)

06.01.2022

Clerk to counsel for the appellant present. Mr. Kabirullah Khattak, Addl. AG for the respondents present.

Clerk to counsel for the appellant requested for adjournment on the ground that his counsel is not available today, due to general strike of the bar. Adjourned. To come up for arguments before the D.B on 21.04.2022.



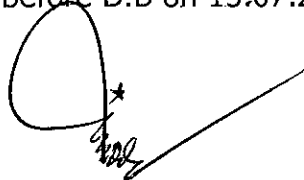
(Atiq-ur-Rehman Wazir)  
Member(E)

  
Chairman

21<sup>st</sup> April, 2022

Counsel for the appellant and Mr. Naseer ud din Shah, Asst. AG for the respondents present.

Learñed counsel for the appellant seeks adjournment in order to properly assist the Court. Adjourned. To come up for arguments before D.B on 15.07.2022.



**(MIAN MUHAMMAD)**  
Member (E)



**Chairman**

15.07.2022

Counsel for the appellant present. Mr. Kabir Ullah Khattak, Additional Advocate General for the respondents present.

Learñed counsel for the appellant requested for adjournment in order to further prepare the brief. Adjourned. To come up for arguments on 18.10.2022 before D.B.



(Fareeha Paul)  
Member (E)



(Kalim Arshad Khan)  
Chairman

31.05.2021

Counsel for the appellant present. Preliminary arguments already heard.

Points raised need consideration. The appeal is admitted to regular hearing, subject to all legal objections available to the respondents. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days of the receipt of notices positively. If the written reply/ comments are not submitted within the stipulated time, the office is directed to submit the file with a report of non-compliance. File to come up for arguments on 04.10.2021.



Chairman

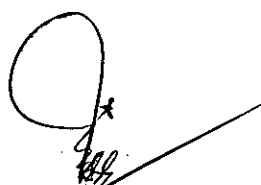
04.10.2021

Counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for respondents present.

Notices for written reply/comments to the respondents could not be issued due to non-deposit of security and process fee. Appellant is directed to deposit security and process fee within 10 days, therefore, notice be issued to the respondents for submission of written reply/comments. To come up for further proceedings on 06.01.2022 before the D.B.



Appellant Deposited  
Security & Process Fee



(Mian Muhammad)  
Member(E)





Chairman

Form- A

FORM OF ORDER SHEET

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

Case No. - 4281 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	30/03/2021	<p>The appeal of Mr. Amjad Khan resubmitted today by Mr.Afaq Anwar Chamkani Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	26/05/21	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>31/05/21</u></p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Amjad Khan son of Marsal Khan r/o Saam Khel Sher Keera Ali Khel Peshawar received today i.e. on 22/03/2021 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copy of impugned order dated 03.11.2020 mentioned in the memo of appeal is not attached with the appeal which may be placed on it.
- 2- Page no. 17 and 18 of the appeal are illegible which may be replaced by legible/better one.
- 3- One more copy/set of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal in file cover.

No. 587 /S.T,

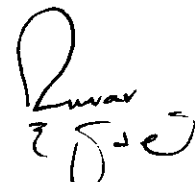
Dt. 25/03 /2021

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Afaq Anwar Adv. Pesh.

Respected Sir,

As per direction, all objections  
has been removed.

  
30-03-2021

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

Service Appeal No. \_\_\_\_\_/2021

**Amjid Khan**

**Versus**

**District Education Officer & others**

**Index**

S.No.	Description of documents	Annexure	P. No
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5	Copy of CNIC	A	8
6	Copy Degree	B	9-11
7	Copy of appointment letter	C	12
8	copy of Charge report	D	13
9	copies of accuracy Certificate and Pay release order	E & F	14-15
11	Copy of departmental appeal & Post office receipt	G & G-1	16-17
12	Wakalat Nama	H	18

**Petitioner**

Through

*(Handwritten Signature)*

**Afaq Anwar Chamkani  
Advocate High Court,  
Peshawar.**

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL.

Khyber Pakhtunkhwa  
Service Tribunal

Service Appeal No. 4281/2021

Diary No. 3967  
Dated 22/03/2021

Amjad Khan S/O Marsal Khan R/O Saam khel Sher keera Ali Khel  
Peshawar. ....Appellant.

VERSES

1. District Education Officer Hassan Khel Sub Division Peshawar  
Bacha Khan Chowk Peshawar.
2. Secretary Elementary And Secondary Education Main GT Road  
Peshawar.
3. Government of Khyber Pakhtunkhwa through chief Secretary KPK.  
Sahibzada Abdul Qayum Road Peshawar.
4. Principal GGHSS Samand Khan kalli HSD Peshawar.

.....Respondents

**APPEAL UNDER SECTION 4 OF THE KHYBER  
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST  
THE OFFICE ORDER NO.2198-02 DATED 03/11/2020 PASSED  
BY DISTRICT EDUCATION OFFICER HASSAN KHEL SD  
PESHAWAR WHEREBY THE APPOINTMENT  
NOTIFICATION NO 1530-34 (A) DATED 02/09/2020 OF THE  
APPELLANT HAS BEEN CANCELLED WITHOUT LAWFUL  
AUTHORITY AND DUE PROCESS OF LAW.**

**PRAYER IN APPEAL**

*on acceptance of this appeal this hon'ble tribunal may very graciously be pleased to declare the impugned notification/order dated 03/11/2020 of the respondent no.1 illegal, null and void, without lawful authority and directing the respondents to reinstate the service of the appellant from the date of the impugned notification dated and the absence period may be treated as leave without pay or any other relief this hon'ble tribunal deem fit in the interest of justice may also be granted to the appellant.*

Re-submitted to - day  
and filed.

Registrar  
20/3/2021

Respectfully sheweth:

1. That the appellant is a law abiding citizen of Pakistan and hails from a respectable and educated family having permanent residence in shir keera SD Peshawar. **(Copy of CNIC is annexed as annexure "A")**
2. That the appellant is a qualified person and completed his Bachelor of Technology 4 years in civil from Indus university in March 2018. **(Copy Degree is attached as annexure "B")**.
3. That on dated 02/09/2020 the appellant appointed as a junior clerk BPS-11 by the office of District Education Officer Hassan Khel Sub Division Peshawar, It is pertinent to note that the appellant was appointed under Deceased Servant Quota section 10(4) Appointment Promotion & transfer rules 1989. **(Copy of appointment latter is annexed as annexure "C")**.
4. That on 21/09/2020 the appellant received the charge of post "Junior clerk" at GGHSS Samand Khan kally HSD Peshawar. **(copy of Charge report is annexed as annexure "D")**
5. That after that the respondent issued Accuracy certificate to appellant in which the respondent certified and found correct the appointment of the appellant for the post of Junior Clerk BPS-11. Moreover the office of the DEO Hassan khel SD Peshawar also issued the pay release order of the appellant through letter No 1771-75 dated 29/09/2020 **(Copies of accuracy Certificate and Pay release order are annexed as annexure "E" & "F")**
6. That after that the appellant was performing his duty with full zeal and zest but suddenly and without any reason the office of the DEO Hassan khel issued the notification/order No 2198-02 dated 03/11/2020 in connection of cancellation of appointment of appellant. It is also pertinent to note that the same was even not properly communicated to the appellant, rather the same was procured by him by his own efforts. **(Copy of order is annexed as annexure "FI")**



7. That the appellant approached to the office of the respondents by filing a Departmental Appeal for setting aside the impugned order dated 03/11/2020 but the respondents did not pay any heed to the appeal of the appellant. (Copy of appeal is annexed as annexure "G")
8. That feeling aggrieved the appellant approached before this honorable court for setting aside the impugned order and his reinstatement on following grounds inter alia.

**GROUNDS:**

- A. That the impugned order/notification of cancellation of appointment is in sheer violation of security of service of the petitioner. Moreover the same amounts to infringement of the fundamental rights of the petitioner.
- B. That the acts and omission of the respondents are the utter violation of the law of the land, law on the subject and against the facts and norms of justice.
- C. That the lethargic acts and omissions of the respondents are in violation of articles 4, 9, 14 and 25 of the Constitution of the Islamic Republic of Pakistan, 1973.
- D. That the appellant has been terminated from the job without any notice or being heard which tantamount to *audi aultrium partum*, against the basic principles of law, equity and justice.
- E. That once the appellant was appointed and assumed charge, then a vested right has been created in his favour, which could not be washed away in such an haphazard or in a slip shod manner, which is always considered as nullity in the eyes of law.
- F. That the appellant seeks permission to advance others grounds and proof at the time of hearing.

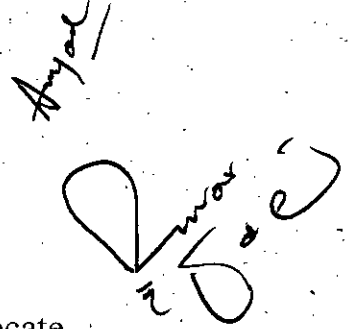
**PRAYER**

In view of the above, it is, therefore, most humbly prayed that on acceptance of this appeal, the impugned office order dated 03/11/2020 (whereby the appointment notification No. 1530-34 A of appellant was cancelled, may kindly be set aside and the appellant may be re-instated in service and the absence period may be treated as leave without pay.

Appellant

Through

Afaq Anwar Chamkani Advocate.

Handwritten signature of Afaq Anwar Chamkani, written in black ink. The signature is stylized and includes the name 'Afaq Anwar Chamkani'.

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

Service Appeal No. \_\_\_\_\_/2021

Amjad Khan.

VERSES

District Education Officer Hassan Khel Sub Division Peshawar and Others

**ADDRESSES OF THE PARTIES**

**Address of the Petitioner:**

Amjad Khan S/O Marsal Khan R/O Saam khel Sher keera Ali Khel  
Peshawar.

**Addresses of the Respondents:**

1. District Education Officer Hassan Khel Sub Division Peshawar  
Bacha Khan Chowk Peshawar.
2. Secretary Elementary And Secondary Education Main GT Road  
Peshawar.
3. Government of Khyber Pakhtunkhwa through chief Secretary KPK  
Sahibzada Abdul Qayum Road Peshawar.
4. Principal GGHSS Samand Khan kalli HSD Peshawar.

Petitioner

Through

Afaq Anwar  
Advocate High  
Court Peshawar.

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

Service Appeal No. \_\_\_\_\_/2021

Amjad Khan.

VERSES

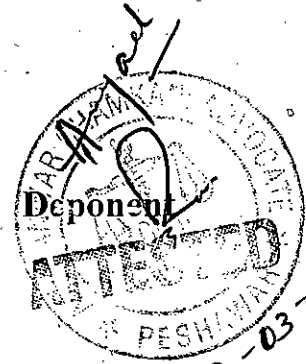
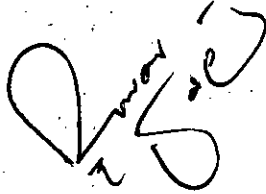
District Education Officer Hassan Khel Sub Division Peshawar and Others

**Affidavit**

I, Amjad Khan S/O Marsal Khan R/O Saam khel Sher keera Ali Khel Peshawar, do solemnly declare and affirm on oath that the contents of the accompanying appeal are true and correct and nothing has been concealed from this Hon'ble Tribunal.

Identified by:

Afaq Anwar  
Advocate High Court,  
Peshawar.



22-03-2021



# Online Service for verification of NADRA Identity Cards



Card Verification

Identity Card Number : 17301-4137748-5

Verification Date : November 20, 2020

[Start New Verification](#)

Card Status: Verified

Name: Amjid Khan  
امجد خان

Father Name: Marsal Khan  
مارسل خان

Gender: Male

Country of Stay: Pakistan

Citizen Number: 17301-4137748-5

DOB: 01-02-1994

Issue Date: 29-01-2019

Date of Expiry: 29-01-2029

Card Type: Smart CNIC

Present Address

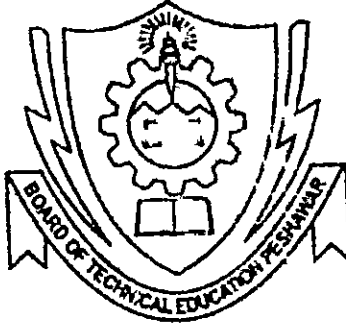


ساح خیل، ڈاک خانہ شیرکیرہ، علی خیل، تحصیل و ضلع  
فیاضی علاقہ ملحقہ پشاور

Permanent Address

ساح خیل، ڈاک خانہ شیرکیرہ، علی خیل، تحصیل و ضلع  
فیاضی علاقہ ملحقہ پشاور

Attested

**PESHAWAR BOARD OF TECHNICAL EDUCATION**  
 Annex "B"  
  
**PESHAWAR**  
 DETAIL MARKS CERTIFICATE  
 DIPLOMA OF ASSOCIATE ENGINEER  
 3RD YEAR  
 CIVIL TECHNOLOGY

Name of Candidate AMJAD KHAN  
 Father's Name MARSAL KHAN  
 Roll.No. 653711 Session ANNUAL 2013  
 Reg.No. IPI/P/CT/10-25990  
 Institute/College IBRAR POLYTECHNIC INSTITUTE KOHAT ROAD PESHAWAR

Serial	Subject	Total Marks	Obtained Marks			
			Th	Pr	Total	In Words
	2nd Year Marks	2200			1,549	
1	GEN-311 Islamiyat/Pak. Studies	50	28	-	28	Twenty-eight
2	CT-312 Project Management	100	53	-	53	Fifty-three
3	CT-322 Quantity Surveying-II	100	-	81	81	Eighty-one
4	CT-333 Public Health Engg-II	100 / 50	72	46	118	One hundred eighteen
5	CT-344 Hydraulics & Irrigation	150 / 50	94	36	130	One hundred thirty
6	CT-353 Railway Docks, Har & Bridges	100 / 50	46	43	89	Eighty-nine
7	CT-364 Concrete Tech: RCC Design	150 / 50	92	30	122	One hundred twenty two
8	CT-373 Soil Mechanics, Highways, & Airports	100 / 50	40	37	77	Seventy-seven
9	CT-381 Civil Engineering Project	50	-	27	27	Twenty-seven

3350                      2274      Two thousand two hundred twenty seven

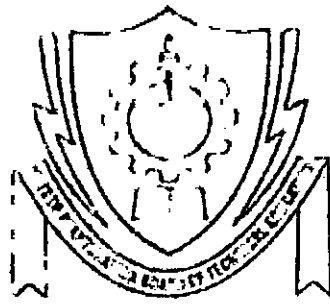
**Attested**  


  
**CONTROLLER**

Prepared by \_\_\_\_\_  
 Checked by \_\_\_\_\_

Theory Passing Mark = 40%      Practical Passing Mark = 50%  
 Errors (if any) excepted Any mistake in above particulars must be intimated within 30 days of the issuance of this certificate

28637



PESHAWAR (PAKISTAN)

DIPLOMA OF ASSOCIATE ENGINEER

Civil Technology

Session Annual 2013Certified that Mr./Miss AMJAD KHANSon/Daughter of MARSAL KHANRegistration No. IPI/P/CT/10-25990of IBRAR POLYTECHNIC INSTITUTE KOHAT ROAD PESHAWARhas passed the Diploma of Associate Engineer CIVIL TECHNOLOGY

Examination held by the Khyber Pakhtunkhwa Board of Technical Education, Peshawar in the month

of May 2013He/She secured 2274 Marks out of 3350 and has been placed inGrade B

In recognition thereof, this  
Diploma of Associate Engineer

is awarded to him/her at Peshawar on the 12th day of March 2014

ASSISTANT SECRETARY

Attested

SECRETARY

This Diploma is issued without any alteration or eraser

# Transcript

11

**INDUS UNIVERSITY**  
UNIVERSITY OF ENGINEERING & TECHNOLOGY

Admitted In: Sep,2013      Passed In: Mar,2018  
 Program: Bachelor of Technology 4 Years Civil

Roll No: BTCEV/2897/13/SEP/SC  
 Name: Amjad Khan  
 Father: Mansal Khan

Course Title	Cr Hrs	Total Marks	Obt. Marks	Grade	GP	C Code	Course Title	
<b>Fall-2013</b>							<b>Spring-2016</b>	
Applied Mathematics	3	100	57	C+	6.00	CE-21B	Concrete Technology II	
Applied Technology	3	100	59	C+	6.00	MS-22B	Differential Equations	
English	3	100	51	C	4.50	MS-21B	Engineering Economics	
Technology	3	100	63	C	4.50	CE-22B	Land Surveying	
Workshop	3	100	52	C	4.50	CE-23B	RCC Structure	
<b>Semester GPA 1.70</b>							<b>Semester GPA 2.10</b>	
<b>Spring-2014</b>							<b>Fall-2016</b>	
Mathematical Methods	3	100	57	C+	6.00	MS-31B	Calculus	
Physics of Materials	3	100	63	C+	6.00	CE-31B	Engineering Geotechnics	
Programming with C Language	3	100	56	C	4.50	HS-31B	Occupational Safety and Health	
Quantity Surveying	3	100	66	B	7.50	CE-32B	Structural Design Technology	
Strength of Materials	3	100	82	A	10.50	CE-33B	Transport Engineering	
<b>Semester GPA 2.30</b>							<b>Semester GPA 2.50</b>	
<b>Fall-2014</b>							<b>Spring-2017</b>	
Concrete Technology-I	3	100	76	B+	9.00	HS-61B	Leadership	
Surveying Engineering	3	100	70	B	7.50	MS-52B	Numerical Methods	
Highway Engineering	3	100	82	A	10.50	CE-41B	Project	
Operational Management	3	100	81	A	10.50	HS-41B	Project Management I	
Research Studies	3	100	85	A+	12.00	HS-41BA	Project Management II	
<b>Semester GPA 3.30</b>							<b>Semester GPA 3.04</b>	
<b>Spring-2015</b>							<b>Fall-2017</b>	
Calculations/View Mace	9	100	70	B	22.50	HS-11B	Business Statistics	
Industrial Training	6	100	75	B+	24.00	MS-11B	Mathematical Methods	
Project/Technical Work Report	10	100	75	B+	30.00	MS-12B	Probability and Statistics	
<b>Semester GPA 2.83</b>							<b>Semester GPA 2.10</b>	

CGPA: 2.67  
 Pass

30  
 Controller of Examinations

*[Signature]*  
 Director Academics

*[Signature]*  
 Registrar





Office of The District Education Officer  
Hassan Khel Sub Division Peshawar,  
Bacha Khan Chowk Near I.C. & R.O. Office  
Peshawar  
Phone no. 091-9210145  
Email Add: [Er\\_Peshawar@yahoo.com](mailto:Er_Peshawar@yahoo.com)

### **APPOINTMENT ON DECEASE SERVANT QUOTA.**

Consequent upon the approval of competent authority, Mr. Amjad Khan S/O Late Marsal Khan is hereby appointed as **Junior Clerk** under **deceased servant Quota Section 10 (sub-section 4)** appointment promotion & transfer rules 1989 in **BPS-11 (Rs. 12,570-880-38,970)Pm** plus usual Allowances at **GGHSS Khan Samand Khan Killi SD Peshawar** against vacant post with effect from the date of his taking over charge in the interest of public service on the following terms and conditions:-

### **TERMS AND CONDITIONS.**

- 1) No TA/DA etc. is allowed.
- 2) Charge report should be submitted to all concerned in Duplicate.
- 3) Appointment is subject to the condition that the certificates, Degree/Documents must be verified from the concerned authorities by the DEO Office HSD Peshawar, if anyone found producing bogus/forged/fake certificates/Degrees will be reported to the law enforcing agencies for further action.
- 4) His service is liable to termination on one month's prior notice from either side. In case of resignation without notice his one-month pay/allowances will be forfeited in favor of Govt. Treasury.
- 5) Pay will not be drawn until and unless a certificate to this effect is issued by DEO HSD Peshawar; their certificates/Degrees are verified.
- 6) He should join his post within 15-days of the issuance of this notification. In case of failure to join his post within 15-days of the issuance of this notification, his appointment will expire automatically and no subsequently appeal etc shall be entertained.
- 7) Health and age certificate should be produced from the Medical superintendent concerned before taking over charge.
- 8) He should not be handed over charge if his age is below 18 years or above 35 years age.
- 9) If any technical legal flaw or it is pointed out any stages that any member of family availed this benefit the same order will be stand cancelled automatically and recovery of salaries payment will made in favor of Govt. treasury.
- 10) He will have to serve at the place of posting and their service is non-transferable up to 5-years from this stations.
- 11) The appointee will be entitled to pension/commutation and G.P Fund emoluments.
- 12) Before handing over charge ~~Principal/Headmaster~~ concerned will check his documents, if he have not the required qualification, he may not be handed over charge.

District Education Officer  
Hassan Khel SD Peshawar

Endst: No. **1530-34 (A)** Dated: **02/09/2020.**

Copy for information and necessary action to the:-

- 1) Accountant General Khyber Pakhtunkhwa Peshawar.
- 2) Addl: Director Education NMTD Peshawar
- 3) Principal GGHSS Samand Khan Killi HSD Peshawar.
- 4) ADEO (M) HSD Peshawar.
- 5) Accountant Local Office.

*Attested*

*[Signature]*  
PRINCIPAL  
GGHSS Samand Khan  
Killi K. S.D.

*[Signature]*  
District Education Officer  
Hassan Khel SD Peshawar

*[Signature]*  
**Attested**

## CHARGE REPORT

Certified that I Mr;Amjad Khan have on fore noon of this day 21-09-2020 respectively made over and received the charge of the Junior Clerk Post at GGHSS Samand Khan Killi HSD Peshawar in light of office of EDO HSD Appointment Order Endst No1530-34 (A) dated 02.09.2020

Attested

Station; GGHSS Samand Khan Killi  
HSD Peshawar

Signature of Relieved Amjad  
Govt Servant J/clerk

Signature of Reliving \_\_\_\_\_  
Govt;Servant \_\_\_\_\_

Copy to the;-

- 1.District Education officer HSD Peshawar.
- 2.Director of Education E&SE Khyber Pakhtun khwa Peshawar.
- 3.Accountant General Khyber Pakhtun khwa Peshawar.
- 4.Official Concerned.

Amjad Khan  
PRINCIPAL  
GGHSS Samand Khan  
Killi H.S.D

(13)

Annex D

Ann 'E'

14

OFFICE OF THE DISTRICT EDUCATION OFFICER HASSAN KHEL SUB DIVISION PESHAWAR  
NO. 1775 Dated 29.09.2020

To

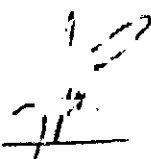
The Accountant General  
Khyber Pakhtunkhwa Peshawar.

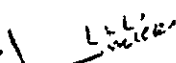
Subject: **ACCURACY CERTIFICATE**


Memo:

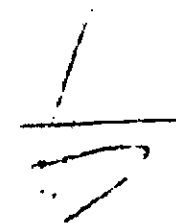
This is to certify that the following appointment/Transfer order issued by this office is hereby verified and found correct please.

S.No	Name of Official	Designation	Place of Duty	No. & Dated: issued order	Date of taking over charge	Pay release order no. & dated.	Remarks
1.	Rustam Khan /Teacher	Lab:Asst	GHS Janakor	1530-34 (B) dated: 02.09.2020	03.09.2020	1771-75 dated: 29.09.2020	
2.	Amjad Khan	Junior Clerk	GGHSS Samand Khan	1530-34 (A) dated: 02.09.2020	03.09.2020	1771-75 dated: 29.09.2020	

Name: Muhammad Tariq Sig:   
Issue Branch (M/F) HSD Peshawar.

Name : Aman Ullah sign:   
Dealing Assistant (M/F) HSD Peshawar.

Name: Faiz Muhammad Sign:   
ASDEO(Estbl) M/F Peshawar.

Name: \_\_\_\_\_ Sign:   
DEO (M/F) HSD Peshawar.

  
Attested

REFINIX NOTE: 35M  
A 23 QUAD CAMERA

WAR

Ann "F"

15



OFFICE OF THE  
District EDUCATION OFFICER  
Hassan khel Sub Division PESHAWAR  
BLOCK: 8 NEAR Deputy Commissioner  
KHYBER ROAD, PESHAWAR, K. P. K  
Phone No. 091-9210145  
Email Add: fr\_peshawar@yahoo.com

### PAY RELEASE ORDER:

Consequent upon the verification of notification is made by this office from the concerned authority. The competent authority has been please to release the pay in respect of following officeicals with effect from the date of his taking over charge against the post.

S.No.	Name of teacher	Designation	Schools	Remarks
1.	Rustam Khan	Lab: Assistant	GHS Janakor	
2.	Amjad Khan	Junior Clerk	GGHSS Samand Khan	

**Note:** The above mentioned officials/teachers documents DMCs/Certificates/Degrees have already been verified from authority concerned.

District Education Officer  
Hassan Khel SD Peshawar

Endst No. **1771-75** Dated: **29.09.2020.**

Copy of the above is forwarded for information and necessary action to the:-

1. Accountant General Khyber Pakhtunkhwa Peshawar.
2. Principal/Headmaster concerned.
3. ASDEO(M/F) HSD Peshawar.
4. Cashier Local office.
5. Official concerned.

District Education Officer  
Hassan Khel SD Peshawar

Attested



OFFICE OF THE  
District EDUCATION OFFICER  
Hassan Khel Sub Division PESHAWAR  
BLOCK: B NEAR INFORMATION DEPTT:  
KHYBER ROAD, PESHAWAR, K.P.K  
Phone No. 091-9210145  
Email Add: fr\_peshawar@yahoo.com

**CANCELLATION OF APPOINTMENT NOTIFICATION/  
ORDER:**

This office Appointment order/ Notification Endst No. 1530-34 A dated: 02.09.2020 in r/o Mr. Anjad Khan J/C GGHSS Samund Khan Killi HSD Peshawar is hereby cancelled from the date of appointment in the interest of public service.

Endst: No. 2198-02 Dated: 03/11/2020

Copy for information to the..

1. Director Education NMTD Peshawar.
2. Accountant General KPK Peshawar.
3. Principal concerned.
4. District monitoring officer Peshawar.
5. Official concerned.

District Education Officer  
Hassan Khel SD Peshawar

District Education Officer  
Hassan Khel SD Peshawar

OR

*Handwritten signature*  
**ATTESTED**

Anx 'G'

16

TO,  
THE WORTHY SECRETARY,  
ELEMENTARY AND SECONDARY EDUCATION,  
CIVIL SECRETARIAT, PESHAWAR.

**DEPARTMENTAL APPEAL FOR SETTING ASIDE  
IMPUGNED OFFICE ORDER NO.2198-02 DATED  
03/11/2020 PASSED BY DISTRICT EDUCATION  
OFFICER HASSAN KHEL SD PESHAWAR WHEREBY  
THE APPOINTMENT NOTIFICATION OF THE  
PETITIONER HAS BEEN CANCELLED**

Respectfully sheweth:

1. That the appellant is a law abiding citizen of Pakistan and hails from a respectable and educated family having permanent residence in shir keera SD Peshawar.(Copy of CNIC is attached)
2. That the appellant is a qualified person and completed his Bachelor of Technology 4 years in civil from Indus university in March 2018. (Copy Degree is attached).
3. That on dated 02/09/2020 the appellant was appointed as a junior clerk BPS-11 by the office of District Education Officer Hassan Khel Sub Division Peshawar, It is pertinent to note that the appellant was appointed under Deceased Servant Quota section 10(4) Appointment Promotion & transfer rules 1989. (Copy of appointment letter is attached).
4. That on 21/09/2020 the appellant received the charge of post "Junior clerk" at GGHSS Samand Khan kally HSD Peshawar. (copy of Charge report is attached)
5. That after that the respondent issued Accuracy certificate to appellant in which the respondent certified and found correct the appointment of the appellant for the post of Junior Clerk BPS-11. Moreover the office of the DEO Hassan khel SD Peshawar also issued the pay release order of the appellant through letter No 1771-75 dated

  
**Attested**

17

29/09/2020 (copies of accuracy Certificate and Pay release order are attached)

6. That after that the appellant was performing his duty with full zeal and zest but suddenly and without any reason the office of the DEO Hassan khel issued the notification/order No 2198-02 dated 03/11/2020 in connection of cancellation of appointment of appellant. It is also pertinent to note that the same was even not properly communicated to the appellant, rather the same was procured by him a few days back by his own efforts.
7. That now the appellant preferred the instant Departmental Appeal for setting aside the impugned order dated 03/11/2020 to your good self on following grounds:
  - A. That the impugned order/notification of cancellation of appointment is in sheer violation of security of service of the petitioner. Moreover the same amounts to infringement of the fundamental rights of the petitioner.
  - B. That the appellant has been terminated from the job without any notice or being heard which tantamount to *audi aultrium partum*, against the basic principles of law, equity and justice. That the
  - C. That once the appellant was appointed and assumed charge, then a vested right has been created in his favour, which could not be washed away in such an haphazard or in a slip shod manner , which is always considered as nullity in the eyes of law.

**PRAYER**

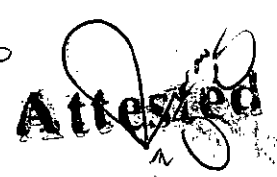
In view of the above, it is, therefore, most humbly prayed that on acceptance of the departmental appeal, the impugned office order dated 03/11/2020 (whereby the appointment notification No. 1530-34 A of appellant was cancelled, may kindly be set aside and the appellant may be re-instated in service and the absence period may be treated as leave without pay.

Thanking you in anticipation.



Yours Sincerely,  
Amjid Khan S/O Marsal  
Khan R/O Saam khel Sher  
keera Ali Khel Peshwar.

01-12-2020



GST. No. 12-009808-002-73



CN: 4764442866

Service Charge

Cash Date: 2020-12-01 12:05

PEW-PEW 1Pcs - 5

Staff: 90943 Route: 75202

Name: ARJUN KHAN  
Phone: 03455998177  
Address: PESHAWAR

Name: WORTH SECRETARY

Phone: 03009999999

Address: ELEMENTARY & SECONDARY EDUCATION  
CANTONMENT PESHAWAR

Rs. 7

Service CHG	104.0
Other Amount	0.0
TAX	0
Insurance CHG	0
GST	16
Premium	0
TOTAL	120.0

For Terms & Conditions Visit  
[www.lesconline.com/In](http://www.lesconline.com/In)  
LES H. H. Quarters: 101-104, Civil  
Club Road Karachi - 75202, Pak.  
Fax: 111-123456 Web: 111-123456  
(Shipper Copy)

Signature





**BEFORE THE KHYBER PAKHTUNKHWA SE**  
**PESHAWAR**

Appeal No. 4281/2021

Mr: Amjad Khan S/O Late Marsal Khan..... Appe

**Versus**

District Education Officer (Female) Peshawar and others

**INDEX**

S.No	Description of Document.	Annex	Page No.
01	Para wise Comments	-----	01-02
02	Affidavit	-----	03
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04	Copies of service book of Abdullah Khan Mali S/O Late Marsal Khan	A	05-11
05	Appointment order and cancellation order of appellant Amjad Khan S/O Late Marsal Khan	B&C	12-13
06	Copies of the notification of deceased employee quota	D	14-15

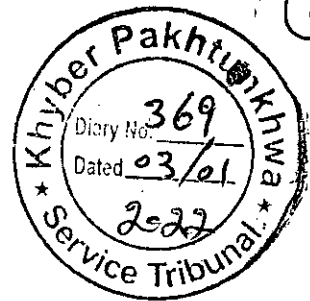
Respondent No. 01

*B*  
*man*  
*27/12/21*  
District Education Officer (F)  
Peshawar

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

Appeal No. 4281/2021

Mr: Amjad Khan S/O Late Marsal Khan..... Appellant



**Versus**

District Education Officer (Female) Peshawar and others..... Respondents.

Para wise Comments on behalf of respondents No. 01 to 04.

**Preliminary objections:-**

- 1 That the appellant have got no cause of action and locus standi to file the instant appeal.
- 2 That the appeal is not maintainable and appellant is estopped to file the present appeal.
- 3 That the appellant has not come to this Court with clean hands.
- 4 That the appellant has concealed material facts from the honorable court.
- 5 That the appeal is bad for mis-joinder and non-joinder of necessary and proper parties.
- 6 That the appeal is barred by law and limitation.

**REPLY ON FACTS:-**

1. Pertain to record.
2. Pertain to record.
3. That in reply to Para No 03, it is submitted that the Appellant Amjad Khan S/O Late Marsal Khan submitted an application under deceased employee quota to the DEO Hassan Khel Sub Division Peshawar. In the year 2020 when the office of DEO Hassan Khel Sub Division Peshawar shifted from FATA Education foundation building to the LG&RD office at Bacha Khan Chowk Peshawar and whereas some of the official record was misplaced.

The then DEO Hassan Khel Sub Division Peshawar with consultation of the committee members issued an appointment order No. 1530-34 dated. 02.09.2020 under deceased employee quota with the terms and condition No 09 of appointment order "If any technical legal flaw or it is pointed out any <sup>at</sup> stages that any member of family availed this benefit the same order will be stand cancelled automatically and recovery of salary will made in favor of Govt treasury".

Whereas two months after the appointment order, it was brought in to the notice of respondent No 1 that one Abdullah Khan S/O Late Marsal Khan brother of appellant Amjad Khan has already availed the deceased employee quota as Mali/Class IV at GHS Gul Akbar Killi vide AEO FR Peshawar order No. 5362-67 Dated. 11.11.2016.

After complete verification of availing deceased employee quota the then DEO Hassan Khel Sub Division Peshawar vide No. 2198-02 dated. 03.11.2020 cancelled/withdrawn appointment order of appellant according to the rules and policy. (Copies of service book of Abdullah Khan Mali S/O Late Marsal Khan Annexed "A", Appointment order and cancellation order of appellant Amjad Khan S/O Late Marsal Khan are Annexed "B" and Annexed "C").

4. Pertain to record.
5. Pertain to record.
6. Pertain to record.
7. That in reply to para no 07, it is submitted that the appellant was well aware of the fact that his brother had already availed the quota but illegally approached and deceived the respondents No 1 for the purpose of appointment, therefore he has no right of appeal to approach the competent authority.
8. Incorrect.

ON GROUNDS: -

2

- A. That para no A is misleading and totally against the fact. The Govt of Khyber Pakhtunkhwa Establishment Department (Regulation Wing) dated Peshawar the 31<sup>st</sup> August, 2012 in its notification No SOR-VI (E&AD) 1-3/2011/Vol-VIII:- in exercise of the powers conferred by section 26 of the Khyber Pakhtunkhwa Province Civil Servant Act, 1973 (N.W.F.P act No X VIII of 1973), read with this Department's Notification No. SOR-1(S&GAD) 1- 206/74/Vol: v, dated 18<sup>th</sup> April, 1989, the Chief Minister of the Khyber Pakhtunkhwa province is pleased to direct that the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and transfer) Rules 1989, the following further amendment shall be made, manually.

AMENDMENT

Sub-rule 4-of-rule 10 shall be substituted by the following:-

"where a civil servant dies or is rendered incapacitated/invalidated permanently during service then notwithstanding the procedure provided for sub-rule (2), the appointing authority may appoint one of the children of such civil servant, or if the child has not attained the age prescribed for appointment in Government service, the widow/wife of such civil servant, to a post in any of the basic pay scale 1-10.


The respondent No 01 the then District Education Officer Hassan Khel Sub Division Peshawar already appointed one of the children of late Marsal Khan (Mali) at GHS Gul Akbar Killi HSD Peshawar namely Abdullah Khan (Mali) S/O Late Marsal Khan according to the rules and policy. Mr. Amjad Khan who was illegally come and deceive the respondents by acted so. He has violated all rules regulations by providing false information that none of his family member avail the quota in the past. (Copies of the notification of deceased employee quota Annexed "D).

- B. Incorrect. The appellant has violated the Rules and Policy as his brother Abdullah Khan already availed the Deceased Employee Quota.
- C. Incorrect. The respondent has acted according to the Rules, Policy and while doing so, no constitutional rights of the Appellant has been violated.
- D. Incorrect. The Appellant has deceived respondent No 1 for the purpose of appointment and illegal benefits.
- E. Incorrect the Appellant approached the competent authority an illegal way deceived the respondents for the purpose of illegal benefit.
- F. That the respondents also seeks permission to advance others grounds and proof at the time of hearing/arguments.

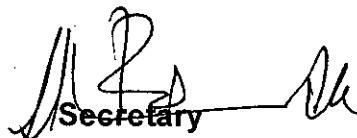
PRAY.

It is therefore, humbly pray that on acceptance of this para wise comments, the appeal in hand may kindly be dismissed.

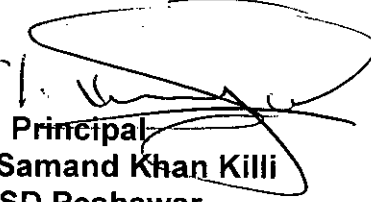
Respondent No. 01

  
District Education Officer (F)  
Peshawar

Respondent No. 02-03

  
Secretary  
E&SE Khyber Pakhtunkhwa  
Peshawar

Respondent No. 04

  
Principal  
GGHS Samand Khan Killi  
HSD Peshawar

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

③

Appeal No. 4281/2021

Mr: Amjad Khan S/O Late Marsal Khan..... Appellant

**Versus**

District Education Officer (Female) Peshawar and others ..... Respondents.

**AFFIDAVITE**

I Muhammad Haroon Assistant District Officer (Lit) HSD Peshawar do hereby solemnly affirm and declare that the contents of the accompanying para wise comments submitted and correct to the best of my knowledge and belief nothing has been concealed from this honorable court.

  
Deponent

Mr. Muhammad Haroon

CNIC: 17301-8609968-1

Mobile: 0330-5165571

**ATTESTED**



4

## AUTHORITY LETTER

Mr. MUHAMMAD HAROON Assistant District Officer (Litigation) Hassan Khel Sub Division Peshawar (Ex-FR) having CNIC No. 17301-8609968-1 of the District Education Officer (Female) Peshawar (do here by authorized for court cases on the behalf of District Education officer (Female) Peshawar.

*MUHAMMAD HAROON*  
27/12/21

District Education officer  
(Female) Peshawar

# SERVICE BOOK

5

R II

OF

W. E. P. 14/11/2016

Mr.

ABDULLAH KHAN

S/o

MARJAL KHAN

Designation

Department

GCAS Gul ARBAR Killi F R

PESHAWAR

Attested  
[Signature]

Price : Rs. 75/-

(For use in Police Department only)

Heirs:

⑥

- 1. \_\_\_\_\_
- 2. \_\_\_\_\_
- 3. \_\_\_\_\_

Verification Roll No. \_\_\_\_\_ dated \_\_\_\_\_ received back \_\_\_\_\_

Left Thumb Impression

Qualification	Date	Qualification	Date
English		First Arts	
Pushto		B.L. Or B.A.	
Urdu		Pleadership examiantion	
Plan-drawing	HEAD MASTER G.H.S. Gul Akbar Killi M.R. Poshawan <i>fr</i>	Training School Final examiantion	
Finger Print		Other qualification:--	
Drill Instructing			
Court Duties			
Reserve Duties	HEAD MASTER G.H.S. Gul Akbar Killi <i>fr</i>		

*Approved*  
*[Signature]*

N.B.— Line to be drawn under the qualification possessed.



Note:- The entries in this page should be renewed or re-attested at least every five years and the signature to lines 9 and 10 should be dated.

1. Name: ABDULLAH KHAN ✓ (7)

2. Race: AFRIDI ✓

3. Residence: Mahala Kandji Sam Khel, Ali Khel Sher Kera  
DISTT 2 TEHI: PESHAWAR






4. Father's name and residence: LATE, MARSAL KHAN ✓

5. Date of birth by Christian era as nearly as can be ascertained: 11-02-1989 (11th February N. 42/89) ✓

6. Exact height by measurement: 5-5 ✓

7. Personal marks for identification: NIL

8. Left hand thumb and finger impression of (Non-Gazetted) officer:

Little Finger		Ring Finger	
Middle Finger		Fore Finger	
Thumb			

9. Signature of Government Servant: [Signature]

10. Signature and designation of the Head of the Office, or other Attesting Officer: [Signature]  
HEAD MASTER 15/11/16  
G.H.S. Gul Akbar Killa  
F.R. Peshawar.





1	2	3	4	5	6	7	8	
Name of post.	Whether substantive or officiating and whether permanent or temporary	If officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C.S.R.	Pay in substantive post	Additional Pay for officiating	Other emolument falling under the term "p"	Date of appointment	Signature of Government Servant.	
Mali, GHS. 4th Akbar		BPS NO 01	(9130-290-17830)					
		Rs	9650/-	= PMD =		01-12-2018		

Signature of Government Servant.

He  
GM  
Sub Divs

*Attested  
[Signature]*

*[Handwritten marks]*





**APPOINTMENT ON DECEASE SERVANT QUOTA.**

Consequent upon the approval of competent authority, **Mr. Amjad Khan S/O Late Marsal Khan** is hereby appointed as **Junior Clerk** under decease servant Quota Section 10 (sub-section 4) appointment promotion & transfer rules 1989 in **BPS-11 (Rs. 12,570-880-38,970)Pm** plus usual Allowances at **GGHSS Khan Samand Khan Killi SD Peshawar** against vacant post with effect from the date of his taking over charge in the interest of public service on the following terms and conditions:-

**TERMS AND CONDITIONS.**

- 1) No TA/DA etc. is allowed.
- 2) Charge report should be submitted to all concerned in Duplicate.
- 3) Appointment is subject to the condition that the certificates, Degree/Documents must be verified from the concerned authorities by the DEO Office HSD Peshawar, if anyone found producing bogus/forged/fake certificates/Degrees will be reported to the law enforcing agencies for further action.
- 4) His service is liable to termination on one month's prior notice from either side. In case of resignation without notice his one-month pay/allowances will be forfeited in favor of Govt. Treasury.
- 5) Pay will not be drawn until and unless a certificate to this effect is issued by DEO HSD Peshawar; their certificates/Degrees are verified.
- 6) He should join his post within 15-days of the issuance of this notification. In case of failure to join his post within 15-days of the issuance of this notification, his appointment will expire automatically and no subsequently appeal etc shall be entertained.
- 7) Health and age certificate should be produced from the Medical superintendent concerned before taking over charge.
- 8) He should not be handed over charge if his age is below 18 years or above 35 years age.
- 9) If any technical legal flaw or it is pointed out any stages that any member of family availed this benefit the same order will be stand cancelled automatically and recovery of salaries payment will be made in favor of Govt. treasury.
- 10) He will have to serve at the place of posting and their service is non-transferable up to 5-years from this stations.
- 11) The appointee will be entitled to pension/commutation and G.P Fund emoluments.
- 12) Before handing over charge Principal/Headmaster concerned will check his documents, if he have not the required qualification, he may not be handed over charge.

**Endst: No. 1530-34 (A) Dated: 02/09/2020.**

**Copy for information and necessary action to the:-**

- 1) Accountant General Khyber Pakhtunkhwa Peshawar.
- 2) Addl: Director Education NMTD Peshawar
- 3) Principal GGHSS Samand Khan Killi HSD Peshawar.
- 4) ADEO (M) HSD Peshawar.
- 5) Accountant Local Office.

District Education Officer  
Hassan Khel SD Peshawar

03

District Education Officer  
Hassan Khel SD Peshawar

03

*Amjad Khan*  
*Amjad Khan*



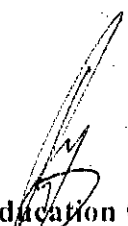
**CANCELLATION OF APPOINTMENT NOTIFICATION/  
ORDER:**

This office Appointment order/ Notification Endst No. 1530-34 A dated: 02.09.2020 in r/o Mr. Amjad Khan J/C GGHSS Samand Khan Killi HSD Peshawar is hereby cancelled from the date of appointment in the interest of public service.

Endst: No. 2198-02 Dated: 03/11 /2020

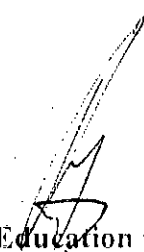
Copy for information to the..

1. Director Education NMTD Peshawar.
2. Accountant General KPK Peshawar.
3. Principal concerned.
4. District monitoring officer Peshawar.
5. Official concerned.

  
District Education Officer  
Hassan Khel SD Peshawar

CB

*o/c*

  
District Education Officer  
Hassan Khel SD Peshawar

CB

*Missed  
H  
Amjad*



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT

(REGULATION WING)

Dated, Peshawar the 31<sup>st</sup> August, 2012

14

NOTIFICATION

No. SOR-VI (EGAD)1-3/2011/Vol-VIII: - In exercise of the powers conferred by Section 26 of the Khyber Pakhtunkhwa Province Civil Servants Act, 1973 (N.W.F.P. Act No. XVIII of 1973), read with this Department's Notification No. SOR-I (SE&GAD)1-206/74/Vol: V, dated 18<sup>th</sup> April 1989, the Chief Minister of the Khyber Pakhtunkhwa Province is pleased to direct that in the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules 1989, the following further amendments shall be made, namely:

AMENDMENT

Sub rule 4 of Rule 10 shall be substituted by the following:-

"Where a civil servant dies or is rendered incapacitated/invalidated permanently during service then notwithstanding the procedure provided for in sub-rule (2), the appointing authority may appoint one of the children of such civil servant, or if the child has not attained the age prescribed for appointment in Government Service, the widow/wife of such civil servant, to a post in any of the Basic Pay Scales 1-10:

Provided that the child or the widow/wife as the case may be, possesses the minimum qualification prescribed for appointment to the post:

Provided further that if there are two widows/wives of the deceased civil servant, preference shall be given to the elder widow/wife.

Provided also that the appointment under this sub rule is subject to availability of a vacancy and if more than one vacancies in different pay scales are available at a time, and the child or the widow/wife, as the case may be, possesses the qualifications making him or her eligible for appointment in more than one post, he /she shall ordinarily be appointed to the post carrying higher pay scale.

Provided further that this shall not apply to any post in BPS-1-10 falling in the purview of the Khyber Pakhtunkhwa Public Service Commission.

CHIEF SECRETARY  
GOVERNMENT OF KHYBER PAKHTUNKHWA

*Musleha*  
*Amir*

Section Officer (Admn)



Endst: No. and dated even.

Copy forwarded to:-

15

1. Additional Chief Secretary, Govt of Khyber Pakhtunkhwa, Planning & Development Department.
2. Additional Chief Secretary (FATA), FATA Secretariat Peshawar.
3. Additional Chief Secretary, Govt of NWFP Home & Tribal Affairs Department.
4. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
5. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
6. The Secretary to Governor, NWFP.
7. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
8. All Divisional Commissioners in Khyber Pakhtunkhwa.
9. All Heads of Attached Departments in Khyber Pakhtunkhwa.
10. All Autonomous/Semi-Autonomous Bodies in Khyber Pakhtunkhwa.
11. All District Coordination Officers in NWFP and Political Agents in FATA.
12. The Registrar Peshawar High Court, Peshawar.
13. The Registrar, NWFP Service Tribunal, Peshawar.
14. The Secretary, NWFP Public Service Commission, Peshawar.
15. All Additional Secretaries, Deputy Secretaries and Section Officers in Establishment & Administration Department.

*najam*  
31/8/12  
(NAJ-MUS-SAHAR)  
SECTION OFFICER (REG: VI)

*Attested  
Comp*