

Ph: 9220581  
Fax:9220406

REGISTERED  
No. C.A. 1669/2021 - SCJ  
**SUPREME COURT OF PAKISTAN.**

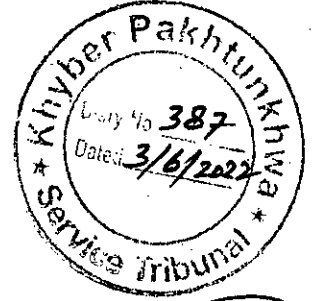
Islamabad, dated 3/6/2022, 2022.

From

The Registrar,  
Supreme Court of Pakistan,  
Islamabad.

To

The Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.



**Subject: CIVIL APPEAL NO. 1669 OF 2021.**

Government of Khyber Pakhtunkhwa through Secretary  
(C&W) Department, Peshawar and others.

Versus

Javed Khan and others.

On appeal from the Judgment/Order of the Khyber Pakhtunkhwa,  
Service Tribunal, Peshawar dated 17.12.2020, in A. No.790/2016.

Dear Sir,

In continuation of this Court's letter of even number dated **24.12.2021** and in accordance with the provisions contained in Order X, rule 9, Supreme Court Rules, 1980, a certified copy of the Order of this Court dated **19.04.2022**, dismissing the above cited civil appeal, in the terms stated therein, is enclosed for further necessary action.

The original record of the **Service Tribunal** received under the cover of your letter No. **09/ST/SCJ/SA-698/2018**: dated **03.01.2022**, is returned herewith.

Please acknowledge receipt of this letter along with its enclosure immediately.

Encl: Order:  
2. O/Record:

Yours faithfully

Submitted for perusal, please.

(MUHAMMAD MUJAHID MEHMOOD)  
ASSISTANT REGISTRAR (IMP)  
FOR REGISTRAR

3/6/2022

Haqble chaw-an

**SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**PRESENT:**

**MR. JUSTICE SAJJAD ALI SHAH**  
**MR. JUSTICE AMIN-UD-DIN KHAN**

**C.A. No.1669 OF 2021**

(Against the judgment dated 17.12.2020  
passed by The Khyber Pakhtunkhwa  
Service Tribunal, Peshawar in Service  
Appeal No.790/2016)

*Govt. of Khyber Pakhtunkhwa through  
Secretary (C & W) Department, Peshawar  
and others*

.....Appellants

**Versus**

*Javed Khan & others*

...Respondents

For the appellants:

Mr. Shumayl Aziz, Addl.A.G, KP.

For the respondents:

In-person.

Date of Hearing:


19.04.2022

**ORDER**

**SAJJAD ALI SHAH, J:** Leave was granted by this Court on 10.12.2021 to consider whether the directions of the Tribunal to revert respondent from the post of Coolie to the post of Naib Qasid could legally sustain.

2. Learned Additional Advocate General submits that in fact the respondent was reverted from the post of Naib Qasid to the post of Coolie on the directions of the Service Tribunal imparted vide judgment dated 13.3.2015 and therefore, the impugned judgment could not be sustained as Rule 23 of the Services Tribunal Rules, 1973 places an embargo on the power of the Tribunal to reconsider the case which has already been decided by the Tribunal. It was next contended that the order of the Tribunal was implemented by the petitioner vide its order dated 20.5.2015

**ATTESTED**

  
Court Associate  
Supreme Court of Pakistan,  
Islamabad

and the respondent was reverted from the post of Naib Qasid to Coolie which order has never been challenged by the respondent.

3. Perusal of the judgment of the Tribunal dated 13.3.2015 reveals that it was an order passed with the consent of the parties and interestingly in the said case the respondent was not a party and therefore, the plea of jurisdictional bar as agitated, would not apply. Secondly, we have also found from the record that the Office order dated 20.5.2015 was neither addressed nor communicated to the respondent. In the circumstances, even the second ground agitated could not be sustained. The record reflects that the respondent was appointed on 08.01.2011 as Naib Qasid. Therefore, there was no justification or reason available for adjusting the respondent as Road Coolie. The record further reflects that respondent timely filed a departmental appeal against his unlawful adjustment to the post of Road Coolie and after remaining unsuccessful in getting any relief, the respondent approached the Tribunal on 20.7.2016 and the Tribunal after allowing the parties to place their respective case has reached to a just and legal conclusion by redressing the grievance of the respondent by directing his reversion to his original post of Naib Qasid. We do not find any reason to interfere with such directions and therefore, this appeal is dismissed leaving the parties to their own costs.

Sd/-J

Sd/-J

Certified to be True Copy



Court Associate  
Supreme Court of Pakistan  
Islamabad





**KHYBER PAKHTUNKHWA**  
**SERVICE TRIBUNAL, PESHAWAR**

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281  
Fax:- 091-9213262

No. 361 /ST Dated 26/01 /2023

From

The Registrar,  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

To

The Registrar,  
Supreme Court of Pakistan,  
Islamabad.

**Subject: CIVIL PETITION NO. 1669 OF 2021**

Government of Khyber Pakhtunkhwa through Secretary (C&W) Department,  
Peshawar and others

*Versus*

Javed Khan and others

**On appeal from the judgment/Order of the Khyber Pakhtunkhwa Service Tribunal, Peshawar dated 17.12.2020, in S.A NO. 790/2016.**

Dear Sir,

I am directed to acknowledge the receipt of your letter No. C.P. 1669-P/2021-SCJ dated 30-05-2022 alongwith its enclosure.

  
(AAMIR FAROOQ)  
ASSISTANT REGISTRAR  
FOR REGISTRAR

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

**Service Appeal No.790/2016**

Date of Institution: 20.07.2016

Date of Decision: 17.12.2020

Javed Khan S/o Sher Afzal R/o Nawab Banda, Maneeri P/O Sawabi District  
Sawabi.

... (Appellant)

**VERSUS**

The Government of Khyber Pakhtunkhwa through Secretary C&W Department  
Peshawra and 8 others

... (Respondents)

---

Rehman Ullah

Advocate

... For Appellant

Muhammad Jan

Deputy District Attorney

... For Official Respondents

Mir Zaman Safi

Advocate

... For Private Respondents No.5

Naila Jan,

Advocate

... For Private Respondents No.6 to 9

Mrs. ROZINA REHMAN

... **MEMBER (J)**

Mr. ATIQ UR REHMAN WAZIR

... **MEMBER (E)**

---

**JUDGMENT: -.**

**Mr. ATIQ UR REHMAN WAZIR:** - Appellant Mr. Javed Khan was initially appointed as Naib Qasid on 08-01-2011 in C&W Department. On 20-05-2015 his cadre was changed to Coolie, against which he filed departmental appeal dated 18-04-2016, but to no avail, hence, the instant appeal with prayers that the

impugned order 20-05-2015 may be set aside and the appellant may be re-adjusted as Naib Qasid to meet the ends of justice.

2. Written reply/comments were submitted by respondents.

3. Arguments heard and record perused.

4. Learned counsel for the appellant contended that the appellant was initially appointed as Naib Qasid in the respondents department, but his cadre was unlawfully changed to that of Coolie, which is contrary to the norms of natural justice, as both the posts are distinct in terms of remuneration. He further argued that this honorable Court vide judgment in service appeal No. 1072/2013 has already granted relief to one Mr. Uzair Ullah, whose cadre was also changed by the respondents to Coolie but was restored to Naib Qasid. The learned counsel for the appellant argued that the appellant should also be treated at par and his cadre may be restored to that of Naib Qasid.

5. Learned counsel appeared on behalf of private respondents No. 5 to 9 and contended that the private respondents No.5 was initially appointed as Naib Qasid in the year 1993, who was wrongly adjusted as Road Coolie and was again adjusted as Naib Qasid on the order of this Tribunal vide judgment dated 13.03.2015. Learned counsel further added that private respondents No. 6 to 9 were appointed as Naib Qasid in the pursuance of Peshawar High Court judgment in Writ Petition No. 4306-P/2015 on 12.12.2015 against the deceased son quota, therefore, the appellant has no cause of action against the private respondents.

6. The learned Deputy District Attorney appeared on behalf of the respondents contended that cadre of the appellant was changed on the directions of this Tribunal which the appellant referred in his arguments. In the

said judgment it was ordered to shift Naib Qasid appointed later on, to the post of Coolie and adjust Mr. Uzair Ullah against the post of Naib Qasid. Since the appellant was appointed later than Uzair Ullah, so he was shifted to that of Coolie. Learned Deputy District Attorney further contended that after amalgamation of Highway, Buildings and PHE Department, most of the Class IV post became surplus due to reduction in the posts of Naib Qasid, so in order to secure their services, the surplus Naib Qasids were re-designated/adjusted against the posts of Coolie. Learned Deputy District Attorney further added that as per verdict of this honorable Court, the one who was appointed earlier than the appellant was brought back as Naib Qasid and the appellant was shifted to the post of Coolie. Learned Deputy District Attorney added that such arrangements were made due to less number of posts of Naib Qasids.

7. We have heard learned counsel for the parties and perused the record. It was noted that the appellant and others were properly appointed as Naib Qasid in the respondents department. It was after merger or devolution of certain divisions of the respondents department, the post of Naib Qasids were curtailed and some of the employees declared surplus, were adjusted as Coolie. We have observed that it was the fallout of certain changes in the department, which affected the poor corner of the department. Such employees having every right to be consulted first before changing their cadre, which was not done and the respondent unilaterally changed their cadres, ultimately infringed their rights, whereas the curtailment of posts of Naib Qasid were not fault of the employees, having developed their vested rights over the post. In a situation, the appellant shall not suffer at the cost of administrative changes made in the department. Arguments of the learned counsel for the appellant to the effect that private respondents No. 7, 8, and 9 being junior to appellant should be made Coolie and

the appellant appointed earlier should be shifted to the post of Naib Qasid hold force, as it was done vide this Court Judgment discussed above, but we are of the considered view that it would not be fair to do the same with other Naib Qasid, as was done with the appellant, as it would open up a new Pandora box, hence, in order to meet the ends of justice, the respondents shall either create posts of Naib Qasids or convert the posts of Coolie into Naib Qasid and adjust the appellant against the post of Naib Qasid.

8. The instant appeal is accepted on the above terms. No orders as to costs. File be consigned to record room.

ANNOUNCED  
17.12.2020



(ROZINA REHMAN)  
MEMBER (J)



(ATIQ UR REHMAN WAZIR)  
MEMBER (E)



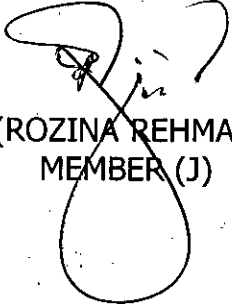
17.12.2020


Appellant with counsel present.

Muhammad Jan, learned Deputy District Attorney alongwith  
Tajamul Shah Clerk for official respondents and Private respondents  
No. 6 present.

Vide our detailed judgment of today of this Tribunal placed  
on file, the present service appeal is accepted. No order as to costs.  
File be consigned to the record room.

ANNOUNCED  
17.12.2020

  
(ROZINA REHMAN)  
MEMBER (J)

  
(ATIQU UR REHMAN WAZIR)  
MEMBER (E)

20.11.2020

Appellant with counsel present.

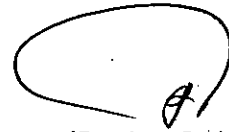
Muhammad Jan learned Deputy District Attorney for official respondents present. Private respondents through counsel present.

Partial argument heard. For the just decision of case, respondents are directed to make sure production of list showing all the Naib Qasids and Road Colli right from the date when appeal of one Uzair Ullah was accepted by this Tribunal.

Adjourned to 11.12.2020 for production of list and order, before D.B.



(Atiq ur Rehman Wazir)  
Member (E)



(Rozina Rehman)  
Member (J)

11.12.2020

Appellant present through representative.

Mr. Muhammad Jan learned Deputy District Attorney alongwith Abdullah Jan SDO for respondents present.

Latter requested for adjournment as he has been recently transferred to Swabi and the matter relates to Head Clerk C&W Division Swabi. Detail in respect of Naib Qasid was also produced. Adjournment is allowed and file to come up for production of relevant documents, arguments and order on 17.12.2020 before D.B.




(Atiq ur Rehman Wazir)  
Member (E)

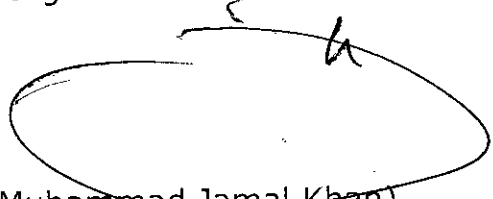


(Rozina Rehman)  
Member (J)

15.10.2020

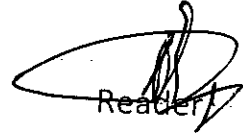
Appellant is present in person alongwith Mr. Asim, Advocate. Mr. Kabirullah Khattak, Additional Advocate General on behalf of official respondents No. 1 to 4 and private respondent No. 5 alongwith Mr. Mir Zaman Safi, Advocate are also present. However, Miss Naila Jan, Advocate, representing private respondents No. 6 to 9 is not available today. Learned counsel for private respondent No. 5 requested for adjournment. He was informed that last chance was already given for the purpose as per previous order sheet, he submitted that he is going to argue the instant appeal in the presence of learned senior counsel which is not possible today. Accordingly, another last chance is given to the learned counsel representing private respondent No. 5 for preparing the brief. Adjourned to 20.11.2020 on which to come up for arguments before D.B.

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

  
(Muhammad Jamal Khan)  
Member (Judicial)

29-4.2020

Due to COVID19, the case is adjourned to  
13/7/2020 for the same as before.



Reader

13.07.2020

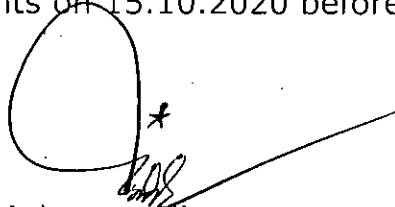
Due to COVID-19, the case is adjourned to 01.09.2020  
for the same.



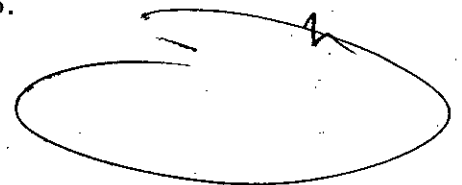
Reader

01.09.2020

Appellant himself alongwith his counsel is present. Mr. Muhammad Jan, Deputy District Attorney for official respondents No. 1 to 4, Mr. Afrasayab Khan Wazir, junior to senior Mr. Noor Muhammad Khattak, Advocate on behalf of private respondent No. 5 and Miss. Naila Jan, Advocate on behalf of private respondents No. 6 to 9 are also present. Learned counsel for the appellant is prepared for arguments but junior to the senior representing private respondent No. 5 is seeking adjournment for the reason that his senior has proceeded to District Swat in pursuance of case at Dar-ul-Qaza, he was reminded that last opportunity was already afforded to him. Learned counsel for appellant has got no objection on giving an appropriate date for arguments. Last chance is given for arguments. File to come up for arguments on 15.10.2020 before D.B.



(Mian Muhammad)  
Member (Executive)



(Muhammad Jamal Khan)  
Member (Judicial)

10.01.2020


Due to general strike of the bar on the call of Khyber Pakhtunkhwa Bar Council, the case is adjourned. To come up for further proceedings/arguments on 02.03.2020 before D.B.

  
Member

  
Member

02.03.2020

Counsel for the appellant present. Mr. Ziaullah, DDA for official respondents, counsel for private respondent no. 5 and counsel for private respondents no. 7,8 and 9 present. Learned counsel for private respondent no.5 seeks adjournment. Adjourned but as a last chance to private respondents. To come up for arguments on 29.04.2020 before D.B.

  
Member

  
Member

790/16

04.09.2019

Appellant in person, Mr. Usman Ghani District Attorney alongwith Zainul Abideen, SDO for respondents No. 1 to 5 and private respondent No. 6 in person present and submitted Power of Attorney on behalf of respondents No. 7, 8 & 9.

Despite last opportunity private respondents have not submitted reply/comments. The appeal is posted to 20.11.2019 for arguments. The appellant may submit rejoinder to the written reply of official respondents, within a fortnight, if so advised.


Chairman




20.11.2019

Appellant alongwith his counsel present. Mr. Riaz Ahmad Paindakheil, Assistant AG alongwith Mr. Tariq Muhammad, Sub-Engineer for official respondents No. 1 to 4 and counsel for private respondents No. 6 to 9 present.

The case was fixed for rejoinder and arguments but today learned counsel for private respondents No. 6 to 9 requested for submission of written reply on behalf of private respondents No. 6 to 9. When the learned counsel for the appellant was asked as to whether he has any objection on submission of written reply/comments of private respondents No. 6 to 9 at this stage. He stated that he has no objection. Accordingly, written reply/comments on behalf of private respondents No. 6 to 9 submitted. Case to come up for rejoinder and arguments on 10.01.2020 before D.B.

  
(Hussain Shah)  
Member

  
(M. Amin Khan Kundi)  
Member

09.05.2019

Appellant in person and Mr. Usman Ghani, District Attorney for official respondents No. 1 to 4 present. Written replies on behalf of official respondents No. 1 to 4 as well as private respondent No. 5 have already been submitted. None present on behalf of private respondents No. 6 to 9 therefore, fresh notice be issued to respondents No. 6 to 9 for attendance and filing of written reply. Adjourned. To come up for written reply/comments on behalf of private respondents No. 6 to 9 on 17.06.2019 before S.B.

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

17.06.2019

Appellant in person and Mr. Kabirullah Khattak, Additional AG alongwith M/S Zain-ul-Abideen, SDO and Gul Bacha, SDO for official respondents No. 1 to 4 present. None present on behalf of private respondents No. 6, 7, 8 & 9 nor their written reply submitted, therefore, notice be issued them for attendance and filing of written reply by way of last chance. Written replies on behalf of official respondents No. 1 to 4 and private respondent No. 5 have already been submitted. To come up for written reply/comments on behalf of private respondents No. 6, 7, 8 & 9 on 11.07.2019 before S.B.

  
(Muhammad Amin Khan Kundi)  
Member

11.07.2019

Appellant in person and Addl. AG alongwith Zainul Abidin, SDO for respondents No. 1 to 5 and private respondents No. 5 to 9 in person present.

Private respondents No. 6 to 9 need further time for submission of written reply. Adjourned to 04.09.2019 before S.B for submission of written reply/comments by respondents No. 6 to 9 but this will be the last chance for them.

  
Chairman

04.03.2019

Appellant present. The appellant has already furnished copies of memo of appeal. Notice be given to the respondents for the date fixed as 08.04.2019 before S.B

  
Member

08.04.2019

Appellant in person and Asstt. AG for the official respondents present.

Through order dated 04.03.2019 the added respondents were required to be issued notices. The record shows that only Alamgir Khan one of the added respondents (respondent No. 7) has been issued the requisite notice. Fresh notices be issued to respondents No. 7, 8 & 9 for submission of written reply/comments on next date of hearing.

Adjourned to 09.05.2019 before S.B.

  
Chairman



12.11.2018

Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 19.12.2018.

  
READER


19.12.2018

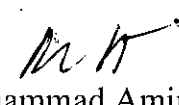
Counsel for the appellant present. Mr. Riaz Ahmad Paindakheil, Assistant AG for the official respondents present.

Record reveals that learned counsel for the appellant has submitted application for impleadment of Anwarullah, which was accepted vide order sheet dated 02.02.2018 with the direction to Muharrar of this Tribunal to enter the name of Anwarullah in the panel of respondents as well as in the relevant register and notice be also issued to him for the date fixed. But the Muharrar has not implemented the order of this Tribunal dated 02.02.2018 therefore, Muharrar is strictly directed to enter the name of Anwarullah in the panel of respondents, thereafter notice be issued to the said respondent for the date fixed.

Learned counsel for the appellant has also submitted another application for impleadment of Alamgir Khan, Noor Nabi and Salman Khan as responded, which was fixed for reply and arguments but learned Assistant AG stated at the bar that he has got no objection on acceptance of the said application. Therefore, the application is accepted and Muharrar is directed to make entry of newly impleaded respondents namely Alamgir Khan, Noor Nabi and Salman Khan in the panel of respondents and thereafter, notice be issued to them.

The appellant is also directed to furnish the copies of memo of appeal for sending the same with the notice to respondents. Adjourned. To come up for attendance and reply on 04.03.2019 before S.B.

  
(Hussain Shah)  
Member

  
(Muhammad Amin Khan Kundi)  
Member

02.04.2018

Clerk to counsel for the appellant and Mr. Kabir Ullah Khattak, learned Additional Advocate General for the respondents present. Due to general strike of the bar, the case is adjourned. To come up for arguments on 04.06.2018 before D.B.

(Ahmad/Hassan)  
Member

(Muhammad Hamid Mughal)  
Member

04.06.2018

Appellant with counsel present. Mr. Riaz Paindakheil learned Assistant Advocate General for official respondents present. No one present on behalf of official respondents. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for further proceedings/arguments on 30.07.2018 before D.B.

(Ahmad/Hassan)  
Member

(Muhammad Hamid Mughal)  
Member

30.07.2018

Learned counsel for the appellant present and submitted an application for impleadment of Mr. Alamgir Khan, Noor Nabi and Salman Khan as respondents. Mr. Ziaullah, Deputy District Attorney for the respondents present. To come up for reply and arguments vis-à-vis on the said application and final hearing on 20.09.2018 before D.B.

(Ahmad Hassan)  
Member (E)

(Muhammad Hamid Mughal)  
Member (J)

20.09.2018

Since 12 September 2018 has been declared as public holiday on account of Muharam Ul Haram. Therefore, the case is adjourned. To come up for the same on

12-11-18

افسر  
Reader

24.11.2017

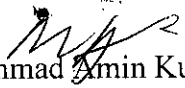
Counsel for the appellant present. Mr. Usman Ghani,  
District Attorney for the respondents present. An  
application for impleadment in the panel of respondents  
submitted, copy whereof handed over to the District  
Attorney. To come up for further proceedings/arguments  
on 02.02.2018 before D.B.


  
(Gul Zeb Khan)  
MEMBER

  
(MUHAMMAD HAMID MUGHAL)  
MEMBER

02.02.2018

Learned counsel for the appellant and Mr. Riaz Pinda Kheil,  
learned Assistant Advocate General for the respondents present.  
Learned AAG raised no objection in adding Mr. Anwar Ullah, Road  
Cooli in the memo of appeal as respondent No.6. As such the  
application has mentioned in the order sheet dated 24.11.2017 is  
accepted to the extent of addition of Mr. Anwar Ullah, Road Coolie  
as respondent No.6 in the present appeal. Muharrar is directed to  
enter his name in the calendar of respondents as well as in the  
relevant register and notice be issued to him for 02.04.2018.  
Learned counsel for the appellant further submitted that the  
address of newly added respondent No.6 as well as respondent No.5  
is same. Memo of address of respondent No.6 is also received and  
placed on file. Adjourned. To come up for further proceedings  
before D.B on the date already fixed.

  
(Muhammad Amin Kundi)  
MEMBER

  
(Muhammad Hamid Mughal)  
MEMBER

28.02.2017

Counsel for appellant, Mr. Muhammad Adeel Butt, Additional AG for official respondents No. 1 to 4 and counsel for private respondent No. 5 present. Learned counsel for private respondent No. 5 submitted written reply alongwith costs of Rs. 1000/- submitted. Cost of Rs. 1000/- paid to learned counsel for appellant and receipt also obtained from him. Written reply by official respondents No. 1 to 4 have already submitted. To come up for rejoinder and arguments on 10.04.2017 before D.B.

(ASHFAQUE TAJ)  
MEMBER

10.04.2017

Appellant in person present. Mr. Mukhtiar Ali, Superintendent alongwith Mr. Muhammad Adeel Butt, Additional AG for respondents also present. Rejoinder not submitted. Appellant requested for adjournment on the ground that his counsel is not available. Adjourned. To come up for rejoinder and arguments on 01.08.2017 before D.B.

(Ahmad/Hassan)  
Member

(Muhammad Amin Khan Kundi)  
Member

01.08.2017


Clerk to counsel for the appellant and Asst. AG for respondents present. Clerk to counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 24.11.2017 before D.B.

(Gul Zeb Khan)  
Member

(Muhammad Hamid Mughal)  
Member


14.12.2016

Counsel for the appellant and Mr. Naveed Khan, XEN alongwith Addl. AG for official respondents No. 1 to 4 present and written reply submitted. Counsel for private respondent No. 5 present and requested for further adjournment. Last opportunity granted subject to payment of cost of Rs. 1000/- which shall be borne by respondent No. 5 from his own pocket. To come up for written reply/comments of respondent No. 5 and cost on 23.1.2017 before S.B.

  
Chairman

23.01.2017

Counsel for the appellant and Addl. AG for the official respondents and counsel for private respondent No. 5 present. Cost of Rs. 1000/- paid by counsel for private respondent No. 5 and receipt obtained from the appellant. Counsel for private respondent No. 5 requested for further adjournment. Last opportunity is further extended subject to payment of further cost of RTs. 1000/- To come up for written reply of private respondent No. 5 and cost of Rs. 1000/- on 28.02.2017 before S.B.

  
Chairman

08.08.2016

Counsel for the appellant present. Learned counsel for the appellant submitted that vide impugned order dated 20.05.2015, the appellant initially appointed as Naib Qasid was unlawfully adjusted against the post of Colli in order to give benefits to private respondent No. 5. The learned counsel submitted that the said order is unlawful and based on favoritisms for private respondent No. 5. He also submitted that his departmental appeal has not been decided by the respondent-department. He contended that the appeal is within time.

Appellant Deposited  
Security & Process Fee

Points urged at the bar need further consideration. Admit. Subject to deposit of security and process fee within 10 days where-after notices be issued to the respondents for written reply/comments for 25.10.2016 before S.B.

8 3

Member

25.10.2016



Counsel for the appellant and Mr. Naveed Ahmad, XCN for respondents No. 1 to 4 alongwith Assistant AG for official respondents present. Noor Muhammad Khattak, Advocate submitted power of attorney for private respondent No. 5. To come up for written reply/comments on 14.12.2016 before S.B.

Chairman

Form- A  
FORM OF ORDER SHEET

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

Case No. 790/2016

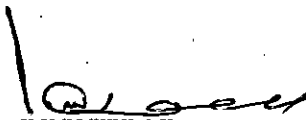
S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	02/08/2016	<p>The appeal of Mr. Javed Khan is resubmitted today by Mr. Rehmanullah Advocate may be entered in the Institution Register and put up to Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>2- 4.8.16</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on. <u>8.8.16</u></p> <p style="text-align: right;"> MEMBER</p>

The appeal of Mr. Javeed Khan son of Sher Afzal Distt. Swabi received to-day i.e. on 20.07.2016 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Annexures of the appeal may be attested.
- 2- Annexures of the appeal may be flagged.
- 3- Memorandum of appeal may be got signed by the appellant.
- 4- Index of the appeal may be prepared according to the rules.
- 5- Copy of impugned order is not attached with the appeal which may be placed on it.
- 6- Copy of departmental appeal is not attached with the appeal which may be placed on it.
- 7- Copy of judgment of this Tribunal passed in appeal of Mr. Uzairullah mentioned in the memo of appeal is not attached with the appeal which may be placed on it.
- 8- Seven more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 1172 /S.T,

Dt. 21/7 /2016

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Rehmanullah Adv. Pesh.

Sirs, Re submitted  
Add objection Removed

Raj see  
4/8/16



**IN THE SERVICES TRIBUNAL KHYBER PUKHTUN KHWA**  
**PESHAWAR**

Appeal No. 790 /2016

Javed Khan.....**Appellant**

**Versus**

Govt of KPK and others .....**Respondents**

**I N D E X**

<b>S.NO</b>	<b>Description Of Documents</b>	<b>Annex</b>	<b>Pages</b>
1	Grounds of appeal with affidavit		1-3
	Copy of appeal No 1053/2013	<b><u>A</u></b>	4-12
	Copy of order	<b><u>B</u></b>	13-14
	Copy of Application and order dated 11-04-2016	<b><u>C-D</u></b>	15-18
	Copy of departmental appeal	<b><u>E</u></b>	19-20

Appellant

Through



**Rehmanullah Advocate,**

Supreme Court of  
Pakistan

Cell.0333-9125367

1

**IN THE SERVICE TRIBUNAL, K.P.K PESHAWAR**

Appeal no 790/2016

Javeed khan S/o Sher Afzal R/o Nawab panda, maneeri P/o Sawabi District  
Sawabi.....**appellant**

-Vs-

1. The government of KPK through Secretary (C&W) Department KPK Peshawar

2. The Chief Engineer (C&W) Department, KPK Peshawar

3. The superintending Engineer (C&W) Circle Mardan

4. The Executing Engineer Buildings Division Sawabi

5. Mr. Uzairullah, Road Cooli (BPS-1) Executive Engineer. Building Division Sawabi

Member Pakhtukhwa  
Service Tribunal

Diary No. 729

Dated 20/7/2016

6. Mr. Anwarullah Road Cooli  
Sawabi

7. Alamgir Khan S/o Fozal Rabbi Naib Qasid C&W Deptt: Swabi.

8. Noor Nabi S/o Noor Mohammad Naib Qasid C&W Deptt: Swabi.

9. Salman Khan S/o Fakhr Zaman Naib Qasid C&W Deptt: Sawabi.

**SERVICE APPEAL U/S 4 OF NWFP SERVICE  
TRIBUNAL ACT 1974 AGAINST ORDER NO.  
456/5-E DATED 20-05-2015, IN WHICH THE  
APPELLANT CADER WAS CHANGE/READJUSTED  
FROM NAIB QASID TO ROAD COOLY.**

Prayer in Appeal:

**ON ACCEPATNCE OF THIS APPEAL THE ORDER NO.  
456/5-E DATED 20-05-2015 MAY KINDLY BE SET ASIDE AND  
RE-ADJUSTED THE APPELLANT AS NAIB QASID.**

Respectfully Sheweth:

1. That the appellant applied for employment exchange Mardan vide registration number dated 11/12/2015 occupation code number 9-99-90, on the basis of said registration the appellant was appointed as Naib Qasid by Sub-Engineer, through selection committee meeting held on 8-1-2011.
2. That the appellant service book was prepared and was directed to perform his duty as Naib Qasid in the office of Sub-Divisional Officer C&W, Sub-Division No.III Swabi.
3. That the appellant was performed his duty to the best of his abilities and was as punctual in there is no such complaint against him.

Re-submitted to -day  
and filed.

Registrar

21/7/16

4. That in the meanwhile one Uzair Ullah filed an appeal before the KPK Service Tribunal Peshawar regarding adjustment against the post of Naib Qasid. **(copy of appeal no1053/2013 attached as annexure A)**
5. That the said uzair Ullah adjusted to the post of Naib Qasid and the appellant was shifted to the post of Road Cooly by the Department. **(copy of office order attached as annexure B)**
6. That the appellant know about the change of cadre on 30-6-2015 and nothing was given to the appellant in black & white.
7. That the appellant filed 12(2) application against the order dated 01-09-2015 passed by Hon,ble Service Tribunal in which the appellant/applicant was directed to adopt the proper procedure **(Copy of application attached as annexure C and order dated 11-04-2016 is attached as annexure D).**
8. That the appellant filed a departmental appeal but the said appeal met no response. **(copy of departmental appeal attached as annexure E)**
9. That now the appellant come to this august Tribunal, inter alia, on the following grounds.

**GROUNDS:**

- A. That the impugned order is illegal, lawful against natural justice.
- B. That the appellant has not been treated in accordance with law.
- C. That there is a maxim Audi alteram partem (No one should be condemned unheard).
- D. That in the case of appellant no opportunity has been provided.
- E. That the appellant was appointed as Naib Qasid through proper channel.
- F. That valuable right of the appellant is involved.

**It is therefore most humbly prayed that on acceptance of this service appeal the ORDER NO. 456/5-E DATED 20-05-2015 may kindly be set-aside and re-adjusted the appellant as Naib Qasid for the sake of justice.**

Applicant Javed Khan  
 Through [Signature]  
 Rehmanullah [Signature]  
 Muhammad Arif [Signature]  
 Asim Khan **ADVOCATES**



BEFORE THE FEDERAL SERVICE TRIBUNAL, ISLAMABAD.

S.A.No. \_\_\_\_\_ 2016

Javeed Khan ..... Appellant

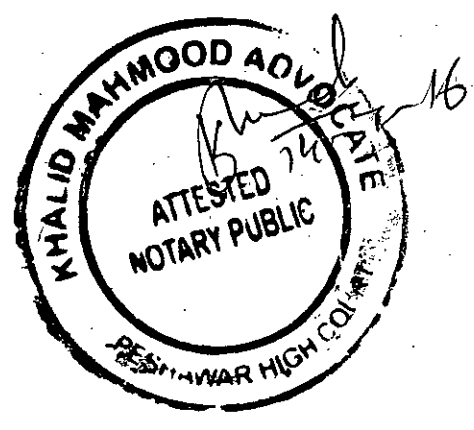
Versus

Govt. of Khyber Pakhtunkhwa through Secretary (C&W)

Department Peshawar and others ..... Respondents

AFFIDAVIT

I, Javeed Khan s/o Sher Afzal R/o Nawab Panda, Maneri, P.O. Swabi District Swabi, (appellant) do hereby affirm and declare on oath that the contents of the accompanying Appeal are true and correct to the best of my knowledge and belief to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



Javeed Khan  
Deponent

16202-1566087.5

-4-

Amr. ex "A"

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR**

APPEAL NO 1053 /2013

Mr. Uzairullah, Road Cooli (BPS-1),  
Executive Engineer Building Division Swabi.....Appellant

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Secretary (C&W) Department, Khyber Pakhtunkhwa Peshawar.
  - 2- The Chief Engineer (C&W) Department, Khyber Pakhtunkhwa, Peshawar.
  - 3- The Superintending Engineer (C&W) Circle Mardan.
  - 4- The Executive Engineer Buildings Division Swabi.
- .....Respondents

**APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 FOR ADJUSTMENT OF APPELLANT ON HIS ORIGINAL POST OF NAIB QASID (BPS-4) FROM THE POST OF ROAD COOLI (BPS-1) AND AGAINST THE ORDER DATED 10.6.2013 WHEREBY THE DEPARTMENTAL APPEAL OF APPELLANT HAS BEEN REJECTED ON NO GOOD GROUNDS**

**PRAYER:**

That on acceptance of this appeal the impugned order dated 10.6.2013 may very kindly be set aside and the respondents may be directed to adjust the appellant on his original post of Naib Qasid (BPS-4). Any other remedy which this august Tribunal deems fit that may also be awarded in favour of the appellant.

**R/SHEWETH:**

**ON FACTS:**

1- That the appellant was appointed in the respondent Department as Naib Qasid vide order dated 114.10.1993. That appellant after appointment served the respondent Department quit efficiently and upto the entire satisfaction of his superiors. (Copies of the service book and medical certificate are attached as Annexure ..... **A & B**).

2- That while serving as Naib Qasid in the building Division Swabi a Notification was issued due to which building division was devolved vide order dated 27-6-2001. That then

after the services of the appellant have been sent to surplus pool and subsequently the appellant was adjusted in the

Attested  
*u*

5-

public works Department Swabi as road Cooly (BPS-1) vide order dated 27.6.2001. (Copy of the service book is already attached as annexure "A").

- 3- That during service as road Cooly the scale of appellant was upgraded from (BPS-1) to (BPS-2) vide order dated 1-7-2007. That recently when the said Department has been restored by the Government of Khyber Pakhtunkhwa. That appellant time and again requested the concerned authority for his adjustment as Naib Qasid (BPS-04) being his original post but the concerned authority is not willing to adjust the appellant on his original post of Naib Qasid (BPS-4).
- 4- That recently the appellant have come to know that some posts of Naib Qasid (BPS-4) are lying vacant at the office of XEN (C&W) Division District Swabi, therefor the appellant filed Departmental appeal before the appellate authority but the same was rejected on no good grounds vide impugned order dated 10.6.2013. (Copy of the Department appeal is attached is Annexure ..... C & D).

**GROUND:**

- A- That the impugned order dated 10.6.2013 due to which the appellant request for adjustment on his original post of Naib Qasid (BPS-4) has been regretted, therefore they same is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- 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 Buildings Department has been brought into his old status, therefor the incumbent of the said Department is entitled to be restored to their original post.
- D- That appellant is entitled to be re-adjusted on his original post of Naib Qasid (BPS-4) under the law & prevailing rules.
- E- That the respondent Department acted in arbitrary and malafide manner by not re-adjusting the appellant on his original post of Naib Qasid (BPS-04).
- F- That the appellant seeks to permission to advance other grounds and proofs at the time of hearing.



Attested  
lll

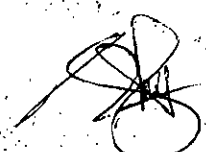
-6-

It is therefor humbly prayed that the appeal of the appellant may be accepted as prayed for.

APPELLANT

UZAIR   
~~ULLAH~~ ULLAH

THROUGH:  
NOOR MOHAMMAD KHATTAK  
ADVOCATE

Certified true copy  
  
Peshawar

Date

25-03-2016

No

8 1200

2     

10     



Date

25-03-2016  
25-03-2016

Attested



8-77

Form- A

FORM OF ORDER SHEET

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

Case No. 1053 /2013

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	08/07/2013	The appeal of Mr. Uzairullah presented today by Mr. Noor Muhammad Khattak Advocate, may be entered in the Institution Register and put up to the Worthy Chairman for preliminary hearing. <i>Register</i>
2	16-7-2013	This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>3-10-2013</u> <i>MM</i>
3	10.13	Counsel for the appellant present and requested for adjournment. To come up for preliminary hearing on 7.11.2013. <i>Chairman</i> <i>Member</i>

The objections for to the res,

ACCEPTED

*[Signature]*

Magistrate,  
District Court,  
Lahore



(8)

07.11.2013

Munshi to counsel for the appellant present. Requested for adjournment to come up for preliminary hearing on 19.12.2013.

*sd/-  
Member*

19.12.2013

Counsel for the appellant present and requested for adjournment. To come up for preliminary hearing on 07.01.2014.

*sd/-  
Member*

*[Handwritten signature]*

*[Large handwritten signature]*

Appeal No. 1053/2013  
Mr. Rehmanullah

9

07.01.2014

Counsel for the appellant present. Preliminary arguments heard and case file perused. Counsel for the appellant contended that the appellant has not been treated in accordance with law/rules. The appellant filed the instant appeal on 08.07.2013, against the final order dated 10.06.2013 and while producing orders of Mr. Muhammad Akbar, Road Cooly and Mr. Haider Zaman, Road Cooly who have been adjusted against the post of Naib Qasid and requesting that the appellant may also be adjusted against his original post of Naib Qasid thereby setting aside the original order dated 10.06.2013. Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notice be issued to the respondents for submission of written reply on 31.03.2014.

Amount Deposited  
Security & Process Fee  
Rs. 200/-  
Received by Bank  
Receipt to be filed with File.

*[Handwritten signature]*

*[Handwritten signature]*  
Member

07.01.2014

This case be put before the Final Bench I for further proceedings.

*[Handwritten signature]*  
Chairman

31.3.2014

Clerk of counsel for the appellant and Mr. Rehmanullah, SDO on behalf of respondents with AAG present. Written reply has not been received. To come up for written reply/comments on 30.6.2014.

*[Handwritten signature]*  
Chairman

*[Handwritten signature]*

30.6.2014

Counsel for the appellant and Mr. Rahmanullah, SDO, C&W Swabi on behalf of respondents with AAG present. Written reply has not been received, and request for further time on behalf of the respondents. The perusal of file revealed that this is a simple case of adjustment of the appellant against his original post of Naib Qasid (BPS-4) from the post of Road Cooly (BPS-I). The respondents are resisting the appeal on the only ground that no vacant post of Naib Qasid was available so as to adjust the appellant against that vacant post; while, on the other hand, the appellant has cited instances of appointment against the vacant posts of Naib Qasids in the meantime. The representative of the respondents also confirmed that appointments of Naib Qasids have been made in the meantime against the vacant posts. Therefore, the Executive Engineer, Building Division, Swabi (Respondent No.4) be summoned in person alongwith complete record of vacancies of Naib Qasids from the date the post of the appellant was converted into that of Road Cooly, till to-date, for further proceedings and written reply/ comments on 22.9.2014.

*[Signature]*  
Chairman

9 22.9.2014

Appellant with counsel and Mr. Imran Hussain, XEN, C&W Division Swabi (respondent No. 4) in person with Mr. Muhammad Ajeel Butt, AAG for the respondents present. Respondent No. 4 submitted copies of appointment orders of other two persons namely Javed Khan and Tauqeer Ali as Naib Qasids in BPS-I (placed on file of appeal No. 1072/2013) and stated that both the posts of Cooly and Naib Qasid are in BPS-I according to current budgetary allocations. The respondent, therefore, contended that the allegation of the appellant that the post of Naib Qasid is in BPS-4 is totally misplaced. Anyhow, the respondent would look into the grievance of the appellant, as he has been appointed as Naib Qasid vide order dated 14.10.1993 and subsequently re-designated/re-adjusted as Road Cooly, and re-adjust him, like others, against his original post of Naib Qasid immediately. To come up for compliance report/further proceedings, as before, alongwith connected appeal on 23.10.2014.

*[Signature]*  
Chairman

*[Signature]*  
Chairman

A-No. 1053/2013 (11)  
Wazirullah

23 10 2014

Counsel for the appellant and Rahmanullah, SDO on behalf of respondents with Mr. Muhammad Adeel Butt, AAG present. Compliance report has not been received and learned AAG requested for further time. To come up for compliance report/further proceedings, as before, alongwith connected appeal on 10.2.2015.

Sd/-  
Member

11

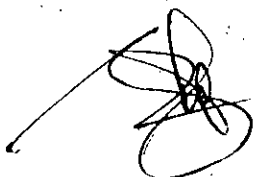
10.02.2015

Agent of counsel for the appellant and Assistant A.G for respondents present. Compliance report not submitted. Requested for adjournment. Last opportunity granted. Adjourned to 13.03.2015.

Sd/-  
Chairman

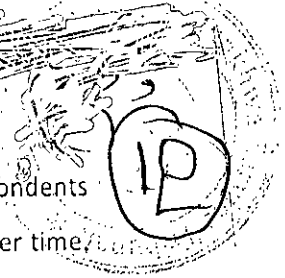
13.03.2015

Counsel for the appellant and Mr. Muhammad Hussain, XEN (respondent No. 4) alongwith Addl: A.G for respondents present. Learned Addl: A.G and respondent No. 4 informed the Court that the appellant is going to be adjusted against the post of Naib Qasid on which he was initially appointed and to be shifted from the post of Cooly to Naib Qasid. Directed to shift the said Naib Qasid, appointed later on, to the post of Cooly and adjust the appellant against the post of Naib Qasid and submit compliance report on 22.5.2015 before S.B.



Sd/-  
Chairman

A-No-1053/2013  
Wairullah



22.05.2015

Clerk of counsel for the appellants and Addl: A.G for respondents

present. Compliance report not submitted. Requested for further time.

To come up for further proceedings/compliance report on 1.9.2015.

Sdt  
Member

03.07.15

notice of application be issued  
for the date fixed

01.09.2015

Appellant with counsel and Mr. Rehmanullah, SDO alongwith  
Mr. Kabirullah Khan Khattak, Assistant A.G for respondents present.  
Representative submitted copy of office order No. 456/5-E dated  
20.5.2015 vide which the appellant has been re-designated and  
adjusted as Naib Qasid against his original post.

In view of the afore-stated development, learned counsel for the  
appellant informed the Tribunal that the order of the Tribunal stood  
implemented. Order accordingly. File be consigned to the record.

Sdt  
Chairman

ANNOUNCED  
01.09.2015

Certified copy  
Khyber Pakhtunkhwa  
Tribunal  
Peshawar

Date  
No.  
No.  
No.  
No.  
No.  
Date

25-03-2016  
2400  
14-  
2-  
16-  
25-03-2016  
25-03-2016

Annex B 13



PAYROLL SYSTEM  
AMENDMENT FORM  
SINGLE EMPLOYEE ENTRY

OFFICE OF THE

Xem C&W Division Swabi.

FOR THE MONTH OF

6 / 2015

DBO Code:  
(Cost Center)

S U 7 0 1 8

Description

Cooly.

Personal Number

0 0 5 6 7 5 7 1

Employee Name

Javid Khon.

National ID Card Number

Grade (Pay Scale Group)

01

Position code 80206152

Salary Status

Start

Stop

Date

Page No.

~~6/6/15~~

Info Type	Field ID	GENERAL DATA CHANGE		CHANGE IN PAYMENTS / DEDUCTIONS				Effective Date	Remarks
		Old Contents	New Contents	Wage Type	Amount	Pension	Adj		

Re-designated/  
Adjusted as  
Cooly.

In light of Service Tribunal  
Decisions/orders dt: 13-3-2015  
and approved by the Secy.  
To Govt. of K.P. & C.W. Deptt.  
vide letter No. S.C.E / C&W D  
4-8/2014 dt. 12-5-2015, M2;  
Amrullah Cooly is hereby  
designated/Adjusted as n/a  
on his original post, whereas  
Mr. Javid Khon n/a is shifted  
Adjusted to the post of Cooly  
with immediate effect vide  
No. 455/S-E dt: 20-5/15.

Executive Engineer  
C&W Division Swabi  
Prepared By

Checked By

Attested Jm

5

00567571 JAVID KHAN  
PAYMENTS

CNIC: 1620215660875 Desig: COOLI  
AMOUNT DEDUCTIONS

(80206152) Grade: 01 NTN:  
AMOUNT LOAN/FUND

Bookle No.:  
PRINCIPAL

Gazetted/Non-Gazetted: N  
REPAID BALANCE

Code	Description	Amount	Description	Amount	Balance
0001	Basic Pay	7,380.00	3001 GPF Subscription - Rs	212.00-	5,936.00
1000	House Rent Allowance	891.00	3501 Benevolent Fund	120.00-	
1210	Convey Allowance 20	1,785.00	3511 Addl Group Insurance	3.00-	
1300	Medical Allowance	1,500.00	3604 Group Insurance	58.00-	
1948	Adhoc Allowance 2010	1,485.00	3990 Exp. Edu. Fund KPK	50.00-	
2148	15% Adhoc Relief All	832.00			
2174	Adhoc Relief Allow-2	555.00			
2199	Adhoc Relief Allow 0	738.00			

PAYMENTS  
Branch Code: 110119

15,166.00  
Karnal Sher Khan Chowk

DEDUCTIONS  
Others

443.00-  
Karnal Sher Khan Chowk

NET PAY  
Shabi

14,723.00 01.07.2015 31.07.2015  
Acct. No: 012050977230

Attested  
[Signature]

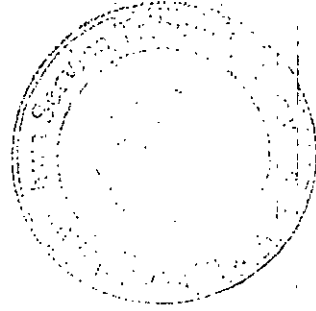
(15) Annex A

IN THE SERVICE TRIBUNAL, K.P.K PESHAWAR

Application No 50 /2016

In

Appeal no 1053/2013



A.W.F. Provincial  
Service Tribunal  
Entry No. 23  
Dated 29-3-16

Javeed khan S/o Sher Afzal R/o Nawab panda, maneri P/o Sawabi District  
Sawabi.....*Applicant*

-Vs-

1. The government of KPK through Secretary (C&W) Department KPK Peshawar
2. The Chief Engineer (C&W) Department, KPK Peshawar
3. The superintending Engineer (C&W) Circle Mardan
4. The Executing Engineer Buildings Division Sawabi
5. Mr.Uzairullah, Road Cooli (BPS-1) Executive Engineer Building Division Sawabi.....*Respondents*

APPLCIATION U/S 12(2) CPC AGAINST THE ORDER DATED 01-09-2015 PASSED BY THE HON,BLE TRIBUNAL WHEREBY THE HON,BLE TRIBUNAL ADJUSTED THE RESPONDENT NO 5 AS NAIB QASID (BPS-4) FROM ROAD COOLI (BPS-1) IN THE PLACE OF APPLICANT.

Prayer:

*By acceptance of this Application the Hon,ble tribunal may graciously set-aside order dated 01-09-2015 and arrayed appellant in the main appeal No.1053/2013 as Respondent and then the Hon,ble Tribunal may decide the appeal according to law on the subject.*

Respectfully Sheweth:

- Attested  
lll
1. That appeal No. 1053/2013 was filed by Respondent No.5 against the official respondents before this Hon,ble Tribunal which was disposed of/withdrawn .(copy of appeal attached as annexure A).



- 4 -
- (16)
2. That the order dated 01-09-2015 was obtained on the plea of Fraud and misrepresentation and concealed the material fact by Respondent No.5 at the time of passing the impugned order by this Hon,ble Tribunal which come under the definition of 12(2) CPC. (copy of order attached as annexure B).
  3. That the applicant applied for employment exchange Mardan vide registration number dated 11/12/2015 occupation code number 9-99-90, on the basis of said registration the appellant was appointed as Naib Qasid by Sub-Engineer, through selection committee meeting held on 8-1-2011.
  4. That the applicant after selection submitted arrival report and took charge of his duty as naib Qasid.
  5. That in the meanwhile one Uzair Ullah filed in appeal before the KPK Service Tribunal Peshawar regarding adjustment against the post of Naib Qasid and obtains the impugned order from the honourable service tribunal on the basis of fraud and misrepresentation.
  6. That due to order sheet no. dated 01-09-2015 the said uzair Ullah adjusted to the post of Naib Qasid and the applicant cadre was changed to the post of Road Cooly. Which was/is illegal, unlawful and no opportunity was given.
  7. That the applicant knows about the change of his cadre and nothing has been given to the applicant in black & white.
  8. That the applicant aggrieved from the said order filed this application under 12(2) CPC on the following grounds inter-alia.

**GROUND:**

- A. That the applicant was performed his duty to the best of his abilities and there is no complaint against him.
  - B. That the applicant has not been treated in accordance with law.
  - C. That the impugned order is illegal, lawful and against natural justice.
  - D. That there is a maxim Audi alteram partem (No one should be condemned unheard).
  - E. That no opportunity has been provided has been provided in the said appeal.
  - F. That the appellant is badly affected from the impugned order dated 01-09-2015.
  - G. That the Respondents not properly assisted the Hon,ble Tribunal at the time of passing the impugned order/judgment.
- tested  
lu

It is therefore humbly prayed that on acceptance of this Application the Hon,ble tribunal may set-aside order dated 01-09-2015 and arrayed appellant in the main appeal No.1053/2013 as Respondent and then the Hon,ble Tribunal may decide the appeal according to law on the subject.

Applicant

Through

Rahman

Rahmanullah

Shehryar Afridi

Muhammad Arif

Asim Khan

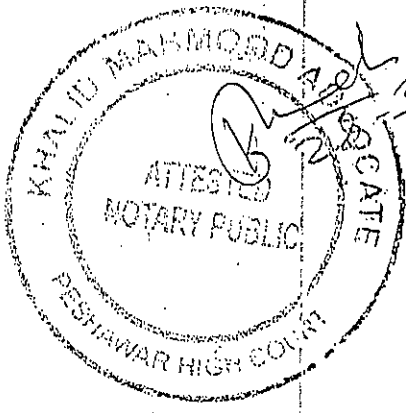
*[Handwritten signature]*

Advocates

**AFFIDAVIT**

AS per instruction of my client, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

Certified true copy  
Services International, Peshawar



ADVOCATE

*[Handwritten signature]*

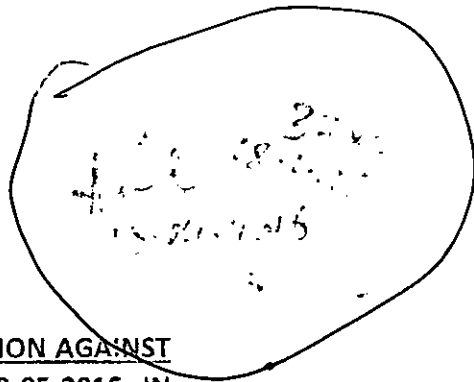
Date of Preparation: 11-04-2016  
Number of Pages: 8  
Complied: 1200  
Up to: *[Signature]*  
Till: *[Signature]*  
Name: *[Signature]*  
Date: 18-04-2016  
State of Peshawar: 18-04-2016  
Attested *[Signature]*

*[Handwritten signature]*

Amnea E (19)

To

The Secretary C&W,  
Khyber Pakhtunkhwa, Peshawar.



Subject:

DEPARTMENTAL APPEAL/REPRESENTATION AGAINST  
THE VIDE ORDER NO. 456/5-E DATED 20-05-2015, IN  
WHICH THE APPELLANT CADRE WAS  
CHANGE/READJUSTED FROM NAIB QASID TO ROAD  
COOLY.

Respectfully Sheweth:

1. That the appellant applied for employment exchange Mardan vide registration number dated 11/12/2015 occupation code number 9-99-90, on the basis of said registration the appellant was appointed as Naib Qasid by Sub-Engineer, through selection committee meeting held on 8-1-2011.
2. That the appellant service book was prepared and was directed to perform his duty as Naib Qasid in the office of Sub-Divisional Officer C&W, Sub-Division No.III Swabi.
3. That the appellant was performed his duty to the best of his abilities and was as punctual in there is no such complaint against him.
4. That in the meanwhile one Uzair Ullah filed in appeal before the KPK Service Tribunal Peshawar regarding adjustment against the post of Naib Qasid.
5. That the said uzair Ullah adjusted to the post of Naib Qasid and the appellant was shifted to the post of Road Cooly by the Department.
6. That the appellant now about the change of cadre on 30-6-2015 and nothing was given to the appellant in black & white.
7. That the appellant filed 12(2) application against the order dated 01-09-2015 passed by Hon,ble Service Tribunal in which the applicant was directed to adopt the proper procedure hence the instant departmental appeal inter alia on the following grounds.(Copy of order dated 11-04-2016)

REASONS:

Attested

That the impugned order is illegal/invalid against natural justice

- 1. That there is a maxim **Audi alteram partem** (No one should be condemned unheard).
- 2. That in the case of appellant **no opportunity** has been provided.
- 3. That the appellant **was appointed** as Naib Qasid in the channel.
- 4. That valuable right of the **appellant** is involved.



It is therefore most **humbly** prayed that on acceptance of departmental appeal/**presentation** your worthy office may kindly set aside the **ORDER NO. 456/5-E DATED 20-05-2015** and re-adjust the appellant as Naib Qasid for **the sake** of justice.

-011 311

Javed Khan  
S/O Sher Afza  
0300-308178

جواد خان

Attested  
lll

 ایڈووکیٹ/دستخط بار کونسل ابار ایسوسی ایشن خیبر پختونخواہ رابطہ نمبر:	 60029 پشاور بار ایسوسی ایشن، خیبر پختونخواہ
---	--

بعدالت جناب: سر دس ٹریبونل خیبر پختونخواہ

منجانب: <i>Appellat</i>  جماعت اسلامی تنظیم کورنگ و گلستان	دعویٰ: <i>کوری - 1-2-16</i> علت نمبر: <i>790/2016</i> مورخہ: جرم: تھانہ:
--	--

**باعت تحریر آنکہ**

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ خان  
 اک مقام لیسٹ اور ایڈووکیٹ *محمد عارف خان* کو وکیل مقرر  
 کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو  
 راضی نامہ کرنے و تقریر حالت و فیصلہ برحمت دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق  
 زریں مدد خطا کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری کی طرفہ یا اپیل کی برآمدگی اور منسوخی، نیز  
 دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی  
 کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہو گا اور صاحب  
 مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا ساتھ میں داخلہ منظور و قبول ہوگا دوران مقدمہ  
 میں جو خرچہ ہر جہانہ التوائے مقدمہ کے سبب سے ہوگا وہ وکیل موصوف وصول کرنے کا مختار ہوگا کوئی تاریخ پیشی مقام  
 دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ مندر ہے۔

المرقوم: \_\_\_\_\_  
 الع بد \_\_\_\_\_ واہ شد \_\_\_\_\_ الع بد

مقام لیسٹ اور \_\_\_\_\_ کے لئے منظور ہے۔

نوٹ: اس وکالت نامہ کو وکیل کا قابل قبول ہوگی

*M. Asif*

*Handwritten signature and scribbles*

*Handwritten notes on the right margin*

VAKALATNAMA

IN THE COURT OF KPK Service Tribunal Peshawar

OF 2016

Javed Khan

(APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

VERSUS

Govt. of KPK

(RESPONDENT)  
(DEFENDANT)

I/We Uzair Ullah (Private Respondent No. 5)

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** 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. 25 / 10 / 2016

Uzair  
CLIENT

Accepted  
ACCEPTED

NOOR MOHAMMAD KHATTAK  
(ADVOCATE)

OFFICE:

Room No.1, Upper Floor,  
Islamia Club Building, Khyber Bazar,  
Peshawar City.

Phone: 091-2211391

Mobile No.0345-9383141

Court Case

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

**SERVICE APPEAL NO. 790/2016**

Mr. Javed Khan  
S/O Sher Afzal

Versus

Govt. of Khyber Pakhtunkhwa  
C&W Deptment Peshawar

INDEX

S#	Description of documents	Annex	Page No.
1.	Comments to service appeal	-	1-3
2.	Shifting orders in resepect of Anwarullah Cooly to the post of Naib Qasid dated 20/5/2015	I	4
3.	Service Tribunal Orders dated 13/03/215	II	5
4.	Service Tribunal Orders dated 01/09/2015	III	6
5.	Memo No.SOE/C&WD/4-8/2015 dated 30/05/2016 (rejecting appeal of the appellatnt)	IV	7

Executive Engineer  
C&W Division Swabi

Original  
For Court

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**

**PESHAWAR**

Service appeal No. 790/2016.

Mr. Javeed Khan s/o Sher Afzal

R/O Nawab Panda Maneeri P. O Swabi District Swabi.

**Appellant**

**Vs**

1. Govt of Khyber Pakhtunkhwa through Secretary C&W Department Peshawar.
2. Chief Engineer C&W Department Peshawar.
3. Superintending Engineer, C&W Circle, Mardan.
4. Executive Engineer, C&W Division Swabi
5. Mr. Uzairullah Road Cooli (BPS-01) o/o the Executive Engineer C&W Division Swabi.

**Respondents**

**Comments of Replying Respondents**

**RESPECTFULLY SHEWETH!**

**PRELIMINARY OBJECTION**

1. The appellant has got no cause of action.
2. The appeal is badly time barred.
3. The appellant has concealed the material facts and the instant appeal being devoid of merit is liable to rejection in limine.
4. The appellant has no locus standi to prefer the instant appeal.
5. The appellant has impleaded irrelevant person at No. 5, Mr. Uzairullah which is incorrect as per official orders No. 455/5-E dated 20-05-2015  
(Annex-I).

**FACTS**

1. Pertains to record.
2. Pertains to record.
3. Same as replied above.
4. Correct as per Para-4 of the instant appeal.
5. Infact Mr. Anwarullah filed his Service Appeal No. 1072/2013 before the Tribunal. In compliance to orders dated 13-03-2015 of the Tribunal, the department implemented court orders and Mr. Anwarullah (not



2

(Uzairullah) was adjusted on his original cadre post i.e Naib Qasid, vide order dated 20-05-2015 (Annexed-I) and the appellant (Mr. Javed Khan) who was later-on appointee as Naib Qasid was shifted to the post of Cooli. Annexure-B, filed at page-13 with the instant appeal is ample proof. (Court Orders dated 13-03-2015 read with orders dated 01-09-2015 (Annexed-II/III)).

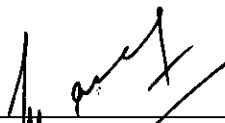
6. Incorrect, the appellant later, had moved his application No. 50/2016 before this Tribunal to set-aside the orders dated 01-09-2015 passed by the Tribunal & arrayed him to make him party, which was dismissed in limine by this honourable court vide orders dated 11-04-2016. (Already Annexed-D at Page-18 with the instant appeal). Thereafter appellant submitted his departmental appeal before the Appellate Authority (Secretary C&W Department Peshawar directly) without affixing any date on appeal (As Annexed-E at page-19-20 with the instant appeal). The competent Authority (Secretary C&W Department Peshawar) rejected his appeal vide his Memo No. SOE/C&WD/4-8/2015 dated 30-05-2016 (Annexed-IV). It is incorrect that the orders of his shifting to "Cooly" post are not in his knowledge & not given in black & white.
7. Mis-conceiving, appellants Application No. 50/2016 filed in the Tribunal was dismissed in limine and his departmental Appeal preferred at later stage had also been rejected as described in the foregoing paras.
8. Totally baseless, the response of the department on this account, was addressed by name to the appellant, which's copy is Annexed at IV.
9. The replying respondents therefore pray that the instant Appeal is not maintainable on the following replying grounds:

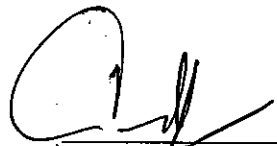
**Grounds:**

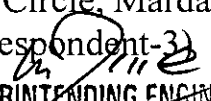
- A. Incorrect order is issued in accordance with the laws/rules & natural Justice in this case.
- B. Incorrect as stated in the foregoing paras.
- C. Correct, but an illegality/irregularity committed by the former sitting authorities cannot be given the shelter under the garb of Article-25 of the Constitution of Pakistan. The former incumbent Mr. Anwarulla, who was initially appointed as Naib Qasid and later shifted to Cooly post by any means should have to be brought to the original cadre post of Naib Qasid. This very aspect has been kept in notice, at the time of decision by this honorable Tribunal as described in the preceding Paras.

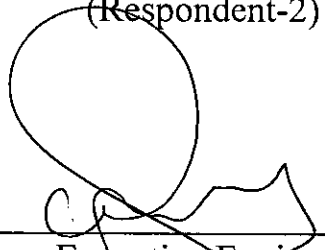
- D. Incorrect, after going through all the canon and measure, his Departmental Appeal was rejected so full attention was paid in his case.
- E. It is not matter that appellants appointment as Naib Qasid in first instance was ordered by the then sitting authorities, without going to see that any other person still appears on roll to be regularized first as per the terms & condition of Offer of Appointment of ones.
- F. Not based on facts.

In the wake of above submission, it is humbly prayed that the instant appeal is mis-conceived, not reached to merit, hence liable to rejection at all.

  
 \_\_\_\_\_  
 Secretary  
 C&W Department Peshawar  
 (Respondent-1)

  
 \_\_\_\_\_  
 CHIEF ENGINEER (NORTH)  
 Communication & Works Department  
 C&W Department Peshawar  
 (Respondent-2)

\_\_\_\_\_  
 Superintending Engineer,  
 C&W Circle, Mardan  
 (Respondent-3)  
  
 SUPERINTENDING ENGINEER  
 C&W CIRCLE MARDAN

  
 \_\_\_\_\_  
 Executive Engineer  
 C&W Division Swabi  
 (Respondent-4)  
 Executive Engineer  
 C/W Division Swabi

Annex

OFFICE OF THE  
EXECUTIVE ENGINEER  
C&W DIVISION SWABI  
NO: 455 /5-E

DATED 20 /5/2015

OFFICE ORDER

In light of Service Tribunal decisions/orders dated 13-03-2015 and approval by the Secretary to Govt; of Khyber Pakhtunkhwa C&W Department vide letter No:SO(E)/C&WD/4-8/2014, dated 12/05/2015, Mr. Anwar Ullah Cooly is hereby re-designated/adjusted as Naib Qasid on his original Post, whereas Mr. Javed Khan Naib Qasid is shifted/adjusted to the post of Cooly with immediate effect.

EXECUTIVE ENGINEER  
C&W DIVISION SWABI

Copy to the:-

1. Chairman Service Tribunal Govt: of Khyber Pakhtunkhwa Peshawar with reference to his order dated 13/03/2015 vide (appeal No:1072/2013) please.
2. Chief Engineer (North) C&W Deptt: Khyber Pakhtunkhwa Peshawar for information please.
3. Superintending Engineer C&W Circle Mardan for information please.
4. SO(E) C&W Deptt: vide his No:SO(E) C&WD/4-8/ 2014, dated 12-05-2015 please.
5. District Accounts Officer Swabi for information please.

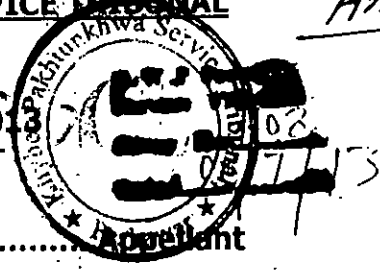
EXECUTIVE ENGINEER  
C&W DIVISION SWABI

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR**

*Annex-II*

APPEAL NO

*1072 / 2013*



Mr. Anwar Ullah, Road Cooli (BPS-1),  
Executive Engineer Building Division Swabi.....Appellant

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Secretary (C&W) Department, Khyber Pakhtunkhwa Peshawar.
- 2- The Chief Engineer (C&W) Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Superintending Engineer (C&W) Circle Mardan.
- 4- The Executive Engineer Buildings Division Swabi.

.....Respondents

**APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 FOR ADJUSTMENT OF APPELLANT ON HIS ORIGINAL POST OF NAIB QASID (BPS-4) FROM THE POST OF ROAD COOLI (BPS-1) AND AGAINST THE ORDER DATED 10.6.2013 WHEREBY THE DEPARTMENTAL APPEAL OF APPELLANT HAS BEEN REJECTED ON NO GOOD GROUNDS**

**PRAYER:**

That on acceptance of this appeal the impugned order dated 10.6.2013 may very kindly be set aside and the respondents may be directed to adjust the appellant on his original post of Naib Qasid (BPS-4). Any other remedy which this august Tribunal deems fit that may also be awarded in favour of the appellant.

13.03.2015

Appellant in person and Mr. *Imran* ~~Muhammed~~ Hussain, XEN (respondent No. 4) alongwith Addl: A.G for respondents present. Learned Addl: A.G and respondent No. 4 informed the Court that the appellant is going to be adjusted against the post of Naib Qasid on which he was initially appointed and to be shifted from the post of Cooly to Naib Qasid. Directed to shift the said Naib Qasid, appointed later on, to the post of Cooly and adjust the appellant against the post of Naib Qasid and submit compliance report on 22.5.2015 before S.B.

Certified to be true copy

*Imran*  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

*sd/p*  
*Chairman*

Annex-III

6



01.09.2015

Counsel for the appellant and Mr. Kabirullah Khan Khattak, Assistant A.G for respondents present, informed the Tribunal that the order of this Tribunal has been implemented. The appeal is, therefore, disposed of accordingly. File be consigned to the record.

*Sd/-*  
Chairman

ANNOUNCED  
01.09.2015

**Certified to be true copy**

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Presentation: 14-9-2015  
 Number of Vols: 200  
 Copying Fee: 6-00  
 Stamp: 2-00  
 Total: 8-00  
 Date of Completion of Copy: 14-9-2015  
 Date of Delivery of Copy: 14-9-2015

Annex-IV



GOVT OF KHYBER PAKHTUNKHWA  
COMMUNICATION & WORKS DEPARTMENT

No. No.SOE/C&WD/4-8/2015  
Dated Peshawar, the May 30, 2016


TO

Mr. Javed Khan  
S/O Sher Afzal Khan  
C&W Division Swabi

Subject: **APPEAL FOR JUSTICE**

I am directed to refer to your appeal dated 16.05.2016, which was examined and submitted to the Competent Authority (Secretary C&W). The Competent Authority has rejected your appeal.

2. You are hereby informed accordingly.

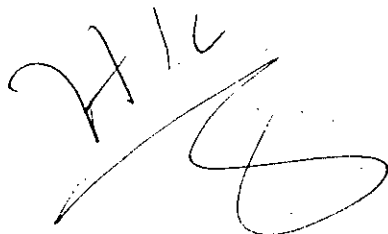
  
(USMAN JAN)  
SECTION OFFICER (Estb)

Endst even No. & date

Copy forwarded to the:

1. Chief Engineer (North) C&W Peshawar
2. Superintending Engineer C&W Circle Mardan
3. Executive Engineer C&W Division Swabi
4. PS to Secretary C&W Department, Peshawar

  
SECTION OFFICER (Estb)



Certificate

I have received Rs. 1000/- as  
cost from respondent No. 5 namely  
Mr. Uzair ullah.

Rehman  
Rehman Ullah  
Advocate, Pesh:

Masjid  
23.01.17.

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

**REPLY IN APPEAL NO.790/2016**

**Javed Ullah**

**VS**

**C&W Department**

**REPLY ON BEHALF OF PRIVATE RESPONDENT NO.5**  
**(Mr. UZAIR ULLAH)**

**Preliminary Objections:**

1. That the appellant has got no cause of action to file the above mentioned appeal.
2. That the appellant has got no locus standi to file the above mentioned appeal.
3. That the above mentioned appeal is bad for mis-joinder and non joinder of necessary parties.
4. That the appellant has not come to this Honorable Tribunal with clean hands.
5. That the appeal of the appellant is barred by time.
6. That appellant has concealed material facts from this august Tribunal.
7. That the appeal of the appellant is not maintainable in its present form.

**R/SHEWETH:**

**ON FACTS:**

1. Incorrect and misconceived hence denied.
2. Incorrect and misconceived hence denied.
3. Incorrect and misconceived hence denied.
4. Incorrect and misconceived. That private Respondent No.5 was initially appointed as Naib Qasid in the respondent Department in the year 1993 on the proper recommendation of Departmental selection committee. That during service the private respondent was adjusted against the wrong post of Road Cooli, wherein the private respondent No.5 knocked the door of this august Tribunal in service appeal No.1053.2013. That this august Tribunal while



order/judgment dated 13.3.2015 directed the respondent Department to adjust the private respondent No.5 on his original post of Naib Qasid and in response the respondent Department implemented the said judgment by adjusted the private respondent No.5 against his original post of Naib Qasid. Copies of the relevant record are attached as Annexure ..... **R.**

5. Incorrect and misconceived. That private respondent No.5 has not been adjusted against the post already held by appellant, rather the private respondent No.5 has been adjusted against the vacant post of Naib Qasid.
6. Incorrect and misconceived hence denied.
7. Para-4 of the appeal is correct, as respondent no. 5 have filed appeal for adjustment against his original post of Naib Qasid in his parent department i.e. C&W which was accepted and the 12(2) application of the present appellant was dismissed by this august Tribunal being not maintainable.
8. Incorrect and misconceived hence denied.
9. No comments.

**ON GROUNDS:**

- A- Incorrect, the impugned order is legal, Lawful and is issued in public interest.
- B- Incorrect, the appellant is always treated in accordance with Law & Rules on the subject matter.
- C- Incorrect, the appellant was not left condemned unheard.
- D- Incorrect and misconceived hence need no comments.
- E- Incorrect and misconceived hence denied.
- F- Incorrect and misconceived.

It is therefore, most humbly prayed that on acceptance of the instant reply the appeal of the appellant may kindly dismissed with cost.

Dated: 23-02-2017

**RESPONDENT NO. 5**

**Uzair Ullah**

**THROUGH:**

**NOOR MOHAMMAD KHATTAK**

**MUHAMMAD MAAZ MADNI**

**&**

**SYED IMDAD HUSSAIN SHAH,  
ADVOCATES**

OFFICE OF THE  
EXECUTIVE ENGINEER HIGHWAY DIVISION  
MARDAN

R-4

NO 2734 17-E(R)

DATED MARDAN THE 14/10/1993

OFFICE ORDER

As approved by the Departmental Appointment/Promotion/Selection Committee, Mr. Uzairullah s/o Mr. Dilawar Khan, Village and P.O. Panjpir, Tehsil and Distt. Swabi, is hereby appointed as Naib Qasid at Rs. 920/- per month in the Rev. BPS 1 (920-26-1310) plus usual allowances as admissible under the Rules against existing vacancy.

His services are purely temporary and can be terminated any time without assigning any reason or notice. He will work on probationary period of six months and if his work found un-satisfactory his services will be terminated.

In case he wishes to resign from service, 14 days notice shall be necessary or 14 days pay in lieu of notice period shall be deposited.

He will have to produce Health and Age Certificate from authorized Medical Officer.

EXECUTIVE ENGINEER  
HIGHWAY DIVISION MARDAN

cc

1. The Distt Accounts Officer MARDAN.
2. The Sub Divisional Officer Highway Maint Sub Division Swabi - with ref to his No: 184/3-E dated 3-10-1993.
3. D.A.
4. Mr. Uzairullah s/o Mr. Dilawar Khan Village and PO Panjpir, Teh/Distt Swabi.

EXECUTIVE ENGINEER  
HIGHWAY DIVISION MARDAN

ATTESTED

*[Signature]*

# SERVICE BOOK

3

OF

Mr. Uzairullah  
Naib Qasid S/o

Oilawan. Khan

00232337

عزیز اللہ

عزیز اللہ، نايب قاسم

آف صوابی

30-91-538250

باب ۱۰

ATTESTED

Handwritten signature

Uzairullah Naib Qasid.

Price : Rs. 10.00

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 *Mr. UZAIR ULLAH* (6)

2. Race *AFGHAN (Muslim)*

3. Residence *Village & P/o Panj-Pir  
Tehsil & Distt: Swabi*

4. Father's name and residence *MR. DILAWAR KHAN*

5. Date of birth by Christian era as nearly as can be ascertained *14-11-1973*

6. Exact height by measurement *5'3"*


Date

7. Personal marks for identification *A Black mole on  
L.T. FACE.*

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 *Uzair Ullah*

10. Signature and designation of the Head of the Office, or other Attesting Officer.

*[Signature]*  
**Executive Engineer**  
**Highway Division**  
**Mardan.**

**ATTESTED**

*[Signature]*

1 Name of post	2 Whether substantive or officiating and whether permanent or temporary	3 If officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C. S. R.	4 Pay in substantive post	5 Additional pay for officiating	6 Other emolument falling under the term 'Pay'	7 Date of appointment	8 Signature of Government servant	9 Name and rank of the head of office or other officer in charge of the office	10 Date of termination of appointment
920-26-1312 BPS-D		Mr. U. B. G. officialy	920/-			16/10/93		R. on	
RAPS-1 1245-35-1770			1245/2			16/99		Raj	
-/-			1280/2			12/15/99 (G.O.)		35/11	
-/-			1315/2			12/15/99 (G.O.)		35/11	

RECEIVED

Office of The Accountant General  
 N.W.F.P. Peshawar  
 Pay fixed in the revised basic pay scale  
 of Rs 245-35-1770... (B-1)  
 @ Rs 245/- P.M.W.E.F 1-1-1999  
 with next increment on 1-12-1999  
 Accounts Office, Peshawar

7

9 Signature and position of the head of office or other attesting officer in columns 1 to 8	10 Date of termination of appointment	11 Reason of termination (such as promotion, transfer, dismissal, etc.)	12 Signature of the head of the office or other attesting Officer	13 Leave		14 Signature of the head of the office or other attesting officer	15 Reference to any recorded punishment or censure, or reward or praise of the Government Servant
				Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government		
					Period		

Reinstated Arrival  
on 16.10.93 F.No. 10

*[Signature]*  
Executive Engineer  
Highway Division  
Mardan.

Appointed as a  
naib Qaid vide  
GEN Highway Dwn  
Mardan office order  
no. 2734/7-E (R)  
Dated 14-10-1993

*[Signature]*  
Executive Engineer  
Highway Division  
Mardan.

Pay fixed in RPS-1 of 1994 rules.

*[Signature]*  
Executive Engineer  
Highway Division  
Mardan.

30/11/94 (ANI) Annual increment

*[Signature]*  
Executive Engineer  
Highway Division  
Mardan.

Service Verified for the Period  
From 16/10/93 to 30/11/95  
From  
The office Copy of Pay Bill

30/11/95 (ANI) Annual increment

**ATTESTED**

*[Signature]*

*[Signature]*  
Executive Engineer  
Highway Division  
Mardan.

*[Signature]*  
Executive Engineer  
Highway Division  
Mardan.

1 Name of Post	2 Whether substantive or officiating and whether permanent or temporary	3 If Officiating, state (i) Substantive appointment, or (ii) whether service counts for pension under Art. 371 C.S.R.	4 Pay in substantive Post	5 Additional Pay for officiating	6 Other emolument falling under the term "Pay"	7 Date of Appointment	8 Signature of Government	9 Signature and position of the officiating officer or restoration of columns 1 to 8
<u>RBPS-1</u> <u>1245-35-1770</u>			1350/2			11/12/98 (AN)		

RBPS-1  
1245-35-1770

1350/2

11/12/98 (AN)

*u -*

1385/2

11/12/97 (AN)

*u -*

1428/2

11/2-98 (AN)

*u -*

*u -*

**ATTESTED**



8

8	9	10	11	12	13		14	15
Signature and Date of appointment of the head of the office or other attesting officer in columns 1 to 8	Date of termination of appoint- ment	Reason of termination (such as promotion, transfer, dismissal, etc.)	Signature of the head of the office or other attesting Officer	Nature and duration of leave taken	Leave		Signature of the head of the office or other attesting officer	Reference to an recorded punishm or censure, or re or praise of the Government Ser
					Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government	Government to which debitale		

4N)

30/11/96 (AN) Annual increment

Service Verified for the Period  
From 1/12/95 To 30/11/96  
From  
The office Copy of Pay Bill

*M. Kumari*  
Executive Engineer  
Highway Division Mardan.

*M. Kumari*  
Executive Engineer  
Highway Division Mardan.

4N)

30/11/97 (AN) Annual increment

Service Verified for the Period  
From 1/12/96 To 30/11/97  
From  
The office Copy of Pay Bill

*Ullah*  
Executive Engineer  
Highway Division Mardan.

*Ullah*  
Executive Engineer  
Highway Division Mardan.

4N)

30.11.98 (AN) Annual increment

Service Verified for the Period  
From 1/12/97 To 30/11/98  
From  
The office Copy of Pay Bill

*Ullah*  
Executive Engineer  
Highway Division Mardan.

*Ullah*  
Executive Engineer  
Highway Division Mardan.

On restructuring of C/W Dept  
with the sub divisions of SWL  
have been attached to C/W  
division SWL vide Secy  
C/W to SWL) C/W 113-3/98 dt  
11.10.98.

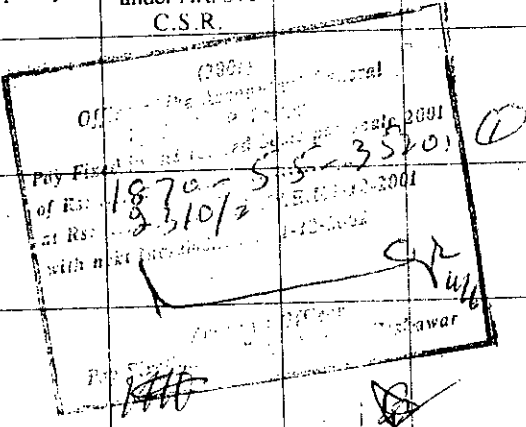
Service Verified for the Period  
From 1/12/98 To 31.12.98  
From  
The office Copy of Pay Bill

**ATTESTED**

*[Signature]*

*A. Yousaf*  
Executive Engineer,  
S & W Division Mardan.

*A. Yousaf*  
Executive Engineer,  
S & W Division Mardan.

1 Name of Post	2 Whether substantive or officiating and whether permanent or temporary	3 If Officiating, state (i) Substantive appointment, or (ii) whether service counts for pension under Art. 371 C.S.R.	4 Pay in substantive Post	5 Additional Pay for officiating	6 Other emolument falling under the term "Pay"	7 Date of Appointment	8 Signature of Government	9 Signature and designation of the officer of the office other attesting officer in attestation column 1 to	
									
						RBPS No: I 1245-35-1770			
							1455/-	1/12/98 (FN)	
						<del>do</del>	1490/-	1/12/2007 (FN)	
						<del>do</del>	1525/-	1/12/2007 (FN)	
		Revised scale on 1-12-2007							
						RPS-I 1870-55-3520	2310/-	1-12-2007	

No. 2  
 DEPT  
 P  
 B  
 C  
 T  
 A

9

8 Signature of Government Servant	9 Signature and designation of the head of the office or other attesting officer in attestation of columns 1 to 8	10 Date of termination of appointment	11 Reason of termination (such as promotion, transfer, dismissal, etc).	12 Signature of the head of the office or other attesting officer	13 Leave Allocation of period of leave on average pay upto four months for which leave salary is debit.ble to another Government Nature and duration of leave taken Period Government to which debit.ble	14 Signature of the head of the office or other attesting officer	15 Reference to any recorded punishment or censure, or reward or praise of the Government Servant.
--------------------------------------	--	--	--	--	--	--	---

Attached to this Division W.C.F.  
1/11/99

EXECUTIVE ENGINEER  
C&W DIVISION SWABI

30/11/99 (AN) Granted Annual Increment

Service verified for the period from 1/11/99 To 30/11/99 from the office copies of pay bills. Acquittance roll.

EXECUTIVE ENGINEER  
C&W DIVISION SWABI

EXECUTIVE ENGINEER  
C&W DIVISION SWABI

30/11/2000 (AN) Granted Annual Increment

Service verified for the period from 1/12/99 To 30/11/2000 from the office copies of pay bills. Acquittance roll.

EXECUTIVE ENGINEER  
C&W DIVISION SWABI

EXECUTIVE ENGINEER  
C&W DIVISION SWABI

30/11/2001 (AN) Granted Annual Increment

Service verified for the period from 1/12/2000 To 30/11/2001 from the office copies of pay bills. Acquittance roll.

Re-designated as per...  
No. 570/15-B  
Dt. 27-6-2001

DEPUTY DIRECTOR  
PUBLIC WORKS  
SWABI

DEPUTY DIRECTOR  
PUBLIC WORKS  
SWABI

DEPUTY DIRECTOR  
PUBLIC WORKS  
SWABI

ATTESTED

Handwritten signature

1 Name of post	2 Whether substan- tive or officiating and whether permanent or temporary	3 If officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C. S. R.	4 Pay in substantive post	5 Additional pay for officiating	6 Other employment falling under the term "Pay"	7 Date of appointment	8 Signature Government servant	9 Signature designa- head of other officer of colu
<u>B.P.S - I</u> <u>1870-55-3520</u>			Rs. 2365/-			1/12/2002 (FN)		
<u>B.P.S - I</u> <u>1870-55-3520</u>			Rs. 2420/- P.M			1/12/2003 (FN)		30/20
<u>do</u>			Rs. 2475/- P.M			1/12/04 (F.N)		30-11

ATTACHED

10

9	10	11	12	13		14	15
				Leave			
				Per-iod	Government to which debtable		
Signature and designation of the head of the office or other attesting officer in attestation of columns 1 to 8	Date of termination of appointment	Reason of termination (such as promotion, transfer, dismissal, etc).	Signature of the head of the office or other attesting officer	Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debtable to another Government	Signature of the head of the office or other attesting officer	Reference to any recorded punishment or censure, or reward or praise of the Government Servant.
<p>Granted Annual Increment</p> <p><i>(Signature)</i> DEPUTY DIRECTOR Works &amp; Services Department SWABI</p>				<p>Service verified for the period from 1/12/2001 To 30/11/2002 from the office copies of pay bills Acquittance roll.</p> <p><i>(Signature)</i> DEPUTY DIRECTOR Works &amp; Services Department SWABI</p>			
<p>30-11-2003 (AN) Granted Annual Increment</p> <p><i>(Signature)</i> DEPUTY DIRECTOR PUBLIC WORKS SWABI</p>				<p>Service verified for the period from 1-12-2002 To 30-11-2003 from the office copies of pay bills Acquittance roll.</p> <p><i>(Signature)</i> DEPUTY DIRECTOR PUBLIC WORKS SWABI</p>			
<p>30-11-04 (AN) Granted Annual Increment</p> <p><i>(Signature)</i> DEPUTY DIRECTOR PUBLIC WORKS SWABI</p> <p><b>ATTESTED</b></p> <p><i>(Signature)</i></p>				<p>CC 28 for 3/2004</p> <p>Drawn Rs. 375/0000-7</p> <p>UAA nos 1<sup>10</sup>/<sub>03</sub> to 29<sup>2</sup>/<sub>2004</sub></p> <p>Rs. 75/PM.</p> <p><i>(Signature)</i></p> <p>Service verified for the period from 1/12/03 To 30/11/04 from the office copies of pay bills/Acquittance roll.</p> <p><i>(Signature)</i> DEPUTY DIRECTOR PUBLIC WORKS SWABI</p>			

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR**

APPEAL NO 1053 /2013



11

Mr. Uzairullah, Road Cooli (BPS-1);  
Executive Engineer Building Division Swabi.....Appellant

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Secretary (C&W) Department, Khyber Pakhtunkhwa Peshawar.
  - 2- The Chief Engineer (C&W) Department, Khyber Pakhtunkhwa, Peshawar.
  - 3- The Superintending Engineer (C&W) Circle Mardan.
  - 4- The Executive Engineer Buildings Division Swabi.
- .....Respondents

**APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 FOR ADJUSTMENT OF APPELLANT ON HIS ORIGINAL POST OF NAIB QASID (BPS-4) FROM THE POST OF ROAD COOLI (BPS-1) AND AGAINST THE ORDER DATED 10.6.2013 WHEREBY THE DEPARTMENTAL APPEAL OF APPELLANT HAS BEEN REJECTED ON NO GOOD GROUNDS**

**PRAYER:**

That on acceptance of this appeal the impugned order dated 10.6.2013 may very kindly be set aside and the respondents may be directed to adjust the appellant on his original post of Naib Qasid (BPS-4). Any other remedy which this august Tribunal deems fit that may also be awarded in favour of the appellant.

*[Handwritten signature]*  
8/7/13

13.03.2015

*Imran*  
Counsel for the appellant and Mr. ~~Muhammad~~ Hussain, XEN (respondent No. 4) alongwith Addl: A.G for respondents present. Learned Addl: A.G and respondent No. 4 informed the Court that the appellant is going to be adjusted against the post of Naib Qasid on which he was initially appointed and to be shifted from the post of Cooly to Naib Qasid. Directed to shift the said Naib Qasid, appointed later on, to the post of Cooly and adjust the appellant against the post of Naib Qasid and submit compliance report on 22.5.2015 before S.B. *///*

*Certified to be true copy*  
*[Circular stamp of the Khyber Pakhtunkhwa Service Tribunal, Peshawar]*


**ATTESTED**

*[Handwritten signature]*  
*Chairman*

Before the Service Tribunal KP Peshawar

Appeal No 790/2016

Javed Khan

  
2-2-2018

VS

Govt of KPK & others

Subject:- Address of the impleaded respondent  
No 6<sup>th</sup> ANWARULLAH, Road Cooli Executive  
Engineers Building Swabi Division

Respectfully Sheweth

- 1- That the above mention appeal is filed today before this Hon'ble Tribunal.
- 2- That the impleaded respondent No.6 has added /impleaded as a respondent No 6 in the above title appeal and notice has also issue to the said respondent

It is therefore requested, the notice may kindly be issued to the respondent No.6 on the address "Road Cooli Executive Engineers Building Division Swabi".

Applicant  
Through Council  
Rabia Gul Advocate

Handwritten text at the top of the page, possibly a header or title, including the number '14'.

A single handwritten character or symbol, possibly 'v'.

A block of handwritten text in the middle section of the page.

A line of handwritten text, possibly a signature or a specific note.

A large, dense block of handwritten text, likely the main body of a letter or document.

A block of handwritten text at the bottom of the page, possibly a closing or a separate note.



# SERVICE BOOK

OF

Mr. JAVID KHAN  
210 SHER AFZAL

NAIB QASID

MANARI PAVAN

Price Rs. 29.00

OFFICE OF THE  
SUPERINTENDING ENGINEER  
C&W CIRCLE MARDAN

No. 623 /11-E

Dated Mardan the 10/01/2011

OFFICE ORDER.

In light of the approval of District Selection / Promotion Committee Mardan made in its meeting held on 08/01/2011. Mr. Javed Khan S/O Sher Afzal Village & PO Manari Payan District Swabi is hereby appointed as Naib Qasid in BPS-01 (2970-90-5670) with usual allowances as admissible under the prevailing Rules against the vacant post of Naib Qasid in C&W Division Swabi with effect from the date he report for duty subject to the following terms and conditions:-

1. His appointment shall be purely on the temporary basis under CP Fund scheme and can be terminated any time on 14-days notice or payment of 14-days pay in lieu of notice period from Department.
2. In case he leaves / Resigns service, he shall have to give 14-days notice to Department in advance, otherwise 14-days pay shall be deducted from his salary / emoluments in lieu thereof.
3. He shall have to obey all orders as and when issued to him.
4. He shall remain on probation for a period of one year.
5. He shall have to produce health & age / fitness certificate from the Medical Superintendent DHQ, Hospital Swabi, before joining his duty.
6. He should report for duty within 14-days failing which the order shall stand cancelled.

SUPERINTENDING ENGINEER

Copy to:-

1. The District Coordination Officer Swabi.
2. The District Comptroller of Accounts Swabi.
- ✓ 3. The Executive Engineer C&W Division Swabi.
4. Mr. Javed Khan S/O Sher Afzal Village & PO Manari Payan Tehsil & District Swabi.

*Verified*  
*As Javed Khan*  
**Executive Engineer**  
C & W Division, Swabi

SUPERINTENDING ENGINEER

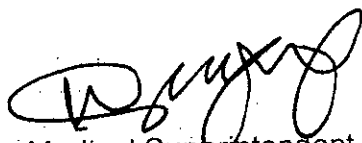
**Medical Certificate**

Name of official..... MR. Javeed IChin.  
 Caste or race..... Mullim.  
 Father name..... Sher A Abjal  
 Residence..... vill & Po Manesi Payan Swabi.  
 Date of birth..... 1-4-1975  
 Exact height by measurement..... 5.7  
 Personal mark of identifications..... Scar Lt Hand  
 Signature of the official..... Javeed IChin  
 Signature of head of office.....

Seal of office..... **Executive Engineer**  
**C&W Division Swabi**

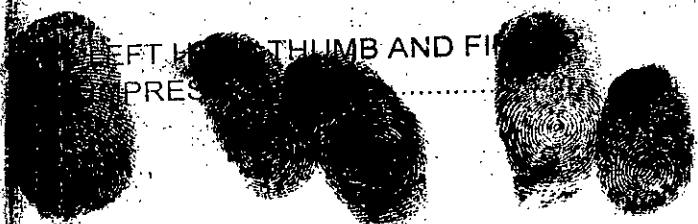
I do hereby certify that I have examined Mr. Javeed IChin a candidate for employment in the office of the C&W ~~Swabi~~ and can not discover that he had any disease communicable or other constitutional affection or bodily infirmity except..... NIL

I do not consider this has as disqualification for employment in the office of the.....  
 His age according to his own statement..... 35 years and by appearance about 35 years.

  
 Medical Superintendent  
 D.H.Q hospital swabi

**Medical Superintendent**  
**D.H.Q. Hospital Swabi**

13  
 10/1/11



(For use in Police Department only).

The e  
shoul

Heirs,

- 1.
- 2.
- 3.

Name:

Race:

Reside

Verification Roll No.                      dated                      received back

Te

Father's

Left Thumb Impression

Date of  
nearly a

Exact h

Qualification

Date

Qualification

Date

English

First Arts

Personal

Pushto

*Pante ✓*

B.L. or B.A.

Left han  
of (Non-C

Urdu

*urdu.*

Pleadership examination

Little Fin

Plan-drawing

Training School Final examination

Middle Fi

Finger Print

Other qualifications

Thumb:

Drill Instructing

Court Duties

Signature

Reserve Duties

Signature  
Head of th  
Officer

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.

Name: Mr, Javed Khan

Race: Muslim

Residence: NAWAB Bunder Mameri Pagan P.O Swabi  
Teh. N. Distt. Swabi.

Father's name and residence: Sher Afzal.

Date of birth by Christian era as nearly as can be ascertained: 1-4-1975

Exact height by measurement: 5-7

Date

Personal marks for identification: SL on left hand.


Left hand thumb and Finger impression of (Non-Gazetted) officer:

Little Finger: 

Ring Finger: 

Middle Finger: 

Fore Finger: 

Thumb: 

Signature of Government Servant: Javed Khan

Signature and designation of the Head of the Office, or other Attesting Officer

[Signature]  
Executive Engineer  
C&W Division Swabi

1	2	3	4	5	6	7	8	9
Name of post	Whether substan- tive 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 "Pay"	Date of Appointment	Signature of Government Servant	Signature and Det head of th her attesting in attestation columns 1 to
Naib Qasid BPS No. I <u>2970-90-5670</u>				Rs. 2970/-		11/01/2011 (FN)		
R.B.P.S. No. I <u>4800-150-9300</u>				Rs. 4800/- PM		1/1/2011		P 1- Fr pe
B.P.S.				Rs. 4950/-		1/12/2011		30-1 2

8	9	10	11	12	13		14	15
					Leave			
Signature of Government Servant	Name and Designation of head of the office or other attesting officer in attestation of columns 1 to 8	Date of termination or appointment	Reason of termination (such as Promotion, transfer, dismissal, etc)	Signature of the head of the office or other attesting officer.	Nature and dura- tion of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government	Signature of the head of the office or other attesting officer	Reference to any recorded punishment or censure, or reward or praise of the Government Servant
						Period Government to which debitale		

Appointed as Naib Qasid in BRS NO.I  
(2970-90-5670) vide superseding Engineer  
C+W circle Mysore No. 623/11-F  
dated 10-01-2011 and reported arrival  
for duty on 11-01-2011 (EN)

21/10/11  
cc of  
H.A. - 2808/11

*[Signature]*  
Executive Engineer  
C & W Division, Swabi

*[Signature]*  
C.A.O. Swabi

APPROVED

Provision of Reg 5.1 of  
1-7-2011 vide Govt. of K.P.R  
Finance Deptt. (Regulation wing)  
Peshawar (P.R.C) dt. 1-1-2011 and 14-7-2011

*[Signature]*  
Executive Engineer  
C & W Division  
Swabi.

30/11/2011

Grated Annual Increment

Notice issued for  
the period from 11-1-2011  
to 30-11-2011 for avl. of  
pay bill acc. regl.

*[Signature]*  
Executive Engineer  
C & W Division, Swabi

*[Signature]*  
Executive Engineer  
C & W Division, Swabi

1	2	3	4	5	6	7	8	9
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 "Pay"	Date of Appointment	Signature of Government Servant	Signature and Designation of Head of the office attesting the attestation in columns 1 to 8
4800-1500-9300				Rs. 5100/- P.M.		1-12-2012		30-12-2012
du				Rs. 5250/- P.M.		1-12-2012		30-12-2012
du				Rs. 5400/- P.M.		1-7-2014		

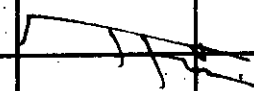
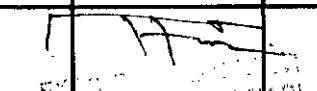


8	9	10	11	12	13		14	15	
				Leave					
Name of Servant	Rank and Designation of head of the office or attesting officer Attestation of columns 1 to 8	Date of termination or appointment	Reason of termination (such as Promotion, transfer, dismissal, etc)	Signature of the head of the office or other attesting officer.	Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government		Signature of the head of the office or other attesting officer	Reference to any recorded punishment or censure, or reward or praise of the Government Servant
						Period	Government to which debitable		
		30 <sup>11</sup> / <sub>2012</sub>	Granted Annual Increment					Service verified for the period from 1-12-2011 To 31-12-12 from the office copies of pay bills Acquittance roll.	
			<i>[Signature]</i> EXECUTIVE ENGINEER C&W DIVISION SWAB				<i>[Signature]</i> EXECUTIVE ENGINEER C&W DIVISION SWAB		
		30 <sup>11</sup> / <sub>2013</sub>	Granted Annual Increment					Service verified for the period from 1-12-2012 To 30-11-2013 from the office copies of pay bills/Acquittance roll.	
			<i>[Signature]</i> EXECUTIVE ENGINEER C&W DIVISION SWAB 92				<i>[Signature]</i> EXECUTIVE ENGINEER C&W DIVISION SWAB 92		
			<i>[Signature]</i> EXECUTIVE ENGINEER C&W DIVISION SWAB				<i>[Signature]</i> EXECUTIVE ENGINEER C&W DIVISION SWAB		
			Allocated Pre-Merit Increment						
			1-7-2014 (vide FO(SO SR-1) 2-123/2013)						
			at 14-7-2014.						
			<i>[Signature]</i> EXECUTIVE ENGINEER C&W DIVISION SWAB				<i>[Signature]</i> T 868 7/17/2014		
			<i>[Signature]</i> C. C. W. due Pre Merit Increment						
							<i>[Signature]</i> 14/7/14		



8

re of Servant

9 Name and Designation of head of the office or other attesting officer in attestation of columns 1 to 8	10 Date of termination or appointment	11 Reason of termination (such as Promotion, transfer, dismissal, etc)	12 Signature of the head of the office or other attesting officer.	13 Leave		14 Signature of the head of the office or other attesting officer	15 Reference to any recorded punishment or censure, or reward or praise of the Government Servant
				Period	Government to which debitable		
30-11-2014			Graded Annual increment			Service verified for the period from 1-12-2013 to 30-11-2014 from the records of pay bills etc.	
						 M. S. S. SHABU	

M. S. S. SHABU

M. S. S. SHABU

I have received Rs. 1000/- as cost from  
Respondent no. 5 namely Mr. Uzair Ullah

Rahman  
28/2/2017  
Rahman Ullah

28-2-17  
Uzair Ullah  
Jusry

OFFICE OF THE  
SUPERINTENDING ENGINEER  
C&W CIRCLE MARDAN

No. 623 /11-E

Dated Mardan the 10/ 01 /2011

OFFICE ORDER.

In light of the approval of District Selection / Promotion Committee Mardan made in its meeting held on 08/01/2011. Mr. Javed Khan S/O Sher Afzal-Village & PO Manari Payan District Swabi is hereby appointed as Naib Qasid in BPS-01 (2970-90-5670) with usual allowances as admissible under the prevailing Rules against the vacant post of Naib Qasid in C&W Division Swabi with effect from the date he report for duty subject to the following terms and conditions:-

1. His appointment shall be purely on the temporary basis under CP Fund scheme and can be terminated any time on 14-days notice or payment of 14-days pay in lieu of notice period from Department.
2. In case he leaves / Resigns service, he shall have to give 14-days notice to Department in advance , otherwise 14-days pay shall be deducted from his salary / emoluments in lieu thereof.
3. He shall have to obey all orders as and when issued to him.
4. He shall remain on probation for a period of one year.
5. He shall have to produce Health & age / fitness certificate from the Medical Superintendenting DHQ, Hospital Swabi, before joining his duty.
6. He should report for duty within 14-days failing which the order shall stand cancelled.

SUPERINTENDING ENGINEER

Copy to:-

1. The District Coordination Officer Swabi.
2. The District Comptroller of Accounts Swabi.
3. The Executive Engineer C&W Division Swabi.
4. Mr. Javed Khan S/O Sher Afzal Village & PO Manari Payan Tehsil & District Swabi.

SUPERINTENDING ENGINEER

Before The Service Tribunal KP Peshawar  
Appeal No 790/2016

Javed Khan

VS

Govt.

Application for implementing as respondents  
which is as under:

- 1- Alamgir Khan s/o Fazal Razi  
Naib Qasid C & W department Sarsabi
- 2- Noor Nabi s/o Noor Muhammad  
Naib Qasid C & W department Sarsabi
- 3- Salman Khan s/o Fakhra Zaman  
Naib Qasid C & W department Sarsabi

Respected Sir

A- That the above title appeal is final  
for today dated 30/1/18

B- That the above mentioned Naib Qasids  
are juniors than appellent but appellent  
was redesignated.

C- That the Cudos of appellent was changed

it is ignored by the respondents department that there are other juniors in the department which is mention in the hearing of the present application.

D- That the implementation of the above said Naiti Qasid as respondents are necessary to be made.

It is therefore, humbly requested that the above mention Naiti Qasid may kindly be implemented as respondents.

Affidavit:

It is declare on oath that the contents of this application are true & correct.

Deponant  
10/1/16

Applicant Through  
Asim Khan  
Advocate.



It is ignored by the respondents department that there are other juniors in the department which is mention in the hearing of the present applications.

D- That the impleadment of the above said Naib Qasid as respondents are necessary to be made.

It is therefore, humbly requested that the above mention Naib Qasids may kindly be impleaded as respondents.

Affidavit:

It is declare on oath that the contents of this application are true & correct.

Deponent  
10/10/16

Applicant Through  
Asim Khan  
Advocate





Before The Service Tribunal KP Peshawar

Appeal No 790/2016

Javeed Khan

VS

Govt

Application for impleading as respondents  
which is as under:

- 1- Alamgir Khan s/o Fazal Rabi  
Naib Qasid C & W department Sawabi
- 2- Noor Nabi s/o Noor Muhammad  
Naib Qasid C & W department Sawabi
- 3- Salman Khan s/o Fakhra Zameen  
Naib Qasid C & W department Sawabi

Respected Sir,

- A- That the above title appeal is filed  
for today dated 30/7/18
- B- That the above mentioned Naib Qasids  
are juniors than appellant but appellant  
was redesignated.
- C- That the Cadres of appellant was changed



حکومت پاکستان

قومی شناختی کارڈ  
16204-0375570-7

نام: سلمان خان

جنس: مرد  
والد کا نام: اختر زمان

شناختی حالت: کوئی نہیں

تاریخ پیدائش: 05/03/1997



دستخط مال کارڈ

دستخط مسٹر جنرل



حکومت پاکستان

قومی شناختی کارڈ  
16201-0708124-3

نام: انوار اللہ

جنس: مرد  
والد کا نام: زرقاد

شناختی حالت: بائیں گان کے نیچے نشان دم

تاریخ پیدائش: 07/02/1974



دستخط مال کارڈ

دستخط مسٹر جنرل



حکومت پاکستان

قومی شناختی کارڈ  
16204-0345325-7

نام: محمد

جنس: مرد  
والد کا نام: اسحاق علی

شناختی حالت: کوئی نہیں

تاریخ پیدائش: 02/03/1994



دستخط مال کارڈ

دستخط مسٹر جنرل



حکومت پاکستان

قومی شناختی کارڈ  
16202-6677972-9

نام: نواز بی بی خان

جنس: مرد  
والد کا نام: نواز احمد خان

شناختی حالت: کوئی نہیں

تاریخ پیدائش: 04/04/1997



دستخط مال کارڈ

دستخط مسٹر جنرل

شناختی نمبر: 16204-0375570-7 خاندان نمبر: T3M9CD

موجودہ پتہ: گلدرکمان ٹیبل، اسوٹ، ڈاکخانہ کرنل شیر کے، تحصیل روزہ  
منطق صوابی



سنگل پتہ: ایضاً

تاریخ اجراء: 04/07/2015 تاریخ ترمیم: 04/07/2025  
گھنٹہ کارڈ کے پر قریبی کیئر ٹیکس میں ڈال دیں



شناختی نمبر: 16201-0708124-3 خاندان نمبر: TX1P1N

موجودہ پتہ: محمد اسلام بانڈو، گنڈہ، ڈاکخانہ قاص، تحصیل لیہور، منطق صوابی



سنگل پتہ: ایضاً

تاریخ اجراء: 16/09/2016 تاریخ ترمیم: 16/09/2026  
گھنٹہ کارڈ کے پر قریبی کیئر ٹیکس میں ڈال دیں



13074124231 شناختی نمبر

شناختی نمبر: 16204-0345325-7 خاندان نمبر: U856GC

موجودہ پتہ: فیض آباد، پرہول، تحصیل روزہ، منطق صوابی



سنگل پتہ: ایضاً

تاریخ اجراء: 06/01/2014 تاریخ ترمیم: 06/01/2024  
گھنٹہ کارڈ کے پر قریبی کیئر ٹیکس میں ڈال دیں



شناختی نمبر: 16202-6677972-9 خاندان نمبر: T37906

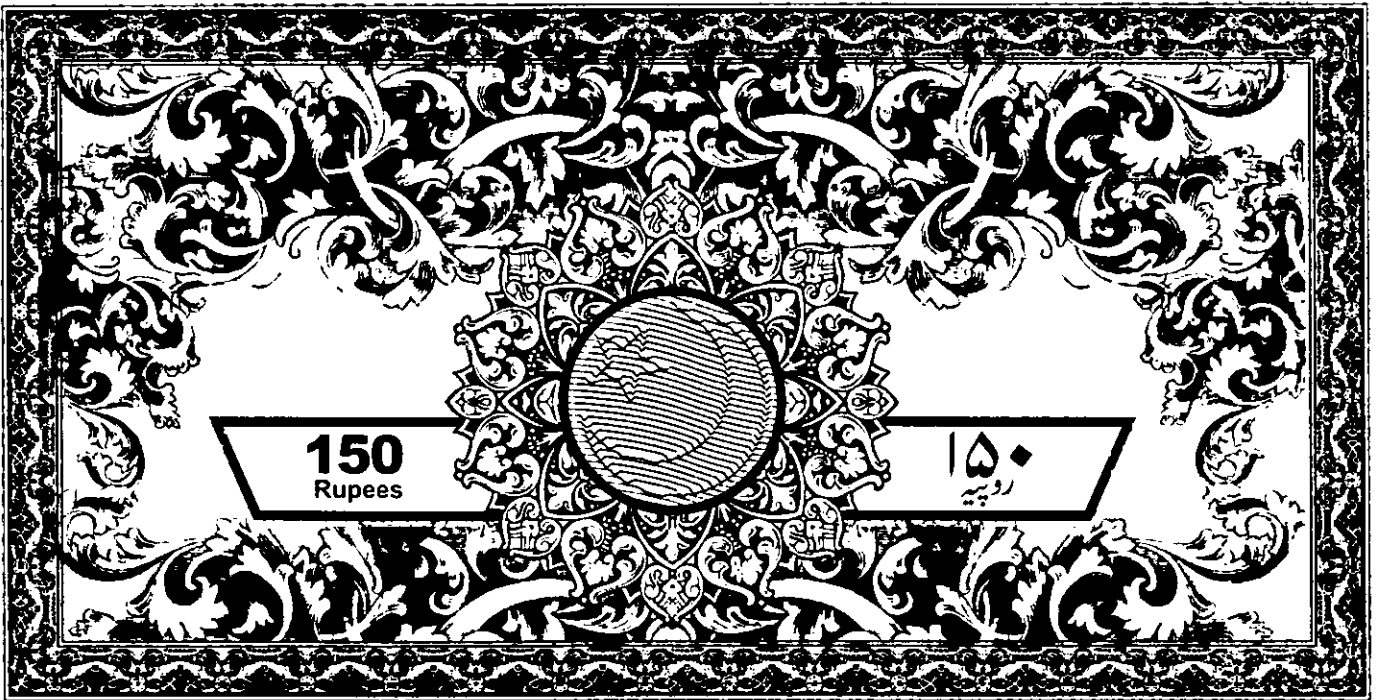
موجودہ پتہ: است نیشن، ٹوبہ ٹیکر، ڈاکخانہ ایس، تحصیل ایس، منطق صوابی



سنگل پتہ: ایضاً

تاریخ اجراء: 18/05/2015 تاریخ ترمیم: 18/05/2025  
گھنٹہ کارڈ کے پر قریبی کیئر ٹیکس میں ڈال دیں





بعد الت جناب سرورس ٹریبونل سیماور  
 دوقلمہ اسامہ کالینا 300  
 برائے مخینیا ناٹھا قوا -

اسل نمبر 790 - جاوید خان ایلک نٹھ

نام  
 ① نور بی خان، سلمان خان، عالمگیر، انوار اللہ  
 رسپانڈنٹان

مخینیا نام خاص ہے ذیل ہے

مابینہ ① نور بی خان ولد نور محمد خان سکند گنگنہ کھنڈ ٹولہ ضلع ہریانہ  
 ② سلمان خان ولد فخر الزمان سکند کمال ضلع اسوٹہ رزڈ حوالہ  
 ③ عالمگیر ولد فضل رب سکند خستیا پورول رزڈ حوالہ کے ہیں  
 ہم نے یہ ثبات پورٹی دعقل تذکرہ بابا کا مقدمہ کی بیرون جوابدہی کیلئے  
 اپنی جانب سے مسی انوار اللہ ولد زرشاد سکند کھنڈ ضلع لاہور  
 ضلع ہریانہ کو مخینیا خاص حقرا کر کے یہ اختیار دے دیا ہے  
 کہ وہ ہماری جانب سے تذکرہ بابا کا مقدمہ کی بیرون جوابدہی  
 وکلا لہ نور کر کے جملہ اخلاصت جواب درخوارت پائے گذارہ  
 بیان حلیم دے حلف اٹھائے کفارت دیش خواہ کفارت دمل  
 کرے رجم درض بعد الت یا وصول کرے اسل نمبر 790 یا نظر ثانی  
 درآ کرے راج نام کرے ٹالٹ سرحد پنج اعلیٰ کمیشن نور کرے

2014-1  
2-9-19

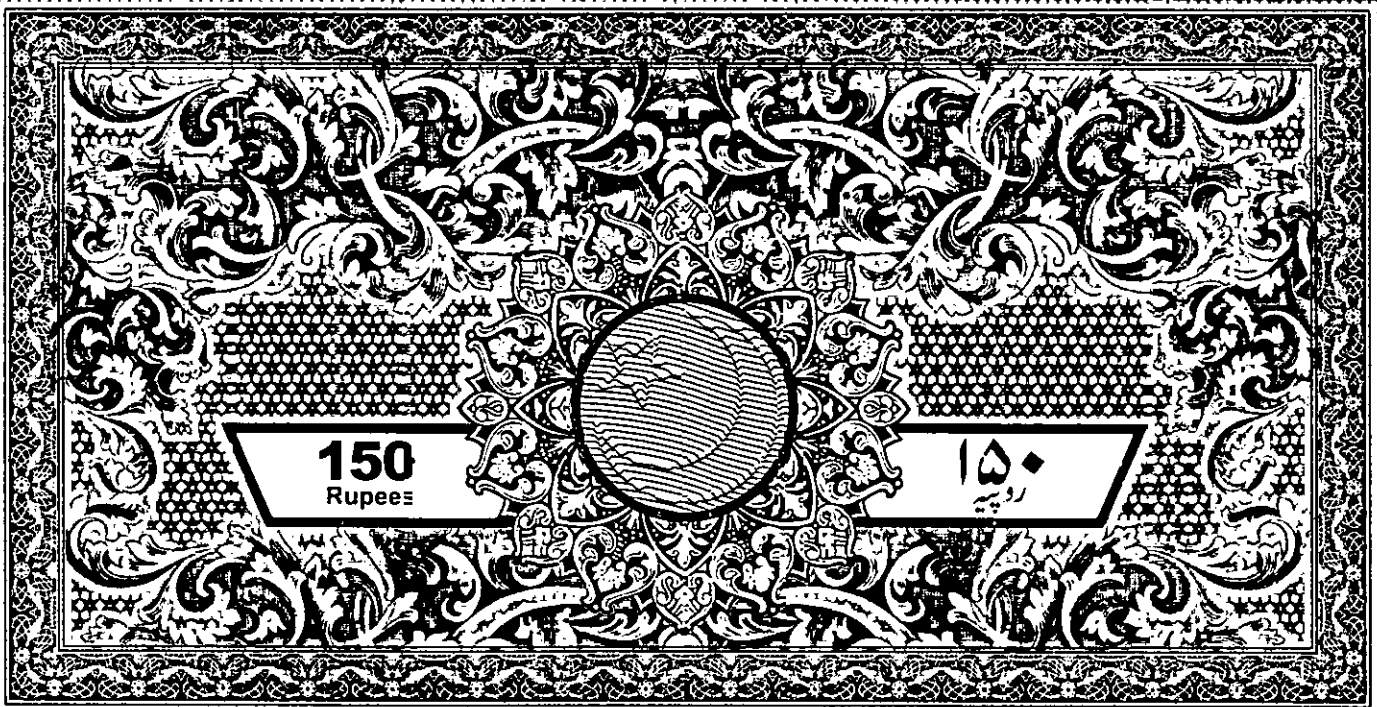
نور علی خان دہلوی فوراً کی طرف سے کسٹمر ٹول کو پیشگی وصولی کے لئے فوراً اسد کے لئے درخواست کی ہے، تاہم

16202-6677972-9



NO ISSUED ON  
22 AUG 2019  
HEAD TREASURER  
SWABI

WIDRAMIL SHAK  
S.W. Swabi Katchery

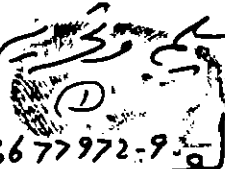


150 Rupees

۱۵۰ روپیہ

عہدہ جملہ اداکارانہ خدمت دہر دافندہ تکمل کردہ خود ہمیں قبول  
منظور ہوگا کہ یہ اختیار نامہ خاص خود اس سے بھی کر دے

تکلیف و سہولت -



(اختیار دہندگان)

16204-0345325-7  
عالمگیر

16204-0375570-7  
سلمان خان

16202-6677972-9  
نور بی خان

(اختیار گزینہ)

16201-0708124-3

نور احمد ولد زار شاد

9  
2-  
19

گواہ

سید احمد ولد علی سید  
محفل ارتد با عین صراحت

16201-8127028-9

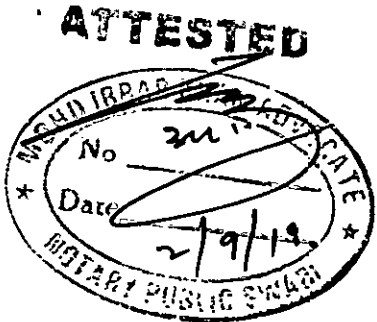
Signature of Saeed Ahmad

سگوارہ

ذوالقرنہ ولد فضل منولی  
محفل رتد ادین صراحت

16202-8985774-7

Zabirullah



81-6-2  
2-4102  
5  
P

MUZAMIL SHAH  
R.V Swabi Katchan

*(Handwritten signature)*



HEAD TREASURER  
SWABI  
ISSUED ON  
22 AUG 2019

**BEFORE THE COURT OF CIVIL JUDGE**  
**PESHAWAR.**

Javed

**VERSUS**

Government of Pakistan

**REPLY ON BEHALF OF RESPONDENT**  
**NO. 6 TO 9.**

**Respectfully Sheweth:-**

**Preliminary Objections:**

- 1) *That the appellant has not cause of action or locus standi.*
- 2) *That the appellant has come to this Hon'ble Tribunal with tainted hands.*
- 3) *That the appellant has been estopped by his own conduct to file the instant appeal.*
- 4) *That the appeal is not maintainable in its present form.*
- 5) *That no departmental appeal has been filed against the impugned order, hence the instant appeal is liable to be dismissed on this ground alone, as the departmental*



*appeal annexed with the instant appeal is concocted on.*

- 6) *That the instant appeal is badly time barred.*
- 7) *That the appeal is bad for non-joinder and mis-joinder of unnecessary party.*

**ON FACTS:**

1. *Para No.1 pertains to the official respondents, however, the appointment order of the appellant is dubious one as the employment exchange office is situated in district Swabi not in district Mardan. It is pertinent to mention here that for appointment for (BPS-4) registrations with the employment exchange in the concerned district is mandatory under Sub-Rule (2) of Rule 10 APT Rules 1989, however, in the case of appellant, he obtained registration from the employment exchange Swabi meaning thereby that he has been appointed in contravention to the rules.*

*It is pertinent to state that respondent No.6 Mr. Anwarullah was appointed initially as Naib Qasid on 14/10/1999, Respondent No.7 Mr Alamgir was appointed as Naib Qasid on 16/11/2015, Respondent No.8 Noor Nabi was*

*appointed as Naib Qasid on 22/05/2017 in pursuance of Peshawar High Court Judgment in Writ Petition No. 4306-P/15 on 12/12/15 against the deceased son quota and Respondent No.9 was also appointed as Naib Qasid under Deceased Son Quota on 22/05/2017. Therefore, the appellant has no cause of action against the respondents. (Copies of appointment orders are annexed)*

- 2. Para No.2 is pertain to official respondents.*
- 3. Para No.3 no comments.*
- 4. Para No 4 is pertain to official respondents.*
- 5. Para No.5 is pertain to official respondents in replying respondents.*
- 6. Para No 6 is subject to proof. However, the order dated 20/05/2015 was made by the competent authority in compliance of the Hon'ble Tribunal Order dated 13/03/2015.*
- 7. Para No.7 is correct to the extent. That the appellant filed 12(2) application, against the order of this Hon'ble Tribunal, however, the same was dismissed on 11/04/2016, however if the appellant was aggrieved from the order of the Hon'ble Tribunal dated 11/04/2016, the appellant should have challenge the same in the Supreme Court of Pakistan.*

8. *Para No.8 is subject to proof. However, the departmental appeal annexed as Annexure "E" is a concocted one and even if the same is genuine the same has been filed after expiry the prescribe period of limitation, hence the instant appeal is not maintainable.*
9. *No Comments.*

**GROUNDS:**

- A. *Incorrect, detail position of the case has fully been expressed/ narrated above.*
- B. *Incorrect, despite irregular appointed initially on the post of Naib Qasid and overriding by the then departmental hands, the appellant had been adjusted on the post of Cooly as a result of this Court Orders dated 13/03/2015, no illegality is carried.*
- C. *Same as replied in above para of comments.*
- D. *Any irregular orders passed, in disregard to Govt. Standing Orders/ Instructions, Policies in the past in anyway, neither be construed legal nor one can stress for its doing again.*

E. As per Para No.1 of the facts

F. As per Para No.1 of the facts.

G. As per Para No.1 of the facts.

**It is, therefore, prayed that on acceptance of this reply, the application may be dismissed with costs.**

Dated: 04/10/2019

الفاروق

claimant

Through

Naila Jan

Naila Jan

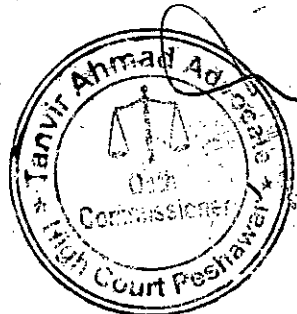
Advocate, High Court,

Peshawar.

### **Affidavit:**

I, the Petitioner, do hereby solemnly affirm & declare on oath that all contents of instant reply are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

ATTESTED



4/10/19  
20

الفاروق

DEPONENT

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 4142 /ST Dated 28/12 / 2020


To

The Executive Engineer C&W Division,  
Government of Khyber Pakhtunkhwa,  
Swabi.

Subject: - **JUDGMENT IN APPEAL NO. 790/2016, MR. JAVED KHAN.**

I am directed to forward herewith a certified copy of Judgement dated 17.12.2020 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

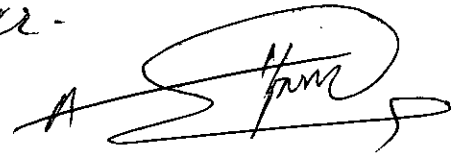
  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.

Before the honorable Service Tribunal  
Khyber Pakhtunkhwa, Peshawar.

---

I have recently been transferred from  
CSW Peshawar to Swabi CSW office.  
The matter relates to Head Clerk CSW  
division Swabi. In the next hearing  
the undersigned will update himself  
about the subject matter.

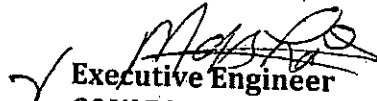
Regards.



Abdullah  
SDO CSW  
Swabi.

**Detail of Naib Qasid in respect of C&W Division Swabi.**

Sl. No.	Name of employee	Date of Appointment	Post	Remarks
1.	Mohammad Akbar	09-10-1991	Niab Qasid	Fresh Appointment
2.	Uziarullah	14-10-1993	Niab Qasid	Son Quota
3.	Anwarullah	30-06-1996	Niab Qasid	Son Quota
4.	Luqman Khan	01-08-1996	Niab Qasid	Fresh Appointment
5.	Mohammad Naseem	20-05-2009	Niab Qasid	Son Quota
6.	Alamgir Khan	23-11-2015	Niab Qasid	Fresh Appointment
7.	Salman Khan	22-05-2017	Niab Qasid	Deceased Sons
8.	Noor Nabi Khan	22-05-2017	Niab Qasid	Deceased Sons

  
Executive Engineer  
C&W Division Swabi.