


FORM OF ORDER SHEET

Court of _____

Case No.- 126/2023

S No	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	13/1/2023	<p>The appeal of Mr. Muhammad Islam presented today by Mr. Noor Muhammad Khattak Advocate. It is fixed for preliminary hearing before touring Single Bench at A.Abad on _____ Parcha Peshi is given to appellant/counsel.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. 126 /2023

MUHAMMAD ISLAM

VS

HEALTH DEPTT:

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APPELLANT

THROUGH:


NOOR MOHAMMAD KHATTAK,
ADVOCATE SUPREME COURT

- 1 -

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. 126 /2023

Mr. Muhammad Islam, PHCT (Multipurpose) EPI (BPS-12),
O/O the District Health Officer, District Battagram.

..... APPELLANT

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Secretary Health, Civil Secretariat, Peshawar.
- 2- The Director General Health Services Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The District Health Officer, Battagram.

..... RESPONDENTS

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDERS DATED 23.08.2021 & 27.08.2021 WHEREBY THE APPOINTMENT ORDER DATED 17.08.2021 HAS BEEN CANCELLED AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

That on acceptance of this appeal the impugned orders dated 23.08.2021 and 27.08.2021 may kindly be set aside and the respondents may kindly be directed to restore the appointment order dated 17.08.2021 of the appellant with all back benefits including seniority. Any other remedy which this August Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

Brief facts giving rise to the present appeal are as under:-

- 1- That appellant is law abiding and peaceful citizen of Pakistan and permanent/bonafide resident of District Battagram.
- 2- That respondent department advertised different posts of para medical staff including JCT(RADIOLOGY), JCTC(SURGICAL), JCT(PULMONOLOGY), PHCT(EPI) and EPI Vaccinator in Daily News Paper and the appellant being eligible, having requisite qualification and experience, applied for the post of PHCT(EPI) (BPS-12). Copies of advertisement, Minutes of Selection Committee and Educational Documents are attached as AnnexureA & B.

- 3- That the appellant was appointed as PHCT (Multipurpose) EPI (BPS-12) vide order dated 17.08.2021. Copy of appointment order is attached as AnnexureC.
- 4- That astonishingly the appointment of the appellant along with others were cancelled vide impugned office order dated 23.08.2021 under political pressure of ruling party and their local representative for accommodating their blue eyed by respondent No.2 and a committee was constituted to conduct inquiry regarding recruitments of various cadre of medical technicians by respondent No.3. Copy of the impugned office order dated 23.08.2021 is attached as AnnexureD.
- 5- That in compliance with the ibid office order all the appointment letters issued by respondent No.3 were cancelled vide impugned office order dated 27.08.2021 is attached as AnnexureE.
- 6- That the appellant being aggrieved from the impugned orders dated 23.08.2021 and 27.08.2021 issued by the respondent department has got no other appropriate /adequate remedy except to file the writ petition before the Honorable Peshawar High Court, Peshawar. Copy of the writ petition is attached as Annexure F.
- 7- That the Honorable Peshawar High Court, Peshawar scribed in its order dated 15.09.2022 that the matter squarely falls within the jurisdiction of August Service Tribunal and thereof copy of the memorandum of the said writ petition be transmitted to the respondents/department and be treated as Departmental Appeal for decision in accordance with law. Copy of the Order/judgment dated 15.09.2022 is attached as AnnexureG.
- 8- That the recommendations of the inquiry committee were rejected by respondent no.3 and considered the recruitment process as per rules and regulations vide Rebuttal of Inquiry Report letter dated 30.09.2021. Copy of the Rebuttal Inquiry Report Letter dated 30.09.2021 is attached as Annexure H.
- 9- That the appellant feeling aggrieved form the inaction of the respondents by not deciding the departmental appeal of the appellant and having no other remedy but to file the instant service appeal on the following grounds amongst the others.

GROUNDS:

- A- That actions of the respondents by issuing the impugned notifications/orders dated 23.08.2021 and 27.08.2021 as well as not accepting the arrival report of the appellant is against the law, facts and norms of natural justice.
- B- That the appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.

- C- That the decision regarding cancellation of the appointments of appellant along with others was made by respondent No.2 before conduction of inquiry which is against law and rules.
- D- That the recruitment process of the appellant was considered as per rules and regulations and recommendations of the inquiry committee were rejected by respondent no.3 vide Rebuttal of Inquiry Report letter dated 30.09.2021.
- E- That actions and inactions of the respondents by issuing the impugned notifications/orders dated 23.08.2021 and 27.08.2021 whereby not accepting the arrival report of the appellant is violative of Law and Rules.
- F- That the respondents acted in arbitrary and mala-fide manner by issuing the impugned notifications/orders dated 23.08.2021 and 27.08.2021.
- G- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore, most humbly prayed that the appeal of the appellant may be accepted as prayed for.

Dated: 10.01.2023

Muhammad Islam
APPELLANT
MUHAMMAD ISLAM

Through:

Noor Mohammad Khattak
NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT

Waleed Adnan
WALEED ADNAN

Umar Farooq Momand
UMAR FAROOQ MOMAND

Muhammad Ayub
MUHAMMAD AYUB

&

Khanzad Gul
KHANZAD GUL
ADVOCATES

AFFIDAVIT

I, Mr. Muhammad Islam, PHCT (Multipurpose) EPI (BPS-12), O/O the District Health Officer, District Battagram, do hereby solemnly affirm that the contents of this **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

Muhammad Islam
Deponent

یہ امیدگیل سٹاف ضلع نگرام کے مختلف مراکز صحت میں مندرجہ ذیل 12 امیدگیل سٹاف کی آسامیاں خالی ہیں جن پر تقرری کیلئے ضلع نگرام سے تعلق رکھنے والے اہل امیدواروں سے درخواستیں مطلوب ہیں۔ ضلع نگرام میں اہل امیدوار دستیاب نہ ہونے کی صورت میں ملحقہ اضلاع سے بھی اہل امیدوار کی تقرری ہو سکتی ہے۔

Sl. No.	Post	BFS	Qualification
1	نائب ڈی ایچ او، RHC	12	BCT (Radiology)
2	نائب ڈی ایچ او	12	BCTC (Surgical)
3		12	BCT (Pulmonology)
4	بی ایچ یو کوڈر ٹنڈول، گتھی، بیلہ، پانچال شریف، پوسٹ ہسٹوائی، کتھوڑہ اور RHC قمارکٹ	12	PHCT (EPI)
5		06	EPI Vaccinator

- 1) سٹرک سائنس (کم از کم ٹیکنڈ ڈیپن) بعد دو سالہ متعلقہ شعبہ کا ڈیپلومہ خیر و خیر بخیر یا کسی بھی دیگر صوبے کی میڈیکل ٹیکنی یا متعلقہ ٹیکنالوجی میں کسی معقولہ پوراز سے ایف ایس سی۔ (2)۔ عمر کی حد 18-30 سال۔ (3) جس امیدوار کی عمر صوبہ عمر سے زیادہ ہو تو وہ Ago Relaxation سرٹیفیکٹ پیش کرنے کا پابند ہوگا۔ (4)۔ تجربہ کار سرٹیفیکٹ مطلوب ہے۔ (5)۔ معذور افراد کیلئے 2% کوٹیشن کیا جائے گا اور اسے حاصل کر رہا ضروری ہے غیر مستحانہ اسے کا Certificate قبول نہیں ہوگا۔ (6)۔ امیدوار انٹرویو کے موقع پر اپنی اصلی شناختی کرائے نہ ہو سکی Certificate حلقہ بازار اتھارٹی سے معقولہ شرح پر حاصل کیا جائے گا۔ (7)۔ معقولہ شرح پر حاصل کیا جائے گا۔ (8)۔ امیدوار انٹرویو کے وقت میں آجروں اور ہاں صحت میں آجروں میں شامل نہیں کیا جائے گا۔ (9)۔ معقولہ شرح پر حاصل کیا جائے گا۔ (10)۔ امیدوار انٹرویو کے وقت میں آجروں اور ہاں صحت میں آجروں میں شامل نہیں کیا جائے گا۔ (11)۔ خواہشمند امیدوار اشتہار شائع ہونے کے بعد 15 ہم کے اندر سڑک ویلڈ آفیسر نگرام کے پاس اپنی درخواستیں ساتھ ساتھ CV کیپڑی اور آفری شناختی کارڈ اپنی شناختی تصدیق کے ساتھ ارسال کرانی ہونی چاہئے۔ (12)۔ جنرل ایڈوائس کرنے والے امیدوار کے خلاف کوئی کارروائی نہیں کی جائے گی۔ (13)۔ ہمارا فیصلہ حتمی ہے اور اس پر اپیل نہیں کی جاسکتی۔

ہمارا فیصلہ حتمی ہے اور اس پر اپیل نہیں کی جاسکتی۔



OFFICE OF THE DISTRICT HEALTH OFFICER

Battagram (Khyber Pakhtunkhwa)

Phone & Fax: # (0997) 310507

MINUTES OF THE PROCESS OF DEPARTMENTAL SELECTION COMMITTEE

A meeting was held in the office of District Health Officer Battagram on 14.07.2021 for appointment of various Paramedical Posts, vacant in DHO office Battagram. The following members attended the meeting.

Dr. Waseem Ahmed DHO

Dr. Ahmed Faisal Representative DGHS

Mr. Muzafar Khan Representative DC Battagram

Chairman

Member

Member

The post of CT Radiology, CT Surgical, CT Pulmonology and PHCT MP (EPI/ Vaccinator) were advertised by District Health Officer in the Daily News Paper Aaj Peshawar (Advertisement attached), for the District Battagram. The applicants were directed to submit their documents to DHO office District Battagram. It was mentioned in the advertisement that the applicant applying for the post must have Diploma in the relevant field from the Medical Faculty or FSC Medical Technology from recognize board. Furthermore, the candidates having domicile of the concerned District will be given preference in case of non availability of suitable competent candidates in the District, the candidates could be selected from other District. As per following detail this office received applications of the following applicants.

A departmental Selection committee was constituted on, vide this office order No.1305-07 dated 08.07.2021 and interview was scheduled on 12.07.2021. Various candidates attended the interview on mentioned date attendance list attached.

CT Surgical	CT Radiology	CT Pulmonology	PHCT (EPI)	EPI Vaccinator
22	09 District Battagram 37 Out District	09	128	49

And after checking the original documents of the candidates a final merit list was prepared and signed by all the committee member. The following candidates as per final merit list are selected.

CT Radiology

S. No	Name candidate	Father Name	Technology	Domicile
01	Amir Majid	Milhaj	CT Radiology	Battagram
02	Sajid Ahmed	Shamshad Khan	CT Radiology	Battagram
03	Atiq ur Rehman	Abdur Rehman	CT Radiology	Battagram
04	Noor Islam	Abdur Rahim	CT Radiology	Battagram
05	Abid ullah	Basheer Ahmed	CT Radiology	Battagram

CT Surgical

S. No	Name candidate	Father Name	Technology	Domicile
01	Mohammad Waqar	Mohammad Bashir	CT Surgical	Battagram
02	Javed Khan	Mohammad Imran	CT Surgical	Battagram

CT Pulmonology

S. No	Name candidate	Father Name	Technology	Domicile	Remarks
01	Waseem Akram	Mohammad Nazir	CT Pulmonology	Battagram	Appointment subject to verification of Diploma
02	Naveedullah	Said Mohd Khan	CT Pulmonology	Battagram	
03	Mohd Zubair	Gul Rehman	CT Pulmonology	Battagram	

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~~ANNEXURE C~~

PHCT EPI

S. No	Name candidate	Father Name	Technology	Domicile
01	Mohammad Islam	Faqir Khan	Health (EPI)	Battagram
02	Ubaidullah	Muslim Khan	Health (EPI)	Battagram
03	Mohammad Usman	Mohammad Iqbal	Health (EPI)	Battagram
04	Inamullah	Siraj Khan	Health (EPI)	Battagram
05	Mohammad Amir Khan	Fazal Rahim	Health (EPI)	Battagram
06	Saeed Khan	Mohammad Nigab	Health (EPI)	Battagram
07	Fidaullah	Umar Baz Khan	Health (EPI)	Battagram
08	Mohammad Ibrar	Mabar Khan	Health (EPI)	Battagram
09	Mohammad Fawad Khan	Hazrat Rehman	Health (EPI)	Battagram
10	Syed Moeen Shah	Gul Wahid Shah	Health (EPI)	Battagram

EPI Vaccinator

S. No	Name candidate	Father Name	Technology	Domicile
01	Arshid Aziz	Aziz ur Rehman	EPI Vaccinator	Battagram
02	Syed Ijaz Ali Shah	Wahid Said	EPI Vaccinator	Battagram

The meeting ended with a vote of thanks from the chair.

District Health Officer
Battagram

No 1323-25 / Dated 14/07/2021

Copy forwarded to the:-

1. Director General Health Services Khyber Pakhtunkhwa Peshawar for information
2. All concerned for information
3. Office copy

District Health Officer
Battagram

ADA 120491

REVISED

Roll No. 120491

BOARD OF INTERMEDIATE & SECONDARY EDUCATION



7-
"B"

Abbottabad M W F P - Pakistan

NEW ONDRA - THE HIGHER EDUCATION DEPARTMENT

Abbottabad M W F P - Pakistan

7369

Serial No _____

Batch No _____

Roll No _____ 3309 _____

Examination Session _____ 06 2013 _____

Technology _____ HEALTH _____



Renewal Of Diploma

REGISTRATION / ENROLMENT

Valid for five years

The Diploma registration of Mr / Miss / Mrs. MUHAMMAD ISLAM Son / Daughter of

FAQIR KHAN bearing Registration No. MF/16/AIMS/ATO/HT Enrolment / Provisional

Diploma Serial No. 1818 Dated 16-11-2016 is hereby renewed

from 16-NOV-18 to 15-NOV-23

Prepared by: [Signature]

Checked by: [Signature]

Verified by: [Signature]

[Signature]

SECRETARY

Khyber Pakhtunkhwa

Medical Faculty Peshawar

JOINT PAKISTAN RED CRESCENT SOCIETY/CANADIAN RED CROSS

INTEGRATED RECOVERY PROGRAM (IRP)



Khyber Pakhtunkhwa

Address: Red Crescent House, Dabgar Gardens, Peshawar
Tele: (091) 2210838, 2542011 Fax: (091) 2210836

9-

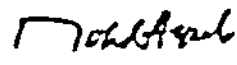
EXPERIENCE CERTIFICATE

I hereby certify that Mr. Amir Sultan was employed as a
Defender in Joint PRCSC Canadian Red Cross Integrated Recovery Program
Project KP in BHU Garhi Nawab Sy/d of Battagram District from 27th January
2014 to 31st March 2015.

During his stay with us we found him hardworking and competent worker who
knew his job very well.

We wish him a bright future career.

Peshawar
Dated 23rd April 2015


Provincial Project Coordinator
Joint PRCSC/CRC IRP
(Muhammad Ayub)

Serial No

1919

Roll No

3309

-10-

KHYBER PAKHTUNKHWA MEDICAL FACULTY PESHAWAR PAKISTAN



Diploma In Health Technology

SESSION 06-2013

This is to certify that Mr. Miss. Mrs. Muhammad Islam Son / Daughter of

Mr. Reza Khan Of Batch No. _____ Bearing

Registration No MB/16/AIMS.ATD Has passed the examination of Two years diploma

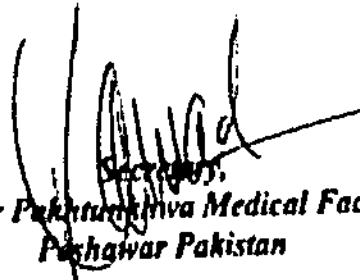
In the year 06-2013 He / She obtained 744 Marks out of 1400

He / She has been Placed in B Grade.

Prepared by: _____

Checked by: _____

Verified by: _____


 Secretary,
 Khyber Pakhtunkhwa Medical Faculty
 Peshawar Pakistan

PAKISTAN RED CRESCENT SOCIETY



Pakistan Red Crescent Society
شعبہ سرگرمی و خدمات

Khyber Pakhtunkhwa - - - - - // -

Address: Red Crescent House, Dabgani Gardens, Peshawar
Tele. (091-) 2210836 / 2562011 Fax: (091) 2210836

EXPERIENCE CERTIFICATE

It is certify that Mr Muhammad Islam S/o Faqir Khan has worked as Despencer in Pakistan Red Crescent (PRCS) In Mobile health unite in District Torghar.

From 1st April 2015 to 30 Feb 2016,

During his stay with us we found him hard working and competent worker who knows his job very will.

we wish him bright future career.

Date: 25th May, 2016

Provincial Project Coordinator
Joint PRCS/CRC IRP
(Muhammad Ayub)



-12-

پاکستان سرخ چاند


Certificate of Concern:

It is our pleasure to write on behalf of Mr. Muhammad Islam (ID No. NP/CRS/2016/840069B-5) has worked with Pakistan Red Crescent Society (Khyber Pakhtunkhwa Branch) at Provincial Headquarters in the capacity of District First Aid Trainer/Coordinator for a period of 02 years and 09 months (from 01/03/2016 to 31/12/2018). His main responsibilities were

- Work towards the achievement of PRCS goal of a "First Aider in every Home" through First Aid Program.
- Coordinate with the District authorities and communities to jointly educate and other institutions for implementation of FA program.
- Plan Basic First Aid trainings in the selected institutions of his respective District.
- Prepare a monthly and quarterly plan of trainings in coordination with the Provincial First Aid Coordinator.
- Conduct trainings in Educational and other Institutions at least 5/month with 15-20 participants.
- Send report of each training to the Provincial First Aid Coordinator by end of each activity and monthly/quarterly/annual report by 30th/end of every month/quarter/annum.
- Develop, update and share First Aid training participant database on monthly basis.
- Assist First Aid Coordinator in all official matters as and when required.
- Maintenance of First Aid training database.

During his time with us, Mr. Muhammad Islam has been a dedicated and valuable employee and he has worked hard at any and all tasks given to him. He is quite confident and is a consummate professional. He has a wonderful temperament and works very efficiently both independently or whilst working as part of a team.

While he will be missed, I wish him success in his future endeavors.


Muhammad Wasif Jan
Deputy Secretary Operations (DSO)
Pakistan Red Crescent Society
Khyber Pakhtunkhwa



OFFICE OF THE DISTRICT HEALTH OFFICER

Battagram (Khyber Pakhtunkhwa)

Phone & Fax: # (0997) 310507

-13-

OFFICE ORDER

No. 1236 - 121 date 17/08/2021

Consequent upon the recommendation of the Departmental Selection committee, Mr Muhammad Islam S/O Faqir Khan is hereby appointed as PHCT (Multipurpose) LPI BPS-12 against the vacant post plus usual allowances as admissible under the rules and subject to revision from time to time on the following terms and conditions according to the Government policies. This order is subject to the verification of the original documents from the issuing authority/ production Two years Diploma either from Khyber Pakhtunkhwa or any other eligible/ Registerable Institute/ College or University, if the Diploma is from outside KPK it must be registered with Medical faculty of Khyber Pakhtunkhwa Peshawar

1. If the academic/ Technician/ experience certificates is not from the government institutions or international organization that will be not consider as experience
2. If the academic/ technician/ experience certificates of any candidate found fake/ bogus of any stage his/ her services will be considered terminated automatically.
3. He/ She shall initially be on probation for a period of Two years under the rules extendable further for a period of one year
4. He/ She can be terminated without any notice during the probation of his/her work if his/her conduct found unsatisfactory.
5. He/ She shall be governed by the Government of Khyber Pakhtunkhwa civil servants act 1973 and the law applicable to the civil servants under the rule made there under F&S rules 2011
6. He/ She shall be entitled to annual increments as per existing policy.
7. He/ She join his duties at his own expenses.
8. In case you wish to resign at any time, one month notice will be essential or in lieu shall be forfeited
9. He/ She will be awarded by such rules/ entitlement and orders related to TA, leave and MRC etc as may be issued by the Govt. from time to time for the category of Government servant to which you belong.
10. Your appointment will be subject to provision of Medical fitness certificate
11. The appointee shall be bound to perform any duty assigned by the undersigned as per Govt rules.
12. Your duty in National obligation and international commitment may be required time to time

If He/ She accept the above mentioned Terms & Conditions he/she should report to the undersigned within 14 Days of receipt of this offer and submit original documents along with one set of the photocopies for verification from concerned Boards/ University/Medical faculty KPK/ Nursing Council if applicable in case he/ she fails to report for duty within stipulated period of time this appointment order will automatically stand cancelled and the next candidate in merit list (waiting) will be considered for appointment.

District Health Officer
Battagram

Forwarded to the

1. Director General Health Services Khyber Pakhtunkhwa for information
2. District Accounts officer Battagram for information
3. Incharge BHU _____ for information
4. Account Section office of the undersigned for information
5. Official for information and compliance
6. Incharge Establishment section office of the undersigned for information and compliance
7. Office copy

District Health Officer
Battagram

(33)

11 D 11

~~SECRET~~



DIRECTORATE GENERAL HEALTH SERVICES KHYBER PAKHTUNKHWA PESHAWAR

14-

All communications should be addressed to the Director General Health Services Peshawar or to any of the following offices:
DGHS Office, Peshawar, P.O. Box 1001, Peshawar, P.O. Box 1002, Peshawar, P.O. Box 1003, Peshawar, P.O. Box 1004, Peshawar, P.O. Box 1005, Peshawar, P.O. Box 1006, Peshawar, P.O. Box 1007, Peshawar, P.O. Box 1008, Peshawar, P.O. Box 1009, Peshawar, P.O. Box 1010, Peshawar.

No. 602-9 /DGHS

Dated 28 /08/2021

OFFICE ORDER

Reportedly there are irregularities in the recruitment process of various cadre of Para Medics by District Health Officer Battagram, therefore all recent recruitment done by District Health Officer Battagram of various cadre of Medical Technician are hereby stand cancelled with immediate effect and an inquiry committee consisting of following officers is hereby constituted to conduct the inquiry and submit report within 07 days.

1. Dr. Faizal Khanzuda (ADG Hazara Division) DGHS Office.
2. Mr. Hidayat (Deputy Director Coordination) DGHS Office.

The recruitment process will be reinitiated after proper inquiry as per government rules & policy.

[Signature]
DIRECTOR GENERAL HEALTH
SERVICES KHYBER PAKHTUNKHWA PESHAWAR

Cc

1. Dr. Faizal Khanzuda (ADG Hazara Division) DGHS Office (Inquiry Officer).
2. Mr. Hidayat (Deputy Director Coordination) DGHS Office (Inquiry Officer).
3. District Health Officer Battagram for immediate compliance.
4. PS to Minister Health Khyber Pakhtunkhwa.
5. PS to Secretary Health Khyber Pakhtunkhwa.
6. District Account Officer Battagram.



11E" -15-



**OFFICE OF THE DISTRICT HEALTH OFFICER,
Battagram (Khyber Pakhtunkhwa)
Phone & Fax: # (0997) 310507**

No. 1803-08 /WHOMTAM

Dated: 27/8/2021

OFFICE ORDER

In compliance with the DONS Peshawar Letter No. 0070/DOHS dated 23/02/2021, all appointment letters issued from the office of the undersigned are hereby strict rescinded. Moreover, all facility in charges are directed not to accept the arrival of any candidate in this regard.

District Health Officer
Battagram

Copy forwarded to

1. Director General Health Services (DGHS) Peshawar
2. Dr. Faisal Khanzada (ADC) Hazara Division
3. Deputy Commissioner Battagram
4. District Account Officer Battagram
5. All facilities in charges Battagram for information and compliance
6. Office copy

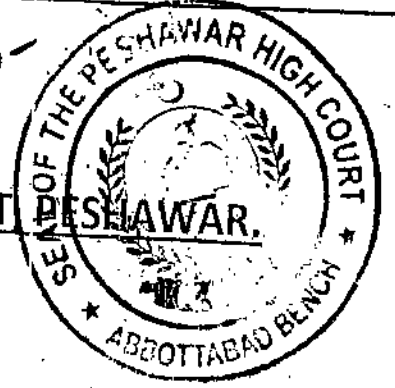
District Health Officer
Battagram

ATTESTED

"F"

-16-

BEFORE THE PESHAWAR HIGH COURT



In ref W.P NO: 956 /2021

1. Muhammad Islam S/O Faqir Khan R/O Landi kas Tehsil & District Battagram.
2. Inamullah S/O Siraj Khan R/O Hussaini, Thakot, District Battagram.
3. Saeed Khan S/o Muhammad Naqab R/O Naisham Gul, Thakote, Tehsil & District Battagram.
4. Muhammad Usman S/O Muhammad Iqbal R/O Kot Gala, District Battagram.
5. Ubaidulah S/o Muslim Khan R/O Qala Behram Khan, District Battagram.
6. Arshid Aziz S/O Azeezurehman Khan R/O Thakot, Tehsil and District Battagram.
7. Muhammad Amir Khan S/O Fazle Rahim R/O colony, District Battagram.
8. Syed Moeen Shah S/O Gul Wahid R/O Thakot, District Battagram.
9. Fareedullah S/O Umer Baz Khan R/O Hussaini, District Battagram.
10. Muhammad Fawad Khan S/O Hazrat Rehmat R/O Thakot, District Battagram.
11. Ijaz Ali shah S/O Wahid Said R/O Thakot, District Battagram.

Verified to be True Copy
EXAMINER

21 DEC 2022

Peshawar High Court Atd Bench,
Authorized Under Sec 75 Evid Ordns

FILED TODAY
Deputy Registrar
31 AUG 2021

FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH

PETITIONERS.

VERSUS

1) Government of Khyber Pukhtunkhwa Through Chief secretary civil secretariat Peshawar

①

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- 2) Director General Health Services, government of Khyber Pukhtunkhwa Peshawar
- 3) Secretary Health, Govt Khyber Pukhtunkhwa, Civil Secretariat, Peshawar.
- 4) District Health Officer Battagram.

.....RESPONDENTS

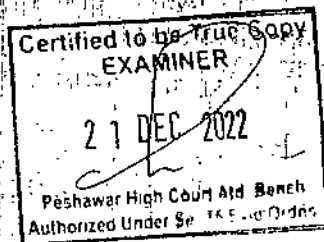
**WRIT PETITION UNDER ARTICLE 199 OF
THE CONSTITUTION OF ISLAMIC REPUBLIC
OF PAKISTAN, 1973.**

Prayer:

On acceptance of instant writ petition:

A. writ of certiorari may please be issued to declare Order dated 23/8/2021 passed by the respondent No: 2 followed by order dated 28/8/2021 by respondent NO: 4 as illegal, unlawful, against the factual position, contra legume *against the recognized fundamental rights of the petitioners, passed under political influence of the ruling party and their representatives, based on motives other than legal.*

B. The respondents may please be directed to withdraw the impugned notifications/orders and accept the arrival report of the petitioner /Allow the charge assumption, as per their initial appointment orders.



4907
No 3.921

FILED TODAY

ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH

FILED TODAY
Deputy Registrar

①

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Respectfully sheweth,

1. That the petitioners are law abiding and peaceful citizen of Pakistan and permanent/bona fide residents of ~~different villages of~~ District Batagram.
2. That respondent No: 4 advertised different posts of para medical staff including JCT (RADIOLOGY), JCTC (SURGICAL), JCT (PULMONOLOGY) PHCT (EPI) AND EPI VACCINATOR in Daily News Paper by inviting applications from eligible candidates having domicile of District Batagram, Khyber Pukhtunkhwa, having specified age limit and qualification. (copy of Advertisement is attached as annexure "A")
3. That in sequel to above all, the petitioner being eligible, suitable and qualified candidates, having requisite qualification and experience, applied for the posts of PHCT (EPI) along with so many other candidates, after short listing the petitioners were called for interview by respondent No: 4 to appear before the selection committee and after fulfilling all the legal and code formalities, appointment orders of the petitioners were issued. (copies attached as annexure "B").
4. That consequently, petitioners were declared as successful candidates and appointment orders were issued accordingly. But all of sudden respondent No: 2 issued impugned notification dated 23/8/2021 followed by order date 27/8/2021 by respondent NO: 4 regarding cancellation of appointment of the petitioners under political pressure of ruling party and their local representative for accommodating their blue eyed people. (impugned notifications ANNEXURE "c")

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31 AUG 2021

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ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH

- ④
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5. That the petitioner being aggrieved from dated 23/08/2021 by respondent No:2, followed by order dated 27/08/2021 by respondent No:4, has got no other appropriate/adequate remedy except to file the instant writ petition on the following grounds among the others.

GROUND

- A. That the rights of the petitioners have been flagrantly violated by the respondents by issuing impugned orders absolutely against the law governing the matter.
- B. That the petitioners have not been treated in accordance with law, rather the act of respondents is in conflict with the law governing the subject specifically with regard to rights guaranteed by the constitution of Islamic Republic of Pakistan 1973.
- C. That rights of the petitioners have been flagrantly violated by the respondents, being public functionaries exercising statutory powers, have not discharged their duties in accordance with and acted in a manner absolutely contrary to law.
- D. That due to the illegal and unwarranted act of respondent No: 2 & 4 rights of the Petitioners have been glaringly violated, appointments of the petitioners have been cancelled in complete negation of rules and law, which is manifestly not only an illegality or irregularity but discriminatory and glaring disobedience of law and constitution.

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Deputy Registrar
31 AUG 2021

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ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH

⑤

-20-

E. That the doctrine of legitimate aspectency is fully applicable to the case of petitioners in the light of principles laid down by august Supreme court of Pakistan.

F. That the act of respondents is the most blatant affront to the concept of rule of law, equal protection of law and protection from discrimination as provided under the article 25 of the constitution, as it is has not been neither mandated such omnibus and omnipotent powers to the respondent No:2 & 4, Nor ever bestowed with absolute discretion at the cost of rights of individuals/petitioners.

G. That the act of respondents is classical example bending for accomplishment of desires and whims of political allied, which in toto against the law on the subject and the rights guaranteed by the constitution.

H. That the appointments of the petitioners were cancelled without any notice or opportunity of personal hearing by keeping the aside the rules and the law. The illegal and unwarranted impugned orders of the respondent NO:2 and 4 have taken away the rights of the petitioners without complying with law governing the subject.

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ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH

FILED TODAY

Deputy Registrar

31 AUG 2021

It is therefore, humbly prayed that on acceptance of instant writ petition:

A. writ of certiorari may please be issued to declare Order dated 23/ 8/ 2021 passed by the

respondent No: 2 followed by order dated 28/8/2021 by respondent NO: 4 as illegal, unlawful, against the factual position, contra legume against the recognized fundamental rights of the petitioners, passed under political influence of the ruling party and their representatives, based on motives other than legal.

B. The respondents may please be directed to withdraw the impugned notifications/orders and accept the arrival report of the petitioner /Allow the petitioners to assume their charge, as per their initial appointment orders.

Any other /further, better relief which has not been specifically prayed for but this Honourable Court deems just and equitable in the circumstances of the case may also be granted to petitioner.

Interim Relief:

It is further prayed that by way of seeking interim relief, impugned order dated 23/8/2021 and 28/8/2021 passed by Respondents may very kindly be suspended and the respondents may please be restrained from proceeding further with the matter pertaining to the subject appointments till decision of instant writ petition.

FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH

FILED TODAY
Deputy Registrar
31 AUG 2021

Petitioner

Through



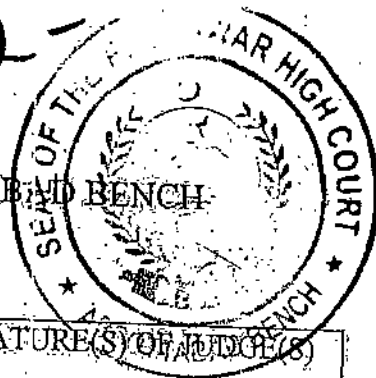
Amjad Hassan Tanoli

ADVOCATE HIGH COURT

Dated 31/08/2021

"9" -22-

PESHAWAR HIGH COURT, ABBOTTABAD BENCH
FORM 'A'
FORM OF ORDER SHEET



Date of Order or Proceedings	ORDER OR PROCEEDINGS WITH SIGNATURE(S) OF JUDGE(S)
15.09.2022	<p style="text-align: center;">2</p> <p><u>WP No.956-A/2021.</u></p> <p>Present:- Mr. Anjad Hussain Tanoli, Advocate for petitioner Sardar Ali Raza, AAG for respondents with Jayaid Salim Focal Person DGHS Khyber Pakhtunkhwa and Yasir Pasha Lit Officer DHO Office Battagram.</p> <p style="text-align: center;">***</p> <p><u>LIAZ ANWAR, J.</u> Since the matter squarely falls within the jurisdiction of service tribunal, as such, jurisdiction of this court is bar under Article 212 of The Constitution of Islamic Republic of Pakistan.</p> <p>2. In view thereof copy of the memorandum of this writ petition be transmitted to the respondents/department and be treated as department appeal for decision in accordance with law. On the completion of 90 days the petitioner would be at liberty to approach service tribunal subject to all just and legal exceptions.</p> <p style="text-align: right;">JUDGE</p> <p style="text-align: right;">JUDGE</p>

Certified to be True Copy
EXAMINER
21 DEC 2022
Peshawar High Court 114 Bench
Authorized Under Ordns.

(Muhammad Jafar)

(DB)

Hon'ble Justice Liaz Anwar,
Hon'ble Justice Wiqar Ahmad.

6/11/22



OFFICE OF THE DISTRICT HEALTH OFFICER

Battagram (Khyber Pakhtunkhwa)

Phone & Fax: # (0997) 310507

No 18/0-12 / Date 30/09/2021

To,

The Secretary Health
Government of Khyber Pakhtunkhwa
Peshawar

Subject: REBUTTAL OF INQUIRY REPORT BY DISTRICT HEALTH OFFICER
BATTAGRAM

Dear Sir,

Reference to inquiry report received through letter number 13639-39/EI Dated 06-09-2021, my response is attached with annexure.

District Health Officer
Battagram

Copy forwarded to the:-

1. Director General Health Services Khyber Pakhtunkhwa Peshawar for information
2. Office copy

District Health Officer
Battagram

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OFFICE OF THE DISTRICT HEALTH OFFICER

Battagram (Khyber Pakhtunkhwa)

Phone & Fax: # (0997) 310507

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BACKGROUND:-

I DHO Battagram Dr. Waseem Ahmed have read the findings, conclusions and recommendations of the inquiry report vide letter No 13638-39/EI Dated 6-9-2021, which I have seen for the first time on 29-9-2021. I completely disagree with the inquiry report and reject it on the following grounds.

1. Decision of cancellation was made by DGHS before the conduction of inquiry.
2. Junior staff was selected to conduct an inquiry with preplanned motives and to justify the illegal stance of the Directorate.
3. The only mission before the inquiry committee was to validate the stance/cancellation orders of DGHS passed vide letter No 6028/ DGHS dated 23.08.2021
4. The interview process was concluded on 12-7-2021. The appointment orders were issued on 15-7-2021 for three cadre's i.e Radiology, Pulmonology and Surgical Technicians. The appointment orders for EPI Technicians were withheld as two of the candidates, from EPI cadre had approached the court. After their appeals were dismissed the result of the EPI Technicians post was announced on 17-8-2021. The DGHS issued cancellation orders on 23-8-2021 vide letter No 6028/ DGHS while the undersigned complied with the above mention order and issued cancellation on 27-8-2021 vide letter No 1803-08/DHO/BTM. This action on part of DGHS has forced the selected candidates to approach the Honourable Peshawar High Court, resulting in an unwanted law suit which the department will have to face in the court of law.

Observations on the Findings of the Inquiry:

PHCT SURGICAL:-

1. The observations on the inquiry committee regarding voluntarily work as work experience are totally rejected as the ESTA code does not reject voluntarily work as work experience. In addition to that it is worth mentioning that the department did not intimate any guidelines regarding work experience in addition to ESTA Code. Even the representative of DGHS, who was a member of selection committee, did not object to the merit of experience certificates. This issue is further highlighted in the following paragraphs.
2. The stance of inquiry committee that the candidate on serial No 1 for surgical cadre had experience certificate before completion of diploma, is contrary to facts and is hence rejected.
3. Point related to candidates at Serial No 06 of Surgical Technicians and candidate at Serial No 24 of EPI Technicians are clerical mistakes, however after rectification, there is no impact as overall list of selected candidates of Both JCT Surgical and EPI Technicians
4. Candidate at serial No 24 needs to be placed at serial No 18 according to marks. This finding is irrelevant as the cut off for the merit list was at serial No 2, both serial number 18 and 24 were not selected. This was again a clerical mistake which did not affect the final outcome of merit list.
5. The issuance of experience certificates to candidates working voluntarily at DHQ Hospital Battagram relates to MS DHQ.

JCT RADIOLOGY:

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1. The objection of the inquiry committee regarding over hiring of JCT (Radiology) is incorrect as the office of the District Health Officer Baitagram clearly mentioned in the Newspaper that Numbers of vacancies could be increased or decreased as per current status of vacant posts.
2. The objection by the inquiry committee that a candidate at serial No 2 having 4 marks for experience meaning there by having one year experience has obtained only 2 marks in the interview. This objection is absolutely absurd the candidate was given marks in the interview purely on his performance and the experience marks have nothing to do with how many marks a candidate obtains in the interview.
3. The objection on part of the inquiry committee that the candidate serial No 3 was awarded 7 marks for experience certificate before receiving of diploma is wrong. The candidate obtained his diploma from medical faculty Peshawar on 10-7-2019. The experience certificate bears the dates from 19-5-2019 to 14-6-2021. e23 months hence deserving 7 marks.
4. The ESTA code does not specify and passing marks out of the total 8 marks for the interview.
5. Objection is not valid as copies of Diploma provided to inquiry committee.

JCT PULMONOLOGY:-

1. Agreed 03 candidates were short listed out of which 02 were selected.
2. Appointment letter of the candidates was subject to verification of Diploma from Khyber Pakhtunkhwa Medical Faculty and Allied Science.
3. This point has been addressed in the preceding paragraphs.

JPHC/EPI:-

1. Correct 128 applicants were short listed for interview and 10 candidates were selected among them.
2. Experience of candidate selected was sent to concerned institution for verification and then verification is attached (Copy attached annexure A).
3. Correct experience marks were given as per experience certificates, for the number of years of internship, 1 year 4 marks, 2 years 7 marks and 3 years and above 10 marks as per ESTA Code. The experience certificates were later sent for verification to the issuing authority, (copy of verifications attached as annexure B).
4. The ESTA code does not specify any passing marks out of the total 8 marks for the interview.

VACCINATOR:-

1. Correct 49 candidates were short listed for 1 sanctioned post out of which 2 were selected.
2. Incorrect the under signed interpreted 2% disabled quota to be calculated from the total number of paramedics post of the whole district i.e 2% of 250 which equals to 4.5, this in accordance with the cabinet secretariat notification of 1st march 2019. While the inquiry committee assumed the 2% quota to be calculated from the total number of advertise posts. This is a mere disagreement on the interpretation of the federal government notification and does not depict any mala fide on part of the under signed.
3. Incorrect the disability of the selected candidates does not prevent them from performing duty as part of the EPI team. They can very well work as in DPCR, as cold chain operators and as EPI clerical staff as they were very well versed in the operation of computers. (ESTA Code?).



OFFICE

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4. Incorrect interpretation on part of the inquiry committee. 4 marks for 1 years experience were granted copy of experience attached. The rules do not bar the field workers of EPI to work in the above mentioned capacities. Currently 5 EPI technicians are involved in office work like DP&R, EPI office and EPI MIS.

STATEMENT OF DHO:-

1. Photocopy was provided to Inquiry committee for their record and original was retained for record purpose as DHO office already issued one set of Newspaper to Director General Health Services Office and other to District Account Office along with invoice for dues clearance.
2. Photo copy of Minutes of the meeting were provided to Inquiry Committee and original are available in office record (Annexure C)

SUMMARY OF FINDINGS:-

1. It is irrelevant whether the advertisement was on a plain paper photocopy. If there was any difference between the plain paper photocopy and the actual news paper advertisement of Daily Aaj dated 1-6-2021 only then should the undersigned be held accountable. Moreover the advertisement was floated through the concerned department.

POLITICAL INTERFERENCE:-

The MPA from Allal Zubair Khan has tried to influence the selection process and nominated his own candidates for selection (Copy attached). The undersigned made it clear to him that the selections would be purely.

The MPA then tried to threaten the under signed on a telephone call of dire consequences if his blue eyed candidates were not selected (record of telephonic conversation available). Local MPA (Allal) took all the record in original by force and situating report were sent to Secretary Health (copy attached as Annexure D)

It is really said that the inquiry committee failed to consider this political interference and threat to their colleague.

The undersigned is justified in launching a protest against the finding of the inquiry committee.

RECOMMENDATIONS:-

The undersigned rejects the recommendations of the inquiry committee and does not agree with the hasty manner in which the inquiry was conducted and considers requirement process was done as per roles and regulations.

Regards
Dr. Waseem Ahmed
District Health Officer
Battagram

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Incident Report.

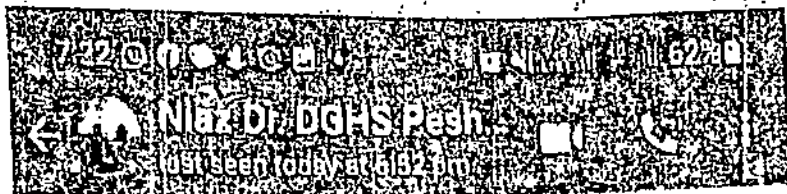
Sir I want to share with an incident occurred in DHO office Battagram tonight around 10:30pm tonight. The MPA Mr. Zubair came along with his gun men and took all record in original of recruitment process being conducted recently.

Sir it is pertinent to mention that from both sides, I mean both MPAs namely Taj Khan Trand and Zubair Khan Afai tried their level best to recruit their own candidates of choice, but I stuck to the merit policy.

As per government RTI act, I was bound to give them photocopies of all record within in seven days, but requested MPA that it's too late and I will give you photocopies of all documents tomorrow morning. He did not agree and put extreme pressure like he will drag me to the assembly, will call my explanation through sectry Health and DGHS and will transfer me within no time. Few days back Zubair MPA also threatened me with same tone which is recorded in my cell phone as evidence along with WhatsApp msgs to recruit their 12 candidates out of 18.

Sir, as he took all record in original, it is feared that it might be tampered and that is why it is necessary to inform you in advance for your worthy information please.

Regards
Dr Waseem
DHO Battagram



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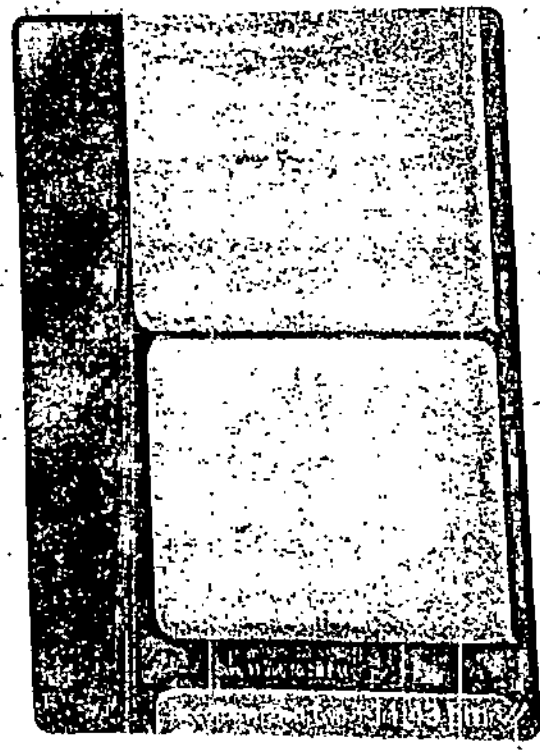
msgs to recruit their 12 candidates out of 18.

Sir, as he took all record in original, it is feared that it might be tampered and that is why it is necessary to inform you in advance for your worthy information please.

Regards
Dr Waseem
DHO Battagram

11:43 pm 5/7

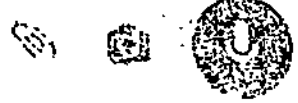
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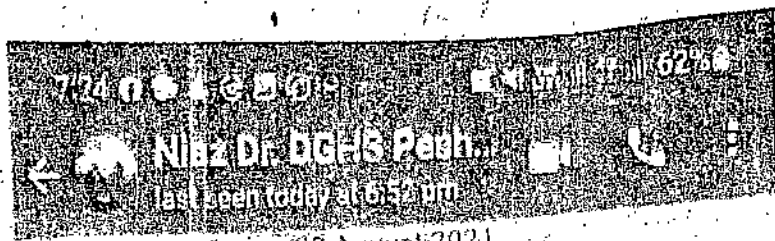
26 August 2021

Dear sir, Assalam u Alaikum,

Message



Handwritten mark resembling a stylized signature or symbol.



-29-

Incident Report.

Sir I want to share with an incident occurred in DHO office batagram tonight aground 10:30pm tonight. The MPA Mr.zubair came along with his gun men and took all record in original of recruitment process being conducted recently.

Sir it is pertinent to mention that from both sodes, I mean both MPAs namely Taj khan trand and Zubair khan allai tried their level best to recruit their own candidates of choice, but I struck to the merit policy.

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Message

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VAKALATNAMA
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

APPEAL NO: _____ OF 2023

M. Islam

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Health Deptt

(RESPONDENT)
(DEFENDANT)

I/We Appellant

Do hereby appoint and constitute **Noor Mohammad Khattak Advocate Supreme Court** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. ____/____/2022

Islam
CLIENT

M Islam

ACCEPTED

of
NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT
(BC-10-0853)
(15401-0705985-5)

Umar
UMAR FAROOQ MOHMAND

Waleed
WALEED ADNAN

&

Muhammad
MUHAMMAD AYUB
ADVOCATES

OFFICE:

Flat No. (TF) 291*-292 3rd Floor,
Deans Trade Centre, Peshawar Cantt.
(0311-9314232)