BEFORE THE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No. <u>1303/2022</u>

Khyber F 1.15 Diam'r Nei Dared 25

Tahir Khan

VS

Government of KPK & Others

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S.No	Description of Documents	Annexure	Pages
1	Copy of Para wise Reply along with Affidavit		
2	Copy of the tampered degree	RAA	1-6
3	Copies of the Notification dated: 10/01/2022 and Tentative Seniority List dated: 22/11/2021	RAB & RAC	7-11

Respondents No. 7 to 13

Through

WAQAR KHALIL Advocate High Court(s) Off# 205-B, 4th Floor,

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Town Tower, University Road, Peshawar Cell #: 0333-9143005

BEFORE THE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No. <u>1303/2022</u>

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VS

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PARA WISE REPLY FOR AND ON BEHALF OF RESPONDENTS NO. 7 TO 13 RESPECTFULLY SHEWETH:

The Respondents No. 7 to 13 most humbly submits as under;

PRELIMINARY OBJECTIONS:

- 1. That the Appellant has approached this Hon'ble Court with sullied hands, hence, denuded of all equities.
- 2. That the Appellant does not fall within the definition of an aggrieved person and has no locus standi to file the instant Appeal.
- 3. That the present Appeal is not maintainable as none of the fundamental right of the Appellant is violated by the Respondents.
- 4. That the Appellant has suppressed material facts from this Honourable Tribunal hence, the Appeal is not maintainable on this ground alone.
- 5. That no statutory right whatsoever has been infringed by Answering Respondent therefore the present Appeal is not maintainable.
- 6. That the Appeal of the Appellant is badly time barred in the eye of law, hence needs to be dismissed forthwith.
- 7. That no discrimination or violation of any law whatsoever has been made by the Respondents therefore the present appeal is not competent.
- 8. That the Departmental Promotion Committee meeting was held on 23/02/2022 and the impugned order was passed on 15/03/2022 while the Departmental Appeal filed by the Appellant before the competent authority on 30/05/2022 which is

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hopelessly time barred and in this respect there is no application for condonation of delay, hence, the present Appeal be dismissed being time barred.

ON FACTS:

- 1. Para No. 1 needs no comments.
- 2. That in response to Para No. 2 it is most humbly submitted that the Notification for amendment in the existing Service Rules of On-Farm Water Management Department was issued vide Government of Khyber Pakhtunkhwa, Agriculture, Live Stock & Coop: Department on 02/09/2021 wherein the following method/ criteria for recruitment/ promotion has been prescribed for the post of Assistant Director/ Water Management Officer, On-Farm Water Management (BS-17);
 - (a) Twenty percent by promotion, on the basis of seniority-cum-fitness, from amongst the Sub-Engineers with at least ten years service as such;
 - (b) Twenty percent by promotion, on the basis of seniority-cum-fitness, from amongst the Sub-Engineers having Bachelor Degree in Engineering or B-Tech from recognized university with at least ten years service as such;

Provided that in case of non-availability of Sub-Engineers against Clause (b), for promotion, then the vacancy shall be filled by initial recruitment; and

(c) Sixty percent by initial recruitment.

3. Para No. 3 is incorrect.

The claim of the Appellant regarding the acquiring of B.Tech (Hons) degree is baseless as the Appellant joined the Government Service on 07/06/2005 while he acquired the B.Tech (Hons) degree, which is highly controversial, in the year 2010.

Furthermore, the Appellant is not entitled to any relief from this Honourable Tribunal as he has committed a serious offence of tampering. The Department vide letter dated: 2/12/2021 communicated to the Higher Education Commission (HEC) and sought the verification of B.Sc Engineering/ B.Tech (Hons) degrees of the employees/ degree holders mentioned in the list, and the HEC in a very clear terms conveyed that the attestation ticket/ token No. 2248478 mentioned on the degree of Appellant is not attested by the HEC as the same is allotted to someone (Copy of the tampered degree is annexed herewith as mark "RAA")

4. In response to Para No 4 it is most humbly submitted that the Appellant was adjusted in the On-Farm Water Management Department from the surplus pool on 10/01/2022 in the On-Farm Water Management Department. It is surprising that he was adjusted on 10/01/2022 in the Department while in the Seniority List (Annexure-"B") issued on 26/01/2022 the name of the Appellant is reflected at Serial No. 1 and also in the remarks column it has been specifically mentioned that the Seniority is subject to verification/ confirmation of B.Tech (Hons) degree awarded by Al-Khair University AJK from HEC, and till date the Appellant has not provided a single document to the Department from which it can be inferred that his degree has been verified by the HEC. Hence, the stance of the Appellant that he is the senior most in the Department is baseless in view of the above. Besides, there is also very important aspect of the case that prior to the adjustment of the Appellant in the Respondent Department his name was also reflect at Serial No. 1 in the Tentative Seniority List issued on 22/11/2021, malafide is apparent. How come an employee who has not been adjusted in the Department can be placed in the Seniority List of the employees and also placing his name at Serial No. 1 to the determent to the rest of the employees and affecting their Seniority guaranteed under the Civil Servants Act, 1973. In this view of the matter, the stance of the Appellant that he is senior from the Answering Respondents is without any legal backing and is against the provisions of section 8 of the Civil Servants Act, 1973.

> (Copies of the Notification dated: 10/01/2022 and Tentative Seniority List dated: 22/11/2021 are annexed herewith as mark "RAB & RAC")

5. In response to Para No. 5 it is most humbly submitted that the Appellant is not entitled to any relief as he has committed a serious offence of tampering. The Department vide letter dated: 02/12/2021 communicated with the HEC and sought verification of the degrees of B.Sc Engineering and B.Tech (Hons). The HEC in a very clear terms conveyed that the attestation ticket No. 2248478 is not attested by HEC as the same token number is allotted to someone else (Wahaj Tariq of University of Punjab, Lahore) as per the record of HEC. Similarly the degree annexed with the Appeal as <u>Annexure-"D"</u> is without any token number

from the HEC, from this fact it is crystal clear that the Appellant tried to tamper with the official record and has committed an offence. Besides, alleged the Ticket/ Toekn No. 2548257 dated: 3/3/2022 is different from the earlier Ticket/ Token No. 2248478 which was provided by the Appellant. From this it is clear that he tried to manipulate the record and procure an order through wrongful means.

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6. Para No. 6 is incorrect.

The meeting of the Departmental Promotion Committee was held on 23/02/2022 and the Appellant's promotion was deferred on the ground of non-verification of his B.Tech (Hons) degree from HEC. It needs to be highlighted that till date the Appellant did not verify his degree from the HEC which shows that the negligence is at the part of the Appellant and not at the part of the Department. Besides, he is not entitled to promotion for the reasons mentioned in the preceding paragraphs.

7. Para No. 7 is incorrect.

As stated in the preceding paragraph the Answering Respondents were adjusted in the Respondent Department much prior to the Appellant and the Appellant has not submitted his verified degree of B.Tech (Hons) at the time of meeting of Departmental Promotion Committee. As no statutory right whatsoever of the Appellant has been infringed therefore the present Appeal is not maintainable and needs to be dismissed out rightly. Besides, the Departmental Appeal of the Appellant is hopelessly time barred and the instant Appeal shall be dismissed forthwith.

ON GROUNDS:

A. Grounds A to C are incorrect.

The Petitioner is treated in accordance with law and no Rules or law has been violated by the Respondents. The Appellant was asked to provide verified/ attested copy of his B.Tech (Hons) degree but the same was not provided till the commencement of the meeting of Departmental Promotion Committee (DPC) held on 23/02/2022, therefore, his promotion case was not processed. Stance taken in the preceding paragraphs is reiterated.

B. Grounds D to F are incorrect.

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The plea of the Appellant regarding unlawful omission on the part of the respondent is baseless and is not based on the facts. The competent authority considered the case of promotion of the Appellant but the same was deferred due to non-verification of his B.Tech degree by the HEC and the Appellant is not entitled for promotion for the reasons discussed in the preceding paragraphs.

C. Grounds G to K are incorrect.

The Appellant was treated in accordance with law and Rules at par with other contemporaries and no discrimination whatsoever has been committed by the Respondents. Stance taken in the preceding paragraphs is reiterated.

It is, therefore, most humbly requested that on acceptance of the instant para wise reply, the instant Appeal being devoid of any merit may graciously be dismissed with cost.

Respon Through

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WAQAR KHALIL Advocate High Court(s)

BEFORE THE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

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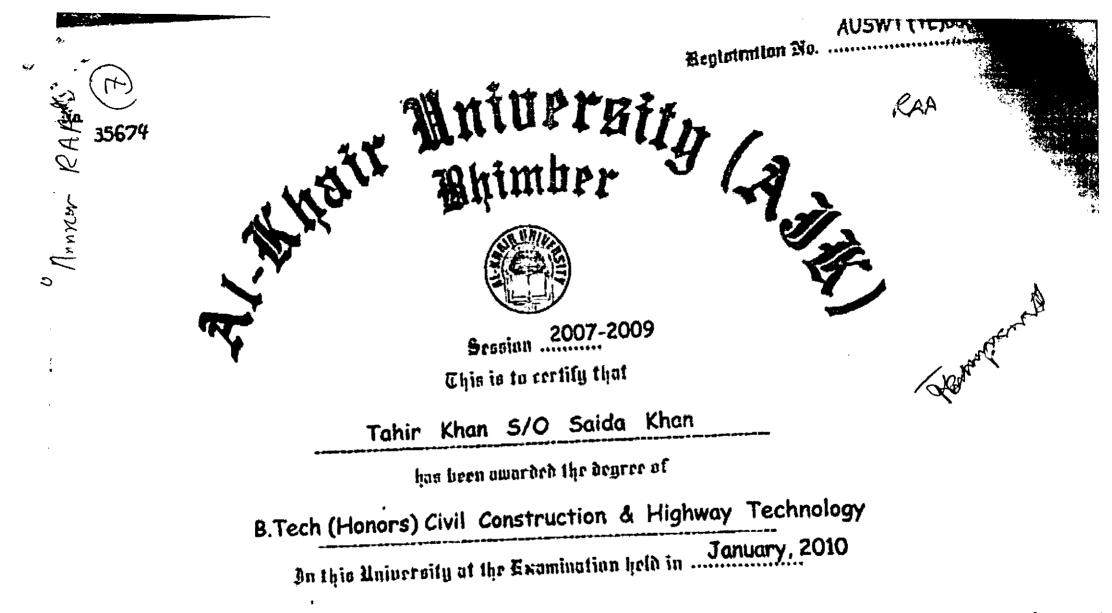
VERIFICATION

I, | 01 F Monagement Officer Water do hereby solemnly verified on oath that the contents of the instant reply are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

Identified I OAR KHALIL Advocate High Court(s)

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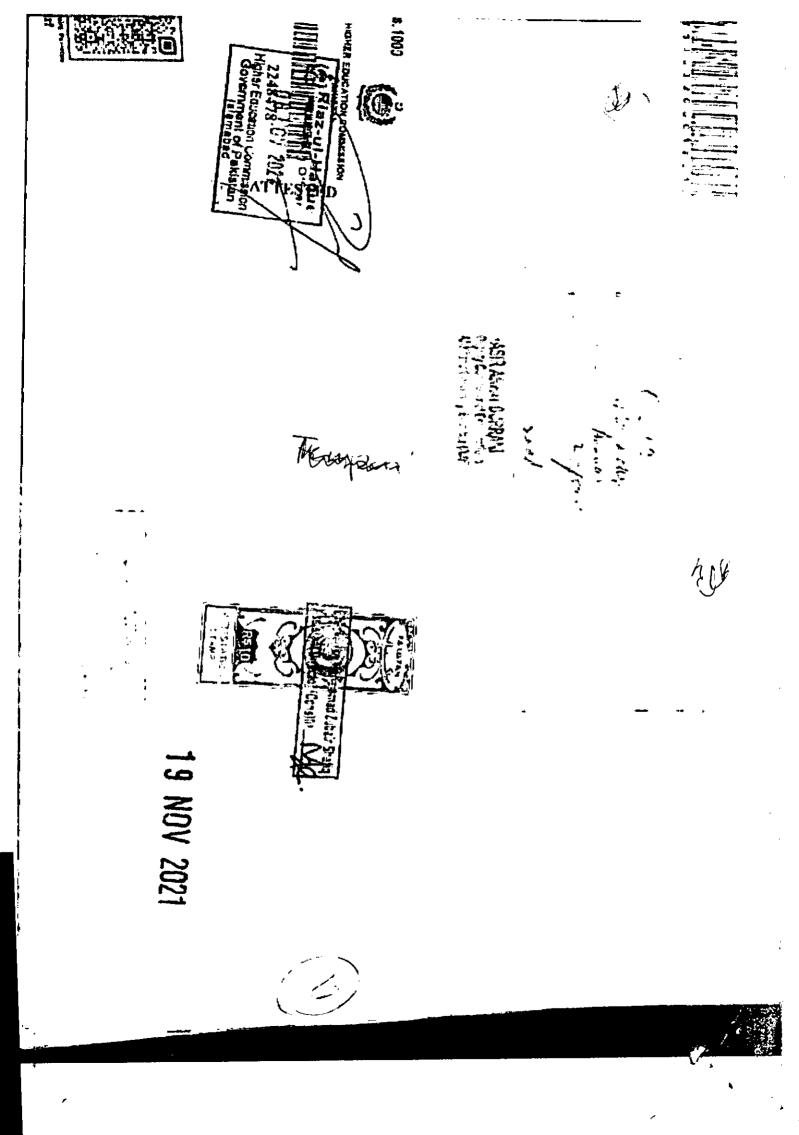


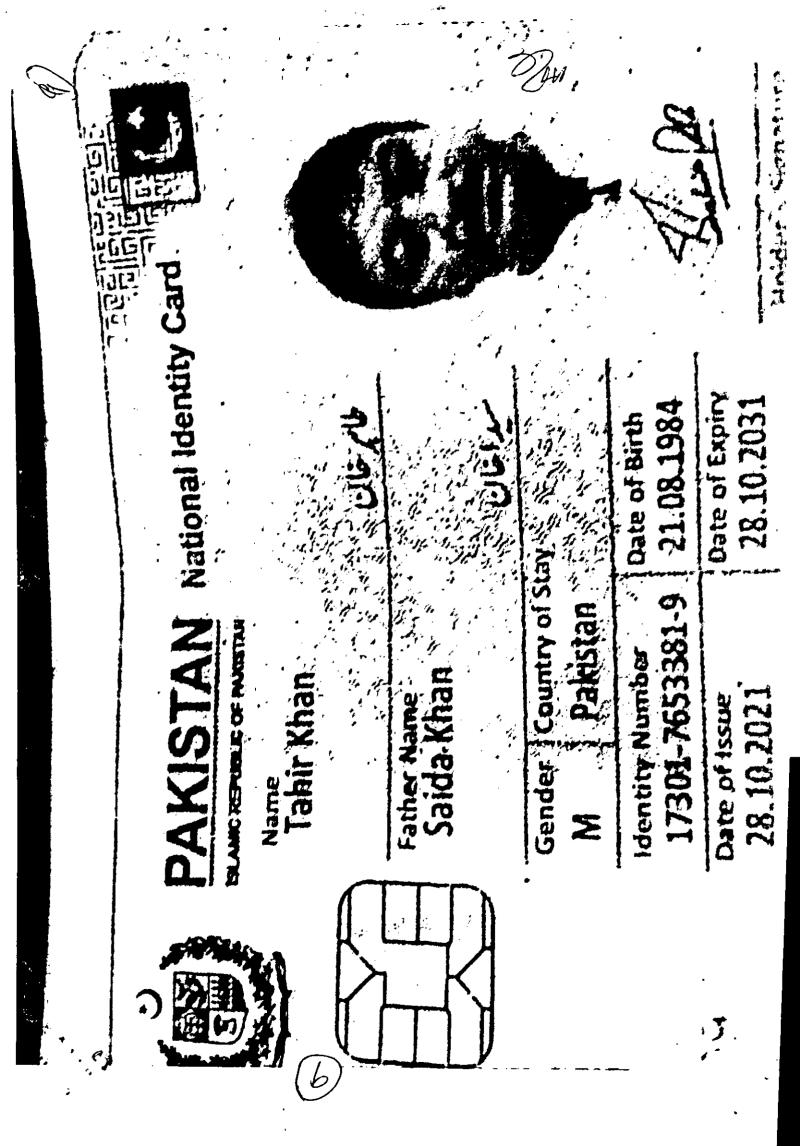
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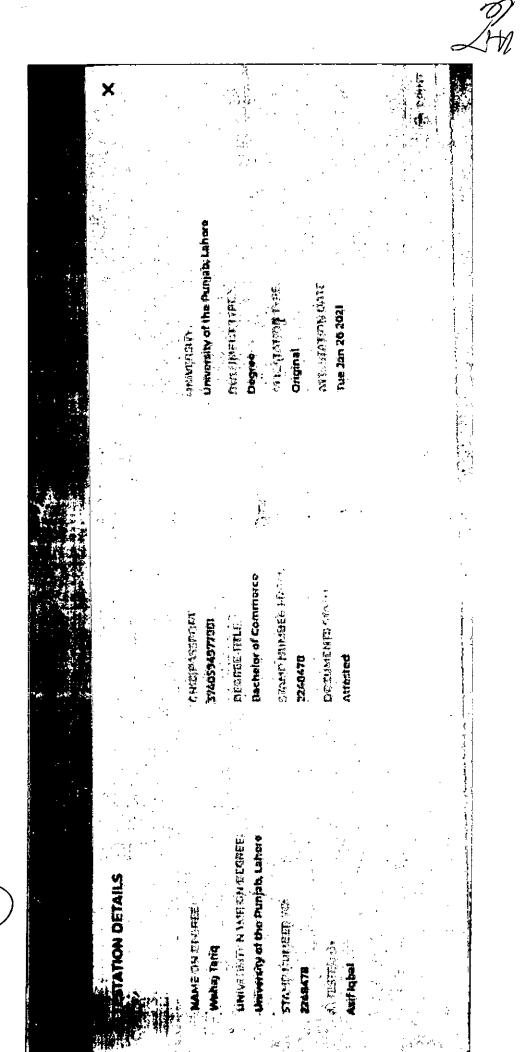
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nnker RAB GOVERNMENT OF KHYBER PAKHTUNKHWA AGRICULTURE LIVESTOCK, FISHERIES & COOPERATIVE DEPARTMENT

Dated Peshawar, the January 10, 2022.

RAB

NOTIFICATION .

MIT

No. SOE(AD)/17-131/2021-22/Surplus Pool.-

notifications of even number dated 10.1.2013 and 3.7.2013 and in pursuance of the procedure for adjustment of Surplus Employees, the Competent authority is pleased to order department the adjustment/posting of the following officials of On-Farm Water Management from Surplus Pool office of the Secretary Agriculture to On Farm Water Management Department against the regular/current side posts in the interest of public service:-

No	Name o Office	f Present place of Posting	
1	Mushtaq		Place of posting against
-	Ah	Sub Engineer (BPS-16) (Surplus pool) o/o the Secretary Agriculture Livestock & O	regular/outroating against
	Ahmad	Secretary Agriculture, Livestock & Coop: Department, Presently up 1	regular/current side post. Sub Engineer
		Department Presently Sivestock & Coop:	o/o District Officer
		basis in the o/o D.O OFWM Battagram.	On Farm Water Management
		Battagram.	Kolai Palas
2			
2	Gulistan	Sub Engineer (BDS 16) (0	Against the vacant post
	Khan	Sub Engineer (BPS-16) (Surplus Pool)	Sub Engineer
		o/o the Secretary Agriculture, Livestock & Coop:	o/o District Officer
			On Farm Water Management
	ĺ	basis in the o/o DD OFWM Haripur.	Swabi
3	Abdul Salam	Sub Engineer (PDS 161 (0	Against the vacant post
		Sub Engineer (BPS-16) (Surplus Pool)	Sub Engineer
1		o/o the Secretary Agriculture, Livestock & Coop:	o/o District Officer
		Department. Presently working on attachment	On Farm Water Management
]		basis in the o/o DO OFWM Abbottabad.	Kohistan Lower
F T	Farooq shah	Sub Engineer (DDG 16) if	Against the vacant post
	and q onall	Sub Engineer (BPS-16) (Surplus Pool)	Sub Engineer
- 1		o/o the Secretary Agriculture, Livestock & Coop:	o/o Director General
		Department. Presently working on attachment	On Farm Water Management
		basis in the o/o DO OFWM Malakand.	Khyber Pakhtunkhwa,
			Peshawar
			·
	Shakil		Against the vacant post
1		Sub Engineer (BPS-16) (Surplus Pool)	Sub Engineer
	Ahmad	o/o the Secretary Agriculture, Livestock & Coop:	o/o District Officer
		Department. Presently working on attachment	On Farm Water Management
		basis in the o/o DO OFWM Malakand.	Kohat
			Against the vacant post
	Mohammad	Sub Engineer (BPS-16) (Surplus Pool)	Sub Engineer
ļ	Ishfaq	o/o the Secretary Agriculture, Livestock & Coop:	o/o District Director
1	1	Department. Presently working on attachment	On Farm Water Management
		basis in the o/o DD OFWM Mansehra.	Peshawar
	·		Against the vacant post
-	Sardar Ali	Sub Engineer (BPS-16) (Surplus Pool)	Sub Engineer
	Salual All	o the Secretary Agriculture, Livestock & Coop:	o/o District Director
		Department Presently working on attachment	On Farm Water Management
		basis in the o/o DO OFWM Malakand.	Mardan
			Against the vacant post
			Against the vacant post
+		Sub Engineer (BPS-16) (Surplus Pool)	Sub Engineer o/o District Director
3	Qazi Aziz-ur-		On Farm Water Management
	Rehman	Department Presently Working on accurate	
		basis in the o/o DD OFWM Haripur.	Haripur
1		Dasis in the of o and	Against the vacant post
			Sub Engineer
		Sub Engineer (BPS-16) (Surplus Pool)	- to District Officer
9	Safeer	Sub Engineer (BPS-16) (Surplus 1997) o/o the Secretary Agriculture, Livestock & Coop:	On Farm Water Management
	Ahmad		Swabi
		basis in the o/o DD OFWM Haripur.	Swaur
		Dasis in the of o 22	Against the vacant post
			Sub Engineer
		Sub Engineer (BPS-16) (Surplus Pool)	
10	Bashir	Sub Engineer (BPS-16) (Surplus rock, o/o the Secretary Agriculture, Livestock & Coop:	I On Farm Water Management
	Ahmad		Khyber Pakhtunkhwa,
í		basis in the o/o DO OFWM Dir Lower.	Peshawar
		Dasis in the of a bar	A minet the vacant post
		1	Against the Cont: -



Sl. No	Name of Office	Present place of Posting	Place of posting against regular/current side post.
11	Muhammad Iqbal	Sub Engineer (BPS-16) (Surplus Pool) o/o the Secretary Agriculture, Livestock & Coop: Department. Presently working on attachment basis in the o/o DO OFWM Dir Lower.	Sub Engineer o/o the Director General On Farm Water Management Khyber Pakhtunkhwa, Peshawar Against the vacant post.
12	Farman Ali	Sub Engineer (BPS-16) (Surplus Pool) o/o the Secretary Agriculture, Livestock & Coop: Department. Presently working on attachment basis in the o/o DD OFWM Swat.	Sub Engineer o/o the Director General On Farm Water Management Khyber Pakhtunkhwa, Peshawar Against the vacant post
13	Tahir Khan	Sub Engineer (BPS-16) (Surplus Pool) o/o the Secretary Agriculture, Livestock & Coop: Department. Presently working on attachment basis in the o/o DD OFWM Charsadda.	Sub Engineer o/o the District Director On Farm Water Management Peshawar Against the vacant post.
14	Muhammad Tufail	Sub Engineer (BPS-16) (Surplus Pool) o/o the Secretary Agriculture, Livestock & Coop: Department. Presently working on attachment basis in the o/o DD OFWM Mardan.	Sub Engineer o/o the District Director On Farm Water Management Mardan Against the vacant post.
15	Pervaiz Khan	Sub Engineer (BPS-16) (Surplus Pool) o/o the Secretary Agriculture, Livestock & Coop: Department. Presently working on attachment basis in the o/o DO OFWM Nowshera.	Sub Engineer o/o the District Officer On Farm Water Management Nowshera Against the vacant post.

In pursuance to Sl.No.1 of the Second Schedule of Delegation of Power Rules, 2. 2018, the Competent Authority is further pleased to order the abolishment of these Fifteen (15) posts from the Surplus Pool of the office of Secretary Agriculture under the head of account 04 Economics affairs, 042 Agriculture Food, Irrigation, Forestry & Fisheries, 0421-Agriculture 042103- Agriculture Research and Extension services Grant No. 18 PR-5724.

Sd/-xx SECRETARY AGRICULTURE.

Endst. Of even No. & Date.

Copy forwarded for information and necessary action to:-

- 1. The Registrar Hon' able Peshawar High Court, Peshawar.
- 2. The Director General, On Farm Water Management, Khyber Pakhtunkhwa, Peshawar w/r to his letter No. 3353 dated 04/11/2021.
- 3. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
- All the concerned District Accounts Officers in Khyber Pakhtunkhwa.
 The Budget Officer-VII, Government of Khyber Pakhtunkhwa Finance Department.
- 6. All the concerned District Directors/Officers, On-Farm Water Management.
- 7. The Director, Anti-Corruption, Khyber Pakhtunkhwa Peshawar.
- 8. Officials Concerned.
- 9. PS to Minister for Agriculture & Livestock, Khyber Pakhtunkhwa,
- 10. PS to Secretary Agriculture, Livestock and Cooperative/Department.
- 11. PA to Deputy Secretary (Admn), Agriculture Department.
- 12. Accountant of the Agriculture Department.

V (SECTION OFFICER-ADMN) AGRICULTURE DEPARTMENT.

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DIRECTORATE GENERAL ON FARM WATER MANAGEMENT KHYBER PAKHTUNKHWA, PESHAWAR

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DRAFT/TENTATIVE SENIORITY LIST OF SUB ENGINEERS HAVING BACHELOR DEGREE IN ENGINEERING OR B.TECH FROM RECIGNIZED UNIVERSITY OF ON FARM WATER MANAGEMENT DEPARTMENT KHYBER PAKHTUNKHWA AS STOOD ON 22.11.2021

	S.No.	Name of Official with Academic Qualification	Date of Birth/Domicil	Date of entry into Govt.	of Bachelor promotion to the present post		Present Posting	Remarks			
			е	Service	Engineering or B.Tech	Date	BPS	Method of Recruitmen t	•		-
an J	1	Tahir Khan DAE+B.Tech (Hons) (Civil)	Peshawar 21/08/1984	06/07/2005	05/3/2010	[°] 07/06/2005	16	By Initial	Sub Engineer o/o the District Director OFWM Charsadda	Adjustment case is under process with Adminstrative Department	•
	2	Mazhar Iqbal DAE+B.Tech (Hons) (Civil)	Karak 04/04/1973	03/02/2005	10-12-2010	03/02/2005	16	By Initial Recruitment	Sub Engineer o/o the District Officer OFWM Karak	-	
	3	Muhammad Atif DAE+B.Tech (Hons) (Civil)	Abbottabad 22/03/1981	02/02/2005	10-03-2011	02/02/2005	16	By Initial Recruitment	Sub Engineer o/o the District Officer OFWM Abbottabad	-	AL.
	4	Muneer Iqbal DAE Civil + B.Tech (Hons) (Civil)	Buner 17/10/1981	08/01/2005	15-04-2011	08/01/2005	16	By Initial Recruitment	Sub Engineer o/o the District Officer OFWM Swabi	-	

S.	No.	Name of Official with Academic Qualification	Date of Birth/Domicil	Date of entry into Govt.	Passing Year of Bachelor Degree in Engineering or B.Tech	Date of Regular appointment/ promotion to the present post			Present Posting	Remarks
		\$	e	Service		Date	BPS	Method of Recruitmen t		
	5	Muhammad Riaz DAE+ B.Sc Civil Engineering	Peshawar 21/02/1981	18/01/2005	27-06-2011	18/01/2005	16	By Initial Recruitment	Sub Engineer o/o the District Director OFWM Peshawar	-
	6	Asghar Alı DAE+ B.Tech (Hons) (Civil)	Mardan 11/02/1984	01/02/2005	15-08-2011	01/02/2005	16	By Initial Recruitment	Sub Engineer o/o the District Director OFWM Mardan	-
		Muhammad Shuaib DAE+B.Tech (Hons) (Civil)	Malakand 03/04/1979	07/01/2005	13-11-2011	07/01/2005	16	By Initial Recruitment	Sub Engineer o/o the District Officer OFWM Malakand	-
	8	Asad Ali DAE Civil+ B.Tech (Hons) (Civil)	Malakand 16/12/1979	07/01/2005	13-11-2011	07/01/2005	16	By Initial Recruitment	Sub Engineer o/o the District Director OFWM Malakand	-
	9	Samiullah DAE + B.Tech (Hons) (Civil)	Lakki Marwat 03/01/1977	25/01/2005	03-02-2012	25/01/2005	16	By Initial Recruitment	Sub Engineer o/o the District Director OFWM Lakki Marwat	-
	10	Habib Ullah DAE Civil+B.Tech (Hons) (Civil)	Swat 30/03/1976	10/01/2005	13-03-2012	10/01/2005	16	By Initial Recruitment	Sub Engineer o/o the District Officer OFWM Bajaur	-
	11	Iqbal Muhammad DAE Civil + B.Tech (Hons) (Civil)	Swat 03/06/1977	07/01/2005	13-04-2013	07/01/2005	16	By Initial Recruitment	Sub Engineer o/o the District Officer OFWM Shangla	-
	12	Farhad Ali DAE Civil+B.Tch (Hons) (Civil)	Swat 01/04/1982	07/01/2005	15-09-2013	07/01/2005	16	By Initial Recruitment	Sub Engineer o/o the District Officer OFWM Swabi	-

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	S.No.	Name of Official with Academic Qualification	Date of Birth/Domicil	Date of entry into Govt.	Passing Year of Bachelor Degree in				Present Posting	Remarks
(6)			e	Service	Engineering or B.Tech	Date		Method of Recruitmen		
	14	Mazhar Iqbal DAE Civil+B.Tech (Hons) 'Civil Tech:	Mansehra 04/06/1979	11/01/2005	15-02-2015	11/01/2005	16	By Initial Recruitment	Sub Engineer o/o the District Director OFWM Haripur	-
	14	Anwar Ali DAE Civil+B.Tech (Hons) (Civil)	Swat '01/04/1977	07/01/2005	13-05-2015	07/01/2005	16	By Initial Recruitment	Sub Engineer o/o the Director General OFWM Khyber Pakhtunkhwa Peshawar	-
) Jacobie	15	Nasar Khan DAE Civil+B.Tech (Hons) (Civil)	Swat 27/01/1979	07/01/2005	13-04-2019	07/01/2005	16	I Ry initial	Sub Engineer o/o the District Officer OFWM Buner	

N.B. The seniority list is subject to verification of Bachelor Degree in Engineering or B.Tech From Recognzied University by HEC.

Director General Oh Farm Water Management Khyber Pakhtunkhwa, Peshawar