

ORDER


14.01.2022


Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, passed in service appeal bearing No. 1227/2020 titled Hanif-Ur-Rehman Versus Government of Khyber Pakhtunkhwa through its Chief Secretary at Civil Secretariat Peshawar and others", the instant service appeal is accepted. The impugned order dated 25-06-2019 is set aside with direction to the respondents to adjust the appellant in his respective department i.e. Establishment & Administration Department Khyber Pakhtunkhwa against his respective posts and in case of non-availability of posts, the same be created for the appellant on the same manner, as were created for other Administrative Departments vide Finance Department notification dated 11-06-2020. Upon his adjustment in his respective department, the appellant is held entitled to all consequential benefits. The issue of his seniority/promotion shall be dealt with in accordance with the provisions contained in Civil Servant Act, 1973 and Khyber Pakhtunkhwa Government Servants (Appointment, Promotion & Transfer) Rules, 1989, particularly Section-17(3) of Khyber Pakhtunkhwa Government Servants (Appointment Promotion & Transfer) Rules, 1989. Needless to mention and is expected that in view of the ratio as contained in the judgment titled Tikka Khan and others Vs Syed Muzafar Hussain Shah and others (2018 SCMR 332), the seniority would be determined accordingly. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED

14.01.2022

  
(AHMAD SULTAN TAREEN)  
CHAIRMAN

  
(ATIQ-UR-REHMAN WAZIR)  
MEMBER (E)

1245/2021

02.08.2021

Counsel for the appellant present. Mr. Kabirullah Khattak, Addl. AG alongwith Naseeb Khan, S.O and Mumtaz Khan, Junior Clerk for the respondents No. 1 to 3 present.

Reply/comments on behalf of respondents No. 1 & 3 have been submitted. Learned AAG is required contact the respondent No. 4. For submission of written reply/comments in office within 10 days, positively. If the written reply/comments are not submitted within the stipulated time, or extension of time is not sought through written application with sufficient cause, the office shall submit the file with a report of non-compliance. File to come up for arguments on 28.12.2021 before the D.B.

*stipulated period  
has passed and  
reply has not been  
submitted*

  
Chairman

P.S

23.09.2021

Learned Addl. A.G be reminded about the omission and for submission of Reply/comments within extended time of 10 days.

  
Chairman

28.12.2021

Due to Winter Vacations, the case is adjourned to 14.01.2022 for the same as before.

  
READER

20.01.2021

Appellant present through counsel.

Objections were raised by the office of Registrar and as per record, objections No.1 & 2 were removed as annexures of the appeal were properly attested and duly flagged. Learned counsel for appellant submitted that the present service appeal has been filed as per order dated 04.08.2020 of Apex Court.

Points raised need consideration. Admitted to regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to respondents for written reply/comments. To come up for written reply/comments on 14.04.2021 before S.B.

Appellant Deposited  
Security & Process Fee

(Rozina Rehman)  
Member (J)

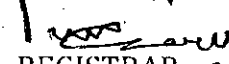
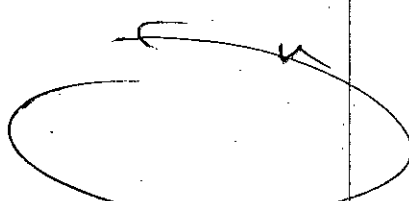
14.04.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 02.08.2021 for the same as before.

Reader

Form-A  
FORM OF ORDERSHEET

Court of \_\_\_\_\_  
Case No. 1245 /2020


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	05/10/2020	<p>As per direction of the Worthy Chairman this case is submitted to the S. Bench for decision on office objection. To be put up there on 04.11.2020.</p> <div style="text-align: right;">   REGISTRAR <u>5/10/2020</u> </div>
04.11.2020		<p>Junior counsel for applicant is present.</p> <p>Since the Members of the High Court as well as of the District Bar Association, Peshawar, are observing strike today, therefore, learned senior counsel for applicant is not available today. Adjourned to 20.01.2021 on which date to come up for arguments on office objection before S.B.</p> <div style="text-align: right;">   (Muhammad Jamal Khan)  Member (Judicial) </div>

The appeal of Mr. Muhammad Zahir Shah Naib Qasid Khyber Pakhtunkhwa Ombudsperson Secretariat received today i.e. on 11.09.2020 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- Copy of departmental appeal is not attached with the appeal which may be placed on it.

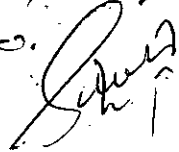
No. 2667 /S.T.

Dt. 14/09/2020

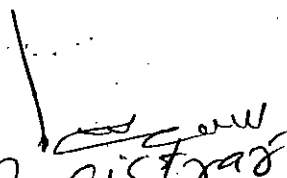
  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Syed Mutaza Zahid Gillani Adv. Peshawar.

*Objection removed as per direction and re-submitted on 18.9.2020.*



*Objection no 3 is still stand.  
The appeal in hand is returned again to the counsel for the appellant for completion and resubmission within 15 days.*

  
REGISTRAR

No. 2706 /S.T.

Dt. 18/09/2020

*Respectfully re-submitted with the explanation that this appeal has been filed after exhausting in good faith the constitutional remedy in the shape of Writ Petition and CPLA before the August Supreme Court, wherein the Apex Court pointed out in the order dated 04.08.2020 (annexed as Annexure "G", at page 38 to 40) to approach this Hon'ble Service Tribunal for redress. In these peculiar*

facts and circumstances of the case, it is submitted that the writ Petition which was duly replied by the department as well as the protest entertained in letter No. PS/FS/AIBC/2019 dated 22.03.2019 (which is being submitted with application for placing on record as additional documents) by the departmental authorities tantamount to departmental appeal. Therefore, the appeal may be fixed before Hon'ble Tribunal for hearing.

It is, pertinent to mention here that the identical service appeals titled, "Hanif-ur-Rehman... vs... Govt. of KPK", "Shaukat Ullah... vs... Govt. of KPK", "Darhiq Hussain... vs... Govt. of KPK", "Zubair Shah... vs... Govt. of KPK", "Amjid Syaz... vs... Govt. of KPK", "Fariq... vs... Govt. of KPK" have already been fixed for hearing on 04.11.2020 for hearing on similar point.

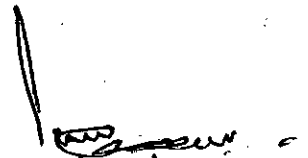
It is, therefore, requested that this appeal may please be clubbed for hearing with aforesaid appeals.

Re-submitted on 01.10.2020.

  
Hanif-ur-Rehman

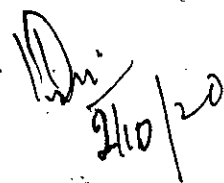
Sir,

The objection of this office and reply of counsel from the appellant is submitted for order please.

  
01/10/2020

Humble chain - on

Be fixed before SB  
along with office objections  
on 4/11/2020.

  
21/10/20

**BEFORE THE SERVICES TRIBUNAL, KPK, PESHAWAR**

Service Appeal No. \_\_\_\_\_/2020

Muhammad Zahir Shah.....Appellant

**V E R S U S**

Govt of KPK and others.....Respondents

**I N D E X**

S.No	Description of Documents	Annex	Pages
1.	Service Appeal		1-5
2.	Affidavit		6
3.	Application for suspension with affidavit		7-8
4.	Application for condonation of delay with affidavit		9-10
5.	Addresses of parties		11
6.	Copy of Notification dated 25.06.2019	A	12-15
7.	Copy of Notification dated 24.01.2019	B	16
8.	Copies of office orders dated 23.08.2019 and 27.08.2019	C-D	17-18
9.	Copies of writ petition and order/ judgment dated 05.12.2019	E-F	19-37
10.	Copy of order/ judgment dated 04.08.2020	G	38-40
11.	Wakalat Nama		41

Appellant

Through

**Syed Yahya Zahid Gilani**

**Ateeq-ur-Rehman**

**Syed Murtaza Zahid Gilani**

Advocates High Court

Date: 11 / 09 / 2020

**BEFORE THE HON'BLE SERVICES TRIBUNAL, KPK, PESHAWAR**

Service Appeal No. 1245 /2020

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 10087

Dated 11/9/2020

Muhammad Zahir Shah S/o Muhammad Tahir,  
Naib Qasid,  
Khyber Pakhtunkhwa Ombudsperson Secretariat,  
Room No.212, Benevolent Fund Building,  
Peshawar Cantt.....

**Appellant**

**V E R S U S**

1. The Govt of KPK  
Through Chief Secretary,  
Civil Secretariat, Peshawar.
  2. The Govt of KPK  
Through Secretary Establishment,  
Establishment & Administration Department,  
Civil Secretariat, Peshawar.
  3. The Govt of KPK  
Through Secretary Finance,  
Finance Department, Civil Secretariat, Peshawar
  4. Government of KPK  
Through Additional Chief Secretary Merged Areas,  
Office at Warsak Road, Peshawar.....
- Respondents**

Filed to-day  
OWW  
Registrar  
11/9/2020

Service appeal u/s 4 of the Services Tribunal Act, 1974 against the impugned Notification No.SO(O&M/E&AD/3-18/2019 dated 25.06.2019 vide which the 117 employees including the appellant appointed by erstwhile FATA Secretariat as "Surplus" and placed them in the Surplus Pool of Establishment & Administration Department for their further adjustment/ placement w.e.f.



01.07.2019, Office Order No.00209/EA dated 23.08.2019 and Office Order No.SOG(SWD)1-60/Staff/2019/1946-55 dated 27.08.2019 vide which the appellant has been adjusted in Ombudsperson Secretariat from the Surplus Pool.

**Prayer in Appeal:**

On acceptance of this appeal, the impugned Notification dated 25.06.2019, office orders dated 23.08.2019 and 27.08.2019 may please be set aside and consequently the respondents be directed to adjust the appellant in Civil Secretariat of Establishment & Administration Department or Finance Department.

**Respectfully Sheweth:**

The appellant humbly submits as under:

1. That the appellant was the employee of erstwhile FATA Secretariat and he was serving as Naib Qasid in Finance Department of erstwhile FATA Secretariat.
2. That after merger of FATA into Province of Khyber Pakhtunkhwa, the respondent No.1 vide Notification SO(O&M/E&AD/3-18/2019 dated 25.06.2019 declared 117 employees including appellant as "Surplus" and placed them in the Surplus Pool of E&AD for their further adjustment/ placement w.e.f. 01.07.2019. **(Copy of Notification dated 25.06.2019 is Annexure "A")**.
3. That the respondent No.1 vide Notification No.SO(E-I)/E&AD/9-126/2019 dated 24.01.2019 directed the Finance Department Office working under the erstwhile FATA Secretariat, henceforth report to Secretary Finance Department KPK. **(Copy of Notification dated 24.01.2019 is Annexure "B")**.

4. That the appellant should have been adjusted in Finance Department KPK but was adjusted in Ombudsperson Secretariat from the Surplus Pool vide office order dated 23.08.2019 and 27.08.2019. **(Copies of office orders dated 23.08.2019 and 27.08.2019 are Annexure "C" & "D")**.
5. That it is pertinent to mention here that, the employees of erstwhile FATA Secretariat including appellant impugned the notification dated 25.06.2019 ibid through writ petition No.3704-P of 2019 in the Honourable Peshawar High Court, Peshawar and the Hon'ble Court dismissed the said petition vide order/ judgment dated 05.12.2019. **(Copies of writ petition and order/ judgment dated 05.12.2019 are Annexure "E" & "F")**.
6. That thereafter, the employees of erstwhile FATA Secretariat including the appellant filed CPLA No.881/2020 in the august Supreme Court of Pakistan against the order/ judgment dated 05.12.2019 passed by the Hon'ble Peshawar High Court, Peshawar and the Honourable Apex Court while deciding the CPLA vide order/ judgment dated 04.08.2020 held that the correct forum to adjudicate upon is the Service Tribunal and the petitioner should have approach the competent forum. **(Copy of order/ judgment dated 04.08.2020 is Annexure "G")**.
7. That the appellant being aggrieved from the notifications and orders, files the instant appeal, inter alia, on the following amongst other grounds:

**G R O U N D S:**

- A. That the impugned Notification dated 25.06.2019, office orders dated 23.08.2019 and 27.08.2019, are illegal, against facts and law on the subject as well as Surplus Policy.

That the appellant should have been adjusted in Finance Department RPK but was adjusted in Ombudsman Secretariat from the Superior Police officer order dated 23.08.2019 and 27.08.2019. (Copies of office orders dated 23.08.2019 and 27.08.2019 are Annexure "C" & "D").

That it is pertinent to mention here that the employees of erstwhile FATA Secretariat including appellant impugned the notification dated 25.08.2019 issued through writ petition No 3704-P of 2019 in the Honourable Peshawar High Court, Peshawar and the Honble Court dismissed the said petition vide order/judgment dated 02.12.2019. (Copies of writ petition and order/judgment dated 02.12.2019 are Annexure "E" & "F").

That thereafter, the employees of erstwhile FATA Secretariat including the appellant filed CPLA No.881/2020 in the august Supreme Court of Pakistan against the order/judgment dated 02.12.2019 passed by the Honble Peshawar High Court, Peshawar and the Honourable Apex Court while deciding the CPLA vide order/judgment dated 04.08.2020 held that the correct forum to adjudicate upon is the service tribunal and the petitioner should have approached the competent forum (Copy of order/judgment dated 04.08.2020 is Annexure "G").

That the appellant being aggrieved from the notifications and orders filed the instant appeal inter alia, on the following amongst other grounds:

**GROUND:**

A. That the impugned Notification dated 25.08.2019 office order dated 23.08.2019 and 27.08.2019, are illegal, against facts and law on the subject as well as public policy.


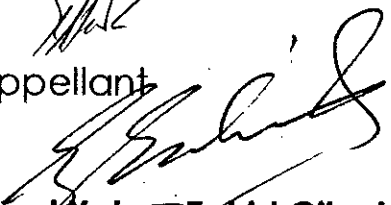

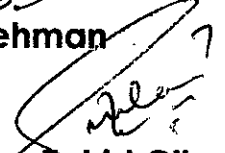
- B. That the impugned notifications and orders are the sheer violation of law on the subject and the Constitution as well.
- C. That the impugned notifications and orders are illegal, unlawful, void and ineffective upon the rights of the appellant.
- D. That the impugned notifications and orders are against the principles of natural justice and fundamental rights as guaranteed under the Constitution of Islamic Republic of Pakistan, 1973.
- E. That in fact, the appellant's case is not of abolition of posts, or service or setup to begin with and the concerned, departments and attached department together with the posts continue to exist and have not been abolished.
- F. That neither conscious application of mind has been undertaken nor speaking nor reasoned order has been passed and Surplus Pool Policy, 2001 has been senselessly applied to the appellant.
- G. That the impugned notifications and orders have been issued/ passed in flagrant violation of the law and the Surplus Pool Policy itself and deserves to be set aside.
- H. That the mechanism provided for adjustment and fixation of seniority of the surplus employees in the Surplus Pool Policy, 2001 will deprive the appellant of his seniority and other benefits will render him junior to those who have been appointed much later in time than the appellant.
- I. That as there is no service structure and service rules and promotion for the employees of Ombudsperson Secretariat the adjustment of appellant in the said Secretariat will damage the service career and rights of the appellant by

means of discrimination and misapplication of Surplus Pool Policy, 2001.

- J. That blatant discrimination has been committed in the adjustment of the appellant as compared to other similarly placed employees of erstwhile FATA Secretariat have been adjusted in different departments of KP Civil Secretariat.
- K. That the appellant seeks leave to agitate more grounds at the time of arguments in the instant appeal.

It is, therefore, most humbly prayed that on acceptance of the instant service appeal, the impugned Notification dated 25.06.2019, office orders dated 23.08.2019 and 27.08.2019 may please be set aside and consequently the respondents be directed to adjust the appellant in Civil Secretariat of Establishment & Administration Department or Finance Department.

Any other remedy which deems fit by this Honourable Tribunal may also be granted in favour of the appellant.

  
 Appellant  
 Through  
  
**Syed Yahya Zahid Gilani**  
  
**Ateeq-ur-Rehman**  
  
**Syed Murtaza Zahid Gilani**  
 Advocates High Court

Date: 11 / 09 / 2020

**BEFORE THE SERVICES TRIBUNAL, KPK, PESHAWAR**

Service Appeal No. \_\_\_\_\_/2020

Muhammad Zahir Shah.....Appellant

**V E R S U S**

Govt of KPK and others.....Respondents

**AFFIDAVIT**

I, Muhammad Zahir Shah s/o Muhammad Tahir, Naib Qasid, Khyber Pakhtunkhwa Ombudsperson Secretariat, Room No.212, Benevolent Fund Building, Peshawar Cantt, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

**ATTESTED**

**DEPONENT**

11-1

**BEFORE THE SERVICES TRIBUNAL, KPK, PESHAWAR**

Service Appeal No. \_\_\_\_\_/2020

Muhammad Zahir Shah.....**Applicant/ Appellant**

**V E R S U S**

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

**Application for suspension of the operation of impugned Notification dated 25.06.2019, office orders dated 23.08.2019 and 27.08.2019, till the final decision of the instant service appeal.**

**Respectfully Sheweth:**

1. That the titled service appeal is filed before this Hon'ble Tribunal, in which no date of hearing has yet been fixed.
2. That the applicant/ appellant has got a good prima facie case in his favour, and is sanguine about its success.
3. That the balance of convenience also lies in favour of the applicant/ appellant for the grant of interim relief.
4. That if Notification dated 25.06.2019, office orders dated 23.08.2019 and 27.08.2019, are not suspended, the applicant/ appellant would suffer irreparable loss.

5. That the facts and grounds of the accompanying service appeal may kindly be read as an integral part of this application.

It is, therefore, respectfully prayed that on acceptance of this application, the operation of Notification dated 25.06.2019, office orders dated 23.08.2019 and 27.08.2019, may kindly be suspended, till the final decision of the instant service appeal.

Applicant/ Appellant

Through

**Ateeq-ur-Rehman**

Advocate High Court

Date: 4 / 09 / 2020

**AFFIDAVIT:**

It is stated on oath that the contents of **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

**ATTESTED**



Handwritten signature and date 11.09

**DEPONENT**



**BEFORE THE SERVICES TRIBUNAL, KPK, PESHAWAR**

Service Appeal No. \_\_\_\_\_/2020

Muhammad Zahir Shah.....**Applicant/ Appellant****V E R S U S**Govt of KPK and others.....**Respondents**

**Application for condonation of delay, if any, in filing  
of the instant service appeal before this Honourable  
Tribunal**

**Respectfully Sheweth:**

1. That the titled service appeal is filed before this Hon'ble Tribunal, in which no date of hearing has yet been fixed.
2. That initially, the applicant/ appellant has approached the Honourable Peshawar High Court by filing writ petition and then further to Apex Court by filing CPLA, which were culminated with the direction to the applicant/ appellant to approach the Service Tribunal for redressal of his grievance.
3. That the entire time/ period spent over the aforesaid forums was neither intentional nor deliberate but due reason mentioned above.
4. That it would be in the interest of justice, equity and fairplay, if the instant application is allowed.

It is, therefore, respectfully prayed that on acceptance of this application, the delay caused in filing of instant application may very graciously be condoned in the best interest of justice.

Applicant/ Appellant

Through

**Ateeq-ur-Rehman**  
Advocate High Court

Date: 11 / 09 / 2020

**AFFIDAVIT:**

It is stated on oath that the contents of **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

**DEPONENT**

**ATTESTED**



**BEFORE THE SERVICES TRIBUNAL, KPK, PESHAWAR**

Service Appeal No. \_\_\_\_\_/2020

Muhammad Zahir Shah.....Appellant

**V E R S U S**

Govt of KPK and others.....Respondents

**ADDRESSES OF PARTIES**

**APPELLANT**

Muhammad Zahir Shah S/o Muhammad Tahir,  
Naib Qasid,  
Khyber Pakhtunkhwa Ombudsperson Secretariat,  
Room No.212, Benevolent Fund Building,  
Peshawar Cantt

**RESPONDENTS:**

1. The Govt of KPK  
Through Chief Secretary,  
Civil Secretariat, Peshawar.
2. The Govt of KPK  
Through Secretary Establishment,  
Establishment & Administration Department,  
Civil Secretariat, Peshawar.
3. The Govt of KPK  
Through Secretary Finance,  
Finance Department, Civil Secretariat, Peshawar
4. Government of KPK  
Through Additional Chief Secretary Merged Areas,  
Office at Warsak Road, Peshawar

Through

Appellant

**Ateeq-ur-Rehman**  
Advocate High Court

Date: 11/09/2020



GOVT. OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT & ADMIN: DEPARTMENT  
(REGULATION WING)

Dated Peshawar, the 25<sup>th</sup> June, 2019

12

NOTIFICATION

Annexure (A)

No. SO(O&M)/E&AD/3-18/2019: In pursuance of integration and merger of erstwhile FATA with Khyber Pakhtunkhwa, the Competent Authority is pleased to declare the following 117 employees appointed by erstwhile FATA Secretariat as "Surplus" and place them in the Surplus Pool of Establishment and Administration Department for their further adjustment/placement w.e.f. 01.07.2019:-

Sr.No.	Name of employee	Designation	BPS (Personal)
1.	Ashiq Hussain	Assistant	16
2.	Hanif ur Rehman	Assistant	16
3.	Shaukat Khan	Assistant	16
4.	Zuhid Khan	Assistant	16
5.	Qaiser Khan	Assistant	16
6.	Shahid Ali Shah	Computer Operator	16
7.	Farooq Khan	Computer Operator	16
8.	Tauseef Iqbal	Computer Operator	16
9.	Waseem	Computer Operator	16
10.	Ataf Hussain	Computer Operator	16
11.	Amir Ali	Computer Operator	16
12.	Rab Nawaz	Computer Operator	16
13.	Kamran	Computer Operator	16
14.	Hafiz Muhammad Amjad	Computer Operator	16
15.	Fazl-ur-Rehman	Computer Operator	16
16.	Rajab Ali Khan	Head Draftsman	13
17.	Bakhtiar Khan	Sub Engineer	11
18.	Hakeem-ud-Din	Draftsman	11
19.	Naseem Khan	Storekeeper	7
20.	Inamullah	Driver	5
21.	Huzrat Gul	Driver	5
22.	Said Ayaz	Driver	5
23.	Abdul Qadir	Driver	5
24.	Sharbat Khan	Driver	5
25.	Iqbal Shuh	Driver	5
26.	Muhammad Ali	Driver	5

ATTESTED

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27.	Khan Muhammad	Driver	5
28.	Waheedullah Shah	Driver	5
29.	Mustan Shah	Driver	5
30.	Mubashir Alam	Driver	5
31.	Yousaf Hussain	Driver	5
32.	Ihsanullah	Driver	5
33.	Daud Shah	Driver	5
34.	Qismat Wali	Driver	5
35.	Alam Zeb	Driver	5
36.	Shafiqatullah	Driver	5
37.	Qismatullah	Driver	5
38.	Wali Khan	Tracer	5
39.	Muhammad Zahir Shah	Tracer	5
40.	Niaz Akhtar	Driver	4
41.	Mena Jan	Driver	4
42.	Zaki ullah	N/Qasid	3
43.	Sabir Shah	Naib Qasid	2
44.	Muhammad Hussain	Naib Qasid	2
45.	Zubair Shah	Naib Qasid	2
46.	Muhammad Sharif	Naib Qasid	2
47.	Dost Ali	Naib Qasid	2
48.	Nishat Khan	Naib Qasid	2
49.	Wadan Shah	Naib Qasid	2
50.	Inomullah	Naib Qasid	2
51.	Muqsood Jan	Naib Qasid	2
52.	Zeeshan	Naib Qasid	2
53.	Arshad Khan	Naib Qasid	2
54.	Ikhtlaq Khan	Naib Qasid	2
55.	Safdar Ali Shah	Naib Qasid	2
56.	Kifayatullah	Naib Qasid	2
57.	Hidayatullah	Naib Qasid	2
58.	Khalid Khan	Naib Qasid	2
59.	Shabir Khan	Naib Qasid	2
60.	Saeed Gul	Naib Qasid	2
61.	Zahidullah	Naib Qasid	2
62.	Parhad Gul	Naib Qasid	2
63.	Hameed Khan	Naib Qasid	2
64.	Rushid Khan	Naib Qasid	2
65.	Dost Muhammad	Naib Qasid	2
66.	Sajidullah	Naib Qasid	2
67.	Inikhar ud Din	Naib Qasid	2
68.	Allaf ur Rehman	Chowkidar	2
69.	Muhammad Amir	Chowkidar	2
70.	Yusuf Arafat	Chowkidar	2
71.	Zamrud Khan	Chowkidar	2
72.	Kimya Gul	Chowkidar	2
73.	Azizullah	Chowkidar	2

ATTESTED

74.	Zainullah	Chowkidar	2
75.	Safiullah	Chowkidar	2
76.	Inayatullah	Chowkidar	2
77.	Muhammad Abid	Chowkidar	2
78.	Daud Khan	AC Cleaner	2
79.	Muhammad Saleem	AC Cleaner/N/Qasid	2
80.	Fazale Haq	Mali	2
81.	Alamzeb	Mali	2
82.	Nehad Badshah	Mali	2
83.	Niaz Ali	Cook	2
84.	Muhammad Arshad	Cook	2
85.	Roohullah	Khadim Mosque	2
86.	Lal Jan	Regulation Beldar	2
87.	Muhammad Arshad	Sweeper	2
88.	Ramish	Sweeper	2
89.	Karan	Sweeper	2
90.	Majid Anwar	Sweeper	2
91.	Shumail	Sweeper	2
92.	Ruhid Maseeh	Sweeper	2
93.	Nucem Munir	Sweeper	2
94.	Pardeep Singh	Sweeper	2
95.	Mukesh	Sweeper	2
96.	Muhammad Naveed	Sweeper	2
97.	Daia Ram	Sweeper	2
98.	Muhammad Nisar	Sweeper	2
99.	Said Anwar	Naib Qasid	1
100.	Haseeb Zeb	Naib Qasid	1
101.	Abid	Naib Qasid	1
102.	Wakeel Khan	Naib Qasid	1
103.	Muhammad Amjad Ayaz	Naib Qasid	1
104.	Samiullah	Naib Qasid	1
105.	Habib-ur-Rehman	Naib Qasid	1
106.	Muhammad Shoaib	Naib Qasid	1
107.	Bawar Khan	Naib Qasid	1
108.	Misbahullah	Naib Qasid	1
109.	Muhammad Tanveer	Naib Qasid	1
110.	Waqas Khurshid	Naib Qasid	1
111.	Muhammad Zahir Shah	Naib Qasid	1
112.	Javed Khan	Naib Qasid	1
113.	Noor Nabia	Bera	1
114.	Amjad Khan	Mali	1
115.	Jawad Khan	Mali	1
116.	Inam ul haq	Chowkidar	1
117.	Siraj-ud-din	Chowkidar	1

2. In order to ensure proper and expeditious adjustment/absorption of the above mentioned surplus staff, Deputy Secretary (Establishment), Establishment Department has

**ATTESTED**



en declared as focal person to properly monitor the whole process of adjustment/ placement of the surplus pool staff.

3. Consequent upon above all the above surplus staff alongwith their original record of service are directed to report to the Deputy Secretary (Establishment) Establishment Department for further necessary action.

**CHIEF SECRETARY  
GOVT. OF KHYBER PAKHTUNKHWA**

Endst: No. & Date Even

Copy to:-

1. Additional Chief Secretary, P&D Department.
2. Additional Chief Secretary, Merged Areas Secretariat.
3. Senior Member Board of Revenue.
4. Principal Secretary to Governor, Khyber Pakhtunkhwa.
5. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
6. All Administrative Secretaries, Khyber Pakhtunkhwa.
7. The Accountant General, Khyber Pakhtunkhwa.
8. Secretary (AI&C) Merged Areas Secretariat.
9. Additional Secretary (AI&C) Merged Areas Secretariat with the request to hand over the relevant record of the above staff to the Establishment Department for further necessary action and taking up the case with the Finance Department with regard to financial implications of the staff w.e.f. 01.07.2019.
10. All Divisional Commissioners in Khyber Pakhtunkhwa.
11. All Deputy Commissioners in Khyber Pakhtunkhwa.
12. Director General Information, Khyber Pakhtunkhwa.
13. PS to Chief Secretary, Khyber Pakhtunkhwa.
14. Deputy Secretary (Establishment), Establishment Department for necessary action.
15. Section Officer (E-I), Establishment Department.
16. Section Officer (E-II) Establishment Department for necessary action.
17. Section Officer (E-IV) Establishment Department.
18. PS to Secretary Establishment Department.
19. PS to Special Secretary (Regulation), Establishment Department.
20. PS to Special Secretary (Establishment), Establishment Department.

*(Signature)*  
 (GAUJAR ALI) 25/06/19  
 SECTION OFFICER (O&M)

**ATTESTED**  
*(Signature)*



**GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT**

DATED PESHAWAR, THE JANUARY 24, 2019

**NOTIFICATION**

**NO. SO(E-I)/E&AD/9-126/2019.** In pursuance of integration and merger of erstwhile FATA with Khyber Pakhtunkhwa and in order to provide better line of administrative management, the following Department/Office working under the erstwhile FATA Secretariat shall henceforth report to its respective Secretary to Government of Khyber Pakhtunkhwa, in all official business:

Sr. No.	Name of department	Report to respective Secretary of the Department
1.	Finance Department, Merged Areas Secretariat.	Secretary, Finance Department, Khyber Pakhtunkhwa.

2. Subsequent modalities on other auxiliary matters shall be decided shortly.

**CHIEF SECRETARY  
GOVERNMENT OF KHYBER PAKHTUNKHWA**

**Endst. No. & date even.**

Copy forwarded to the:-

1. Additional Chief Secretary, P&D Department.
2. Additional Chief Secretary, (erstwhile FATA), Merged Areas Secretariat.
3. Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
4. Principal Secretary to Governor, Khyber Pakhtunkhwa.
5. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
6. Secretary, Finance Department, Khyber Pakhtunkhwa.
7. All Administrative Secretaries to Government of Khyber Pakhtunkhwa.
8. COC 11 Corps, HQs 11 Corps, Peshawar.
9. All Divisional Commissioners in Khyber Pakhtunkhwa.
10. Secretary, Finance Department, Merged Areas Secretariat.
11. Accountant General/AG(PR) Sub Office, Khyber Pakhtunkhwa.
12. Director General, Information, Khyber Pakhtunkhwa.
13. All Deputy Commissioners in Khyber Pakhtunkhwa.
14. PS to Chief Secretary, Khyber Pakhtunkhwa.
15. PS to Secretary Establishment, PS to SS(E)/SS (Reg)/PA, AS(HRD)/AS(E)/DS(E.)/D.S(HRD Wing) SO(E.II), SO(HRD.I) SO(HRD.II) E&AD.
16. PS to Secretary (Admn.)/D.S(A)/SO (Secret)/Estate Officer/ACSO Cypher/Dy Director (IT) and Director Protocol Administration Department.
17. Manager, Government Printing Press, Peshawar.

(ISHTIAQ AHMAD) *de*  
SECTION OFFICER (ESTT-I)

**ATTESTED**

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Annexure (C)

17

THE DEPUTY COMMISSIONER, PESHAWAR

Tel: 091-9212301-02, Fax: 091-9212303, DCPeshawar

No. 00209/EA

Dated 23-August-2019

ORDER:

In pursuance to Section Officer (General), Govt. of Khyber Pakhtunkhwa, Zakat Usher, Social Welfare, Special Education & Women Empowerment Department, Peshawar letter No.SO(SWD)6-20/Ombudsperson/2019-20/2280-83 dated 05/08/2019 and in pursuance to the Govt. of Khyber Pakhtunkhwa Surplus Pool Policy dated 19/01/2007, the services of the following surplus officials are hereby placed at their disposal for further adjustment against the vacant posts of corresponding cadre.

S.No.	Name of Official.	Designation of Surplus Staff	Department from which declared surplus
1.	Mr. Asad Ali Siddiqui	Junior Clerk (BPS-11)	Defunct Ehtisab Commission
2.	Mr. Tahseenullah	Record Keeper (BPS-11)	-do-
3.	Mr. Bakht Muhammad	Driver (BPS-05)	-do-
4.	Mr. Nishat Khan	N/Qasid (BPS-02)	Erstwhile FATA Secretariat
5.	Mr. Haseeb Zeb	N/Qasid (BPS-01)	-do-
6.	Mr. Muhammad Zahir Shah	N/Qasid (BPS-01)	-do-
7.	Mr. Ramish	Sweeper (BPS-02)	-do-

The official at S.No.2 be adjusted against the vacant post of Junior Clerk (BPS-11) under the Surplus Pool Policy Section 5c(iii) having same qualification/Basic Pay Scale.

Pay of the above officials shall remain protected in light of Section 11-A of the Khyber Pakhtunkhwa Civil Servants (amendment) ordinance 2001.

(MUHAMMAD ALI ASGHAR)  
DEPUTY COMMISSIONER

Endst: No. and Date Even:

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Section Officer (General), Govt. of Khyber Pakhtunkhwa, Zakat, Usher, Social Welfare, Special Education & Women Empowerment Department, Peshawar w/r his letter referred above.
3. Section Officer (E-III), Govt. of Khyber Pakhtunkhwa, Establishment Department, Peshawar.
4. Accounts Officer of this office for further necessary action.
5. Officials concerned by name for strict compliance.

DEPUTY COMMISSIONER

ATTESTED



GOVERNMENT OF KHYBER PAKHTUNKHWA  
SOCIAL WELFARE SPECIAL EDUCATION & WOMEN  
EMPOWERMENT DEPARTMENT

Annexure (D)

Dated Peshawar the 27<sup>th</sup> August, 2019

OFFICE ORDER

1946-55

SOG(SWD)1-60/Staff /2019

The competent authority is pleased to adjust the following surplus official in the office of Provincial Ombudsperson's Secretariat against the vacant posts mentioned against each with immediate effect, in the public interest:-

S.#	Name of Officials	Designation & Department from which declared surplus	Designation & Department where adjusted
1.	Mr. Asad Ali Siddiqui	Junior Clerk (BPS-11) Defunct Ehtisab Commission	Junior Clerk (BPS-11) KP Ombudsperson's Sectt:
2.	Mr. Tahseenullah	--do--	--do--
3.	Mr. Bakh Muhammad	Driver (BPS-05) Defunct Ehtisab Commission	Driver (BPS-05) KP Ombudsperson's Sectt:
4.	Mr. Nishat Khan	Naib Qasid (BPS-02) Erstwhile FATA Secretariat	Naib Qasid (BPS-02) KP Ombudsperson's Sectt:
5.	Mr. Haseeb Zeb	--do--	--do--
6.	Mr. Muhammad Zahir Shah	--do--	--do--
7.	Mr. Ramish	Sweeper (BPS-02) Erstwhile FATA Secretariat	Sweeper (BPS-02) KP Ombudsperson's Sectt:

Deputy Secretary (Admn)  
Social Welfare Special Education and Women  
Empowerment Department Khyber Pakhtunkhwa

Ends: of Even No. & Date.

Dated:- 27.08.2019

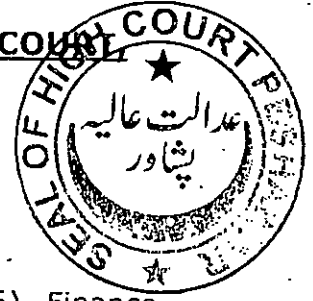
Copy forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa.
2. Ombudsperson's Secretariat, Khyber Pakhtunkhwa.
3. P.S to Secretary, SW, SE & WE Department, Khyber Pakhtunkhwa.
4. P.A to Deputy Secretary (Admn), SW, SE & WE Department, Khyber Pakhtunkhwa.
5. Official Concerned.

ATTESTED

(Muhammad Ismail)  
Section Officer (General) 1A-01-2020

**BEFORE THE HON'BLE PESHAWAR HIGH COURT  
PESHAWAR**



W.P.No. 3704P/2019

1. **Tauseef Iqbal**, Computer Operator (BPS-16), Finance Department, Merged Areas Secretariat.
2. **Hanif Ur Rehman**, Assistant (BPS-16), Law & Order Department, Merged Areas Secretariat.
3. **Ashiq Hussain**, Assistant (BPS-16), A,I&C Department, Merged Areas Secretariat.
4. **Shaukat Khan**, Assistant (BPS-16), Law & Order Department, Merged Areas Secretariat.
5. **Zahid Khan**, Assistant (BPS-16), Finance Department, Merged Areas Secretariat.
6. **Qaiser Khan**, Assistant (BPS-16), A,I&C Department, Merged Areas Secretariat.
7. **Farooq Khan**, Computer Operator (BPS-16), Law & Order Department, Merged Areas Secretariat.
8. **Sabir Shah**, Naib Qasid (BPS-02), A, I&C Department Merged Areas Secretariat.
9. **Safdar Ali Shah**, Naib Qasid (BPS-02), A, I&C Department Merged Areas Secretariat.
10. **Arshad Khan**, Naib Qasid (BPS-02), A, I&C Department Merged Areas Secretariat.
11. **Inamullah**, Naib Qasid (BPS-02), A, I&C Department Merged Areas Secretariat.
12. **Hidayatullah**, Naib Qasid (BPS-02), A, I&C Department Merged Areas Secretariat.
13. **Nishat Khan**, Naib Qasid (BPS-02), A, I&C Department Merged Areas Secretariat.
14. **Maqsood Jan**, Naib Qasid (BPS-02), A, I&C Department Merged Areas Secretariat.

KHALID NADEEM  
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Lic # 644/PA/2013  
Melody Market, Islamabad

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EXAMINER

Peshawar High Court

W.P.No. 3704/2019 - Tauseef Iqbal

- 15. **Zubair Shah**, Naib Qasid (BPS-02), A, I&C Department Merged Areas Secretariat.
- 16. **Muhammad Hussain**, Naib Qasid (BPS-02), A, I&C Department Merged Areas Secretariat.
- 17. **Misbahullah**, Naib Qasid (BPS-01), A, I&C Department Merged Areas Secretariat.
- 18. **Muhammad Zahir Shah**, Naib Qasid (BPS-01), Finance Department Merged Areas Secretariat.
- 19. **Shabir Khan**, Naib Qasid (BPS-02), Law & Order Department Merged Areas Secretariat.
- 20. **Dost Muhammad**, Naib Qasid (BPS-02), Mineral Directorate Merged Areas Secretariat.
- 21. **Nehad Badshah**, Mali (BPS-02), A, I&C Department Merged Areas Secretariat.
- 22. **Jawad Khan**, Mali (BPS-01), A, I&C Department Merged Areas Secretariat.
- 23. **Khalid Khan**, Naib Qasid (BPS-02), A, I&C Department Merged Areas Secretariat.
- 24. **Waqas Khurshid**, Naib Qasid (BPS-01), A, I&C Department Merged Areas Secretariat.
- 25. **Muhammad Tanveer**, Naib Qasid (BPS-01), A, I&C Department Merged Areas Secretariat.
- 26. **Wakeel Khan**, Naib Qasid (BPS-01), A, I&C Department Merged Areas Secretariat.
- 27. **Bawar Khan**, Naib Qasid (BPS-01), A, I&C Department Merged Areas Secretariat.
- 28. **Dost Ali**, Naib Qasid (BPS-02), A, I&C Department Merged Areas Secretariat.
- 29. **Altaf ur Rehman**, Chowkidar (BPS-02), A, I&C Department Merged Areas Secretariat.
- 30. **Haseeb Zeb**, Naib Qasid (BPS-01), A, I&C Department Merged Areas Secretariat.

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**EXAMINER**  
**Peshawar High Court**

- 31. **Samiullah**, Naib Qasid (BPS-01), A, I&C Department Merged Areas Secretariat.
- 32. **Muhammad Amjid Ayaz**, Naib Qasid (BPS-01), A, I&C Department Merged Areas Secretariat.
- 33. **Said Anwar**, Naib Qasid (BPS-01), A, I&C Department Merged Areas Secretariat.
- 34. ~~Muhammad~~ **Sharif**, Naib Qasid (BPS-02), A, I&C Department Merged Areas Secretariat.
- 35. **Zahidullah**, Naib Qasid (BPS-02), Law & Order Department Merged Areas Secretariat.
- 36. **Kemya Gul**, Chowkidar (BPS-02), A, I&C Department Merged Areas Secretariat.
- 37. **Azizullah**, Chowkidar (BPS-02), A, I&C Department Merged Areas Secretariat.
- 38. **Yasir Arafat**, Chowkidar (BPS-02), A, I&C Department Merged Areas Secretariat.
- 39. **Muhammad Saleem**, AC Cleaner/N/Qasid (BPS-02), A, I&C Department Merged Areas Secretariat.
- 40. **Daud Khan**, AC Cleaner (BPS-02), A, I&C Department Merged Areas Secretariat.
- 41. **Muhammad Ali**, Driver (BPS-05), A, I&C Department Merged Areas Secretariat.
- 42. **Inamullah**, Driver (BPS-05), A, I&C Department Merged Areas Secretariat.
- 43. **Abdul Qadar**, Driver (BPS-05), A, I&C Department Merged Areas Secretariat.
- 44. **Mina Jan**, Driver (BPS-04), A, I&C Department Merged Areas Secretariat.
- 45. **Waheedullah Shah**, Driver (BPS-05), A, I&C Department Merged Areas Secretariat.
- 46. **Mubashir Alam**, Driver (BPS-05), Law & Order Department Merged Areas Secretariat.

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**ATTESTED**  
 EXAMINER  
 Peshawar High Court

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- 47. **Zamarud Khan**, Chowkidar (BPS-02), A, I&C Department Merged Areas Secretariat.
- 48. **Farhad Gul**, Naib Qasid (BPS-01), Law & Order Department Merged Areas Secretariat.
- 49. **Hameed Khan**, Naib Qasid (BPS-01), Law & Order Department Merged Areas Secretariat.
- 50. **Alam Zeb**, Mali (BPS-01), A, I&C Department Merged Areas Secretariat.

51. *Kiyasuddin Naib Qasid (BPS-2), A, I&C, Dept, merged Area Secretariat* ..... **Petitioners**

**VERSUS**

- 1. **Government** of Khyber Pakhtunkhwa, through Advocate General, Peshawar.
- 2. **Government** of Khyber Pakhtunkhwa, through Chief Secretary at Civil Secretariat, Peshawar.
- 3. **Government** of Khyber Pakhtunkhwa, through Additional Chief Secretary Merged Areas at Warsak Road, Peshawar.
- 4. **Government** of Khyber Pakhtunkhwa, through Additional Chief Secretary P & D Department, Khyber Pakhtunkhwa, Peshawar.
- 5. **Secretary** to Government of Khyber Pakhtunkhwa, Administration Department at Civil Secretariat, Peshawar.
- 6. **Secretary** to Government of Khyber Pakhtunkhwa, Establishment Department at Civil Secretariat, Peshawar.
- 7. **Secretary** to Government of Khyber Pakhtunkhwa, Finance Department at Civil Secretariat, Peshawar.

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Respondents

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EXAMINER  
Peshawar High Court

21

23

WRIT PETITION UNDER ARTICLE 199  
 R/W ARTICLE 4, 25 & 27 OF THE  
 CONSTITUTION OF ISLAMIC REPUBLIC  
 OF PAKISTAN, 1973, AGAINST THE  
 IMPUGNED NOTIFICATION NO.  
 SO(O&M)/E&AD/3-18/2019 DATED:  
 25.06.2019 OF THE RESPONDENTS  
 WHEREBY THE PETITIONERS ALONG  
 WITH OTHERS EMPLOYEES OF THE  
 RESPONDENTS' DEPARTMENT HAVE  
 BEEN DECLARED AS "SURPLUS" AND  
 PLACED THEM IN THE SURPLUS POOL  
 OF ESTABLISHMENT AND  
 ADMINISTRATION DEPARTMENT.

THE IMPUGNED ORDER IS NOT ONLY  
 ILLEGAL, UNLAWFUL AGAINST THE  
 SURPLUS POOL POLICY AND  
 TANTAMOUNT TO QUENCH THE THIRST  
 BY THE RESPONDENTS AS ALREADY 03  
 DIFFERENT C.O.CS HAVE BEEN FILED  
 (ONE IS STILL PENDING) AGAINST THE  
 RESPONDENTS BY NOT COMPLYING  
 WITH THE CLEAR CUT JUDGMENT OF  
 THE APEX COURT DATED: 30.05.2013  
 IN CP NO.29-P OF 2013 AS WELL AS  
 THIS HONORABLE COURT (LARGER  
 BENCH) JUDGMENT DATED: 07.11.2013  
 IN W.P NO.969/2010 BEING PASSED  
 IN FAVOR OF THE PRESENT  
 PETITIONERS.

**ATTESTED**

**ATTESTED**

EXAMINER  
Peshawar High Court

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08 JUL 2019

**KHALID NADEEM**  
 STAMP VENDOR  
 Lic # 644/DKA/2013  
 Melody Market, Islamabad

Iqbal VS Govt KP Full Petition

22

24

MOREOVER AFTER THE 25<sup>TH</sup> AMENDMENT IN THE CONSTITUTION OF PAKISTAN 1973 THE RESPONDENTS HAS DECLARED THE PETITIONERS AS SURPLUS DESPITE THE FACT THE PETITIONERS HAVE NEVER OPTED TO BE PLACED SURPLUS NOR THE OPTION HAS BEEN TAKEN FROM THE PETITIONERS WHICH IS MANDATORY AS PER SECTION 5 (A) OF THE GOVERNMENT SURPLUS POOL POLICY OF THE YEAR 2001 (8<sup>TH</sup> JUNE, 2001) AS AMENDED IN 2006 AS WELL AS THE UNWILLINGNESS OF THE PETITIONERS ARE ALSO CLEARED FROM THE RESPONDENT LETTER NO. PS/FS/A,I&C/2019 DATED: 22.03.2019 "INFORMATION REPORT ON THE PROTEST LAUNCHED BY MERGED AREAS SECRETARIAT EMPLOYEES ON 22.03.2019" WHEREBY THE PETITIONERS VERY CATEGORICALLY CONTENDED THAT THEY SHOULD NOT BE PLACED IN THE SURPLUS POOL AS THEIR MATURED SERVICE OF ABOUT 14 YEARS AND ABOVE MAY SPOIL AND LOSE.

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EXAMINER  
Peshawar High Court

IN ADDITION VIDE DIFFERENT NOTIFICATIONS I.E. NO. SO(E-1)/E&AD/9-126/2019 DATED: 08.01.2019 THE ERSTWHILE FATA

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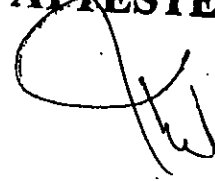


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SECRETARIAT DEPARTMENTS AND DIRECTORATES HAVE BEEN SHIFTED AND PLACED UNDER THE ADMINISTRATIVE SUPERVISION AND CONTROLLER OF THE KHYBER PAKHTUNKHWA GOVERNMENT DEPARTMENT IN ORDER TO ENSURE BETTER COORDINATION AND SEAMLESS TRANSACTION. BESIDES BILLIONS OF RUPEES HAVE BEEN GIVEN BY THE GOVERNMENT FOR THE MERGED/ERSTWHILE FATA SECRETARIAT DEPARTMENTS ETC (FOR PRESENT PETITIONERS/POSTS) BUT UNFORTUNATELY DESPITE OF HAVING SAME CADRE OF POSTS (PETITIONERS) AT CIVIL SECRETARIAT, THE RESPONDENTS HAVE PASSED THE UNJUSTIFIABLE, ILLEGAL AND UNLAWFUL IMPUGNED ORDER DATED: 25.06.2019 WHICH IS THE VIOLATION OF THE APEX COURT/HIGH COURT JUDGMENT BUT THE SAME WILL FURTHER VIOLATE THE FUNDAMENTAL RIGHT OF THE PETITIONERS BEING ENSHRINED IN THE CONSTITUTION OF PAKISTAN, 1973, WILL SERIOUSLY AFFECT THE PROMOTION /SENIORITY LAST BUT NOT THE LEAST THE IMPUGNED ORDER HAS FURTHER AGGRAVATED THE AGONIES OF THE PETITIONERS AND SERIOUSLY TRAUMATIZED THEIR FAMILIES TOO.

**ATTESTED**



**ATTESTED**

**EXAMINER**  
Peshawar High Court

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**PRAYER:**

By acceptance of this Writ Petition, on the basis of expounded subjects, facts and circumstances, the impugned Notification No. SO (O&M)/E&AD/3-18/2019 dated: 25.06.2019 of the respondents and any action taken in the grab of the impugned order may kindly be set-aside, being illegal, unlawful against the Surplus Pool Policy and the violation of the right of the petitioners. Similarly the petitioners' services may also be retained in the Civil Secretariat of Establishment & Administration Department being having the similar cadre of posts of rest of the Civil Secretariat employees.

*Respectfully Sheweth;*

- 1) That the petitioners were initially appointed in the Fata Secretariat appointment orders in the year 2004 vide appointment orders dated: 01.12.2004.
- 2) That since the appointment of the petitioners, they earned good reputation amongst the officers. Due to the pain staking and sedulous hardworking, ever tried to keep the morale of the department high and during the entire service of more than 14 years are having unblemished service carrier.
- 3) That for the fundamental right, they have preferred series of application to the competent authority but of no avail, finally for the regularization, put up the matter before the Honorable Peshawar High Court, Peshawar and this august court has been pleased to allow the writ petition No.969 of

**ATTESTED**  
*[Signature]*

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**ATTESTED**  
**EXAMINER**  
Peshawar High Court

WP3704-2019- Tauseef Inqial **EXAMINER**  
Peshawar High Court

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2010 vide judgment dated: 30.11.2011. The respondents has challenged the matter before the Supreme Court of Pakistan and vide CPLA No.29-P of 2013 dated: 30.05.2013, the apex court has been pleased to upheld the Peshawar High Court, Peshawar judgment in favor of the present petitioners and for certain other benefits, the case was remanded back to the Honorable Peshawar high Court, Peshawar in order to dispense justice in its true letter and spirit. Accordingly, this Honorable Court, larger bench has been pleased to allow the petitioners' writ petition No. vide detail judgment dated: 07.11.2013 and besides other remedy, the petitioners have been regularized from 01.07.2008 and vice versa for the complete detail. (Copy of the aforesaid whole proceedings, apex court decision along with appointment/regularization orders etc is annexed as annexure "A").

- 4) That the stroke of misfortune hit the petitioners, when the respondents were reluctant to comply with the clear cut order/judgments of the higher courts. The petitioners have tried their level best even from pillar to post via series of application but of no avail and finally having no other option but filed contempt of court petition. Though some portion/remedy of the judgment were redressed/complied with but unfortunately were reluctant to formulate the service structure of the petitioners' post. As the matter pertains to the year 2013 and despite the commitment made before Honorable Peshawar High Court, Peshawar, the respondents mendaciously were lethargic to comply with the clear order of the Honorable Peshawar

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08 JUL 2019

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EXAMINER  
Peshawar High Court

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High Court, Peshawar and after the lapse of further 03 years, the petitioners have again filed another C.O.C via C.M No. 667/2017 in C.O.C No. 178-P/2014 in W.P No.969/2010, which is still in the field. **(Copy of the C.O.Cs along with relevant documents is annexed annexure "B")**.

- 5) That it is rudimentary to mention here, that since 2013, the petitioners vested right have been violated and in such a doldrums sort of situation, the petitioners' were shocked and astonish to know that the respondent vide illegal, unjustifiable and unlawful Notification dated: 25.06.2019 has placed the petitioners along with other employees, in the Surplus Pool and declared them Surplus. **(Copy of the impugned order dated: 25.06.2019 vide Notification No. SO(O&M)/E&Ad/3-18/2019 is annexed as annexure "C")**.
- 6) That the impugned order is not only illegal, unlawful against the surplus pool policy and tantamount to quench the thirst by the respondents as already 03 different C.O.Cs have been filed (one is still pending) against the respondents by not complying with the clear cut judgment of the apex court dated: 30.05.2013 in CP No.29-P of 2013 as well as this honorable court (larger bench) judgment dated: 07.11.2013 in W.P No.969/2010 being passed in favor of the present petitioners.
- 7) That after the 25<sup>th</sup> amendment in the constitution of Pakistan 1973, the respondents has declared the petitioners as surplus despite the fact the petitioners have never opted to be placed surplus nor the option has been

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08 JUL 2019

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WP3704-2019- Tauseef Iqbal VC Govt KP Full PG

EXAMINER  
Peshawar High Court

ATTESTED

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29

taken from the petitioners, which is mandatory as per section 5 (a) of the government surplus pool policy of the year 2001 (8<sup>th</sup> June, 2001) as amended in 2006 as well as the unwillingness of the petitioners are also cleared from the respondent letter No. PS/FS/A,I&C/2019 dated: 22.03.2019 **"Information report on the protest launched by merged areas secretariat employees/petitioners on 22.03.2019"** whereby the petitioners very categorically contended that they should not be placed in the surplus pool as their matured service of about 15 years may spoil and lose. **(Copy of the Government Surplus Pool Policy of the year 2001 along with the respondent letter no. Ps/Fs/A, I&C/2019 dated: 22.03.2019 is annexed as annexure "D")**.

- 8) That the illegal and untoward act of the respondent is also cleared from the notifications i.e. No. **SO(E-1)/E&AD/9-126/2019 DATED: 08.01.2019**, the erstwhile Fata secretariat departments and directorates have been shifted and placed under the administrative supervision and controller of the Khyber Pakhtunkhwa government department in order to ensure better coordination and seamless transaction. besides billions of rupees have been given by the government for the merged/erstwhile Fata secretariat departments etc (for present petitioners/posts) but unfortunately despite of having same cadre of posts (petitioners) at civil secretariat, the respondents have carried out the unjustifiable, illegal and unlawful impugned order dated: 25.06.2019 which is not only the violation of the apex court/high Court judgment but the same will

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 Registrar  
 8 JUL 2019

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WP3704-2019 vs. State of Punjab vs. Govt KP Full PG 103

**EXAMINER**  
**Peshawar High Court**

further violate the fundamental right of the petitioners being enshrined in the constitution of Pakistan, 1973, will seriously affect the promotion /seniority, so much so, the petitioners were extremely shocked to know and put in doldrums by the respondent, of having the stance, if the same impugned Notification is not accepted, the consequences will be grimed and as such the impugned order has further aggravated the agonies of the petitioners and seriously traumatized their families. (Copy of the all the Notifications along with relevant documents of the respondent department are annexed as annexure "E").

- 9) That the mendacious approach and clear discrimination of the respondents is cleared from the Notification No. SO(E)P&D/19-37/PPS/2018 Dated: 22.03.2019, whereby the employees of erstwhile Fata Secretariat have not been placed Surplus *"In Pursuance of Order of Peshawar High Court, Peshawar dated: 07.11.2018 in writ petition No.3722-P/2016 titled Muhammad Masood Afridi & others Versus Government of Khyber Pakhtunkhwa through Chief Secretary & others and in light of decision of the meeting held on 15.11.2018 under the Chairmanship of Chief Secretary, Khyber Pakhtunkhwa, the Competent Authority is pleased to include the following posts in BS-17 and above of erstwhile Agency Planning Cells P&D Department, Merged Areas (Tribal Districts) in the schedule of Provincial Planning Service (PPS) cadre and the incumbents as Provincial Planning Service Officers in their respective grades, with immediate effect, in the best public interest"*. (Copy of the

TODAY

JUL 2019

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WP3722-P/2016 - Title of Petitioner VS Govt KP Full PPS

EXAMINER  
Peshawar High Court

29 (31)

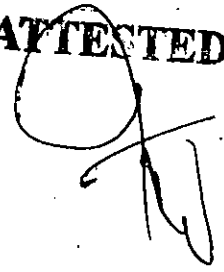
Notification dated: 22.03.2019 is annexed as annexure "F").

- 10) That the law demands, justice may not only be done but it should manifestly be seemed to be done, keeping in view the unjustifiable order of the respondents. In such a scenario, if the same is not set-aside, the petitioners will be further aggravated and will suffer irreparable losses.
- 11) That the expounded subjects, facts and circumstances may also be considered as ground of the instant writ petition and any other point/documents may be raised/ provided at the time of arguments for the best assistance of this Honorable Court.

**PRAYER:**

It is therefore most humbly prayed that by acceptance of this Writ Petition, on the basis of expounded subjects, facts and circumstances, the impugned Notification No. SO (O&M)/E&AD/3-18/2019 dated: 25.06.2019 of the respondents and any action taken in the grab of the impugned order may kindly be set-aside, being illegal, unlawful against the Surplus Pool Policy and the violation of the right of the petitioners. Similarly the petitioners' services may also be retained in the Civil Secretariat of Establishment & Administration Department being having the similar cadre of posts of rest of the Civil Secretariat employees.

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FILED TODAY

Deputy Registrar

08 JUL 2019

**ATTESTED**

EXAMINER

Peshawar High Court

WP3704-2019 Tahseer Jhal VS Govt KP Full DC

Any other remedy which this Honorable court deems fit and proper may also be granted to the petitioner.

**Interim Relief:** With profound veneration, in the meanwhile, the operation of the impugned Notification No. SO (O&M)/E&AD/3-18/2019 dated: 25.06.2019 of the respondents may kindly be suspended and the respondents may also be restrained not to pass any adverse order of whatsoever against the petitioners till the final disposal of the instant writ petition.

**Petitioners**

Through

**Taimur Haider Khan**  
Advocate, High Court  
**Taimur Law Associates**  
Room No.37<sup>th</sup>, 2<sup>nd</sup> Floor,  
Malik Tower, Pajjagi Road,  
Peshawar

Office:

**ATTESTED**



**CERTIFICATE:**

It is certified that no such like Writ Petition has earlier been filed by the petitioner before this Hon'ble Court.

**LIST OF BOOKS:**

1. Constitution of Islamic Republic of Pakistan, 1973
2. Any other law book as per need.

Advocate



**KHALID NAZKI**  
SIA # 0847/2019  
Malik Tower, Pajjagi Road, Peshawar

**VERIFIED TO BE TRUE COPY**

EXAMINER  
Peshawar High Court, Peshawar  
Organised Under Article 175  
Constitution of Pakistan  
06 JAN 2020

**FILED TODAY**

Deputy Registrar

08 JUL 2019

**ATTESTED**

EXAMINER  
Peshawar High Court



Annexure (F)

12

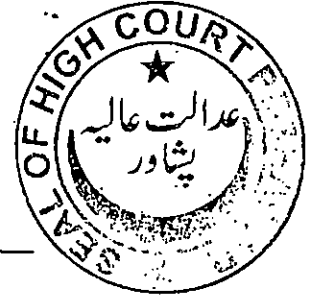
33

Judgment Sheet

IN THE PESHAWAR HIGH COURT, PESHAWAR  
JUDICIAL DEPARTMENT

W.P.No.3704-R of 2019

JUDGMENT



Date of hearing 05.12.2019

Petitioner (s) (Tauseef Iqbal and others) by Mr. Taimur Haider Khan,  
Advocate.

Respondent (s) (Government of Khyber Pakhtunkhwa, Peshawar and others)  
by Mr. Rab Nawaz Khan

\*\*\*\*\*

MUHAMMAD NASIR MAHFOOZ, J:- Through this writ

petition under Article 199 of the Constitution of Islamic

Republic of Pakistan, 1973, the petitioners have prayed for

the following relief:-

It is, therefore, humbly prayed that on acceptance of the instant writ petition, on the basis of expounded subjects, facts and circumstances, the impugned Notification No. SO(O&M)/E&AD/3-18/2019 dated 25.6.2019 of the respondents and any action taken in the garb of the impugned order may kindly be set aside, being illegal, unlawful against the Surplus Pool Policy and the violation of the right of the petitioners. Similarly the petitioners' services may

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**ATTESTED**  
*Handwritten signature*

**KHALID NADEEM**  
STAMP VENDOR  
D/o # 644/DRA/2013  
Melody Market, Islamabad

**ATTESTED**

**EXAMINER**  
Peshawar High Court

also be retained in the civil Secretariat of Establishment and Administration Department having the similar cadre of posts of rest of the Civil Secretariat employees.

2. We have heard learned counsel for the petitioner and learned AAG on behalf of the respondents and have gone through the record.

3. Respondents submitted their comments and alongwith the comments they have annexed copies of Notification dated 19.7.2019, 22.7.2019 with the subject, "Adjustment of surplus staff of erstwhile FATA," and addressed to the Deputy Commissioner of different Districts. As per said Notification all the petitioners have been adjusted in various Directorates and other offices of the Provincial Government. The specific request of the petitioner to be adjusted in the civil secretariat, Peshawar could not hold the field as once they have been adjusted after the abolishment of FATA Secretariat on account of omission of Article 247 through promulgation of 25<sup>th</sup> Constitutional amendment, now they are regular

*S.S.P.*

**ATTESTED**



**ATTESTED**

**EXAMINER**  
Peshawar High Court

employees of the Provincial Government and would be treated as such for all intents and purposes including their seniority. The surplus pool policy as announced by the Provincial Government vide letter dated 13.8.2001 is a comprehensive set of rules and none of its provision violates the parameters as laid down in the civil service law.

4. Para-1 of this policy empowers the Finance Department in consultation with the department concerned and with the approval of competent authority to declare any organization, set up or individual post as redundant or inessential. Vide para-2 the surplus pool is created by establishment and administration department after abolition and creation of equal number of posts in the corresponding basic pay scales. Para-3 provides for implementation/monitoring cell whereby a committee consisting of Additional Secretary (Establishment)E&AD as Chairman, Deputy Secretary LG&RD and Deputy Secretary Finance Department as Members, Deputy Secretary (Establishment)E&AD as Secretary. In para-4

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EXAMINER  
Peshawar High Court

15

(36)

the criteria is provided for declaring any Government as surplus and the procedure for adjustment is provided in para-5. Fixation of seniority is provided in para-6 for the determination of seniority of inter se old employees of the concerned office, wherein, the surplus employees are adjusted and lastly in para-7 the competent authority shall notify adjustment/absorption and each and every aspect that a civil servant may face after adjustment in another department is provided in the said policy. Now so far as the other grievance of the petitioner is concerned that they are to be absorbed in the civil secretariat, being a civil servant it would involve deeper appreciation of the vires of the policy referred above, which have not been impugned before us in the instant writ petition. In case petitioners still feel aggrieved regarding any matter that could not be met within the frame work of said policy they would be legally bound by the terms and condition of service and in view of bar contained in Article 212 of the Constitution of Islamic Republic of Pakistan, 1973, this court could not embark upon to entertain the same.

b.94

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 EXAMINER  
 Peshawar High Court

16

5. Needless to mention and we expect that keeping in view the ratio as contained in the judgment titled Tikka Khan and others Vs. Syed Muzaffar Hussain Shah and others (2018 SCMR 332), the seniority would be determined accordingly.

Consequently, the instant writ petition involve no other question to be determined, hence it has become infructuous and is dismissed as such.

Announced  
05.12.2019

*[Signature]*

JUDGE

*[Signature]*  
JUDGE

**ATTESTED**

*[Signature]*

Shahid Ali, Court Secretary

(D.B.) Hon'ble Mr. Justice Mohammad Ibrahim Khan and Hon'ble Mr. Justice Mohammad Nasir Mahfooz

*[Signature]*  
**CERTIFIED TO BE TRUE COPY**

EXAMINER  
Peshawar High Court, Peshawar  
Authorized Under Article 8.7 of  
The Governance-Reform Order 1984

06 JAN 2020

20685  
Date of Presentation of Application... 06/11/2020  
No. of Pages... 1  
Filing fee... 76/-  
Date of Preparation of Copy... 06/11/2020  
Date of Delivery of copy... 06/11/2020  
Received By... *[Signature]*

**KHALID NADEEM**  
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Lic # 0047/DNA/2013  
Melody Market, Islamabad

Annexure (G)  
62/20

**IN THE SUPREME COURT OF PAKISTAN**  
**(APPELLATE JURISDICTION)**

**PRESENT:**

MR. JUSTICE GULZAR AHMED, HCJ  
MR. JUSTICE IJAZ UL AHSAN

6 **CIVIL PETITION NO.881 OF 2020.**

*(Against the judgment dated 05.12.2019 passed by the Peshawar High Court, Peshawar in Writ Petition No.3704-P of 2019).*

Tauseef Iqbal and others.

...Petitioner(s)

**Versus**

Government of KPK through Advocate General,  
Peshawar and others.

...Respondent(s)

For the Petitioner(s):

Mr. Afnan Karim Kundi, ASC.  
Syed Razaqat H. Shah; AOR.

For the Respondent(s):

N.R.

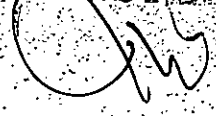
Date of Hearing:

04.08.2020.

**ORDER**

**IJAZ UL AHSAN, J.** Leave to appeal is sought against a judgment of the Peshawar High Court, Peshawar dated 05.12.2019. Through the impugned judgment, a constitutional petition bearing No.3704-P of 2019 filed by the petitioners was dismissed by a learned Division Bench of the High Court and the relief of declaring notification No.SO(O&M)/E&AD/3-18/2019 dated 25.06.2019 as illegal and unlawful was declined. One of the grounds that prevailed with the learned High Court in refusing the relief as aforesaid was that the High Court lacked jurisdiction in terms of Article 212 of the Constitution of Islamic Republic of Pakistan, 1973.

**ATTESTED**



**ATTESTED**

  
Senior Court Associate

2. The learned counsel for the petitioners has *inter alia* argued that in addition to various legal and constitutional grounds urged before the learned High Court the main grievance of the petitioners was that by reason of their placement in the Surplus Pool pursuant to merger of Federally Administered Tribal Area (FATA) with Khyber Pakhtunkhwa in the wake of Twenty-Fifth Amendment to the Constitution of Islamic Republic of Pakistan, 1973 and their adjustment in different departments of the Government, they had suffered adverse financial consequences and their prospects for further promotion and progression in their careers had been effected. He further maintains that the questions of seniority and promotion were also material. He argues that the basic and fundamental question involved in the matter is the status of petitioners whether or not they are civil servants which question according to him may not have correctly been decided by the learned High Court.

3. We have confronted the learned counsel for the petitioners with the proposition that the Service Tribunal may be the correct forum to rule on the question whether or not a Government employee is a civil servant and the Tribunal enjoys the requisite jurisdiction to do so to the exclusion of other *fora*. The learned counsel has not been able to convince us that the position is otherwise. He submits that he would not press this petition and approach the concerned Service Tribunal for redressal of the grievance of the petitioners in accordance with law. He however submits that the question of

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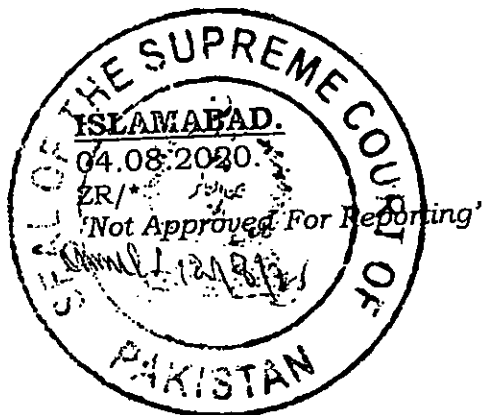
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limitation may come in the way of the petitioners who have arguably been pursuing their remedy before the wrong forum.

4. We are sanguine that if and when the petitioners approach the competent forum and move an appropriate application for condonation of delay the same shall justly and sympathetically be considered in accordance with law. This petition is accordingly dismissed as not pressed.

Sd/-HCJ  
Certified to be True Copy  
Sd/-

Senior Court Associate  
Supreme Court of Pakistan  
Islamabad






ATTESTED

*[Handwritten signature]*

Case No: 11227/20  
 Date of filing: 04-08-20  
 Fee of filing: 900  
 Fee of advertisement: 0  
 Fee of legal aid: 5-00  
 Court fee: 5-58  
 Total: 10-58  
 12/8/20  
 13-08-2020  
*[Handwritten signature]*



قیمت 50 روپے	51034			
ایڈویکٹ: سید یحییٰ زاہد گیلانی / سید عتیق الرحمن / سید تنجی زاہد گیلانی				
بار کونسل ایسوسی ایشن نمبر: bc-10-7680 bc-11-1530				
رابطہ نمبر:		پشاور بار ایسوسی ایشن، خیبر پختونخواہ		

بعدالت جناب: خیبر پختونخواہ سروس ٹراہیونل پشاور

Appellant مخائب:	دعویٰ: سر کی اپیل
محمد ظاہر شاہ	علت نمبر: اپیل نمبر 1245/2021
بنام	مورخہ:
گورنمنٹ خیبر پختونخواہ	جرم:
	تھانہ:

**بابت تحریر آنگہ**

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ ایڈویکٹس کے آن مقام پشاور کیلئے سید یحییٰ زاہد گیلانی / سید عتیق الرحمن / سید تنجی زاہد گیلانی کو وکیل مقرر کرانے کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کمال اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلاف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق و زبانی پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری کی طرف سے 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 کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داخست منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانبہ التوائے مقدمہ کے سبب سے 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 سند رہے المرقوم:

11-09-2020

DESHAWAN DAN...  
KHYBER PAKHTUNKHWA

محمد ظاہر شاہ

مقام کے لیے منظور ہے۔

Accepted by:

نوٹ: اس وکالت نامہ کی فونو کاپی ناقابل قبول ہوگی۔

Syed Yahya Zahid Gilani Advocate

Ateeq-Ur-Rehman Advocate

Syed Murtaza Zahid Gilani Advocate

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

**Service Appeal No. 1245/2021**

Muhammad Zahir Shah .....Appellant

**Versus**

Govt. of Khyber Pakhtunkhwa through Chief Secretary & Others..... Respondents

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<b>Sr. No.</b>	<b>Description of Documents</b>	<b>Annex</b>	<b>Pages</b>
1.	Joint Parawise Comments		2-4
2.	Establishment Department Notification dated 24.01.2019	A	5
3.	The NWFP Civil Servants Act, 1973	B	06-13
4.	Surplus Pool Policy	C	14-18
5.	Establishment Department Notification Dated 25.06.2019	D	19-22
6.	Deputy Commissioner, Peshawar Order dated 23.08.2019	E	23
7.	Social Welfare Special Education & Women Empowerment Department Office Order dated 27.08.2019	F	24

2

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**

**Service Appeal No. 1245/2020**

Muhammad Zahir Shah ..... (Appellant)

Vs

The Chief Secretary, Khyber Pakhtunkhwa & others.....(Respondents)

**JOINT PARA-WISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1, 2 & 3.**

**PRELIMINARY OBJECTIONS.**

1. That the appellant has no locus standi and cause of action to file the instant appeal since his adjustment/ absorption was effected under Section-11(a) of Khyber Pakhtunkhwa Civil Servants Act, 1973.
2. That the appellant has not come to this Tribunal with clean hands.
3. That the Appeal is devoid of merit and hence cannot be claimed on account of unconstitutional means.
4. That the appeal of the appellant is badly time-barred.
5. That the appellant has concealed some material facts from this Hon'ble Tribunal.
6. That this Tribunal has got no jurisdiction to entertain the present appeal.
7. That the appellant is stopped by his own conduct to file the instant Service Appeal.

***RESPECTFULLY SHEWETH:***

**FACTS**

Para-1           **Pertains to record.**

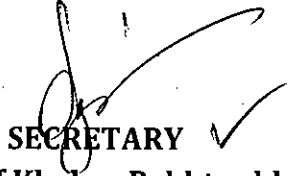
Para-2           **Correct.**

Para-3           Correct to the extent that in the wake of 25<sup>th</sup> Constitutional Amendment and subsequent developments, a need was felt to provide better line of administrative management and to cater to the channel of communication for the Administrative Departments and Attached Departments of Ex-FATA, the Provincial Government, through Executive Notification, directed, inter alia, Finance Department Merged Areas Secretariat to report to respective Secretary to the Government of Khyber Pakhtunkhwa in all official business (**Annex-A**). The said Notification, however, was not meant for the employees to report to the Provincial Government Departments.

- Para-4 **Incorrect.** The appellant and has been treated at par with the law in vogue i.e under Section-11(A) of the Khyber Pakhtunkhwa Civil Servants Act, 1973(Annex-B) and the Surplus Policy of the Provincial Government framed there-under (Annex-C).
- Para-5 **Pertains to record.**
- Para-6 **Pertains to record.**
- Para-7 **No Comments.**
- Grounds:**
- Para-A** **Incorrect:** The Notification dated 25.06.2019, Office Orders dated 23.08.2019 & 27.08.2019 (Annex-D, E & F) are legal and in accordance with the provision of Khyber Pakhtunkhwa Civil Servants Act, 1973, hence, to dub it as illegal against facts and law without presenting evidence is neither reasonable nor justifiable.
- Para-B** **Incorrect:** No breach of law nor any part of the Constitution have been made by absorbing/ adjusting the appellant and other employees of the Ex-FATA since the whole process has been carried out under the provision of Khyber Pakhtunkhwa Civil Servants Act, 1973 and the Surplus Policy of the Government framed there-under. Attention is invited to the fact that for each and every case, thorough examination under the prevalent laws, rules and regulations is carried out and proper approval from competent forum is solicited prior to issuance of any official order, notification and circulars etc.
- Para-C** **Incorrect:** As explained above.
- Para-D** **Incorrect:** As explained in Para-B.
- Para-E** **Incorrect:** FATA Secretariat, a federal entity, became redundant after the merger of Ex-FATA with the province of Khyber Pakhtunkhwa in the wake of 25<sup>th</sup> Constitutional Amendment and the appellant alongwith other employees, serving against federal posts, were handed over to the Establishment Department for adjustment and absorption. The said employees who occupied federal posts were transferred to the Provincial Government whereas the said federal posts became redundant and in light of Surplus Pool Policy they have been absorbed/ adjusted in various Departments of Government.
- Para-F** **Incorrect:** The reason of law has been applied.
- Para-G** **Incorrect.** As explained in Para-B.
- Para-H** **Incorrect.** The Seniority of the appellant shall be determined in terms of Para-6 of the Surplus Pool Policy of the Government.
- Para-I** **Pertains to Ombudsman Secretariat.**
- Para-J** **Incorrect:** No discrimination has been made in the adjustment of the appellant nor any other employees. They were simply rendered surplus and subsequently adjusted in various Government Departments. The whole process has been made in fair, transparent, and just manner under the Law in vogue and in the best public interest.
- Para-K** **That the respondents also seek permission to agitate further grounds at the time of arguments.**

Prayer

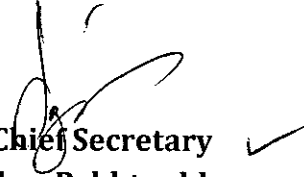
It is humbly prayed that the appeal, being devoid of legal merit, may graciously be dismissed ab- initio.



**SECRETARY**  
Govt: of Khyber Pakhtunkhwa  
Establishment Department  
(Respondents No-2)



**SECRETARY**  
Govt: of Khyber Pakhtunkhwa  
Finance Department  
(Respondents No-3)



**Chief Secretary**  
Khyber Pakhtunkhwa  
(Respondents No-1)

(A)

5/1/19

Annexure (B)



GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT

DATED PESHAWAR, THE JANUARY 24, 2019

**NOTIFICATION**

**NO. SO(E-I)/E&AD/9-126/2019.** In pursuance of integration and merger of erstwhile FATA with Khyber Pakhtunkhwa and in order to provide better line of administrative management, the following Department/Office working under the erstwhile FATA Secretariat shall henceforth report to its respective Secretary to Government of Khyber Pakhtunkhwa, in all official business:

Sr. No.	Name of department	Report to respective Secretary of the Department
1.	Finance Department, Merged Areas Secretariat.	Secretary, Finance Department, Khyber Pakhtunkhwa.

2. Subsequent modalities on other auxiliary matters shall be decided shortly.

**CHIEF SECRETARY  
GOVERNMENT OF KHYBER PAKHTUNKHWA**

**Endst. No. & date even.**

Copy forwarded to the:-

1. Additional Chief Secretary, P&D Department.
2. Additional Chief Secretary, (erstwhile FATA), Merged Areas Secretariat.
3. Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
4. Principal Secretary to Governor, Khyber Pakhtunkhwa.
5. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
6. Secretary, Finance Department, Khyber Pakhtunkhwa.
7. All Administrative Secretaries to Government of Khyber Pakhtunkhwa.
8. COC-11 Corps, HQs 11 Corps, Peshawar.
9. All Divisional Commissioners in Khyber Pakhtunkhwa.
10. Secretary, Finance Department, Merged Areas Secretariat.
11. Accountant General/AG(PR) Sub Office, Khyber Pakhtunkhwa.
12. Director General, Information, Khyber Pakhtunkhwa.
13. All Deputy Commissioners in Khyber Pakhtunkhwa.
14. PS to Chief Secretary, Khyber Pakhtunkhwa.
15. PS to Secretary Establishment, PS to SS(E)/SS (Reg)/PA, AS(HRD)/AS(E)/DS(E)/D.S(HRD Wing) SO(E.II), SO(HRD.I) SO(HRD.II) E&AD.
16. PS to Secretary (Admn.)/D.S(A)/SO Secret/Estate Officer/ACSO Cypher/Dy Director (IT) and Director Protocol Administration Department.
17. Manager, Government Printing Press Peshawar.

(ISHTIAQ AHMAD) *le*  
SECTION OFFICER (ESTT-I)

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**THE NWFP CIVIL SERVANTS ACT, 1973**  
(N.W.F.P. Act No. XVIII of 1973)

An Act to regulate the appointment of persons to, and the terms and conditions of service of persons in, the service of the North West Frontier Province.

**Preamble- WHEREAS** it is expedient to regulate by law, the appointment of persons to, and the terms and conditions of service of persons in, the service of the North West Frontier Province, and to provide for matters connected therewith or ancillary thereto;

It is hereby enacted as follows:-

**1. Short title, application and commencement:-** (1) This Act may be called the North West Frontier Province Civil Servants Act, 1973.

(2) This section and section 25, shall apply to persons employed on contract, or on work charged basis, or who are paid from contingencies, and the remaining provisions of this Act including this section, shall apply to all civil servants wherever they may be.

3) It shall come into force at once.

CHAPTER-I

PRELIMINARY

**2. Definitions:-** (1) In this Act, unless the context otherwise requires the following expressions shall have the meanings hereby respectively assigned to them, that is to say-

(a) "ad hoc appointment" means appointment of a duly qualified person made otherwise than in accordance with the prescribed method of recruitment, pending recruitment in accordance with such method,

(b) "civil servant" means a person who is a member of a civil service of the Province, or who holds a civil post in connection with the affairs of the Province, but does not include-

(i) a person who is on deputation to the Province from the Federation or any other Province or other authority;

(ii) a person who is employed on contract, or on work charged basis, or who is paid from contingencies; or

(iii) a person who is a "worker" or "workman" as defined in the Factories Act, 1934 (Act XXV of 1934), or the Workman's Compensation Act, 1923 (Act VIII of 1923);

(c) "Government" means the Government of the North-West Frontier Province.

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- (d) "Initial appointment" means appointment made otherwise than by promotion or transfer;
  - (e) "Pay" means the amount drawn monthly by a civil servant as pay, and includes special pay, personal pay and any other emoluments declared by the prescribed authority to be paid;
  - (f) "Permanent post" means a post sanctioned without limit of times;
  - (g) "Prescribed" means prescribed by rules;
  - (h) "Province" means the North West Frontier Province;
  - (i) "rules" means rules made or deemed to have been made under this Act;
  - (j) "Selection authority" means the North-West Frontier Province Public Service Commission, a departmental selection board, departmental selection committee or other authority or body on the recommendations of, or in consultation with which any appointment or promotion, as may be prescribed, is made;
  - (k) "temporary post" means a post other than a permanent post.
- (2) For the purpose of this Act, an appointment, whether by promotion or otherwise, shall be deemed to have been made on regular basis if it is made in the prescribed manner.

## CHAPTER-II

### TERMS AND CONDITIONS OF SERVICE OF CIVIL SERVANTS

3. **Terms and Conditions:-** The terms and conditions of service of a civil servant shall be as provided in this Act and the rules.
4. **Tenure of office of civil servants:-** Every civil servant shall hold office during the pleasure of the Governor.
5. **Appointment:-** Appointment to a civil service of the Province or to a civil post in connection with the affairs of the Province shall be made in the prescribed manner by the Governor or by a person authorized by the Governor in that behalf.
6. **Probation:-** (1) An initial appointment to a service or post referred to in section 5, not being an ad hoc appointment, shall be on probation as may be prescribed.
- (2) Any appointment of a civil servant by promotion or transfer to a service or post may also be made on probation as may be prescribed.
- (3) Where, in respect of any service or post, the satisfactory completion of probation includes the passing of a prescribed examination, test or course or successful completion of any training, a person appointed on probation to such service or post who,



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before the expiry of the original or extended period of his probation, has failed to pass such examination or test or to successfully complete course or the training shall, except as may be prescribed otherwise-

- (a) if he was appointed to such service or post by initial recruitment, be discharged; or
- (b) if he was appointed to such service or post by promotion or transfer, be reverted to the service or post from which he was promoted or transferred and against which he holds a lien or, if there be no such service or post, be discharged.

Provided that in the case of initial appointment to a service or post, a civil servant shall not be deemed to have completed his period of probation satisfactorily until his character and antecedents have been verified as satisfactory in the opinion of the appointing authority.

**7. Confirmation :-** (1) A person appointed on probation shall, on satisfactory completion of his probation, be eligible for confirmation in a service or, as the case may be, a post as may be prescribed.

(2) A civil servant promoted to a post <sup>2</sup>[ ] on regular basis shall be eligible for confirmation after rendering satisfactory service for the period prescribed for confirmation therein.

(3) There shall be no confirmation against any temporary post.

(4) A civil servant who, during the period of his service, was eligible to be confirmed in any service or against any post retires from service before being confirmed shall not, merely by reason of such retirement, be refused confirmation in such service or post or any benefits accruing there-from.

(5) Confirmation of a civil servant in a service or post shall take effect from the date of occurrence of permanent vacancy in that service or post or from the date of continuous officiation, in such service or post, whichever is later.

**8. Seniority:-** (1) For proper administration of a service, cadre or <sup>3</sup>[post], the appointing authority shall cause a seniority list of the members for the time being of such service, cadre or <sup>4</sup>[post] to be prepared, but nothing herein contained shall be construed to confer any vested right to a particular seniority in such service, cadre or <sup>5</sup>[post] as the case may be.

(2) Subject to the provisions of sub-section (1), the seniority of a civil servant shall be reckoned in relation to other civil servants belonging to the same service or <sup>6</sup>[cadre] whether serving the same department or office or not, as may be prescribed.

<sup>2</sup> The words "or grade" omitted by NWFP Ordinance No. IV of 1985.

<sup>3</sup> The word "grade" substituted by NWFP Ordinance No. IV of 1985.

<sup>4</sup> The word "grade" substituted by NWFP Ordinance No. IV of 1985.

<sup>5</sup> The word "grade" substituted by NWFP Ordinance No. IV of 1985.

<sup>6</sup> The word "grade" substituted by NWFP Ordinance No. IV of 1985.

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(3) Seniority on initial appointment to a service, <sup>7</sup>[cadre] or post shall be determined as may be prescribed.

<sup>8</sup>(4) Seniority in a post, service or cadre to which a civil servant is promoted shall take effect from the date of regular appointment to that post;

Provided that civil servants who are selected for promotion to a higher post in one batch shall, on their promotion to the higher post, retain their inter-se-seniority as in the lower post.

<sup>9</sup>(5) The seniority lists prepared under sub-section(1), shall be revised and notified in the official Gazette at least once in a calendar-year, preferably in the month of January.

**9. Promotion:-**(1) A civil servant possessing such minimum qualifications as may be prescribed, shall be eligible for promotion to a <sup>10</sup>[higher] post for the time being reserved under the rule for departmental promotion in <sup>11</sup>[ ] the service or cadre to which he belongs.

(2) A post referred to in sub-section (1) may either be a selection post or a non selection post to which promotion shall be made as may be prescribed-

(a) in the case of a selection post, on the basis of selection on merit; and

(b) in the case of non-selection post, on the basis of seniority-cum-fitness.

**10. Posting and Transfer:-** Every civil servant shall be liable to serve anywhere within or outside the province, in any post under the Federal Government, or any Provincial Government or Local authority, or a corporation or body set up or established by any such Government:

Provided that nothing contained in this section shall apply to a civil servant recruited specifically to serve in a particular area or region:

Provided further that, where a civil servant is required to serve in a post outside his service or cadre, his terms and conditions of service as to his pay shall not be less favourable than those to which he would have been entitled if he had not been so required to serve.

**11. Termination of service:-** (1) The service of a civil servant may be terminated without notice-

(i) During the initial or extended period of his probation:

Provided that, where such civil servant is appointed by promotion on probation or, as the case may be, is transferred from one [service], cadre or post to another [service], cadre or post, his service shall not be so terminated so long as he

<sup>7</sup> The word "grade" substituted by NWFP Ordinance No. IV of 1985.

<sup>8</sup> Sub-section (4) of Sec-8 substituted by NWFP Ordinance No. IV of 1985.

<sup>9</sup> Sub section (5) of Sec-8 added by NWFP Act No. I of 1989.

<sup>10</sup> The word "higher" inserted by NWFP Ordinance No. IV of 1985.

<sup>11</sup> The words "the higher grade of" omitted by NWFP Ordinance No. IV of 1985.

holds a lien against his former post in such <sup>12</sup>[service] or cadre, but he shall be reverted to his former <sup>13</sup>[service], cadre or post, as the case may be;

- (ii) On the expiry of the initial or extended period of his employment; or
- (iii) if the appointment is made ad hoc terminable on the appointment of a person on the recommendation of the selection authority, on the appointment of such person.

(2) Where, on the abolition of a post or reduction in the number of posts in a cadre or grade, the services of a civil servant are required to be terminated, the person whose services are terminated shall ordinarily be the one who is the most junior in such cadre or grade.

(3) Notwithstanding the provisions of sub-section (1), but subject to the provisions of sub-section (2), the service of a civil servant in temporary employment or appointed ad hoc shall be liable to termination on fourteen days' notice or pay in lieu thereof.

<sup>14</sup>**11-A. Absorption of civil servants, rendered surplus.** Notwithstanding anything contained in this Act, the rules made there-under, any agreement, contract or the terms and conditions of service, a civil servant who is rendered surplus as a result of re-organization or abolition of a department, office or abolition of a post in pursuance of any Government decision may be appointed to a post, carrying basic pay scale equal to the post held by him before such appointment, if he possesses the qualifications and fulfils other conditions applicable to that post:

Provided that, where no equivalent post is available, he may be offered a lower post in such manner and subject to such conditions as may be prescribed, and where such civil servant is appointed to a lower post, the pay being drawn by him in the higher post immediately preceding his appointment to a lower post shall remain protected.

**12. Reversion to a lower <sup>15</sup>post:-** A civil servant appointed to a higher post or <sup>16</sup>[before the commencement of the North-West Frontier Province Civil Servants amendment) Ordinance, 1985 to a higher] grade ad hoc or on temporary or officiating basis shall be liable to reversion to his lower post <sup>17</sup>[ ] without notice.

<sup>18</sup>**12A. Certain persons to be liable to removal or reversion:-** Notwithstanding anything contained in his terms and conditions of service, a civil servant appointed or promoted during the period from first day of January, 1972 to the fifth day of July, 1977 may be removed from service or reverted to his lower post as the case may be, without notice, by the Governor or a person authorized by him in this behalf, on such date as the Governor or, as the case may be, the person so authorized may, in the public interest, direct.

<sup>12</sup> The word "grade" substituted by NWFP Ordinance No. IV of 1985.  
<sup>13</sup> The word "grade" substituted by NWFP Ordinance No. IV of 1985.  
<sup>14</sup> The new Section "11-A" inserted by NWFP Ordinance No. VI of 2001  
<sup>15</sup> The words "grade or service" substituted by NWFP Ordinance No. IV of 1985.  
<sup>16</sup> The words inserted by NWFP Ordinance No. IV of 1985.  
<sup>17</sup> The words "or grade" omitted by NWFP Ordinance No. IV of 1985.  
<sup>18</sup> Section 12A inserted by NWFP Ordinance No. IX of 1978.

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19.20 13. **Retirement from service:** - (1) A civil servant shall retire from service-

- (a) on such date after he has completed <sup>21</sup>[twenty] years of service qualifying for pension or other retirement benefits as the competent authority may, in public interest, direct; or
  - (b) where no direction is given under clause (a), on the completion of sixtieth year of his age.
- (2) No direction under clause (a) of sub-section (1) shall be made until the civil servant has been informed in writing of the grounds on which it is proposed to make the direction, and has been given a reasonable opportunity of showing cause against the said direction.

**Explanation:** In this section, the expression "competent authority" means the appointing authority prescribed in rule 4 of the North-West Frontier Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1989.

14. **Employment after retirement:-** (1) A retired civil servant shall not ordinarily be re-employed under Government, unless such re-employment is necessary in the public interest and is made with the prior approval of the authority next above the appointing authority:

Provided that, where the appointing authority is the Governor, such re-employment may be ordered with the approval of the Governor.

(2) Subject to the provision of sub-section(1) of section 3 of the Ex-Government Servants (Employment with Foreign Governments) (Prohibition) Act, 1966 (Act XII of 1966), a civil servant may, during leave preparatory to retirement, or after retirement from Government service, seek any private employment:

Provided that, where employment is sought by a civil servant while on leave preparatory to retirement or within two years of the date of his retirement, he shall obtain the prior approval of the prescribed authority.

15. **Conduct:-** The conduct of a civil servant shall be regulated by rules made, or instructions issued, by Government or a prescribed authority, whether generally or in respect of a specified group or class of civil servants.

16. **Disciplinary action:-** A civil servant shall be liable to prescribed disciplinary action and penalties in accordance with the prescribed procedure.

17. **Pay:-** A civil servant appointed to a post <sup>22</sup>[ ] shall be entitled, in accordance with the rules, to the pay sanctioned for such post <sup>23</sup>[ ].

Provided that, when the appointment is made on a current-charge basis or by way of additional charge, his pay shall be fixed in the prescribed manner:

<sup>19</sup> Section 13 substituted vide NWFP Civil Servants (Amendment) Act 1991 (Act III of 1991)

<sup>20</sup> Section 13 again substituted vide NWFP Civil Servants (Amendment) Ordinance 2000 (NWFP Ordinance No. VIII of 2000).

<sup>21</sup> The word "twenty-five" years substituted with the words "twenty" in Section 13 vide NWFP Civil Servants (second amendments) Ordinance 2001.

<sup>22</sup> The words "or grade" omitted by NWFP Ordinance No. IV of 1985.

<sup>23</sup> The words "or grade" omitted by NWFP Ordinance No. IV of 1985.

Provided further that where a civil servant has, under an order which is later set aside, been dismissed or removed from service or reduced in rank, he shall, on the setting aside of such order, be entitled to such arrears of pay as the authority setting aside such order may determine.

18. **Leave:-** A civil servant shall be allowed leave in accordance with the leave rules applicable to him; provided that the grant of leave will depend on the exigencies of service and be at the discretion of the competent authority.

<sup>24</sup>19. **Pension and gratuity.—**(1) On retirement from service, a civil servant appointed on regular basis in the prescribed manner before the commencement of the North-West Frontier Province Civil servants (Amendment) Act, 2005 (hereinafter referred to as the said Act), shall be entitled to receive such pension or gratuity as are admissible to him under the West Pakistan Civil Service Pension Rules:

Provided that in the event of death of such a civil servant, whether before or after retirement, his family shall be entitled to receive such pension, or gratuity, or both, as admissible under the said rules.

(2) A person though selected for appointment in the prescribed manner to a service or post on or after the 1<sup>st</sup> day of July, 2001, till the commencement of the said Act, but appointed on contract basis, shall, with effect from the commencement of the said Act, be deemed to have been appointed on regular basis. All such persons and the persons appointed on regular basis to a service or post in the prescribed manner after the commencement of the said Act shall, for all intents and purposes be civil servant, except for the purpose of pension or gratuity. Such a civil servant shall, in lieu of pension and gratuity, be entitled to receive such amount contributed by him towards the Contributory Provident Fund, along with the contributions made by Government to his account in the said Fund, in the prescribed manner:

Provided that in the event of death of such a civil servant, whether before or after retirement, his family shall be entitled to receive the said amount, if it has already not been received by such deceased civil servant.

<sup>25</sup>Provided further that where a civil servant appointed to a pensionable post on regular basis before the 1<sup>st</sup> day of July, 2001, is appointed to another post, after the 1<sup>st</sup> day of July, 2001 without any service break, he shall be given an option either to retain the benefit of pension and gratuity as allowed to him under his previous terms of appointment or to avail the benefit of Contributory Provident Fund allowed to him under his new appointment.

(3) No pension to a civil servant, who is otherwise entitled to it, shall be admissible to him, if he is dismissed or removed from service for reasons of discipline, but Government may sanction compassionate allowance to such civil servant, not exceeding two-third of the pension or gratuity which would have been admissible to him had he been invalided from service on the date of such dismissal or removal:

Provided that a civil servant referred to in sub-section (2), in case of such dismissal or removal, may, in addition to his own contributions to the Contributory Provident Fund, be

<sup>24</sup> Section 19 substituted by the NWFP Civil Servants (Amendment) Act 2005 (NWFP Act No. IX of 2005) published in the NWFP Government Gazette Extraordinary dated 23<sup>rd</sup> July 2005.

<sup>25</sup> Proviso inserted vide NWFP Civil Servants (Amendment) Act, 2009, (NWFP, Act No. VIII of 2009) published in the NWFP Government Gazette Extraordinary dated 28<sup>th</sup> March, 2009.

allowed, on account of such compassionate allowance, a sum not exceeding two-third of Government contributions in his account.

(4) If the determination of the amount of pension or gratuity admissible to a civil servant is delayed beyond one month of the date of his retirement or death, he or his family, as the case may be, shall be paid provisionally such anticipatory pension or gratuity as may be determined by the prescribed authority, according to the length of service of the civil servant which qualified for pension or gratuity and any over payment on such provisional payment shall be adjusted against the amount of pension or gratuity finally determined as payable to such civil servant or his family.

20. **Provident Fund:-** (1) Before the expiry of the third month of every financial year, the Accounts Officer or other officer required to maintain provident fund accounts shall furnish to every civil servant subscribing to a provident fund the account of which he is required to maintain a statement under his hand showing the subscriptions to including the interest accruing thereon, if any, and withdrawals or advances from his provident fund during the preceding financial year.

(2) Where any subscription made by a civil servant to his provident fund has not been shown or credited in the account by the Accounts Officer or other officer required to maintain such account, such subscription shall be credited to the account of the civil servant on the basis of such evidence as may be prescribed.

21. **Benevolent Fund and Group Insurance:-** All civil servants and their families shall be entitled to the benefits admissible under the West Pakistan Government Employees Welfare Fund Ordinance, 1969 (W.P Ord.I of 1969), or the North-West Frontier Province Government Servants Benevolent Fund Ordinance, 1972 (NWFP Ordinance VII of 1972), and the rules made thereunder.

22. **Right of Appeal or Representation:-** (1) Where a right to prefer an appeal or apply for review in respect of any order relating to the terms and conditions of his service is provided to a civil servant under any rules applicable to him, such appeal or application shall, except as may be otherwise prescribed, be made within thirty days of the date of such order.

(2) Where no provision for appeal or review exists under the rules in respect of any order or class of orders, a civil servant aggrieved by any such order may, within thirty days of the communication to him of such order, make a representation against it to the authority next above the authority which made the order.

Provided that no representation shall lie on matters relating to the determination of fitness of a person to hold a particular post or to be promoted to a higher post or grade.

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## Surplus Pool Policy

### Policy for declaring government servants as surplus and their subsequent absorption/ adjustment.

I am directed to refer to the subject noted above and to say that the Provincial Government has been pleased to make the following policy for absorption/adjustment of Government Servants declared as surplus in view of the transition of District System and resultant re-structuring of the Government Organizations/Departments etc.

1. POWER WITH REGARD TO THE DECLARATION OF POSTS AS SURPLUS.

The Finance Department in consultation with Department concerned and with the approval of competent authority would decide with regard to the declaration of a particular organization, set up or individual post as redundant or inessential.

2. CREATION OF SURPLUS POOL

There will be a surplus pools cell in the E&AD. After abolition of such posts in the concerned department, duly notified by the Finance Department, equal number of posts in the corresponding basic pay scales would be created in the E&AD for the purpose of drawl of pay and allowances etc by the employees declared surplus as such.

3. IMPLEMENTATION/MONITORING CELL

For the purpose of coordination and to ensure proper and expeditious adjustment/absorption of surplus staff, the Government of NWFP has been pleased to constitute the following committee:-

- a. Additional Secretary(Establishment) E&AD.....Chairman.
- b. Deputy Secretary LG&RD Department.....Member
- c. Deputy Secretary Finance Department.....Member
- d. Deputy Secretary(Establishment) E&AD.....Secretary

4. CRITERIA FOR DECLARING A GOVERNMENT SERVANT AS SURPLUS AS A RESULT OF ABOLITION OF POST.

Consequent upon the abolition of a post in a particular cadre of a department, the junior most employee in that cadre would be declared as surplus. Such posts should be abolished in the respective departments and created in the surplus pool as indicated in para 2 above for the purpose of drawl of pay and allowances and also for consideration for subsequent adjustment.

5. PROCEDURE FOR ADJUSTMENT OF SURPLUS EMPLOYEES

Notwithstanding anything contained in any other law, rules or regulation to the contrary, for the time being in force, the following procedure for the adjustment of surplus staff would be followed:-

- (a) Before transferring an employee to the surplus pool, he should be given option by the concerned department.

- (i) to proceed on retirement with normal retiring benefits under the existing rules;
- OR
- (ii) to opt for readjustment/absorption against a future vacancy of his status/BPS which may not necessarily be in his original cadre/department.
- (b) Those who opt for retirement would be entitled for usual pension and gratuity according to the existing Government Servants Pension and Gratuity Rules of the Provincial Government. Those who opt for absorption/re-adjustment, a category-wise seniority list will be caused in the surplus pool for their gradual adjustment against the future vacancies as and when occurred in any of the Government Departments. These adjustments shall be on seniority-cum-fitness basis. For this purpose, the seniority list will be caused category-wise with reference to their respective dates of appointment in the cadre. In case where dates of appointment of two or more persons are the same, the person older in age shall rank senior and shall be adjusted first.
- (c) Adjustment shall be made on vacant post pertaining to initial recruitment quota from those in the surplus pool in the following manner:-
- (i) In case of occurrence of vacancies in their corresponding posts in any Government Department/ Organization, the senior most employee in the surplus pool should be adjusted first.
- (ii) In case of cross cadre adjustment, the persons with such minimum qualification as prescribed in the relevant Service Rules for the post in question shall be adjusted keeping in view their seniority position.
- (iii) If an employee possesses the basic academic qualification but lacks the professional/technical qualification, he may be adjusted against such post subject to imparting the requisite training.
- (iv) (a) The surplus employees holding such posts which fall to promotion quota in about all the Departments, he shall remain in the surplus pool till the availability of a post in the parent department.
- OR
- (b) Where no equivalent post is available the civil servant may be offered a lower post in such manner, and subject to such conditions, as may be prescribed and where such civil servant is appointed to a lower post the pay being drawn by him in the post immediately preceding his appointment to a lower post shall remain protected.
- (v) <sup>84</sup>In case an employee already adjusted against a lower post is declared surplus again, he shall regain his original pay scale.
- (vi) <sup>85</sup> Surplus employees, who voluntarily opt, may be allowed adjustment in Autonomous/Semi-autonomous bodies with the concurrence of these bodies, where the job is pensionable. The Government will pay pension contribution for the period they rendered regular service under the Government.

<sup>84</sup> Sub para c (v) added to para 5 vide circular letter No.SORVI(E&AD)5-1/2005, dated 15.2.2006.

<sup>85</sup> Sub para c (vi) added to para 5 vide circular letter No.SORVI(E&AD)5-1/2005, dated 31.5.2006.



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- (d) If no suitable person is available in the surplus pool to be adjusted against the vacant/revised post, such a post would be filled up by initial recruitment manner after getting clearance from the E&AD.
  - (e) <sup>86</sup>Surplus Staff in BPS-01 to 15 shall not be adjusted in the district other than their district of domicile.
  - (f) To facilitate the adjustment of surplus staff, it will be incumbent upon the Administrative Department to take up the case with Finance Department for revival of the essential posts so retrenched as a result of general directive issued by Finance Department from time to time, giving cogent reasons/justification. Against the resultant revival/restoration of the post, the concerned Department will place a requisition on the E&AD for transferring of suitable surplus employee against the said post.
  - (g) Unless the surplus employees in Class-IV are fully adjusted/ absorbed against their respective graded posts in various Government Departments/ Organizations, the general policy of the Finance Department regarding conversion of BPS-1 & 2 posts to posts in fixed salary @ Rs.2000/- per month for contractual appointed should be restricted to the above extent.

#### 6. FIXATION OF SENIORITY

The inter-se seniority of the surplus employees after their adjustment in various Departments will be determined according to the following principles:-

- (a) In case a surplus employee could be adjusted in the respective cadre of his parent Department he shall regain his original seniority in that cadre.
- (b) In case, however, he is adjusted in his respective cadre but in a Department other than his parent Department, he shall be placed at the bottom of seniority list of that cadre.
- (c) In case of his adjustment against a post in a corresponding basic pay scale with different designation/nomenclature of the post, either in his parent Department or in any other department, he will be placed at the bottom of seniority list.
- (d) <sup>87</sup>In case of adjustment against a post lower than his original scale, he shall be placed at the top of seniority list of that cadre, so as to save him from being rendered surplus again & becoming junior to his juniors.

<sup>86</sup>(3) Sub para (e) added to para 5 vide circular letter No. SORVI/E&AD/5-1/2005, dated 19.1.2007.

<sup>87</sup>Sub para d added to para 6 vide circular letter No. SORVI(E&AD)5-1/2005, dated 15.2.2006.

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NOTE:-

In case the officer/official declines to be adjusted/absorbed in the above manner in accordance with the priority fixed as per his seniority in the integrated list, he shall lose the facility/right of adjustment/absorption and would be required to opt for pre-mature retirement from Government service.

Provided that if he does not fulfill the requisite qualifying service for premature retirement he may be compulsorily retired from service by the competent authority.

7. COMPETENT AUTHORITY TO NOTIFY/ORDER ADJUSTMENT/ABSORPTION.

After the transfer of services of surplus employee to a Department for adjustment/absorption against a vacant/revived post, the Competent Authority to notify/order his absorption/adjustment, shall be the respective appointing authority under the relevant rules for the post.

Provided that the decision of adjustment/absorption of surplus employees by the E&AD shall be binding upon the respective appointing authorities.

(Authority: letter NO.SOR-I(E&AD)1-200/98, Dated 8<sup>th</sup> June, 2001)

**Decision of the meeting of chief secretary with district coordination officers, on the issue of surplus pool.**

I am directed to refer to the subject noted above and to say that a meeting was held on 4.8.2001 in the Cabinet Room Civil Secretariat under the Chairman of Chief Secretary, NWFP to discuss the issues relating to adjustment of employees rendered surplus due to restructuring of the Government Departments and Devolution of Power Plan, 2000. The following decisions were taken in the said meeting:-

- i) Administrative Departments may reconsider adjustments already made against the available posts at District level. The guiding principle for reviewing the adjustment would be aimed at avoiding dislocation of the employees to the possible extent.
- ii) The DCOs will maintain the surplus pool of the employees, declared surplus in the District cadres and their subsequent adjustment against the vacant posts (District Cadres). It must be ensured that only the junior most employees in the scale in the cadre be declared surplus. At the stage of adjustment of Class-IV posts, the senior most be adjusted first. However, for the other posts besides seniority, the background of the individual and requisite experience of the posts shall be kept in view. The surplus pool of Divisional cadres be maintained by the DCOs posted at divisional headquarters.
- iii) The surplus pool of the employees of the Head Offices be maintained by the Head of the concerned Attached Department. Declaring employees surplus and their subsequent adjustment be made strictly according to the spirit of the policy of the Provincial Government issued vide circular letter No.SORI (S&GAD)1-200/98, dated 8.6.2001.

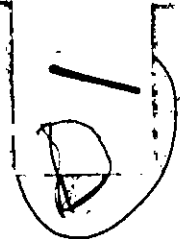
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- iv) The surplus pool of the Secretariat be maintained by the Establishment Department in consultation with the Department concerned.
- v) The salaries of the surplus employees be disbursed through their relevant offices for the time being.
- vi) It was also felt that the sanctioned staff for the office of DCO and other offices is not sufficient. The ministerial staff has no appropriate tiers for the purpose of control and promotion i.e. Senior Clerk and Superintendent etc. The post of Chowkidar/ Sweeper does not exist in the office of DCOs and other offices. Even the other required staff does not meet the bare minimum. The DCOs will, therefore, forward the required proposal for consideration of Finance Department. The budget for the same can be arranged from the available savings due to phasing away of magistracy etc.
- vii) The LR&RD Department may reconsider the adjustment of the employees of the Local Council Board, so as to find out whether any such employees have been adjusted against the regular Government posts funded from the Provincial Consolidated Fund.
- viii) For adjustment of regular Class-IV (BS 1- 4) Government Servant in surplus pool, Finance Department may consider conversion of fixed pay/ contract posts into regular.

2. It is requested that decisions taken during the meeting held on 4.8.2001 may kindly be implemented by all concerned in letter and spirit and compliance report be furnished accordingly.

(Authority: letter NO.SOR-I(S&GAD)1-200/98 (Vol.I), Dated 13<sup>th</sup> August, 2001)

23/12



GOVT. OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT & ADMN: DEPARTMENT  
(REGULATION WING)

12

Dated Peshawar, the 25<sup>th</sup> June, 2019

~~Annexure (A)~~



NOTIFICATION

No. SO(O&M)/E&AD/3-18/2019: In pursuance of integration and merger of erstwhile FATA with Khyber, Pakhtunkhwa, the Competent Authority is pleased to declare the following 17 employees appointed by erstwhile FATA Secretariat as "Surplus" and place them in the Surplus Pool of Establishment and Administration Department for their further adjustment/placement w.e.f. 01.07.2019:-

Sr.No.	Name of employee	Designation	BPS (Personal)
1.	Ashiq Hussain	Assistant	16
2.	Hani Fur Rehman	Assistant	16
3.	Shaukat Khan	Assistant	16
4.	Zulfi Khan	Assistant	16
5.	Qaiser Khan	Assistant	16
6.	Shahid Ali Shah	Computer Operator	16
7.	Iqbal Khan	Computer Operator	16
8.	Tauseer Iqbal	Computer Operator	16
9.	Muhammad Shah	Computer Operator	16
10.	Muhammad Hussain	Computer Operator	16
11.	Amir Ali	Computer Operator	16
12.	Rub Nawaz	Computer Operator	16
13.	Kamran	Computer Operator	16
14.	Hafiz Muhammad Amjad	Computer Operator	16
15.	Fazl-ur-Rehman	Computer Operator	16
16.	Kajub Ali Khan	Head Draftsman	13
17.	Bukhtiar Khan	Sub Engineer	11
18.	Hakeem-ud-Din	Draftsman	11
19.	Naseem Khan	Storekeeper	7
20.	Inamullah	Driver	5
21.	Huzrat Gul	Driver	5
22.	Safar Ayaz	Driver	5
23.	Abdul Qadir	Driver	5
24.	Shahid Khan	Driver	5
25.	Iqbal Shah	Driver	5
26.	Muhammad Ali	Driver	5

27	Khair Muhammad	Driver	5
28	Wahedullah Shah	Driver	5
29	Mustan Shah	Driver	5
30	Mubashir Alam	Driver	5
31	Mansaf Hussain	Driver	5
32	Insaatullah	Driver	5
33	David Shah	Driver	5
34	Qismat Wali	Driver	5
35	Alam Zeb	Driver	5
36	Shafiqatullah	Driver	5
37	Qismatullah	Driver	5
38	Wali Khan	Tracer	5
39	Muhammad Zahir Shah	Tracer	5
40	Niaz Akhtar	Driver	4
41	Mena Jan	Driver	4
42	Zaki ullah	N/Qasid	3
43	Sabir Shah	Naib Qasid	2
44	Muhammad Hussain	Naib Qasid	2
45	Zuhair Shah	Naib Qasid	2
46	Muhammad Sharif	Naib Qasid	2
47	Dost Ali	Naib Qasid	2
48	Nishat Khan	Naib Qasid	2
49	Wadan Shah	Naib Qasid	2
50	Inumullah	Naib Qasid	2
51	Muqsood Jan	Naib Qasid	2
52	Zeeshan	Naib Qasid	2
53	Arshad Khan	Naib Qasid	2
54	Ikhlaq Khan	Naib Qasid	2
55	Safdar Ali Shah	Naib Qasid	2
56	Kitayatullah	Naib Qasid	2
57	Hidayatullah	Naib Qasid	2
58	Khulid Khan	Naib Qasid	2
59	Shabir Khan	Naib Qasid	2
60	Saeed Gul	Naib Qasid	2
61	Zahidullah	Naib Qasid	2
62	Arshad Gul	Naib Qasid	2
63	Hameed Khan	Naib Qasid	2
64	Rashid Khan	Naib Qasid	2
65	Dost Muhammad	Naib Qasid	2
66	Sajidullah	Naib Qasid	2
67	Inikhar ud Din	Naib Qasid	2
68	Allaf ur Rehman	Chowkidar	2
69	Muhammad Amir	Chowkidar	2
70	Yusuf Arafat	Chowkidar	2
71	Zamrud Khan	Chowkidar	2
72	Kimya Gul	Chowkidar	2
73	Azizullah	Chowkidar	2

2. residence

(11)

74.	Zainullah	Chowkidar	2
75.	Safullah	Chowkidar	2
76.	Inayatullah	Chowkidar	2
77.	Muhammad Abid	Chowkidar	2
78.	Daud Khan	AC Cleaner	2
79.	Muhammad Saleem	AC Cleaner/N/Qasid	2
80.	Fazale Haq	Mali	2
81.	Alimzeb	Mali	2
82.	Nehad Badshah	Mali	2
83.	Niaz Ali	Cook	2
84.	Muhammad Arshad	Cook	2
85.	Roshullah	Khudim Mosque	2
86.	Lal Jan	Regulation Beldar	2
87.	Muhammad Arshad	Sweeper	2
88.	Ramish	Sweeper	2
89.	Karan	Sweeper	2
90.	Majid Anwar	Sweeper	2
91.	Shumail	Sweeper	2
92.	Ruhid Masech	Sweeper	2
93.	Nucom Munir	Sweeper	2
94.	Pardeep Singh	Sweeper	2
95.	Mukesh	Sweeper	2
96.	Muhammad Naveed	Sweeper	2
97.	Daia Ram	Sweeper	2
98.	Muhammad Nisar	Sweeper	2
99.	Said Anwar	Naib Qasid	1
100.	Haseeb Zeb	Naib Qasid	1
101.	Abid	Naib Qasid	1
102.	Wakeel Khan	Naib Qasid	1
103.	Muhammad Amjad Ayaz	Naib Qasid	1
104.	Samiullah	Naib Qasid	1
105.	Habib-ur-Rehman	Naib Qasid	1
106.	Muhammad Shouib	Naib Qasid	1
107.	Bawar Khan	Naib Qasid	1
108.	Misbahullah	Naib Qasid	1
109.	Muhammad Tanveer	Naib Qasid	1
110.	Wuqas Khurshid	Naib Qasid	1
111.	Muhammad Zahir Shih	Naib Qasid	1
112.	Javed Khan	Naib Qasid	1
113.	Noor Nabla	Bera	1
114.	Amjad Khan	Mali	1
115.	Jawad Khan	Mali	1
116.	Inam ul haq	Chowkidar	1
117.	Siruj-ud-din	Chowkidar	1

2. In order to ensure proper and expeditious adjustment/absorption of the above mentioned surplus staff, Deputy Secretary (Establishment), Establishment Department has

... declared as focal person to properly monitor the whole process of adjustment/ placement of the surplus pool staff.

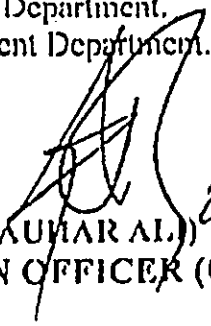
Consequent upon above all the above surplus staff alongwith their original record of service are directed to report to the Deputy Secretary (Establishment) Establishment Department for further necessary action.

**CHIEF SECRETARY  
GOVT. OF KHYBER PAKHTUNKHWA**

Encls: No. & Date Even

Copy to:-

1. Additional Chief Secretary, P&D Department.
2. Additional Chief Secretary, Merged Areas Secretariat.
3. Senior Member Board of Revenue.
4. Principal Secretary to Governor, Khyber Pakhtunkhwa.
5. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
6. All Administrative Secretaries, Khyber Pakhtunkhwa.
7. The Accountant General, Khyber Pakhtunkhwa.
8. Secretary (AI&C) Merged Areas Secretariat.
9. Additional Secretary (AI&C) Merged Areas Secretariat with the request to hand over the relevant record of the above staff to the Establishment Department for further necessary action and taking up the case with the Finance Department with regard to financial implications of the staff w.e.f. 01.07.2019.
10. All Divisional Commissioners in Khyber Pakhtunkhwa.
11. All Deputy Commissioners in Khyber Pakhtunkhwa.
12. Director General Information, Khyber Pakhtunkhwa.
13. PS to Chief Secretary, Khyber Pakhtunkhwa.
14. Deputy Secretary (Establishment), Establishment Department for necessary action.
15. Section Officer (E-I), Establishment Department.
16. Section Officer (E-II) Establishment Department for necessary action.
17. Section Officer (E-IV) Establishment Department.
18. PS to Secretary Establishment Department.
19. PS to Special Secretary (Regulation), Establishment Department.
20. PS to Special Secretary (Establishment), Establishment Department.

  
 (GAUHAR ALI) 25/06/19  
 SECTION OFFICER (O&M)



Annexure

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THE DEPUTY COMMISSIONER, PESHAWAR

Tel: 091-9212301-02, Fax: 091-9212303, DCPeshawar

No. 00209/EA

Dated 23-August-2019

**ORDER:**

In pursuance to Section Officer (General), Govt. of Khyber Pakhtunkhwa, Zakat, Usher, Social Welfare, Special Education & Women Empowerment Department, Peshawar letter No.SO(SWD)6-20/Ombudsperson/2019-20/2280-83 dated 05/08/2019 and in pursuance to the Govt. of Khyber Pakhtunkhwa Surplus Pool Policy dated 19/01/2007, the services of the following surplus officials are hereby placed at their disposal for further adjustment against the vacant posts of corresponding cadre.

S.No.	Name of Official.	Designation of Surplus Staff	Department from which declared surplus
1.	Mr. Asad Ali Siddiqi	Junior Clerk (BPS-11)	Defunct Ehtisab Commission
2.	Mr. Tahseenullah	Record Keeper (BPS-11)	-do-
3.	Mr. Bakht Muhammad	Driver (BPS-05)	-do-
4.	Mr. Nishat Khan	N/Qasid (BPS-02)	Firstwhile FATA Secretariat
5.	Mr. Haseeb Zeb	N/Qasid (BPS-01)	-do-
6.	Mr. Muhammad Zahir Shah	N/Qasid (BPS-01)	-do-
7.	Mr. Ramish	Sweeper (BPS-02)	-do-

The official at S.No.2 be adjusted against the vacant post of Junior Clerk (BPS-11) under the Surplus Pool Policy Section 5c(iii) having same qualification/Basic Pay Scale.

Pay of the above officials shall remain protected in light of Section 11-A of the Khyber Pakhtunkhwa Civil Servants (amendment) ordinance 2001.

(MUHAMMAD ALI ASGHAR)  
DEPUTY COMMISSIONER

**Endst: No. and Date Even:**

1. Accountant-General, Khyber Pakhtunkhwa, Peshawar.
2. Section Officer (General), Govt. of Khyber Pakhtunkhwa, Zakat, Usher, Social Welfare, Special Education & Women Empowerment Department, Peshawar w/r his letter referred above.
3. Section Officer (E-III), Govt. of Khyber Pakhtunkhwa, Establishment Department, Peshawar.
4. Accounts Officer of this office for further necessary action.
5. Officials concerned by name for strict compliance.

DEPUTY COMMISSIONER



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(E)

(8)

TO BE SUBSTITUTED FOR THE SAME EVEN NO. & DATE



GOVERNMENT OF KHYBER PAKHTUNKHWA  
SOCIAL WELFARE SPECIAL EDUCATION & WOMEN  
EMPOWERMENT DEPARTMENT

Annexure (D)

Dated Peshawar the 27<sup>th</sup> August, 2019

OFFICE ORDER

1946-55

SOG(SWD)1-60/Staff /2019 The competent authority is pleased to adjust the following surplus official in the office of Provincial Ombudsperson's Secretariat against the vacant posts mentioned against each with immediate effect, in the public interest:-

S.#	Name of Officials	Designation & Department from which declared surplus	Designation & Department where adjusted
1.	Mr. Asad Ali Siddiqui	Junior Clerk (BPS-11) Defunct Ehtisab Commission	Junior Clerk (BPS-11) KP Ombudsperson's Sectt:
2.	Mr. Tahseenullah	--do--	--do--
3.	Mr. Bakh Muhammad.	Driver (BPS-05) Defunct Ehtisab Commission.	Driver (BPS-05) KP Ombudsperson's Sectt:
4.	Mr. Nishat Khan	Naib Qasid (BPS-02) Erstwhile FATA Secretariat	Naib Qasid (BPS-02) KP Ombudsperson's Sectt:
5.	Mr. Haseeb Zeb	--do--	--do--
6.	Mr. Muhammad Zahir Shah	--do--	--do--
7.	Mr. Ramish	Sweeper (BPS-02) Erstwhile FATA Secretariat	Sweeper (BPS-02) KP Ombudsperson's Sectt:

Deputy Secretary (Admn) -  
Social Welfare Special Education and Women  
Empowerment Department Khyber Pakhtunkhwa

Ends: of Even No. & Date.

Dated:- 27.08.2019

Copy forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa.
2. Ombudsperson's Secretariat, Khyber Pakhtunkhwa.
3. P.S to Secretary, SW, SE & WE Department, Khyber Pakhtunkhwa.
4. P.A to Deputy Secretary (Admn), SW, SE & WE Department, Khyber Pakhtunkhwa.
5. Official Concerned.

(Muhammad Ismail)  
Section Officer (General) 14-01-2020