None for the appellant present. Asst: AG for respondents, present. Notices be issued to the appellant and his counsel. To come up for arguments on 17.11.2017 before D.B.

(Ahmad Hassan) Member

Hamid Mughal) Member

17.11.2017

27.07.2017

Learned counsel for the appellant and Mr. Ziaullah, learned Deputy District Attorney for respondents present.

The broad facts and legal issue involved in the instant case are just the same as in identical appeal no. 1171/2015 entitled "Musarat Nazir -vs- Govt: of Khyber Pakhtunkhwa through Secretary Communication and Works Department, Peshawar and another" this appeal is also accepted as per detailed judgment in the aforementioned service appeal. File be consigned to the record room.

<u>Announced</u>: 17.11.2017

. بر

(MAD HASSAN) **MEMBER**

(MUHAMMAD HAMID MUGHAL) MEMBER

12.05.2016

Appellant in person and Mr. Mubarak Ali Shah, Admin Officer alongwith Addl: AG for respondents present. Written reply on behalf of respondents submitted. The appeal may be placed before D.B for rejoinder and final hearing for 08.08.2016. The Chairman may assign the appeal to appropriate D.B.

08.08.2016

Counsel for the appellant and Mr. Saleem Shah, Superintendent alongwith Additional AG for respondents present. Rejoinder on behalf of the appellant submitted, copy whereof handed over to learned Additional AG. To come up for arguments on 15-12-16 before D.B.

Member

15.12.2016

Appellant with counsel and Additional AG for the respondents present. Learned counsel for the appellant requested for adjournment. Request accepted. To come up for arguments on 04.04.2017/before D.B.

(ASHFAQUE MEMBER

(MUHAMMA AAMIR NAZIR) MEMBER

Member

le**m**ber

04.04.2017

Counsel for the appellant and Mr. Adeel Butt, Addl: AG for the respondents present. Argument could not be heard due to incomplete bench. To come up for final hearing on 27.07.2017 before D.B.

Chairman

26.11.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was appointed as Sweeper vide order dated 21.1.2015 and dismissed from service on the allegations of illegality in appointment vide impugned order dated 30.7.2015 which was impugned in departmental appeal dated 11.8.2015 which was rejected on 21.10.2015 followed by service appeal on 17.11.2015.

That the appointment of the appellant was made after fulfilling the codal formalities. That no inquiry whatsoever was conducted nor any show cause notice issued to appellant.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 25.2.2016 before S.B.

25.02.2016

7 . H AL

None present for appellant. Mr. Faiz-ul-Aziz, Assistant alongwith Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 31.3.2016 before S.B.

31.03.2016

Counsel for the appellant and Mr. Mubarik Ali Shah, Admn. Officer alongwith Addl. A.G for the respondents present Reply not submitted. Requested for adjournment. Last opportunity granted. To come up for written reply/comments on 12.5.2016 before S.B.

Form- A

FORM OF ORDER SHEET

Court of

Case No	1286/2015		
Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate		
2	. 3		
17.11.2015	The appeal of Mr. Noor Hussain resubmitted today by Mr. Tajdar Faisal Mena Khel Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.		
hearing to be put up thereon $26 - 11 - 15$.			
	CHAIRMAN		

2

S.No.

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1

The appeal of Mr. Noor Hussain son of Said Mahmood Shah received to-day i.e. on 13.11.2015 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

Annexures of the appeal may be attested.

No. 1774 /S.T, Dt._____/2015

REGISTRAR SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Mr. Tajdar Faisal Khan Mina Khel Adv. Pesh.

Respected Sir, objections seen and removed and File is revolubrithed for fixing before bench.

Tojdar Frisal Klen Mine Khel.

BEFORE KHYBER PAKHTUN KHWA, SERVICE TRIABUNAL, PESHAWAR

Service Appeal No. 12.86 /2015

Noor Hussain

Versus

INDEX

S.NO.	PARTICULARS	ANNEX	P. NO.
1	Memo of Appeal		1-5
2	True Copies of Appointment order & Arrival Report	A & B	6-7
3	True Copy of Medical Certificate	С	8
4	True Copy of impugned order of dismissal dated: 30-07-2015	D	9
5	True Copies of Representations, registry receipts and impugned final order dated: 29-10-2015	E to E/3	10-12
6	True copy of employment exchange card	F	13-14
7	Wakalat nama		15

APPELLANT

THROUGH

Dated: 11/11/2015

TAJDAR FAISAL KHAN MINA KHEL Advocate High Court, Peshawar.

Appellant

BEFORE KHYBER PÄKHTUN KHWA, SERVICE TRIABUNAL, PESHAWAR

Service Appeal No. 19.86

A. 🖓 : p GIVIGO Tribuna

Noor Hussain S/O Said Mahmood Shah, R/O Mohallah Mian Khel, Dak Ismail Khel, District Nowshera.

Appellant

/2015

Versus

1. Govt. of Khyber Pakhtun Khwa through Secretary Communication and Works Department, Peshawar.

2. Chief Engineer, Central Design Office, C & W Department, Peshawar. Respondents

> SERVICE APPEAL UNDER SECTION-4 OF THE CIVIL SERVANT ACT, 1974 AGAINST THE ACT OF THE RESPONDENT NO. 2 WHO ISSUED IMPUGNED ORDER NO. SOE/C & WD/17-4/2015 DATED: 21-10-2015, VIDE WHICH THE REPRESENTATION OF THE APPELLANT (AGAINST HIS REMOVAL FROM SERVICE) WAS DISMISSED AND THE IMPUGNED ORDER No. E-III(I)/Apptt/Posting/Transfer/834 DATED: 30-07-2015 WAS UPHELD.

PRAYER IN APPEAL:



ر این د ا

ac-submitted to-day

Registras

ON ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDER NO. SOE/C & WD/17-4/2015 DATED: 21-10-2015, VIDE WHICH THE REPRESENTATION OF THE APPELLANT (AGAINST HIS REMOVAL FROM SERVICE) WAS DISMISSED AND THE IMPUGNED ORDER No. E-III(I)/Apptt/Posting/Transfer/834 DATED: 30-07-2015 WAS UPHELD, MAY KINDLY BE SET ASIDE AND RESULTANTLY THE APPELLANT MAY GRACIOUSLY BE REINSTATED IN SERVICE WITH ALL BACK BENEFITS.

Respectfully Sheweth!

The appellant most humbly submits as under:-

 That the present appellant was appointed upon recommendation of the Departmental Selection Committee, vide order No. 3E/1335 Dated: 21-01-2015 as "Sweeper (BPS-01)" in the respondents department after passing through interview and proper procedure. In compliance of above referred Appointment Order, the appellant assumed the charge per Arrival Report dated 22-01-2015.

{True Copy of Appointment order and arrival report are attached as Annexure-A & B}.

- That the appellant after appointment also gone through medical test, and obtained medical certificate from authorized medical officer/Medical Superintendent, DHQ Hospital, Mardan on 22-01-2015.
 {True copy of Medical Certificate is attached as Annex-C}
- 3. That the appellant after appointment, was working with great zeal and devotion at the office of Research Officer, RRMT Lab, C & W Deptt, Office at Mardan, since date of arrival according to the rules of service and according to the wishes of the Superiors and having no complaint against the present appellant since his appointment.
- 4. That to the utter shock of the appellant, the services of the appellant was dispensed with vide impugned order No. E-III(I)/Apptt/Posting/ Transfer/835 dated: 30-07-2015 without observing the codal requirments under the services laws.

{True copy of the impugned order of dismissal/removal is attached as Annex-D}.

5. That the appellant after the impugned order of dismissal/termination from service, preffered a departmental appeal in shape of representation to the respondents on 11-08-2015 and on 28-09-2015. The respondent No. 1 in response to the departmental representation, issued office order No. SOE/C

& WD/17-4/2015 dated: 21-10-2015 vide which the respondent No. 1 regretted to accept the representation.

{**True** copies of departmental representations and impugned order dated: 21-10-2015 are attached as **Annex-E**—**E**/**2**}

6. That the appellant being aggrieved and having no other efficacies remedy except to file the instant appeal for the redressal of his grievances before this Hon'ble Tribunal on the following amongst other grounds.

GROUNDS:

- A. Because the impugned orders of respondents dated: 30-07-2015 and 21-10-2015 are against law, facts, hence liable to be set-aside.
- B. Because the respondent No. 2 in utter disregard to the principles of the fairness, merit and transparency has obliged upon the illegal and unlawful directions of the respondent No. 1 passed the present impugned order dated: 30-07-2015, hence the impugned orders of the respondents are against the law, illegal, unlawful and void ab initio and liable to be turned down.
- C. Because the appellant was appointed in the service after conducting and passing through complete process, as evident from the appointment order, hence the bald assertions of the respondents that the appointment of the appellant was made without observing codal formalities/procedure is without merits. Hence in view of the said facts it is abundantly clear that the appellant is victimized by the respondents without any cogent reasons, which are unwarranted under the law and therefore the impugned orders are unsustainable.
- D. Because the appellant was a registered member of Employment Exchange, Nowshera with a registration No. 1876/NT/15, occupation No. 5.99.47, but the same fact has been totally ignored by the respondents and passed an executive type of order, which is nullity in the eyes of law.
 {True copy of employment exchange card is attached as Annex-F}
- E. Because the dispensation/removal of the appellant from his service without adopting proper criteria and codal requirements by the

respondents is against the worthy ruling of the Hon'ble Superior Courts of Pakistan and therefore, the same are illegal practice and such practice adversely effects efficiency of incumbents and also reduces their confidence and faith in public, hence the impugned orders referred above are liable to be unheld on this score also.

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- F. Because the **appellant had been made victim of discrimination, demerits, partiality and favoritism** without any just and reasonable cause thereby offending the fundamental rights of the appellant as provided by the constitution of 1973, hence the impugned orders detailed above are liable to be set at naught.
- G. Because the appellant is very hardworking and punctual in his duty, therefore, no complaint received by the Respondents against the appellant but the Respondents unlawfully and illegally proceeded against the appellant by ordering his removal from his service, which is against the law and fundamental rights of the appellant.
- H. Because the appellant was condemned unheard, his departmental appeal was not properly adjudicated in the manner as provided by the law. Further no chance of personal hearing was given to the present appellant in order to redress his grievances which shows the malafide of the Respondents, hence needs interference of this Hon'ble Tribunal.
- I. Because the present impugned order is illegal, illogical, against facts, without jurisdiction and suffering from material irregularity, hence they are untenable and liable to be struck down.
- J. Because the Respondents erroneously exercised their powers against judicial principle, and have passed the impugned orders and opened a new pandora box in clear violation of Service law, hence, the said impugned orders are liable to be set aside, and the appellant may kindly be re-instated in service with all back benefits.

K. The appellant crave for leave of the Hon'ble Tribunal to raise additional grounds at the time of arguments.

IT IS, THEREFORE, MOST RESPECTFULLY PRAYED THAT ON ACCEPTANCE OF THIS APPEAL:

- <u>An order of setting aside of impugned orders dated:</u>
 30-07-2015 and 21-10-2015 may kindly be passed.
- ii. The appellant may kindly be reinstated in service with all back benefits.
- iii. Any other relief, though not specifically asked for, deems appropriate to the Hon'ble Tribunal may also be granted.

Through:

Dated: 11/11/2015

Appellant

TAJDAR FAISAL KHAN MINA KHEL Advocate High Court, Peshawar.

VERIFICATION:

It is verified that all the contents of the instant appeal are true and correct and nothing has been concealed intentionally from this Hon'ble Tribunal.

Deponen

Note: That no such like petition / Appeal on this subject matter has earlier been filed before this Hon'ble Tribunal.



OFFICE OF THE CHIEF ENGINEER CENTRAL DESIGN OFFICE C&W DEPARTMENT K.P 8-A SHAMI ROAD PESH-

No.<u>3-E/1335</u> Dated 211.01/2015

OFFICE ORDER

On the recommendation of the Departmental Selection Committee as per its meeting held on 19/01/2015, the Competent Authority is pleased to offer a post of Swedper (BPS-01) to Mr. Noor Hussain S/O Said Mahmood Shah resident of Mohallah Mian Khel Dak Ismail Khel, District Nowshera on the following terms and conditions:-

- 1. He will get pay at the minimum of BPS-01,(4800-150-9300) plus usual allowances as admissible under the rules. He will also be entitled to annual increment as per existing policy.
- He shall be governed by the Khyber Pakhlunkhwa Civil Servants Act-1973 for all intents and purposes be a civil servant and the laws applicable to the Civil Servants and Rules made there under.
- 3. His employment in Communication & Works Department (CDO) is purely temporary and his services are liable to be terminated without assigning any reasons at fourteen (14) days prior notice or on the payment of 14-days salary in lieu of the notice. In case he wishes to resign at any time, 14-days notice will be necessary or in lieu thereof 14-days pay will be forteited.
- 4. He shall, initially be on probation for a period of one year extendable up to two years.
- 5. He shall, produce a Medical Certificate of fitness from the Medical Superintendent of District Head Quarter Hospital Mardan, before reporting himself for duty as required under the rules.
- 6. He has to join duty at his own expenses.
- 7. He shall have to serve anywhere in Khyber Pakhtunkhwa.
- 8. If he accepts the post on the thore conditions, he should report to the Research Officer, RRMT Lab. C&W Circle Mardan within 14-days of the receipt of this offer and produce original documents in connection with his qualification, domicile and health/age certificate etc.

Chief Engineer

Attested. 7: 11

Copy for information to the:-

- 1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 2. Stperintending Engineer C&W Circle Marda
- 3. District Accounts Officer, Mardan
- The Assistant Research Officer, RRMT Lab. C&W Cirlce Mardan.
 Noor Hussain S/O Mahmood Shah, resident of Mohallah Mian Khel Dak Ismail Khel, District Nowshera.

Annex-B The office of A.R.O RREMT Laboratory Circle Mardan. Amival Report. subject. Compliance to The office of The Эm Chaif Engineer (CDO) CZW Deptt. order steated. No. 3-El 1335 Dated 21-07-2015 submit my Arrival Report on duty to day 22/01/2015, (FIN). ورحمين . Mule NOOY Hussain S/C said Name -Muhammad Shah. Mohally Main Khel Dak Address Ismail Khel, Diest Alowshere:

GS&PD KP-082/103-DHS---50 Pads.-20.5.14/P4(MYF=DHS/DHQ Mardan N MEDICAL CERTIFICATE Name of Official MIB - NODE Hassain 17201-8870 938 5 Father's Name Said Mahmond Shah Residence Das Imail Khap Now she bra Date of Birth 2-7 - 0.2 - 1.971 (AS Pos CNIC) Exact mark of Identification Signature of the Official Signature of Head of Office Attrated. 171 Seal of Office I do hereby certify that I have examined Mr. NOD.y. Httl.s.s.a.in for employment in the office of the CNW - Mardan and cannot discover that he had any disease communicable or other constitutional affection or bodily infirmity except I do not consider this is disqualification for employment in the office of the above as Sweeper, BPS 0) his age according to his own statement Medical Superintendent, DHQ Hospital/Mardan ediesi Buserizionde EFT HAND THUMB AND FINGER IMPRESSION via Harda Date 22-01-2-015



المجمع ومقاربته والمحامر أأوره

UNEX-D

OFFICE OF THE CHIEF ENGINEER CENTRAL DESIGN OFFICE C&W DEPARTMENT HOUSE NO. 13/28 STREET NO. 19 SHAMI ROAD KHYBER PAKHTUNKHWA PESHAWAR pthoted Lul Ph. No. 091-9211133 Fax. 091-9213923

No. E-II1(1)/Apptt/Posting/Transfer/ 835

30 /07/2015 Dated.

OFFICE ORDER

In pursuance of Secretary to Govt. of Khyber Pakhtunkhwa, Communication & Works Department Peshawar letter No. SOE/C&WD/17-4/2015, dated 29/07/2015, the services of Mr. Noor Hussain S/O Said Mahmood Shah appointed as Sweeper (BPS-01) vide this office order No. 3-E/1335, dated 21/01/2015. are hereby dispensed forthwith in light of Rule-11(i) of the NWFP Civil Servant Act, 1973 read with Rule-15 of APT Rules, 1989 as the appointment was made without observing codal formalities/procedure required under the rules relating to appointments, and the appointment exceeded the existing sanctioned strength of Chief Engineer (CDO) C&W Peshawar.

Chief Engineer CDO

Copy forwarded to :-

- 1. Superintending Engineer C&W Circle Mardan.
- District. Accounts Officer, Mardan.
- Asstt. Research Officer, RRMT Lab. C&W Circle Mardan.
- 4. Section Officer (Estt) C&W Department Peshawar.
- 5. Mr Noor Hussain S/O Said Mahmood Shah C/O ARO RRMT Lab. C&W Circle Mardan.

Administrative Officer

The District Accounts officer, Marolan 10 б,

.

Date: 11/08/2015

unex-E

SECRETARY C & W DEPARTMENT KHYBER PAKHTUN KHUWAⁱ, PESHAWAR

SUBJECT:

REPRESENTATION AGAINST REMOVAL FROM SERVICE

Respected Sir,

With due deference it is stated that; I was appointed as Sweeper (BPS.1) vide chief engineer C.D.O order N, 3E/1335 Dated: 21/01/2015. I was through in the medical examination and was found fit and hence reported for service in the office of chief engineer CDO Peshawar. I have been very regular. Like bolt from the blue I got, termination letter vide No. E-III(I)/Apptt/Posting/ Transfer/834 dated: 30-07-2015. Sir this termination is ultra vires, illegal and contrary to basic human rights. Therefore, it is requested to withdraw the aforementioned termination letter and allow me to continue my service with even more zeal and favour.

Obediently Yours

SA -

Noor Hussain

S/O Said Mahmood Shah

Designation Sweeper (BPS.1)

RRMT Lab. C & W Circle Mardan.

То

2.4

Annex-E

Attested

SECERTY C & W DEPERTMENT KHYBER PAKHTUN KHAWA PESHAWAR

SUBJECT:

ΤO

REPRESTAION AGAINST REMOVAL FROM SERVICE

RESPECTED SIR,

WITH DUE DEFERENCE IT IS STATED THAT; I WAS APPOINTED AS SWEEPER (BPS.1) VIDE CHIEF ENGINEER C.D.O ORDER NO, 3E/1335 DATED 21/01/2015 I WAS THROUGH IN THE MEDICAL EXAMINATION AND WAS FOUND FIT AND HENCE REPORTED FOR SERVICE IN THE OFFICE OF CHIEF ENGINEER CDO PESHAWAR. I HAVE BEEN VERY REGULAR . LIKE BOLT FROM THE BLUE I GOT, TERMINATION LETTER VIDE NO, EIII (1) APPTT/POSTING/TRANSFER/834/DATED 30/07/2015.SIR THIS TERMINATION IS ULTRA VIRES, ILLEGAL AND CONTRARY TO BASIC HUMAN RIGHTS. THEREFOR IT IS REQUESTED TO WITHDRAW THE AFOREMENTIONED TERMINATION LETTER AND ALLOW TO ME CONTINUE MY SERVICE WITH EVEN MORE ZEAL AND FERVOR.

- 2

Obediently Yours

541 NOOR HUSAIN S/O

SAID MEHMOOD SHAH

Designation SWEEPER(PBS1)

RRMT LAB.C & W CIRLSE MARDAN

Annex-E/2

GOVERNMENT OF KHYBER PAKHTUNKHWA COMMUNICATION & WORKS DEPARTMENT

No. SOE/C&WD/17-4/2015 Dated Peshawar, the October 21, 2015

Atested.

то

Mr. Noor Hussain S/O Said Mehmood Shah Village & P.O. Box Dak Ismail Khel Tehsil Pabbi, District Nowshera

SUBJECT: REPRESENTATION AGAINST REMOVAL FROM SERVICE

I am directed to your appeal/representation dated 28.09.2015 on the subject noted above and to state that your appeal/representation has been examined by the Department and regretted, as your appointment was made without observing codal formalities/procedure under rules relating to appointments.

SECTION OFFICER (Estb)

Endst even No. & date

Copy forwarded to PS to Secretary C&W Department, Peshawar

SECTION OFFICER (Estb)

13 Annex-F Atested جوالي كارد الميدوارون كيليح بدايات ا_ بدرتجدید کی صورت میں آپ کارجسٹریش منسون سمجھا جائیگا۔ ب جب بھی ہی آپ ایکس چینج میں فیجرے ملازمت کے سلسکہ <u>نیں بلاقات کے لیے آئیں تو کارڈ ہڈاضرور ہمراہ لائیں -</u> 5.99.4. Jet - 1/2 1/2 1/2 1/2 - 2 - 3 ۳ جمله خط وكمّايت ميں رجسريش نمبراورا كو پيشن كو دنمبر كا حواليه مجھے بتاریخ ____ ضروردیں۔ تاريخ معدلما زم رضح وال كانام ويبة . جگه برائے تصور اُمید دار ما زمت بل من ب ح<u>ی</u>ال رچیکن

ايس الإ (آر) ۲۲ ايميلائمنث دجشر يثن كارذ SERVICE UN-PAID جن امیدواروں کے پاس تعارف کارو -ان کر بخدمت جناب فمجرمنا حب ايميلامنت الجهولج أدشهرو ايميلاتمنت اليمويج كانامزدكرد السودندكياج الماس رجوين تمو الروم مح 187 الوقي كود في جربا الماج . l'en in insiste - tis held I's 10 9 JAN 2015 6,5 تاريخ إيحبريد 10 9 10 N 2015 08-06 2015 - فرورى الحلال-جب آب کوملازمت بل جائے تو اورا نسلکہ جوالی کارڈ ایکس چینے کومطل کریں۔ اس کارڈ پڑکم نیٹانے کی ضرورت نہیں۔

بعدالت / رس شریسونگانی مه م ان 2 منجانب الم يتر الم من نور مسی بنام را ا كورخه مقدمه دعوكى جبر ورون طراء مرا 7. باعث تحريراً نكه مقدمه مندرج عنوان بالامیں اپنی طرف سے واسطے پیروی وجواب دہی دکل کا روائی متعلقہ كيلي جركز بب مرود بماحدا مصل حل صراحل آن مقام لرشار – مقرر کرکے اقرار کیاجاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کوراضی نامہ کرنے وتقرر رثالث و فیصلہ پر حلف دیئے جواب دہی اورا قبال دعویٰ اور بصورت د گری کرنے اجراء اور دصولی چیک ورو پیدار عرضی دعویٰ اور درخواست ہوتیم کی تصدیق زرایں پردستخط کرانے کااختیار ہوگا۔ نیز صورت عدم پیروی یاد گری یکطرفہ یا پیل کی برامدگ اور منسوخی نیز دائر کرنے اپیل نگرانی ونظر ثانی و پیروی کرنے کا مختار ہوگا۔از بصورت ضرورت مقدمہ مذکور کے کل یاجزوی کاردائی کے داسطےاور دکیل یا مختار قانونی کواپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔اورصاحب مقرر شدہ کوبھی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اوراس کاساختہ پرداختہ منظور وقبول ہوگا دوران مقدمہ میں جوخر چہ ہرجانہ التوائے مقدمہ کے سب سے دہوگا۔ کوئی تاریخ بیشی مقام دورہ پر ہو یا حد سے باہر ہوتو دیل صاحب پابند ہوں گے۔ کہ پیرو**ی ن**دکورکریں ۔ لہٰذاد کالت نامہ کھوریا کہ سندر ہے۔ Attential 5 = 2015 المرقوم لوحمير shed کے لئے منظور کی \mathcal{N} مقام چوك مشتشكر كى پشاور شى نون: 2220193 Mob: 0345-9223239

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No 2610 /ST

Dated 65/12/2017

То

The Chief Engineer, Central Design Officer, C&W Department, Govt: of Khyber Pakhutnkhwa, Peshawar.

Subject: **JUDGEMENT IN APPEAL NO. 1286/15, MR. NOOR HUSSAIN**.

I am directed to forward herewith a certified copy of Judgment dated 17/11/2017 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

MC KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal No. 1286 of 2015

Noor Hussain S/O Said Mahmood Shah, Resident of Mohalah Mian Khel, Dak Ismail Khan, District Nowshera. Appellant

Versus

- 1. Secretary, to Govt. of Khyber Pakhtunkhwa C&W Department
- 2. Chief Engineer Central Design Office C&W Department

Respondents

COUNTER AFFIDAVIT

We the Respondents hereby affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and that nothing has been concealed from the Hon'ble Tribunal.

<u>AFFIANT</u>

Chief Engineer Central Design Office C&W Department Peshawar (Respondent No. 2)

Secre

to Government of Knyber Pakhtunkhwa C&W Department Peshawar (Respondent No. 1)

<u>Appeal No. 1286 of 2015</u>

Noor Hussain S/O Said Mahmood Shah, Resident of Mohalah Mian Khel, Dak Ismail Khan, District Nowshera. Appellant

Versus

- 1. Secretary, to Govt. of Khyber Pakhtunkhwa C&W Department
- 2. Chief Engineer Central Design Office C&W Department

Respondents

Written Reply on behalf of Respondents No. 1, 2

Respectfully Sheweth,

PRELIMINARY OBJECTIONS:

- 1. That the appeal is not maintainable in its present form.
- 2. That the appellant has no cause of action and locus standi.
- 3. That the appellant has not come to the Hon'ble Tribunal with clean hands.
- 4. That the appeal is bad due to mis-joinder and non-joinder of necessary party.
- 5. That the appellant has concealed the material facts from the Hon'ble Tribunal.
- 6. That the appellant is estopped by his own conduct to file the instant appeal.
- 7. That the appeal is time barred.

FACTS

 Pertains to appellant's record. However, it may be pointed out that an inquiry was conducted and report submitted in a Servie Appeal No. 3057/2010 Jawad Khan V/s Govt. of Khyber Pakhtunkhwa through Chief Secretary & others on the orders of Secretary to Govt. of Khyber Pakhtunkhwa C&W Department letter No. SOE/ C&WD/13-217/2010 dated 9/6/2015 wherein it was directed to inquire into the matter regarding appointments dated 29/7/2010 made by the then Chief Engineer CDO C&W Peshawar (Engr. Kahlid Shah) Copy of Inquiry Report at Annex-1)

It may also be added that the case of 07 No. Class-IV employees appointed by the then Chief Engineer CDO (Engr. Zard Ali Khan) was inquired into and it was found that the appointments made during 2013-14 and 2014-15 by the said Chief Engineer were without observing codal formalities/procedure. (copy of Inquiry Report at Annex-2). In nutshell neither proper procedure was followed nor representative of Administrative Department i.e. C&W Department participated in these appointments. It has further been explained that 101 Class-IV employees of different cadres were working in CDO against sanctioned strength of 93 provided in the Budget Book of Finance Department (Annex-"B" of Inquiry Report-2. The excess staff was drawing their pay against other higher posts which were lying vacant in CDO and were downgraded for the pay purpose (Annex-"D" & "E" of Inquiry Report-2). Out of 31 Class-IV employees appointed by the then Chief Engineer CDO (Engr. Khalid Shah) and later on their appointments were cancelled, 10 had been re-instated in Govt. Service in pursuance of Court Decision and 8 through Departmental Appeals being similar nature cases. Arrears of Rs. 5735256/- on account of pay and allowances were paid to the officials as a result of their restoration.

In view of the above, the Competent Authority vide letter No. SOE/C&WD/17-4/2015, dated 29/7/2015 Annex-A-1), had been pleased to direct that the case of 07 number Class-IV employees (including the appellant), appointed for Central Design Office during 2013-14 and 2014-15 may be examined in light of Rule-11(i) of the NWFP Civil Servant Act, 1973 read with Rule-15 of APT Rules 1989 and their services may be dispensed forthwith, as these were appointed without observing codal formalities/procedure required under rules relating to appointments, despite the fact that referred appointments exceeded the existing sanctioned strength of Chief Engineer (CDO) C&W Peshawar (Composition of the Departmental Selection Committee is prescribed.. please see Annex-"G-1" of Inquiry Report-2).

- 2. Pertains to appellant's record.
- 3. Pertains to record.
- 4. In light of the direction issued by the competent authority, the case of the appellant was examined and it was found that the appointment was made without observing codal formalities and was also in excess of sanctioned strength of Chief Engineer CDO C&W Peshawar, as such his services were dispensed forthwith vide Chief Engineer CDO office order No. E-III/Apptt/ Posting/ Transfer/ 835, dated 30/7/2015 (Annex-"C-1") in light of Rule-11(i) of the NWFP Civil Servant Act, 1973 read with Rule-15 of APT Rules 1989 (Annex-"D-1").
- 5. Correct to the extent that the case of the appellant was examined and regretted as his appointment was made without observing codal formalities/procedure under rules relating to appointments (Anex-"E-1").
- 6. Not correct. The instant appeal has got no merits, hence the same may be dismissed with costs.

<u>GROUNDS</u>

- A. Incorrect. The appellant was treated in accordance with law, rules and facts.
- B. Not admitted. The case of appellant was examined and the appointment was found illegal and un-covered under the APT Rules 1989, hence the services were dispensed with accordingly.
- C. Incorrect. The appointment was termed as "illegal" and not covered under the rules as stated at "B" above.
- D. Incorrect. The services of the appellant were dispensed with as the appointment order was found illegal and un-covered under the APT Rules ibid as narrated in para-4 of Facts above.
- E. Incorrect. The appellant was treated in accordance with the law, rules and facts. Because of illegal appointments, the services of all illegal appointees including the appellant were dispensed with.
- F. Incorrect. The appellant was treated in accordance with the law, rules and facts. Because of illegal appointments, the services of all illegal appointees were dispensed with and there arise no question of making him victim of discrimination, demerits or favoritism what-so-ever.
- G. Incorrect as per para-F above.
- H. Incorrect as per para-F above.
- I. Incorrect. The appeal is not based on facts, hence may be dismissed with costs.
- J. Incorrect. The appellant was treated in accordance with the law, rules and facts. Because of illegal appointments, the services of all illegal appointees including the appellant were dispensed with.
- K. In view of the fore-going paras, the appeal is not maintainable and may be dismissed with costs.

In view of the fore going facts of the case, it is humbly prayed that the appeal which is not based on facts may please be dismissed with costs.

to Gove of Khyber Pakhtunkhwa C&W Department Peshawar (Respondent No. 1)

Chief Engineer Central Design Office C&W Department Peshawar (Respondent No. 2)

Appeal No. 1286 of 2015

S

Noor Hussain S/O Said Mahmood Shah, Resident of Mohalah Mian Khel, Dak Ismail Khan, District Nowshera. Appellant

Versus

- 1. Secretary, to Govt. of Khyber Pakhtunkhwa C&W Department
- 2. Chief Engineer Central Design Office C&W Department

Respondents

COUNTER AFFIDAVIT

We the Respondents hereby affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and that nothing has been concealed from the Hon'ble Tribunal.

<u>AFFIANT</u>

Chief Engineer Central Design Office C&W Department Peshawar (Respondent No. 2)

to Govt. of Khyber Pakhtunkhwa C&W Department Peshawar (Respondent No. 1)

Appeal No. 1286 of 2015

Noor Hussain S/O Said Mahmood Shah, Resident of Mohalah Mian Khel, Dak Ismail Khan, District Nowshera. , Appellant

Versus

- 1. Secretary, to Govt. of Khyber Pakhtunkhwa C&W Department
- 2. Chief Engineer Central Design Office C&W Department

Respondents

Written Reply on behalf of Respondents No. 1, 2

Respectfully Sheweth,

PRELIMINARY OBJECTIONS:

- 1. That the appeal is not maintainable in its present form.
- 2. That the appellant has no cause of action and locus standi.
- 3. That the appellant has not come to the Hon'ble Tribunal with clean hands.
- 4. That the appeal is bad due to mis-joinder and non-joinder of necessary party.
- 5. That the appellant has concealed the material facts from the Hon'ble Tribunal.
- 6. That the appellant is estopped by his own conduct to file the instant appeal.
- 7. That the appeal is time barred.

FACTS

 Pertains to appellant's record. However, it may be pointed out that an inquiry was conducted and report submitted in a Servie Appeal No. 3057/2010 Jawad Khan V/s Govt. of Khyber Pakhtunkhwa through Chief Secretary & others on the orders of Secretary to Govt. of Khyber Pakhtunkhwa C&W Department letter No. SOE/ C&WD/13-217/2010 dated 9/6/2015 wherein it was directed to inquire into the matter regarding appointments dated 29/7/2010 made by the then Chief Engineer CDO C&W Peshawar (Engr. Kahlid Shah) Copy of Inquiry Report at Annex-1)

It may also be added that the case of 07 No. Class-IV employees appointed by the then Chief Engineer CDO (Engr. Zard Ali Khan) was inquired into and it was found that the appointments made during 2013-14 and 2014-15 by the said Chief Engineer were without observing codal formalities/procedure. (copy of Inquiry Report at Annex-2). In nutshell neither proper procedure was followed nor representative of Administrative Department i.e. C&W Department participated in these appointments. It has further been explained that 101 Class-IV employees of different cadres were working in CDO against sanctioned strength of 93 provided in the Budget Book of Finance Department (Annex-"B" of Inquiry Report-2. The excess staff was drawing their pay against other higher posts which were lying vacant in CDO and were downgraded for the pay purpose (Annex-"D" & "E" of Inquiry Report-2). Out of 31 Class-IV employees appointed by the then Chief Engineer CDO (Engr. Khalid Shah) and later on their appointments were cancelled, 10 had been re-instated in Govt. Service in pursuance of Court Decision and 8 through Departmental Appeals being similar nature cases. Arrears of Rs. 5735256/- on account of pay and allowances were paid to the officials as a result of their restoration.

In view of the above, the Competent Authority vide letter No. SOE/C&WD/17-4/2015, dated 29/7/2015 Annex-A-1), had been pleased to direct that the case of 07 number Class-IV employees (including the appellant), appointed for Central Design Office during 2013-14 and 2014-15 may be examined in light of Rule-11(i) of the NWFP Civil Servant Act, 1973 read with Rule-15 of APT Rules 1989 and their services may be dispensed forthwith, as these were appointed without observing codal formalities/procedure required under rules relating to appointments, despite the fact that referred appointments exceeded the existing sanctioned strength of Chief Engineer (CDO) C&W Peshawar (Composition of the Departmental Selection Committee is prescribed.. see please Annex-"G-1" of Inquiry Report-2).

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- 3. Pertains to record.
- 4. In light of the direction issued by the competent authority, the case of the appellant was examined and it was found that the appointment was made without observing codal formalities and was also in excess of sanctioned strength of Chief Engineer CDO C&W Peshawar, as such his services were dispensed forthwith vide Chief Engineer CDO office order No. E-III/Apptt/ Posting/ Transfer/ 835, dated 30/7/2015 (Annex-"C-1") in light of Rule-11(i) of the NWFP Civil Servant Act, 1973 read with Rule-15 of APT Rules 1989 (Annex-"D-1").
- 5. Correct to the extent that the case of the appellant was examined and regretted as his appointment was made without observing codal formalities/procedure under rules relating to appointments (Anex-"E-1").
- 6. Not correct. The instant appeal has got no merits, hence the same may be dismissed with costs.

<u>GROUNDS</u>

- A. Incorrect. The appellant was treated in accordance with law, rules and facts.
- B. Not admitted. The case of appellant was examined and the appointment was found illegal and un-covered under the APT Rules 1989, hence the services were dispensed with accordingly.
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to Govt of Khyber Pakhtunkhwa C&W Department Peshawar (Respondent No. 1)

Chief Engineer Central Design Office C&W Department Peshawar (Respondent No. 2)

Appeal No. 1286 of 2015

Noor Hussain S/O Said Mahmood Shah, Resident of Mohalah Mian Khel, Dak Ismail Khan, District Nowshera. Appellant

Versus

- 1. Secretary, to Govt. of Khyber Pakhtunkhwa C&W Department
- 2. Chief Engineer Central Design Office C&W Department

Respondents

Sec. 010.

COUNTER AFFIDAVIT

We the Respondents hereby affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and that nothing has been concealed from the Hon'ble Tribunal.

AFFIANT

Chief Engineer Central Design Office C&W Department Peshawar (Respondent No. 2)

ovt of Khyber Pakhtunkhwa Department Peshawar (Respondent No. 1)

Appeal No. 1286 of 2015

Noor Hussain S/O Said Mahmood Shah, Resident of Mohalah Mian Khel, Dak Ismail Khan, District Nowshera. Appellant

Versus

1. Secretary, to Govt. of Khyber Pakhtunkhwa C&W Department

2. Chief Engineer Central Design Office C&W Department

Respondents

Written Reply on behalf of Respondents No. 1, 2

Respectfully Sheweth,

PRELIMINARY OBJECTIONS:

- 1. That the appeal is not maintainable in its present form.
- 2. That the appellant has no cause of action and locus standi.
- 3. That the appellant has not come to the Hon'ble Tribunal with clean hands.
- 4. That the appeal is bad due to mis-joinder and non-joinder of necessary party.
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FACTS

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It may also be added that the case of 07 No. Class-IV employees appointed by the then Chief Engineer CDO (Engr. Zard Ali Khan) was inquired into and it was found that the appointments made during 2013-14 and 2014-15 by the said Chief Engineer were without observing codal formalities/procedure. (copy of Inquiry Report at Annex-2).

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In nutshell neither proper procedure was followed nor representative of Administrative Department i.e. C&W Department participated in these appointments. It has further been explained that 101 Class-IV employees of different cadres were working in CDO against sanctioned strength of 93 provided in the Budget Book of Finance Department (Annex-"B" of Inquiry Report-2. The excess staff was drawing their pay against other higher posts which were lying vacant in CDO and were downgraded for the pay purpose (Annex-"D" & "E" of Inquiry Report-2). Out of 31 Class-IV employees appointed by the then Chief Engineer CDO (Engr. Khalid Shah) and later on their appointments were cancelled, 10 had been re-instated in Govt. Service in pursuance of Court Decision and 8 through Departmental Appeals being similar nature cases. Arrears of Rs. 5735256/- on account of pay and allowances were paid to the officials as a result of their restoration.

In view of the above, the Competent Authority vide letter No. SOE/C&WD/17-4/2015, dated 29/7/2015 Annex-A-1), had been pleased to direct that the case of 07 number Class-IV employees (including the appellant), appointed for Central Design Office during 2013-14 and 2014-15 may be examined in light of Rule-11(i) of the NWFP Civil Servant Act, 1973 read with Rule-15 of APT Rules 1989 and their services may be dispensed forthwith, as these were appointed without observing codal formalities/procedure required under rules relating to appointments, despite the fact that referred appointments exceeded the existing sanctioned strength of Chief Engineer (CDO) C&W Peshawar (Composition of the Departmental Selection Committee is prescribed.. please see Annex-"G-1" of Inquiry Report-2).

- 2. Pertains to appellant's record.
- 3. Pertains to record.
- 4. In light of the direction issued by the competent authority, the case of the appellant was examined and it was found that the appointment was made without observing codal formalities and was also in excess of sanctioned strength of Chief Engineer CDO C&W Peshawar, as such his services were dispensed forthwith vide Chief Engineer CDO office order No. E-III/Apptt/ Posting/ Transfer/ 835, dated 30/7/2015 (Annex-"C-1") in light of Rule-11(i) of the NWFP Civil Servant Act, 1973 read with Rule-15 of APT Rules 1989 (Annex-"D-1").
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- 6. Not correct. The instant appeal has got no merits, hence the same may be dismissed with costs.

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<u>GROUNDS</u>

- A. Incorrect. The appellant was treated in accordance with law, rules and facts.
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- G. Incorrect as per para-F above.
- H. Incorrect as per para-F above.
- 1. Incorrect. The appeal is not based on facts, hence may be dismissed with costs.
- J. Incorrect. The appellant was treated in accordance with the law, rules and facts. Because of illegal appointments, the services of all illegal appointees including the appellant were dispensed with.
- K. In view of the fore-going paras, the appeal is not maintainable and may be dismissed with costs.

In view of the fore going facts of the case, it is humbly prayed that the appeal which is not based on facts may please be dismissed with costs.

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to Govt. of Khyber Pakhtunkhwa C&W Department Peshawar (Respondent No. 1)

Chief Engineer Central Design Office C&W Department Peshawar (Respondent No. 2)

<u> Appeal No. 1171 & 1172 of 2015</u>

- AMusarrat Nazir S/O Tajbar Ali Shah
 - & Muhammad Asghar S/O Mian Akbar Zaman

Versus

- 1. Secretary, to Govt. of Khyber Pakhtunkhwa C&W Department
- 2. Chief Engineer Central Design Office C&W Department

A greed.

Respondents

Appellant

No: 20578/AAG dates/ 29.4.2016

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Written Reply on behalf of Respondents No. 1, 2

Respectfully Sheweth,

PRELIMINARY OBJECTIONS:

- 1. That the appeal is not maintainable in its present form.
- 2. That the appeal has no cause of action and locus standi.
- 3. That the appellant has not come to the Hon'ble Tribunal with clean hands.
- 4. That the appeal is bad due to non-joinder and mis-joinder of necessary party.
- 5. That the appellant concealed the material facts from the Hon'ble Tribunal.
- 6. That the appellant is estopped by his own conduct to file the instant appeal.
- 7. That the appeal is time barred.

FACTS

 Pertains to appellant's record. However, it may be pointed out that an inquiry was conducted and report submitted in a Servie Appeal No. 3057/2010 Jawad Khan V/s Govt. of Khyber Pakhtunkhwa through Chief Secretary & others on the orders of Secretary to Govt. of Khyber Pakhtunkhwa C&W Department letter No. SOE/ C&WD/13-217/2010 dated 9/6/2015 wherein it was directed to inquire into the matter regarding appointments dated 29/7/2010 made by the then Chief Engineer CDO C&W Peshawar (Engr. Kahlid Shah) Copy of Inquiry Report at Annex-1)

It may also be added that the case of 07 No. Class-IV employees appointed by the then Chief Engineer CDO (Engr. Zard Ali Khan) was inquired into and it was found that the appointments made during 2013-14 and 2014-15 by the said Chief Engineer were without observing codal formalities/procedure. (copy of Inquiry Report at Annex-2).

In nutshell neither proper procedure was followed nor representative of Administrative Department i.e. C&W Department participated in these appointments. It has further been explained that 101 Class-IV employees of different cadres were working in CDO against sanctioned strength of 93 provided in the Budget Book of Finance Department (Annex.). The excess staff was drawing their pay against other higher posts which were lying vacant in CDO and were downgraded for the pay purpose (Annex.) Out of 31 Class-IV employees appointed by the then Chief Engineer CDO (Engr. Khalid Shah) and later on their appointments were cancelled, 10 had been re-instated in Govt. Service in pursuance of Court Decision and 8 through Departmental Appeals being similar nature cases. Arrears of Rs. 5735256/- on account of pay and allowances were paid to the officials as a result of their restoration.

In view of the above, the Competent Authority vide letter No. SOE/C&WD/17-4/2015, dated 29/7/2015 Annex-A), had been pleased to direct that the case of 07 number Class-IV employees (including the appellant), appointed for Central Design Office during 2013-14 and 2014-15 may be examined in light of Rule-11(i) of the NWFP Civil Servant Act, 1973 read with Rule-15 of APT Rules 1989 and their services may be dispensed forthwith, as these were appointed without observing codal formalities/procedure required under rules relating to appointments, despite the fact that referred appointments exceeded the existing sanctioned strength of Chief Engineer (CDO) C&W Peshawar (Composition of prescribed.. please Selection Committee see is Departmental the Annex-"B").

- 2. Pertains to appellant's record.
- 3. Pertains to record.
- 4. In light of the direction issued by the competent authority, the case of the appellant was examined and it was found that the appointment was made without observing codal formalities and was also in excess of sanctioned strength of Chief Engineer CDO C&W Peshawar, as such his services were dispensed forthwith vide Chief Engineer CDO office order No. E-III/Apptt/ Posting/ Transfer/ 835, dated 30/7/2015 (Annex-"C") in light of Rule-11(i) of the NWFP Civil Servant Act, 1973 read with Rule-15 of APT Rules 1989 (Annex-"D").
- 5. Correct to the extent that the case of the appellant was examined and regretted as his appointment was made without observing codal formalities/procedure under rules relating to appointments (Anex-"E").
- 6. Not correct. The instant appeal has got no merits, hence the same may be set domission aside with costs.

GROUNDS

- A. Incorrect. The appellant was treated in accordance with law, rules and facts.
- B. Not admitted. The case of appellant was examined and the appointment was found illegal and un-covered under the APT Rules 1989, hence the services were dispensed with accordingly.
- C. Incorrect. The appointment was termed as "illegal" and not covered under the rules as stated at "B" above.
- D. Incorrect. The services of the appellant were dispensed with as the appointment order was found illegal and un-covered under the APT Rules ibid as narrated in para-4 of Facts above.
- E. Pertains to record, however, the plea of the applicant is incorrect as his appointment order was found illegal and un-covered under the APT Rules.
- F. Incorrect. The appellant was treated in accordance with the law, rules and facts. Because of illegal appointments, the services of all illegal appointees including the appellant were dispensed with.
- G. Incorrect. The appellant was treated in accordance with the law, rules and facts. Because of illegal appointments, the services of all illegal appointees were dispensed with and there is no question of making him victim of discrimination, demerits or favoritism what-so-ever.
- H. Incorrect as per para-F above.
- I. Incorrect as per para-F above.
- J. Incorrect. The appeal is not based on facts, hence may be dismissed with costs.
- K. Incorrect. The order was issued in accordance with the rules. The appeal may be dismissed with costs. L. No commonts. Incorrect. The project of the appellant in prested as per law and Suchs

Submitted for vetting Please

- M. Incorrect. The appellant was treated in accordance with the law, rules and facts. Because of illegal appointments, the services of all illegal appointees including the appellant were dispensed with.
- N. In view of the fore-going paras, the appeal is not maintainable and may be dismissed with costs.

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Secretary to Govt. of Khyber Pakhtunkhwa av C&W Department Peshawar Respondent No. 1

E.

in contract Water Postawat Chief Engineer C&W Department Peshawar, S Respondent No. 2 Central Design Office

Note: Other similar maters and Connected appends having Common pulcition of Law and Jack may plo be vietted on The Same toms & Conditions please.

Viennig 28/4//6

Statutry provision regarding Appointment.

Section 5 of Civil Servants Act, 1973 - 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 authorised by the Governor in that behalf.

THE NORTH-WEST FRONTIER PROVINCE CIVIL SERVANTS (APPOINTMENT, PROMOTION & TRANSFER) RULES, 1989.

PART-I

GENERAL

1. Short title and commencement: - (1) These rules may be called the North-West Frontier Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1989.

(2) They shall come into force at once.

2. Definitions:-(1) In these rules, unless the context otherwise requires:-,

- (a) "Appointing Authority" in relation to a post, means the persons authorized under rule 4 to make appointment to that post;
- (b) "Basic Pay Scale" means the Basic Pay Scale for the time being sanctioned by Government, in which a post or a group of posts is placed;
- (c) "Commission" means the North West Frontier Province Public Service Commission;
- ²⁹(d) "Departmental Promotion Committee" means a committee constituted for making selection for promotion or transfer to such posts under a Department, or offices of Government, which do not fall within the purview of the Provincial Selection Board;
- ³⁰(dd)"Departmental Selection Board" means a Board constituted for the purpose of making selection for initial recruitment /appointment to posts under a Department or office of Government in Basic Pay Scale 17 not falling within the purview of the Commission:

Provided that more than one such committees may be constituted for civil servants holding different scales of pay".

- (e) "Departmental Selection Committee" means a committee constituted for the purpose of making selection for initial appointment to posts under a department, or office of Government [in Basic Pay Scale 17 and below not falling within the purview of the Commission];
- (f) "Post" means a post sanctioned in connection with the affairs of the Province, but not allocated to all Pakistan Unified Grades; and
- ³¹(g) "Provincial Selection Board" means the Board constituted by Government for the purpose of selection of civil servants for promotion or transfer to posts in respect
- Substituted by Clause (d) of sub-rule (1) of Rule 2 vide Notification No. SOR-I (S&GAD) 4-1/80 (Vol-II) dated 14-01-92.

Clause (dd) added by Notification No. SOR-III (S&GAD) 2-7/86, dated 8-12-1994

Clause (g) substituted by Notification No. SOR-I(S&GAD) 4-1/80/II, dated 14-01-1992.

whereof the appointing authority under rule 4 is the Chief Minister and shall consist of such persons as may be appointed to it by Government from time to time.

(2) Words and expressions used but not defined in these rules shall have the same meanings as are assigned to them in the North-West Frontier Province Civil Servants Act, 1973(N.W.F.P. act XVIII of 1973) or any other statutory order or rules of Government for the time being in force.

Method of Appointment:- (1) Appointment to posts shall be made by any of the following methods, namely:-

3.

- (a) by promotion or transfer in accordance with the provisions contained in Part-II of these rules; and
- (b) by initial recruitment in accordance with the provisions contained in Part-III of these rules.

(2) The method of appointment, qualifications and other conditions applicable to a post shall be such as laid down by the Department concerned in consultation with the Services and General Administration Department and the Finance Department.

4. Appointing Authority:- The authorities competent to make appointment to posts in various basic pay scales shall be as follows:-

S.No. !	Posts !	Appointing Authority
³² 1. (a)	Posts in Basic Pay Scale 18 and above including posts in Basic Pay Scale 17 borne on any of the following services;	Chief Minister
	(i) Former Provincial Civil Service (Executive Branch)	;
	(ii) Former Provincial Civil Service (Judicial Branch); and	
	(iii)Provincial Civil Secretariat Service.	1.1
(b)	Posts in Basic Pay Scale 17 other than those covered by(a) above.	Chief Secretary
2.	Posts in Basic Pay Scale 16.	(a) In the case of Secretariat of the Government of NWFP, the Chief Secretary.
		(b) In case of High Court, the Chief Justice; and
		(c) In the case of Attached Department:

- (i) the Head of Attached Department concerned; and
- (ii) In any other case the Secretary of the Department concerned.

In the case of civil Servants borne on ministerial establishment of Civil Courts subordinate to High Court, the officer authorized as such by the Chief Justice; and

In other cases

an officer declared under the relevant Delegation of Powers Rules, which shall to this extent be deemed as operative; or

Where no such appointing authority has been declared, the Secretary to Government or the Head of an Attached Department/ Office, as the case may be.

4. Posts in Basic Pay Scale 1 and 2.

Posts in Basic Pay Scales 3 to 15.

Deputy Secretary incharge of Administration or office, as the case may be.

5. ³³Departmental Promotion & Selection Committee/Board - (1) In each Department or office of Government there shall be one or more Departmental Promotion Committee and Departmental Selection Committee ³⁴(or, as the case may be, Departmental Selection Board), the composition of which shall be determined by the Services and General Administration Department or the Department in consultation with the Services and General Administration Department.

(2) Each such Committee (or the Board, as the case may be), shall consist of at least three members, one of whom shall be appointed as Chairman.

³⁵6. **Procedure when recommendation is not accepted:-** When an appointing authority for Basic Pay Scale 17 or below does not accept the recommendation of a Departmental Promotion or Selection Committee, or the Departmental Selection Board, as the case may be, it shall record its reasons and obtain order of the next higher authority.

The heading of rule 5 substituted by Notification No. SOR-I(S&GAD)2-7/86, dated 8-12-1994. The words inserted by Notification No. SOR-III(S&GAD)2-7/86, dated 8-12-1994 Rule-6 substituted by Notification No. SOR-III(S&GAD)2-7/86, dated 8-12-1994

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PART-II

APPOINTMENT BY PROMOTION OR TRANSFER

7. Appointment by Promotion or Transfer. ${}^{36}(1)$ Except as otherwise provided in any service rules for the time being in force, appointment by promotion or transfer to posts in respect whereof the appointing authority under rule 4 is the Chief Minister shall ordinarily be made on the recommendation of the Provincial Selection Board and promotion and transfer to posts other than those falling within the purview of the Provincial Selection Board shall ordinarily be made on the recommendation of appropriate Departmental Promotion Committee".

(3) Persons possessing such qualifications and fulfilling such conditions as laid down for the purpose of promotion or transfer to a post shall be considered by the Departmental Promotion Committee, or the Provincial Selection Board for promotion or transfer, as the case may be.

(4) No promotion on regular basis shall be made to posts in Basic Pay Scale 18 to 21 unless the officer concerned has completed such minimum length of service as may be specified from time to time.

8. Inter-Provincial Transfer:-(1) Persons holding appointment in BPS 1 to 15 under Federal Government and other Provincial Government may, in deserving cases, be transferred to equivalent posts under these rules:-

Provided that:-

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- the Federal Government or the Government of the Province concerned, as the case may be, has no objection to such a transfer;
- (ii) the person seeking transfer possesses the requisite qualification and experience and the post to which his transfer is intended can, under the rules, be filled by transfer;
- (iii) the person concerned holds appointment to the post in his parent Department on regular basis;
- (iv) the person concerned is a bona fide resident of the North-West Frontier Province.
- (v) a vacancy exists to accommodate the request for such a transfer; and:
- (vi) Provided further that in most deserving cases, the merit of which shall be determined on case to case basis and the decision of the Competent Authority in that behalf shall be final, Government may allow transfer of a civil servant in BPS-16 and above, subject to the aforesaid conditions.

(2) A person so transferred shall be placed at the bottom of the cadre strength which he joins for the purpose of determining his seniority vis-à-vis other members borne on the cadre.

Sub rule (1) substituted by Notification No. SOR-I(S&GAD)4-1/80/II, dated 14-01-1992.

(3) It will be the sole discretion of the appointing authority to accept or refuse a request for transfer under this rule and any decision made in this behalf shall be final and shall not be quoted as precedence in any other case.

9. Appointment on Acting Charge or current Charge Basis. (1) Where the appointing authority considered it to be in the public interest to fill a post reserved under the rules for departmental promotion and the most senior civil servant belonging to the cadre or service concerned, who is otherwise eligible for promotion, does not possess the specified length of service the authority may appoint him to that post on acting charge basis;

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³⁷Provided that no such appointment shall be made, if the prescribed length of service is short by more than ³⁸[three years].

(2) So long as a civil servant holds the acting charge appointment, a civil servant junior to him shall not be considered for regular promotion but may be appointed on acting charge basis to a higher post.

(3) In the case of a post in Basic Pay Scale 17 and above, reserved under the rules to be filled in by initial recruitment, where the appointing authority is satisfied that no suitable officer drawing pay in the basic scale in which the post exists is available in that category to fill the post and it is expedient to fill the post, it may appoint to that post on acting charge basis the most senior officer otherwise eligible for promotion in the organization, cadre or service, as the case may be, in excess of the promotion quota.

(4) Acting charge appointment shall be made against posts which are likely to fall vacant for period of six months or more. Against vacancies occurring for less than six months, current charge appointment may be made according to the orders issued from time to time.

(5) Appointment on acting charge basis shall be made on the recommendations of the Departmental Promotion Committee or the Provincial Selection Board, as the case may be.

(6) Acting charge appointment shall not confer any vested right for regular promotion to the post held on acting charge basis.

PART-III

INITIAL APPOINTMENT

10. Appointment by Initial Recruitment :-(1) Initial appointment to posts ³⁹[in various basic pay scales] shall be made-

(a) if the post falls within the purview of the Commission, on the basis of Examination or test to be conducted by the Commission; or

Full stop at the end of Rule 9 (1) replaced with colon and proviso added by Notification No. SOR-I (S&GAD)4-1/80/Vol-II, dated 20-10-1993.

The words one year substituted by Notification No. SOR-I(S&GAD)4-1/80/111, dated 14.3.96. The words in basic pay scale-16 to 21 substituted by Notification No. SOR-I(S&GAD)1-117/91 (C), dated 12-10-1993.

if the post does not fall within the purview of the Commission, in the manner (b) as may be determined by Government.

Initial recruitment to posts which do not fall within the purview of the Commission shall be made on the recommendation of the Departmental Selection Committee, after vacancies have been advertised in newspapers.

⁴¹Provided that nothing contained in this sub-rule shall apply to the household staff of the Chief Minister House Peshawar, Frontier House Islamabad, Frontier Rest Houses Bannu, Swat and Abbottabad, Frontier House Nathia Galli and Shahi Mehman Khana, Peshawar and any other House to be established by the Government:

⁴²Provided further that the appointment in Basic Pay Scale-1 to 4 shall be made on the recommendations of the Departmental Selection Committee through the District Employment Exchange concerned, ⁴³[or, where in a District, the office of the Employment Exchange does not exist, after advertising the posts in the leading newspapers] 44[

A candidate for initial appointment to a post must possess the educational qualification or technical qualifications and experience and except as provided in the rules framed for the purpose of relaxation of age limit, must be within the age limit as laid down for the post, provided that-

- ⁴⁵where recruitment is to be made on the basis of written examination, then, notwithstanding anything to the contrary contained in any other rules for the (i) time being inforce, age shall be reckoned on 1st January of the year in which the examination is proposed to be held;
- in other cases as on the last date fixed for submission of applications for (ii) appointment.

⁴⁶(4) Where a civil servant dies during service, then notwithstanding the procedure provided for in sub-rule (2), the appointing authority may appoint one of the children of such civil servant, or if the child has not attained the age prescribed for appointment in Government service, the widow of such civil servant, to a post in any of the Basic Pay Scales 1 to 15:

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

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

Provided also that the appointment under this sub-rule is subject to availability of a vacancy and if more than one vacancies in different pay scales is available at a time, and the child or the widow, as the case may be, possesses the qualifications making him or her

- Sentence added in the Proviso vide Notification No. SOR-VI(E&AD)1-3/2003 (VI) dated 23-01-2006. 43
- 2nd Proviso in sub- rule (2) of Rule 10 was deleted vide Notification No. SOR-VI(E&AD)1-3/2008 44
 - dated 09-05-2008 and added again vide Notification No. SOR-VI(E&AD)1-3/2008 dated 03-11-2008.
- Clause (i) substituted vide Notification No. SOR-I(S&GAD)4-1/80, dated 17-5-1989. 45 Sub rule (4) substituted vide Notification No. SOR-VI (E&AD)1-3/03/11, dated 05-09-2006.
- 46

Sub rule (2) of Rule-10 substituted by Notification No. SOR-I(S&GAD) 1-117/91 (C), dated 12-10-1993. 40

Proviso added vide Notification No. SOR-VI(E&AD)1-3/2003 (VI) dated 03-07-2003. 41

Proviso added vide Notification No. SOR-VI(E&AD)1-3/2003 (VI) dated 16-03-2004 42

for appointment in more than one post, he/she shall ordinarily be appointed to the post carrying higher pay scale.

⁴⁷(5) Notwithstanding anything contained in any rule for the time being in force, two percent of all posts in each basic pay scale to be filled in by initial recruitment shall be reserved for disabled candidates and ten percent of all posts meant for initial recruitment shall be reserved for female candidates:

Explanation-I---For the purpose of reservation under this sub-rule "disability" does not include such disability which hampers in the smooth performance of the duties required of a disabled candidate

Explanation-II---Ten per cent quota reserved above shall be in addition to the posts exclusively reserved for female candidates.

⁴⁸(6) Notwithstanding anything contained in any rule for the time being in force, five per cent of all posts in each basic pay scale to be filled in by initial recruitment shall be reserved for candidates hailing from earthquake affected areas of District Mansehra, Battgram, Shangla, Kohistan and Abbottabad (Calamity hit area) for a period of three years commencing from 1st February, 2006.

 $4^{9}(7)$ Notwithstanding anything contained in any rule for the time being in force, 0.5 percent of all the posts in each basic pay scale to be filled in by initial recruitment shall be reserved for candidates belonging to minorities in addition to their participation in the open merit:

Provided that, the reservation shall not apply to-

the percentage of vacancies reserved for recruitment on merit; (i)

short term vacancies likely to last for less than one year; and (ii)

(iii) isolated posts in which vacancies occur only occasionally.

Eligibility. (1) A candidate for appointment shall be a citizen of Pakistan and bona 11 fide resident of the North-West Frontier Province.

Provided that for reasons to be recorded in writing, Government may, in a particular case, relax this restriction.

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No person, not already in Government service, shall be appointed to a post (3) unless he produces a certificate of character from the principal, academic officer of the academic institution last attended and also certificates of character from two responsible persons, not being his relatives, who are well acquainted with his character and antecedents.

Notwithstanding anything contained in sub-rule (3), an appointment by initial (4)recruitment shall be subject to the verification of character and antecedents of the candidate or the person appointed, to the satisfaction of appointing authority.

Sub rule (5) substituted vide Notification No. SOR-VI (E&AD)1-10/03 (VI), dated 04-12-2007.

⁴⁹ Sub rule (7) added vide Notification No. SOR-VI(E&AD)1-3/08, dated 06-01-2009

⁴¹ Sub rule (6) inserted vide Notification No. SOR-VI(E&AD)1-3/03 (VI), dated 01-02-2006

³⁰ Sub rule (2) of rule-11 deleted vide Notification No. SOR-VI(E&AD)1-3/08, dated 17-06-2008

(5) No candidate shall be appointed to a post unless he is found, at such medical examination as Government may prescribe, to be in good mental and bodily nealth and free from physical defect likely to interfere in the efficient discharge of his duties.

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12. Zonal and Divisional representation: - (1) Except as otherwise specifically provided in any rule for the time being in force, initial recruitment to posts in Basic Pay Scales 16 and 17 and other posts in Basic Pay Scales 3 to 15 borne on Provincial cadre shall be made in accordance with the Zonal quota specified by Government from time to time:

⁵¹Provided that initial recruitment to the post of Civil Judge/Judicial Magistrate/Allaqa Qazi (BPS-18) shall also be made in accordance with the zonal quota specified by the Government from time to time.

(2) Initial recruitment to posts in Basic Pay Scales 3 to 15 borne on divisional or district cadre shall be made from amongst bona fide residents of the division or district concerned, as the case may be.

(3) Initial recruitment to posts in Basic Pay Scales 1 and 2 or equivalent shall ordinarily be made on local basis.

PART-IV

AD HOC APPOINTMENT

13. **Requisition to Commission:-**When under any rule for the time being in force, a post is required to be filled in through the Commission, the appointing authority shall forward a requisition on the prescribed form to the Commission immediately after it is decided to fill in the post, or if that is not practicable and the post is filled on ad hoc basis as provided in rule 14, within two months of the filling of the post.

14. Ad hoc Appointment:-(1) When the appointing authority considers it to be in the public interest to fill in a post falling within the purview of the Commission urgently, it may, pending nomination of a candidate by the Commission, proceed to fill in such post on ad hoc basis for a period not exceeding ⁵²[one year] by advertising the same in accordance with the procedure laid down for initial appointment in Part-III of these rules.

(2) Short term vacancies in the posts falling within the purview of the Commission and vacancies occurring as a result of creation of temporary posts for a period not exceeding ⁵³[one year], may be filled in by appointing authority otherwise than through the Commission on a purely temporary basis after advertising the vacancy.

Proviso to rule-12 added vide Notification No. SOR-VI(E&AD)1-27/08, dated 03-07-2008

The words six months replaced with the words one year vide Notification No. SOR-VI(E&AD)1-3/08, the words six months replaced with the words one year vide Notification No. SOR-VI(E&AD)1-3/08

dated 17-01-2009.
 The words six months replaced with the words one year vide Notification No. SOR-VI(E&AD)1-3/08,
 dated 17-01-2009.

INQUIRY REPORT

SUBJECT:

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SERVICE APPEAL NO. 3057/2010 JAWADKHAN VS GOVERNMENT OF KHYBERPAKHTUNKHWA THROUGH CHIEFSECRETARY & OTHERS



OPPICE OF THE CHIEF ENGINEER CENTRAL DESIGN OPPICE C&W DEPARTMENT HOUSE NO. 13/28 STREET NO. 19 SHAMI ROAD KHYBER PAKHTUNKHWA PESHAWAR Ph. No. 091-9211133 Fax. 091-9213923

No. 712/ Sp. Jamer /Dated. 0.2 106/2015

The Section Officer (Establishment), Govt. of Khyber Pakhtunkhwa, C&W Department Peshawar.

Subject

Service Appeal No. 3057/2010 Jawad Khan vs Government of Khyber Pakhtunkhwa through Chief Secretary & Others

 $\mathbb{P}_{G}(\cdot)$

Your letter No. SOE/C&WD/3-217/2010 Dated 09-06-2015

Enclosed please find herewith the requisite Report on the subject quoted above for further necessary action please.

> Engr. Saif Ur Rehman Khan Gandapur Chief Engineer (CDO) C&WD Peshawar (INQUIRY OFFICER)

Copy to PS to Secretary to Govt of Khyber Pakhtunkhwa C&W Department Peshawar.

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Engr. Saif Ur Rehman Khan Gandapur Chief Engineer (CDO) C&WD Peshawar (INQUIRY OFFICER



<u>REPORT</u>

SUBJECT: SERVICE APPEAL NO. 3057/2010 JAWAD KHAN VS GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH CHIEF SECRETARY & OTHERS

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<u>REPORT</u>

<u>Subject</u>:

Service Appeal no. 3057/2010 Jawad Khan vs Government of Khyber Pakhtunkhwa through Chief Secretary & Others

<u>Order</u>:

I was directed vide C&W Department letter No. SOE/C&WD/13-217/2010 dated 09-06-2015 (annex-A) to inquire the matter regarding appointments dated 29-07-2010 made by the then Chief Engineer (CDO) C&WD Peshawar (Engr. Khalid Shah) and submit report to proceed further in the matter.

Background:

Consequent upon bifurcation of Works & Services Department into Communication & Works Department and Public Health Engg. Department, a post of Chief Engineer Central Design Office was created in November 2009 in C&W Department alongwith technical positions ranging from BPS-17 to BPS-20 and other allied posts of various cadres which included 93 Class-IV Posts (annex-B).

The then Chief Engineer CDO C&WD Peshawar (Engr. Khalid Shah) advertised posts of different categories of Class-IV in the press. Mr. Jawad Khan and others applied for the posts and 34 persons including him (Jawad Khan Naib Qasid) were appointed during July 2010. However, later on the appointment orders of the said staff were cancelled in compliance with Secretary to Govt. of Khyber Pakhtunkhwa C&W Department letter No. SOE/C&WD/17-4/2010 dated 13-08-2010 (annex-C) for the reason that the appointments were made without observing codal formalities/procedure. The officials filed cases in the courts and the courts decided the cases in their favour and restored them with full back benefits.

Mr. Jawad Khan also filed Service Appeal in Khyber Pakhtunkhwa Service Tribunal and the court also restored him with full back benefits (annex-D).

Proceedings:

- 1. Mr. Muhammad Arif Ex-Administrative Officer CDO was directed vide letter No. 642/SA Jawad Dated 17-06-2015 to attend the inquiry proceeding on 18-06-2015 to submit his statement. He attended the proceeding and submitted a brief duly signed by Mr. Khalid Shah the then Chief Engineer (CDO) alongwith its enclosures which were examined during the inquiry proceeding (annex-E).
- Mr. Liaqat Ali Junior Clerk (Record Keeper) CDO was directed vide letter No. 643/SA Jawad Dated 17-06-2015 to attend the inquiry proceeding on 18-06-2015 alongwith all relevant record. He attended the proceeding and recorded his statement regarding non availability of some original record relating to the inquiry (annex-F).
- 3. Mr. Mubarak Ali Shah Administrative Officer CDO was directed vide letter No. 644/SA Jawad Dated 17-06-2015 to attend the inquiry proceeding on 18-06-2015 alongwith all relevant record. He attended the proceeding and submitted his statement regarding the inquiry which was discussed during the proceeding (annex-G)

Findings:

The available record was examined and it came to light that:

- 1. The then Chief Engineer CDO (Engr. Khalid Shah) made 34 appointments of Class-IV for CDO during July 2010 (annex-H), out of which appointments of 10 Naib Qasids were cancelled by him (Engr. Khalid Shah) on 13-08-2010 (annex-I). In the meanwhile, he was transferred and Mr. S. Sajid Hussain took over the charge of the post of Chief Engineer CDO on 13-08-2010.
- 2. Mr. S. Sajid Hussain the then Chief Engineer CDO also cancelled appointments of 21 employees vide his office order dated 18-08-2010 (annex-J), thus total 31 orders out of 34 issued by Engr. Khalid Shah were cancelled and only 3 appointment orders were restored (annex-K).
- 3. Both the cancellation orders were issued in compliance with the Secretary to Govt. of Khyber Pakhtunkhwa C&W Department letter No. SOE/C&WD/17-4/2010 dated 13-08-2010 (anhex-L), whereby it was directed that all appointments made for CDO since its establishment may be cancelled today (13-08-2010) positively for the reason that the appointments were made without observing codal formalities/procedure. Mr. Khalid Shah the then Chief Engineer CDO, however stated in his brief that the all Class-IV employees were terminated on the direction of Special Assistant to the then Chief Minister to accommodate the political recommendees.
- 4: Mr. S. Sajid Hussain the then Chief Engineer CDO, made 61 appointments (including 3 by restoration and 2 by transfer) of Class-IV for the office of Chief Engineer CDO, Principal Consulting Architect, Regional and Circle Laboratories (annex-M).
- 5. Feeling aggrieved, Muhammad Aftab and 8 others whose orders of appointment were cancelled, filed an appeal in Khyber Pakhtunkhwa Service Tribunal which were accepted and they were reinstated in Service with all back benefits. The Departmental Appeal filed in the Supreme Court of Pakistan was rejected, however Para 4 of the decision dated 15-02-2013 (annex-N) made by the Apex Court, is worth mentioning and is reproduced as:-

"When we asked the learned Addl. A.G. whether the respondents were eligible for appointment against their respective posts, the answer was in the affirmative. When, we asked the learned Addl. A.G. whether the person flouting the codal formalities has been proceeded against or he is still in service, the answer was that he has not been proceeded against and that he is still in service. Where the person flouting the codal formalities is still in service and enjoying all the perks and privileges with impunity why should the respondents be ousted from service for none of their faults, that too when their eligibility to hold the posts is not disputed. The impugned judgments thus being free from any error or infirmity much less legal or jurisdictional are not open to any interference."

- 6. Appeal of another one (Waheed Ahmad) was also decided on 15-02-2013 in his favour by Khyber Pakhtunkhwa Service Tribunal with the same decision as issued in the Service Appeal of Mr. Muhammad Aftab (annex-O). Total 10 Class-IV Employees were reinstated through Court (annex-P).
- 7. Apart from the above, 8 other ex-officials were reinstated in service with all back benefits on Departmental Appeal being similar nature cases (annex-Q).
- 8. Arrears of Rs. 5735256/= on account of Pay & Allowances were paid to the officials described in Para 5, 6 and 7 above after restoration during the Year 2012-13 (annex-R).
- 9. Appointments of 6 Class-IV Laboratory Staff in Circle Laboratory Abbottabad (annex-S), 2 in Circle Laboratory Battagram (annex-T), 2 in Circle Laboratory Dir Lower (annex-U) and 2 in Circle Laboratory DI Khan (annex-V) were made by the respective Superintending Engineers/Chief Engineer (North) contrary to instructions issued by the then Secretary C&W Department that only Chief Engineers were authorized for appointments of Class-IV Employees in their respective jurisdiction vide C&WD letter No. SOE/C&WD/24-60/JC Appointment dated 08-03-2010 (annex-W).
- 10. Engr. Zard Ali Khan, the then Chief Engineer CDO made 07 new appointments of Class-IV Employees for CDO (annex-X), despite that the Class-IV Employees already working in CDO were excess to sanctioned strength and getting their pay against other higher posts lying vacant in CDO and downgraded for the pay purpose.
 - 11. Most of the original record relating to appointments has been hidden and only photocopies have been provided by the Administrative Officers concerned during the proceeding.
 - 12. Two of the remaining persons namely Adnan Yaqub and Arif Shah whose appointments were made by Engr. Khalid Shah as Lab Attendants and later cancelled by S. Sajid Hussain have also applied to the Department for their reinstatement.
 - 13. Mr. Jawad Khan whose order was cancelled, also filed service appeal in Khyber Pakhtunkhwa Service Tribunal against the cancellation order dated 18-08-2010. His appeal was allowed with full back benefits. However, reference to the Departmental Selection Committee comprising of its Chairman Mr. Imdad Hussain Bungash Director (FDRD) and Mr. Rahim Badshah one of its members as representative of the Administrative Department as quoted in the order announced by Service Tribunal on 14-05-2015 is not correct as the (Rahim Badshah) participated in the DSC meeting which was held on 15-09-2010 whereas Jawad Khan was appointed on 29-07-2010. The appointment order of Jawad Khan (29-07-2010) as such is much earlier than the DSC meeting (15-09-2010).

behalf of the respondent-department by stating what while appointing, appellant, the proper codal formalities were not observed, nor, representative of the administrative department was present as member in the Selection Committee and that the Finance Department as well as Accountant General Office were reluctant to honor the appointments for payment of the salary to the appointees was concerned.

6. We heard the arguments of the parties and record perused in their assistance.

Perusal of the record would show that Departmental Selection ·7 Committee was constituted, comprising of its chairman under the chairmanship of Mr. Imdád hussain Bangash. Director (FDRP) in which Mr. Ruhim Badshah SO Establishment was also one of its Members as representative of the Administrative Department. This committee had its meeting on 15.09/2010 and recommended selectees for the purpose of appointment. In this situation, the department plea of non-representation in the Selection Committee is false. This being so, it is very important to say that appointment order of one Muhanimader Dans Ghowkidar was also canceled wide order dated 13.08.2010 and filed service appeal No. 1325/2010 which was decided in his favor vide judgment dated. 12.06.2012. Theorespondent-department filed Civil Petition No. 401 16 109-P/2012 or geave to appeal before the laugust Supreme Coult of Pakistan, which leave to appeal was also refused to the respondent department vide judgment of the angust Supreme Gourt of Pakistan dated 19.09.2012. After going through the record, this Tribunal comes to the conclusion that the instant appeal is on the same footing as with the appeal? of the Multimated What shence in the light of afore said discussion that appeal is also allowed as prayed for the easy of the or as to cost of the

consigned to the record.

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DEPARTMENT



TERMINATION OF 35 CLASS-IV EMPLOYEES OF CDO. C&WD DURING AUGUST 2010:

Consequent upon the bifurcation of the work & services Department into C&W and PHE Constituents alongwith revival of CDO as planning and designing cell in C&W Department, Finance department approved SNE regarding creation of 632 posts for the re-establishment of C&W Department which also included the Class-IV posts as cited in the above subject.

As per prevailing policy in the Department all new appointments in C&W Department, were supposed to be advertised and processed by Chief Engineer Centre, but for appointments of Class-IV employees the then Secretary C&W decided that each Chief Engineer shall process himself, the appointments of Class-IV employees in their respective jurisdictions.

Accordingly, Chief Engineer CDO advertised the said posts and made selections on the recommendations of the Departmental Selection Committee constituted as under;

۱.	Engineer Abdullah PDE Building	(Chairman)
k.	Engr. Farooq-e-Azam PDE (Highways /Bridges)	(Member)
3.	Mr. Muhammad Naeem PCA	(Member)
4.	Eng. Rahmat Hakim RO, RR&MT(Lab)	(Member)
Ę.	Mr: Muhammad Arif AO	(Member)

Unfortunately, after a week of the joining of the new Class-IV Employees, the then Secretary C&W in his telephonic message conveyed a directive of the then Special Assistant to CM regarding cancellation of all the appointments so ordered. Although the posts complications of the desired illegal directive were discussed by the then CE CDO but the Secretary C&W D did not agree and insisted compliance of the political directive. Still CE CDO ordered cancellation of only ten numbers Class-IV employees to accommodate the recommendees of the said Special Assistant to CM. The Special Assistant also contacted CE, CDO on telephone to see him in his office late in the evening on 1 3/08/2010.

Whereas, next morning the first thing CE CDO noted on his table was order of his transfer as

Later on, the rest of the appointees of the whole lot of Class-IV were also removed and removaled by the next incumbents CE CDO in order to accommodate the political recommendees. It was later on heard that "The Khyber Pakhtunkhwa Services Tribunal had set aside the impugned orders of termination of services of the appellants listed in the appeals and restored them into services with all full back benefits."

The Govt had gone into appeal before the Supreme Court challenging the judgment of Schuces Tribunal. The Apex Court had also upheld the judgment of the Service Tribunal, dismissing the uppeal of the Government. It proved that the earlier appointments made by the department were in order as por rules in vigue.

Chief Engineer CDO(Rtd)

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了,当我们的我们的关系,就是这个人。 《法律院教育的人们的新闻》,这些你们就能能了。

Horse MEACRARD/2& 66679 - appointment Dated Postawa (ho March 08, 2016

The Chief Engineer (North) C&W, Peshawar

Subject

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COLOCATION OF CIVIL SERVATS APPOINTMENT, PROMOTION AND TRANSFER RULES

Livin directed to refer to your office latim No 224/04393 (N) dated 22.02.2010 on on publicat noted above and to state that a meeting chained by Secretary O&W https://doi.org/10.02.03.2010, realizionted by the transformed by Secretary O&W interfacent on 05.03.2010, realizionted by the transformed by short Englineer (North) advisional Secretary of C&W Department, the issue unlosed by short Englineer (North) discussed in detail, since the Chief Englineer (Centre) was declared/substituted for the result of defunct Chief Englineer W&S, therefore, all the powers exercised in the past with regard to posting/transfer, appointments and promotions remained to be exercised by Chief Englineer (Centre), however while making proposal General postings/transfers, the consultation with others. Chief Englineers will be consulted in figure by Chief stransfer (Centre).

The case of appointments made by Chief Engineer (Centre) against newly created/existed posts of Junior Clerks and their adjustment in Chief Engineer Month or Chief Engineer (CEO) was also decreased and clearly high list decreased and clearly be accepted and be allowed to porterm their duties. The chosentments of Class-IV employee against the post of created/exist posts was also discussed and it was decided that the same will be tilled by the respective Chief Engineers, being competent authorities/appointing authorities for their respective wings.

It is, therefore, requested that above instructions may be followed as per discussion of the meeting in letter & spirit in future

LadsLeven No. & date

(BAHIM BADSHAH) SECTION OFFICER (ESTT)

SECTION OFFICER (ESTT)

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Convictwarded to the:

- Accountant General NWFP, Peshawar
- Chisi Engineer (Centre) G&W, Peshawar
- Chiel Engineer (CDO) C&W, Peshawar
 - PS In Secretary C&W Department, Peshawat
 - 5. PA to Addl Secretary C&W Department

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Mir Histoon S/o Javed Gill Circular Road Kohati Gate Sanda Godam Peshawar City

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Your application dated 02-05-2013.

Consequent upon retirement of Mr. Javed Gill as Sweeper, his poo

Mr. Haroon is appointed on the existing vacancy as Sweeper as requested

Mr, Haroon you are hereby appointed as Sweeper @ Rs 4800-150-0300 in BPA-1. plus risual allowances as admissible under the rules

If you accept the offer on the following conditions you should report for duty to the Frincipal Consulting Architect C-SW/ Cropartment Poshawar upin 20-04-2013, Fulling which the offer shall be considered as cancelled;-

You appointment is purely temporary and your services can be terminated at two week notice at any time without any reasons being assigned to you irrespective of the fact that you may be holding a post other than the one on which you were originally recruited or on payment of two week pay in lieu of the notice...

You will be on probation for a period for one year initially which could be extendable for another one year.

The offer is subject to the condition that you are a domicile of KPE Province In case you wish to resign at any time two week notice shall be necessary. otherwise two week pay shall have to be forfeited.

You shall be governed by such rules and orders relating to loave, T.A. Medical Attendance, pay, pension etc, as may be issued by the Government from lifes to imp for the category of civil servants to which you will belong. You will join duty on your own expenses.

You will have to produce a medical certificate of fitness from the civil conjects of your district along with original NIC and Domicile certificate on reporting for dury. I You will have to serve anywherd in the KPK and in any department of the Sovernment of Pakistan when you are called upon to do so in the julgrest of public-

(John Mehrin Upp) Principal Consulting Architect

 $(\cdot,\cdot,\cdot):=$

Accountant General, Khyber Pakhtunkhwa, Peshawar for information.

> Cirlan Molisia Urfa ¹⁾ringipal Consulting Architect

CHIE C&W	CE OF THE F ENGINEER (NORTH) DEPARTMENT GOVT. VFP PESHAWAR
No	<u>35/M-1</u>
Dated	<u>16 / 03 /2010.</u>

The Competent Authority is pleased to constitute Departmental Selection/Promotion/Apointment Committee of the following officers, for the office of the Chief Engineer, Central Design Office, C&W Department NWFP, Peshawar, pertaining to this office as well as Regional & Circle level offices under the jurisdiction of this office, with immediate effect in the best interest of public works:-

Ĺ	Bögri Abdüllah Khan,
~	Principal Design Engineer
	(Buildings)
2.	Engr: Khalid Shah,
	Prinsing Design Engineer
;	(Highway/Bridges).
3,	Ener: Relimat Haklin,
	Research Officer,
•	Road Research & Material
· 2	Testing Laboratory Peshawar.
4: 1	Mr. Muhammad Arif;
	Administrative Officer

Chairman

Member

Member

Member

N

(Engr: MUHAMMAD PERVEZ NASIR) CHIEF ENGINEER

CC:

OFFICE ORDER

- 1. Engri Abdullah, Principal Design Engineer, (Bridges), Central Design Office, C&W Department NWFP, Peshawar,
- 2. Engri Khalid Shah, Principal Design Engineer (Highways/Bridges), Central Design Office, G&W Department NWFP, Peshawar.
- 3, Engri Rehmal Hakim, Research Officer, Road Research & Material Testing Laboratory, Peshawar.
- 4. Mr. Muhammad Arif, Administrative Officer, Central Design Office, C&W Department NWFP, Peshawar.

For information & necessary action,

(Engr: MUHAMMAD PERVEZ NASIR) CHIEF ENGINEER



OFFICE OF THE CHIEF ENGINEER CENTRAL DESIGN OFFICE C&W DEPARTMENT KHYBER PAKHTUNKHWA 8-A SHAMI ROAD PESHAWAR No. 218/M-1 Dated 11/06/2010

OFFICE ORDER

Consequent upon the recent changes in the setup due to various posting/transfers, The Competent Authority is pleased to reconstitute the existing Departmental Selection/ Promotion/ Appointment Committee of

- 1. Engr: Abdullah Khan Principal Design Engineer (Buildings)
- 2. Engr: Farood-e-Azam Principal Design Engineer (Highway/Bridges)
- . | Mr. Mohammad Naeem 3 Principal Consulting Architect
- 4. Engr: Rahmat Hakim Research Officer, Road Research & Material Testing Laboratory Peshawar
- 5. Mr. Mohammad Arif Administrative Officer

Member

Chairman

Member

Member

Member

CC:

- 1. Engr: Abdullah Khan, Principal Design Engineer (Buildings), Central Design Office, C&W Department KP 2.
- Engr: Farooq-e-Azam, Principal Design Engineer, (History, Constant) Sec. Sec. 16
- 3. Mr. Mohammad Naeem, Principal Consulting Architect C&W Department Peshawar.
- 4. Engr: Rahmat Hakim Research Officer, Road Research & Material Testing Laboratory Peshawar. 5. Mr. Mohammad Arif, Administrative Officer, Central Design Office, C&W Department KP Peshawar.

For information & necessary action.

(Engr: Khalid Shah) CHIEF ENGINEER

(Engr: Khalid Shah)

CHIEF ENGINEER

10/3 25000000 in p COST ADD 70707 Proi RDS 15" hoù tech فكميري اينذ ذبليو مين ويحتل آكمن اور نيلذ آلم ى جوكەمۇ يەمرخد افتلاع ثيرن مجد ودقعد إدبل `·ī*/ com سد دجہ ذیل اسامیوں پر امیڈ دار ڈن سے حکومتی یا کیسی کے تحت تعر رکی کے . لیتے درخواسیں مطلو 3. The of t مبرِّشار انام آسامی مطلو يتعلمي قامليت قركيحذ pącł مبزك بمعه مائنس مضمون ليباد فرى المستنت .25-18 1 SOIL AI ,2 مينرك يمعد سأتنس معمون 25-18 ليبادتري المحمقت منكسك Shoppi No: 2 (1) كم إذكم يراتمري لمل ياس (2) 3 35-18 ڈ را ئیور SH-0 3 درائريك لأسس LTV/HTV كم ازكم تجربه 2 سال ربي: (ا SH-0 45-18 (1) مُدل ياس (2) الجمن محت كاما لك ne ليبادنر كالتذنب 4 (r) ** SH-03 25-18 (1) يُدل إس (2) المجي سحت كاما لك مو د متر بی 5 تاريخ ت SH40 35-18 (1) فيل ياس (2) الممي محت كاما لك n 6 التبلى مجود نائب قاصد SH-0 45-18 ال(1^{*)} پراتری *ا* ندل پاس (2) اچھی محت کا فو لياداد 7 3.(4) الک م SH-0 فهرمت دف 45-18 المجمى محبت كاما لك بو 8 ร์ห-ด 1-1-(۱) بازا 3 رانط SH-0 (1) دوخواستین این با تصب تحریر شده مید بنام دلدین تاریخ بدایش تعلیم تابلین بر تر به بسیوارا برد و اشاخی کارد و میروک تعدین شده فرنجایید با سرار در روتعلی سر دشتر موری 2010-04-28 سیسی بخ حالی حاصیر (2) اميد داردن كاسليش محكيد كاسليش تميني كريك-(3) انٹرویو دلمیٹ کے لئے صرف شارب لسلڈ امید داروں کوطلب کیا جائے گا۔ SH-0 (4) نامكس اوردير ب أف دالى درخواستون يرغور ميس كيا جائ كا-(5) ہر پوزیشن کے لئے متعلقہ لیلڈ می تجربہ دیکھنے دالوں کوتر دیم دی جائے گی۔ وابذاآ بياته (6) محکمہ بذا کے سابق ریائر ڈکام ور لماز مین (جو ملازمت کے 60 سال کی عرب ا میڈیکل بورڈ پر ادريط أنرا. ریٹائرڈ ہوئے ہوں) کے بچوں کے لئے 25% کونے کے تحت ملازمت کا حق حاصل ہوگا۔ سدرجذذ ل (7) الليون اورمعذ در افراذكوقالون كے مطابق كوندد يا جائے گا۔ ک مقابل • عجر عارف ايدمنسر يثوآ mita eats جيئر سنثر ڈيزائن آفس ي ايند ڈبلير 'ears DFFICE OF THE EXECUTIVE ENGINEER PUBLIC HEALTH ENGINEERING DIVISION NOWSHERA Sars Sealed TENDER NOTICE for th Item/schedule item/rates for the following S.No. **Years** 1. <u>Br</u> work are invited on the date noted against each Int raved contractor of DHED only

The following attended the meeting.

chairmanship of

the-

office

1.

Engr:Abdullah khan Principal design Engineer (Buildings)

engr:

committee of the chief mangineer central design office ckw department Peshawar held on 28/06/2010 at 10:00 am under

Abdullah khan principal design

(buildings).

Chairman

Member

Member

Member

- 2. Engr. Farooq –e- azam Principal design Engineer (HB)
- 3. Mr. Mohammad Naeem Principal Consulting Architect
- Engr. Rehmat Hakim. Research officer, Road Research & Material testing laboratory Peshawar .

5. Mr. Muhammad Arif Administrative officer

Member/Secretary

The meeting started with the recitation from the holy Qura'n. The Chairman welcomed the participant and briefed the Committee that in pursuance of the Secretary, to Government of K.P,C&W Department letter No.SOE/C&W/24-60/JC/Appointment, dated 08.03.2010, authorized this office for appointment against the Class-IV vacancies created due to bifurcation of Works and Services Department into PHE & C&W Department and consequently, the creations of Chief Engineer, Central Design office, with effect from 24.12.2009, Chief Engineer being the competent authority/appointing for their respective wings, will up the vacancies.

The Administrative officer office of the Chief Engineer CDO C&W Department informed the committee that various cadre Vacancies of Class-IV are laying in this office the applications against the said vacancies have been received in response to advertisement in the news papers the lists of the number of applications against the available vacancies is very high in number and requires more time for individual scrutiny and short listing. After detailed discussion it was decided that the posts of Chowkidars, Sweeper, Drivers, Naib Qasids, Lab: Assistants, Lab: Equipment Mechanics and Lab attended required on emergent basis Peshawar District Only may be employed and the rest of the vacancies may be filled after detailed scrutiny of the document of the applicants and interviews.

The Committee unanimously recommended the following candidates for appointments for the posts noted against each according to their qualification and experiment urgently required:-

S.No	Name /	Father name	District	Post	BPS
1	Waqar Ali Shah	/Umar Shah	Peshawar	Lab: Equipment Machanic	05
2	Muhammad Junaid Abid	Abid jan	Charsadda	Lab: assistant	05
3	Main Amin Jan 🗸	Main Fazak-e-Naeem	Peshawar	Lab: Assistant	05.
4	Noorullah 4/	Rahmattullah	Peshawar	, Driver	04
5	Gohar Muhammad	Qadir Muhammad	Mardan	Driver	04
' 6	Tariq Khan 🗸	Namdar Khan	Charsadda	Driver !	04
7	Said Farosh -	Mian Farosh	Mardan	Driver	04
8	Sher Khan	Pir Muhammad	Swabi	Driver	04

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[9	- K	Chalid *	Muhammad Sardar	Peshawar	Driver	
	10	. 7	\rif shah 🗸 📝	Haji Alif Shah	Peshawar	Lab: Attendant	,02
	• 11		Adnan Yaqub 🗡 📜	Yaqub Khushi	Peshawar	Lab: Attendant	02
3	. 12		Zafar Iqbal 🔨 📝	Muhammad Bashir	Peshawar	Daftari	02
2	13	· ,	Waheed Ahmad 🗸	Jamshed Khan	Peshawar'	Daftari	: 02 _
	14		Mir Afzal 📈 /	Muhammad Khan	Peshawar	Naib Qasid	01
`	1. 15	5	Shahzad Khan 🗸	Shoukat Khan	Peshawar	Naib Qasid	01
	1	5	Qaarib Ali /	Anwar Haidar	Peshawar	Naib Qasid	01
S.	1.		Shahid Ahmad	Abdul Rasheed	Nowshehra	Naib Qasid	. 01
	1	8	Faridullah 🗸	Badshah Ge us	Nowshera	Naib Qașid	01
مىرى	1	9	Muhammad Aftab*	Muhammad Yousaf	Peshawar	Naib Qasid	01
		0	Haroon 🗸 🏸	Faqir Muhammad	Peshawar	, Naib Qasid	01
5		1	Asif Khan 🗸 /	Zarif Khan	Peshawar	Naib Qasid	01
U.J. lak		22	l•azal-ullah T	/ Saraj Muhammad ,	Swabi	Naib Qasid	01
1		23	Shahkeel Ahmad 🗸	Gulinast Khan	Swabi	Naib Qasid	01
· \		24. 1	Akbar Hussain/ 5	Khan Afzal	Swabi	Naib Qasid	<u> 01</u>
k. j		25 /	Akbar Hussain	Khan Afzal	Swabi	Naib Qasid	01
· ,	$\sqrt{-}$	26	Amjid Ali:	Ghulam Haşsan	Swabi	Naib Qasid	, 0,1
		27	Jawad Khan 🗸	/ Muhammad Younas	Peshawar	Naib Qasid	01
	. T	28	Matti-ulláh Shah	Abdul Qayum	Peshawar	Naib Qasid	01
•	٦Ľ.	29	Javed -	/ Abdur Rahim	Charsadda	Naib Qasid	
•		30	Ashfaq Ahmad -	Manzer Saleem	Peshawar	Chowkidar	01
		31	Arif Khan	/ Dad Karim	Peshawar	Chowkidar	01
		32.	l'ida Muhammad	- Faqir Muhammad	Peshawar	Chowkidar	0
		33	Rashid Hameed	J Abdul Hameed	Charsadda	. Chowkidar	
		3.1	Munaf Gul	Jan Gul	Peshawar	Sweepcr	ö
	, j	35	Nasir Younas 💡	Youna's Ramzan	Peshawar	Sweeper	0

Engr. If then a 44 likim Research officer, Road Research & Material Texting laboratory Peshawar Member

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Engr. Farooq -e- azam Principal design Engineer (IIB) Member

Mr. Muhammad Arit

Administrative Officer Member/Secretary

Heard

Mr. Mohammad Nacem Principal Consulting Architect Member

Engr: Abdullah khan Principal design Engineer (Buildings) Chairman

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Ē	9	Khalid	Muhammad Sardar	Peshawar	Driver	04
Ŀ	10	Arif shah	Haji Alif Shah	Peshawar	Lab: Attendant	01
	11	Adnan Yaqub	Yaqub Khushi	Peshawar	Lab: Attendant	02
	1.2	Zafar Iqbal	Muhammad Bashir	Peshawar	Daftari	02
.Ĺ	13 .	Waheed Ahmad	Jamshed Khan	Peshawar	Daftari	02
٠L	14	Mir Afzal	Muhammad Khan	Peshawar	Naib Qasid	02 .
	15	Shahzad Khan	Shoukat Khan	Peshawar	Naib Qasid	01
	16	Qaarib Ali	Anwar Haidar	Peshawar	Naib Qasid	01
L	17	Shahid Ahmad	Abdul Rasheed	Nowshehra	Naib Qasid	. 01
	1.8	Faridullah	Badshah	Nowsheraa	Naib Qasid	01
	19	Muhammad Aftab	Muhammad Yousaf	Peshawar	Naib Qasid	01
	20	Haroon,	Faqir Muhammad	Peshawar	Naib Qasid	01
	21	Asif Khan	Zarif Khan	Peshawar	Naib Qasid	01
·	22	Fazal-ullah	Saraj Muhammad	Śwabi	Naib Qasid	01
l	-23	Shahkeel Ahmad	Gulmast Khan	Swabi	Naib Qasid	01 .
ĺ	24	Akbar Hussain	Khan Afzal	Swabi	Naib Qasid	01
[25	Amjid Ali	Ghulam Hassan	Swabi	Naib Qasid	01
<u> </u>	26	Sher aman shah	Mir Akbar Shah	Mardan	Naib Qasid	
	27	lawad Khan	Muhammad Younas	Peshawar	Naib Qasid	
l	28	Matti-ullah Shah	Abdul Qayum	Peshawar	Naib Qasid	01
	29	Javed .	Ábdur Rahim	Charsadda	Naib Qasid	
	30	Ashfaq Ahmad	Manzer Saleem	Peshawar	Chowkidar	1:01
	31	Arif Khan	Dad Karim	Peshawar	Chowkidar	
	32	l'ida Muhammad	Faqir Muhammad	Peshawar	Chowkidar	1 01
	33	Rashid Hameed	Abdul Hameed	Charsadda	Chowkidar	01
	34	Munaf Gul	Jan Gul	Peshawar	Sweeper -	01
	35	Nasir Younas	Younas Ramzan	Peshawar	Sweeper	01

Engr: Iston average in the Research officer, Road, Research & Material Teering laboratory Peshawar

Member

Da

Engr. Faronq -e- azam Principal design Engineer (IIB) Member

Mr. Mutumman Arif Administrative Officer. Member/Secrétary

ı.

Mr. Mohammad Nacem Principal Consulting Architect Member

Eugl: Abdullah khan



OFFICE OF THE CHIEF ENGINEER CENTRAL DESIGN OFFICE C&WD 8-A SHAMI ROAD PESHAWAR

No.E-2/356 Dated 13,08.2010.

OFFICE ORDER

In compliance with the directive vide Secretary, to GOKP C&W Department letter No.SOE/C&WD/17-4/2010, dated 13.08.2010, the office orders issued in respect of the following officials are hereby cancelled.

SI:NO.	Name	Father's Name	Order No. & Date
	Mir Afzal	Muhammad Khan	2-E/307, 29.07.2010.
2	Shehzad Khan	Shaukat Khan	2-E/306, 29.07.2010
3	Shahid Ahmed	Abdur Rashid	2-E/302, 29.07.2010
· 4	Faridullah	Badshah Gul	2-E/300, 29,07,2010
5	Muhammad Aftab	Muhammad Yousaf	2-E/322, 29.07.2010
6	Haroon	Faqir Muhammad	2-E/301, 29.07.2010
7	Faizullah	Siraj Muhammad	2-E/272, 19.07.2010
. 8 .	Shakeel Ahmed	Gulmast Khan	2-E/273, 19.07.2010
- 9	Akbar Hussain	Khan Afzal	2-E/275, 19.07.2010
10	Javed	Abdur Rahim	2-E/318, 29:07.2010

It is further added that it seems very difficult rather impossible to withdraw/cancel all the recruitment orders regarding class-iv, as, office of the CE CDO, Principal Architect & the recently established Flood Damages Restoration Project Directorate of C&W Department are all dependent and functions with the help and assistance of these very class-iv staff please.

CHIEF ENGINEER ODD

Copy to the:-

 Secretary, to GOKP C&W Department Peshawar, with ref: to above for information.

CHIEF ENGINEER COO

OFFICE OF THE CHIEF ENGINEER CENTRAL DESIGN OFFICE CAW DEPARTMENT KHYBER PAKHTUNKHWA 8-A SHAMI ROAD PESHAWAR No.2-EI 56/ Daled 18 108/2010

OFFICE ORDER

Department letter No.SOE/C&WD/17-4/2010, dated 13.08.2010, and in continuation of this office order No.E-2/356 dated 13/08/2010, the office orders issued in respect of the following officials are hereby cancelled.

oï.	the tonown	The orthogram of the state of t	· · · · · · · · · · · · · · · · · · ·	The second
		·	Father's Name	Order No. & Date
SI	:No.	Name	Umar Shah	2, E/312, 29.07.2010
		Waqar Ali Shah.	Abid Jan	2-E/313, 29.07.2010
<u> </u>	2.	Muhammad Junaid Abid	Mian Fazal-e-Nacem	2-E/309, 29.07.2010
ļ	3 .	Mian Amin Jan	Rahmatullah	2-E/271, 29.07.2010
	4.	Noorullah	Muhammad Sardar	2-E/287, 22.07.2010
	5.	Khalid	Haji Alif Shab	2-E/323, 29.07.2010
-		Arif Shah	Yaqub Khushi	2-E/304, 29.07.2010
+		Adnan Yaqub	Muhammad Bashir	.2-E/320, 29.07.2010.
+		Zafar Iqbal	Jamshid Khan	2-E/314, 29.07.2010
ŀ		Waheed Ahmed	Zarif Khan	2-E/257(d) 29.07.2010
	10.	Asif Khan	Ghulam Hassan	2-E/303, 29.07.2010
' -	11.	Amijid Ali	Mir Akbar Shah	2-E/315, 29.07.2010
	12.	Sher Aman Shah	Muhammad Younas	2-E/319, 29.07.2010
	13.	lawad Khan	Abdul Qayum	2-E/317, 29.07.2010
	14.	Matti-ullah Shah	Faqir Muhammad	2-E/308, 29.07.2010,
	15.	Fida Jan	Abdul Hameed	2-E/310, 29.07.2010
	16	Rashid Hameed	Mian Farosh	2-E/254,01.07.2010
	17	Said Farosh	Manzar Salecin	2-E/256,01.07.2010
	18	Ashfaq Ahmad		2-E/253.01.07.2010
	19.	Arif Khan	Dad Kariin	2-E/257(a)01.07.2010
	20.	Gohar Muhammad	Qadir Muhammad	2-E/257(b)01.07.2010
	A	Muhammad Tariq	Namdar Khan	······
	1 21.			

CHIEF ENGINEER CDO

CHIEF ENGINEER CDO

ref: to above for

Copy to th 1. Secretary, to GOKP C&W Department Peshawar, with information please.

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PE

Appeal No. 3125/2010

22.12.2010 12.06.2012 (Appellant)

Muhammad Aftab Ex-Naib Qasid S/O Muhammad Yousaf Hat No. 67/C, Moh. Gulshan Rahman Colony, Kohat Road, Pushawar C/O Chief Engineer, C&W Deptt, Peshawar.

VERSUS

 Province of Khyber Pakhtunkhwa through Secretary, Communication & Works Department, Peshawar.

2. Chief Secretary, Khyber Pakhtunkhwa, Peshawar,

 Chief Engineer, Central Design Office, C&W Department, Khyber Pakhtunkhwa Peshawar.
 (Respondents)

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE ORDER DATED 13.8.2010 WHEREBY APPOINTMENT ORDER OF THE APPELLANT HAS BEEN CANCELLED AND HIS DEPARTMENTAL APPEAL ELICITED NO RESPONSE WITHIN THE STATUTORY PERIOD.

SHAHZADA IRFAN ZIA, Advocate

MR. ARSHAD ALAM, Addl. Government Pleader

For appellant

For respondents.

MR. SULTAN MAHMOOD KHATTAK, MR. NOOR ALI KHAN,

MEMBER MEMBER.

Telduwa

JUDGMENT

SULTAN MAHMOOD KHATTAK, MEMBER. This appeal has been filed by Muhammad Aftab, the appellant under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, against the order dated 13.8.2010, whereby his appointment order has been cancelled. It has been prayed that on acceptance of the appeal, the impugned order may be set aside and the appellant may be reinstated into service with all back benefits.

2. Brief facts of the case as averred in the memo: of appeal are that respondent No. 3 advertised posts of different categories including the post of Naib Qasid in the press. The appellant applied for the post of Naib Qasid and after

successful completion of prescribed selection process, and on the recommendations of the Department Selection Committee, he was appointed as Naib Qasid by the competent authority on regular basis, vide order dated 29.7.2010. The appellant took over charge of the post and started to perform his duties to the entire satisfaction of his superiors. His appointment order has been cancelled vide impugned order dated 13.8.2010. Feeling aggrieved, the appellant filed departmental appeal on 6.9.2010 through proper channel, which has not been decided within the statutory period of ninety days, hence the present appeal on 22.12.2010, which is well within time.

.3. The appeal was admitted to regular hearing on 17.1.2011 and notices were issued to the respondents. They filed their joint written reply and contested the appeal. The appellant also filed rejoinder in rebuttal.

4. The learned counsel for the appellant argued that being fully qualified for the post, the appellant was appointed as Naib Qasid by the competent authority on 29.7.2010. He took over charge and served on the post for some time and valuable rights have been accrued to him. Subsequent cancellation of appointment order is in clear violation of principles of locus poenitentiae. He further argued that appointment order of the appellant has been cancelled without any reason, which is against the spirit of Section 24-A of General Clauses Act. In support of his arguments, the formed counset celled on a judgment of august Suprome Court of Pakistan as reported in <u>PLJ 1999 SC 1104</u>. He stated no charge sheet/statement of cause has been condemned unheard. In case of removal from service, conduct of regular enquiry against a. civil servant is mandatory under the law even against a probationer, but no such enquiry has been conducted. He requested that the appeal may be accepted as prayed.

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5. The learned AGP on the other hand, argued that while appointing the appellant codal formalities have not been observed. During selection process, representative of the Administrative Department was not present. Hence appointment order of the appellant was illegal and such appointment order can be withdraw/rescinded at any time. He requested that the appeal may be dismissed.

6. The Tribunal observes that the appellant was appointed as Naib Qasid by the competent authority vide order dated 29.7.2010. He took over charge of the post and served on the post for some time and valuable rights have been accrued to him. If there was some flaw in selection process, it was the responsibility, of the

in Spectrum to which the appellant could not be suffered. The Tubunal further observes that appointment order of the appellant has been subsequently withdrawn through the impugned order dated 13.8.2010 but no reason whatsoever given for withdrawal of appointment order, which is against the spirit of Section 24-A of General dauses Act, 1897. However, the last para of the impugned order clearly of within the Chief Engineer, CDO was not willing to cancel appointment order of the appellant and not acted independently. The impugned order is nothing but a nullity in the eyes of law. The Tribunal agrees with the arguments advanced by the learned counsel for the appellant.

7. In view of the above, the appeal is accepted, the impugned order dated 13.8.2010 is set aside, and the appellant is reinstated into service with all back benefits. Parties are left to bear their own costs. File be consigned to the record.

8. Having common questions of law and fact, this order will also dispose of other connected service appeals No. 3126/2010, Akbar Hussain, No. 3127/2010 Mir Afzal, No. 3128/2010 Shahid Ahmad, No. 3129/2010 Asif Khan, No. 3130/2010 Arif Khan, No. 3131/2010 Gohar Muhammad, No. 3132/2010, said Farosh and 3133/2010 Rashid Hameed, in the same manner.

ANNOUNCED 12.6.2012

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(NOOR ALI KHAN) (SULTAN MEMBER

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Date 6

(SULTAN MAHMOOD KHATTAK) MEMBER -

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N THE SUPREME COURT OF PAKISTA (APPELLATE JURISDICTION)

PRESENT:

Attertion to. Sher Khan MR. JUSTICE EJAZ AFZAL KHAN. MR. JUSTICE IJAZ AHMED CHAUDHRY

Versus.

Civil Petitions No.401 to 409-P/2012 (Against the judgment dated 12.6.2012 passed by the KPK Service Tribunal, Peshawar in Appeals No.3125-3133/10)

Secretary, Govt. of KPK, Communication & Works, Peshawar and others

Petitioners (in all cases)

Muhammad Aftab Akbar Hussain Mir Afzal Shahid Ahmad Asif Khan Arif Khan Gohar Muhammad Said Farosh Rashid Hamid

Respondent (in CP 401-P/12) Respondent (in CP.402-P/12) Respondent (in CP 403-P/12) Respondent (in CP 404-P/12) Respondent (in CP 405-P/12) Respondent (in CP 406-P/12) Respondent (n CP.407-P/12) Respondent (in CP 408-P/12) Respondent (in CP 409-P/12)

Mr. Zahid Khan, Addl.A.G: KPK

For the respondents: (in CPs 401-408-P/12)

. For the petitioners:

Date of hearing:

19.09.2012

In person

ORDER

EJAZ AFZAL KHAN, J .- These petitions have arisen out of the judgment dated 12.6.2012 of the Khyber Pakhtunkhwa Service Tribunal, Peshawar, whereby, the appeals filed by the respondents were allowed, the orders, cancelling their appointments were set aside and they were re-instated in service with back benefits..

2. The main contention of the learned Addl.A.G. was that where codal formalities were not complied with, the appointments of the respondents being against the law could not be restored by the Service Tribunal.

З. We have gone through the available record carefully and considered the submissions of the learned AddI.A.G.

Hater Confice/Bard Officer Chief Engineer (CDO) A SHUDINFET CarW Deptt. Peshawar

ATTESTED Superintendent DISLAMABAD

When, we asked the learned AddLArO, whether the respondents were eligible for appointment against their respective posts, the answer was in the affirmative. When, we asked the Flearned Addl.A.G. whether the person flouting the codal formalities has been proceeded against or he is still in service, the answer was that he has not been proceeded against and that he is still in service. Where the person flouting the codal formalities is still in service and enjoying all the perks and privileges with impunity why should the respondents be ousted from service for none of their faults, that too when their eligibility to hold, the posts is not disputed. The impugned judgments thus being free-from any error or infirmity much less legal or jurisdictional are not open to any etterference.

For reasons discussed above, these petitions being 5. <u>d leave to appeal refused.</u> (Call. Ejgl. AZEal Johan J (Call. Dig. AZEal Johan J (Call. Dig. ATEal Johan J Certiller to be True Copy M. M. 19/11 without merit are dismissed and leave to appeal refused.



P2 401-102-P/12



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ANNEXURE - F

Subject: Inquiry Proceeding of Appointments of Class-IV Employees in Chief Engineer CDO C&W Department Peshawar. Investigation from Mr. Liaqat Ali Junior Clerk (Record Keeper) o/o Chief Engineer CDO C&W Department Peshawar during Inquiry Proceeding held on 18-06-2015

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Answer	Question	S.No
میرا نام لیافت علی ہے اور میرا موبائل نمبر 5906650-0300 ہے۔	آپ کا نام ادر موبائل نمبر	
میں 1995-11-11 میں محکمہ سی اینڈ ڈبلیو میں تجرتی ہوا اد	آپ کی مختفرا سردی History	
CDO -01-09-2010 سے CDO میں بطور جونیٹر کلرک کام کر رہا ہوں۔		
یارے آفس ریکارڈ میں نذکورہ آرڈر موجود ہے۔	سابقه چيف انجينز مسر خالد شاه ادر سابقه ايد	
	منسرینو آفیسر مسٹر محمد عارف CDO کے عرصہ	
	مازمت کے دوران 35 کاس فور آساملیوں کی	
	تعینالی کے لیے ایک Departmental	
	Appointment Committee بی تھی جس کی	1
·	recommendation پر 35 کلاس فور ملازمین	
	ی ڈی او میں تجرتی ہوئے تھے۔ یہ شمیٹی چیف	1
	نجینئر سی ڈی او کے آرڈر نمبر IB/M-1 بمورخہ	{
	11-06-2010 کی رو ہے بنی تھی جس کی فوٹو	4
	کایی منٹر عارف AO اور خالد شاہ چیف انجینتر	
	کے بیان کے ساتھ لف ہے۔ کیا مارے آفس	4
	یک ہے۔ ایکارڈ میں یہ آرڈر موجود ہے یا نہیں؟	
رے آنس ریکارڈ میں مذکورہ منٹس کی کابی موجود ہے جس کی رد سے		-
Departmental Selection Committe نے پانچ افراد کی نظور		
	of The Meeting dated 28-06-201 کی ک	1
	ب کایی آیے بیان کے ساتھ لف کی ہے جس	
	ی ہو ہے Departmental Appointment	
i i	Committe کی ایک میننگ زیر صدارت عبداللہ	1
	ن پر بیل ڈیزائن انجینئر بلڈنگ ہوئی اور سمیٹی نے	
	3 افراد کی recommendation کی جس	l
	ہے تحت ان کی تقرری عمل میں لائی گئ۔ کیا	
i	رے آفس ریکارڈ میں مذکورہ منٹس موجود ہیں؟	
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 م. مراد بالد بناء بید المجتر ادر سم محد مارت AD ای می ہے کہ افراد کے ترارز ریکرڈ پر مریمز میں۔ کے مرحد طلاحت کے دوران 35 افراد کی جاتی آراز م. مراحد میں دیوں الحیثر ادر سمز میڈک کی تجمیل ہے۔ ۲. مراحد میں دیوں الحیثر ادر سمز میڈک کی تجمیل ہے۔ ۲. مراحد میں دیوں الحیثر ادر سمز میڈک کی تجمیل ہے۔ ۲. مراحد میں دیوں الحیثر ادر سمز میڈک کی تجمیل ہے۔ ۲. مراحد میں دیوں الحیثر ادر سمز میڈک کی تجمیل ہے۔ ۲. مراحد میں دیوں الحیثر اور سمز میڈک کی تجمیل ہے۔ ۲. مراحد میں مراحد میں دیوں الحیثر اور ماری میڈ ڈی کی تحقیق ہے۔ ۲. مراحد میں مراحد میں دیوں میڈ ڈی کی ترین کی تحقیق ہے۔ ۲. مراحد میں مراحل کی تحقیق ہے۔ ۲. مراحد میں مراحل کی تحقیق ہے۔ ۲. مراحد میں دیوں کی تحقیق ہے۔ ۲. مراح میں کی تحقیق ہے۔ ۲. مراحد میں تحقیق ہے۔ ۲. مراح میں کی تحقیق ہے۔ ۲. مراح میں کی تحقیق ہے۔ ۲. مراح میں دیوں کے تحقیق میں دیوں میں مرد مراح میں دیوں میں محقیق میں ہے۔ ۲. مراح میں مرد میں تحقیق ہے۔ ۲. مراح میں دیوں میں مرد میں کی تحقیق محقیق میں دیوں میں مرد میں محقیق محقیق میں مرد مرد مرد میں مرد میں مرد مرد میں مرد مرد مرد مرد مرد مرد مرد مرد مرد مرد	۲. :	· · ·	·		
کے موسط الارس کے دوران 35 اتراز کی ایس ایس جاری کی تین رود ہی۔ ایس آفریل قس میں لیک گئی سی برای کی تین ہیں۔ ایس حسن بید صحین بید انجیتر اور ستر مبارک کی تینی۔ کی ترزی کتاب قور ترماییں پر ک گئی کی این ایس جاری کی تین سی معرفی اور ستر مبارک علی اینی۔ ایس جاری کی تین سی معرفی اور ستر مبارک علی اینی۔ ایس جاری کی تین سی معرفی اور ستر مبارک علی اینی۔ ایس جاری کی تین سی معرفی انجیتر اور ستر مبارک علی اینی۔ ایس جاری کی تین سی معرفی انجیتر اور ستر مبارک علی اینی۔ ایس جاری کی تین سی معرفی انجیتر اور ستر مبارک علی اینی۔ ایس جاری کی تین سی معرفی انجیتر اند ستر مبارک علی اینی۔ ایس جاری کی تین سی معرفی انجیتر اور ستر مبارک علی اینی۔ ایس کی تین اور تینی کو معن اور سی میں کی تینی۔ ایس میں معرفی انجیتر اور ستر مبارک علی اینی۔ ایس جاری کی تین اور تینی در معرفی اینی۔ ایس جاری کی تین اور تینی در معرف ایس کی تینی۔ ایس کی تین اور تینی در معرف ایس کی تین اینی۔ ایس کی تین اور تینی در معرفی ایس کی تین اینی۔ ایس کی تین اور تینی در معرفی ایس کی تینی۔ ایس کی تین اور تینی در معرفی ایس کی تین اینی۔ ایس کی تین اور تینی در معرفی ایس کی تو دینی۔ کی ایس کی تین اور تینی در معرفی ایس کی تین کی تو معرفی ایس مینی ایس کی تینی کی تو معرفی ایس کی تو معرفی ایس کی تو معرفی ایس کی تو می تینی ایس کی تو می تینی ایس کی تو معرفی ایس کی تو معرفی ایس کی تو می تو معرفی ایس کی تو معرفی ایس کی تو معرفی ایس کی تو می تو معرفی ایس کی تو معرفی ایس کی تو می تو معرفی ایس کی تو می تو معرفی ایس کی تو می تو تو معرفی ایس کی تو تو تو تو می تو می تو تو تو معرفی ایس کی تو	•	رڈرز ریکارڈ پر موجود ہیں۔	ے 34 افراد کے آ	AC ان میں ۔	۵- مسٹر خالد شاہ چیف انجینئر اور مسٹر تھ عارف (
الاست المن راید علی موجد میں۔ الا - استر ماجد سیسی بیف انجیئر ادر شتر میارک علی اسی۔ الله علی الحرق علی فرد آسانیس پر کی گئی کیا اس الله علی الله الله وجهد کی گئی کیا اس الله الله الله الله وجهد کی گئی کیا اس الله الله الله الله الله الله من میارک علی است آش رایلاد علی ندگاره الرود الاسی بی بی الله الله الله الله الله الله الله الله		•		تېرې د د د د د د د د د د د د د د د د د د	کے عرصہ ملازمت کے دوران 35 افزاد
 ۲۰ سنر ساید حمین بید انجیز ایر سنر مبارک تلی تیمی. ۲۰ سنر ساید حمین بید انجیز ایر سنر مبارک تلی تیمی. ۲۰ سنر ساید حمین بید انجیز ادر منز مبارک تلی تیمی. ۲۰ سنر ساید حمین بید انجیز ادر منز مبارک تلی مدیر. ۲۰ سنر ساید حمین بید انجیز ادر منز مبارک تلی مدیر. ۲۰ سنر ساید حمین بید انجیز ادر منز مبارک تلی مدیر. ۲۰ سنر ساید حمین بید انجیز ادر منز مبارک تلی مدیر. ۲۰ سنر ساید حمین بید انجیز ادر منز مبارک تلی مدیر. ۲۰ سنر ساید حمین بید انجیز ادر منز مبارک تلی مدیر. ۲۰ سنر ساید حمین بید انجیز ایر مدیر. ۲۰ سنر ساید مدیر. ۲۰ سنید انجیز ایر مدیر. ۲۰ سنید ایر مدیر. ۲۰ سنید ایر مدیر. ۲۰ سنید ایر مدیر. ۲۰ سنید مدیر. ۲۰ سنید	5 /			رژر	ا تقرریان عمل میں لائی تکنیں۔ کیا یہ آفس آ
 ۲- سٹر ساجد محسن بیف آنجیتر اور سٹر مبارک شلی نیمی۔ ۲۰ ۵۵ کے عرصہ خاراحت کے دوران ساطح آفراد ۲۰ ۵۵ کے عرصہ خاراحت کے دوران ساطح آفراد ۲۰ ۵۰ ۵۵ کے عرصہ خاراحت کی تک کا یہ ای این ایماد منسیری کا تحقیق ایماد معتمری ایماد معتمر مبارک شلی ایماد معتمر میادک شلی ایماد معتمری ایماد معتمر مبارک شلی ایماد معتمری ایماد معتمری محمد این معتمر ایماد معتمری ایماد معتمری ایماد معتمری ایماد معتمری می ایماد معتمری ایماد معتمر معتمر معتمی معتمری ایماد معتمری معتمری ایماد معتمری معتمری معتمری ایماد معتمری ایماد می ایماد می ایماد می ایماد می ایماد معتمری ایماد معتمری معتمری معتمری ایماد می ایماد ایماد ایماد می ایماد ایماد ایماد ایماد می ایماد ایماد می ایماد ایماد معتمری معتمری ایماد معتمری معتمری ایماد معتمری معتمری ایماد می ایماد معتمری معتمری ایماد می ایماد می ایماد معتمری معتمری معتمری معتمری ایماد می ایماد معتمری معتمری معتمر معتمری می ایماد معتمری می ایماد معتمر معرف معتمری معتمری معتمری ایماد معتمری معتمری معتمری معتمری معتمری می معتمری می می می می می می ایماد معتمری می می معتمری معتمری می می					ہارے آفس ریکارڈ میں موجود ہیں۔
لحد که مح مو جاذمت کے دورمان سالح افراد کی تقریف کان قور آسانیس پر کی گئی کی بی ای جی یا تشیری جی یا تشیری جی یا تشیری جی یا تشیری که اجراح همین پیل انجیتر اور میز میارک ملی تعارف ریاز پس ذکرد. آروز موجود شخص جہ کہ مز ساجد حسین پیل انجیتر اور میز میارک ملی تعارف که ایک مران 30 کان قور آسامیاں کی قیناتی کہ اور میں 30 کان قور مارک کی تعارف کی دون او میں تحرف جی تعقیف کی کان کی کہ ایک میں کو دی اور میں کہ میں تعارف میں تعرف کی تعارف کہ میں تعارف میں تعرف کی تعارف کی دون کی تعارف میں تعارف میں میں کی دون کی تعارف میں تعرف کی تعارف کی دون کی تعرف کی تعارف کی تعرف اور میں میں ایک کانی کی تعرف میں تعیف زیم میراد کی تعارف کی تعرف میں تعرف کی میں میں تعارف کی تعارف کی تعرف میں تعرف کی تعرف کی تعرف کی تعرف میں تعرف کی تعارف کی تعرف کی تعروبی علی اور میں میں ایک کانی کی تعروبی علی اور میں میں ایک کانی کی تعروبی علی میں ایک تعرف کی اور میں کی تعروبی علی میں ایک تعرف کی اور میں کی تعروبی علی میں ایک تعرف کی اور میں کی تعروبی علی میں ایک تعروبی تعین کی اور میں کی تعروبی علی میں ایک تعروبی تعین کی اور میں کی تقروبی علی میں ایک تعروبی کی ہی ای کانی کی بی تی ہی ای میں ایک کانی کی تقروبی علی میں ایک تعروبی تعین کی ہی اور میں میں ایک کانی کی تقروبی علی میں ایک تعروبی تعین کی ہی ای تعروبی میں کی ایک تعروبی تعین کی ہی تعروبی میں میں ایک تعروبی کی ہی تعروبی علی میں ایک تعروبی کی ہی تعروبی میں میں کی کی تعروبی تعین کی تعروبی کی کی تعروبی تعین کی تعین کی تعروبی تعین تعین کی تعروبی تعین کی تعین کی تع	<u> </u>			على نہيں	
کی تقریکی کلامی فور تریمانیوں پر کی گی کیا ای سیل میں through press مدیر ریکارڈ میں موبور نے یا ٹیمی؟ کے با ٹیمی؟ کے این میں جیف انجیئر اور مسٹر میارک علی حارے آئی ریکارڈ میں ڈرور موجود شیمی ہے۔ کے درمان 60 کا کلامی فور مارک علی حارے کی تعیین کی کے دوران 60 کلامی فور مارک علی حدی کی تعیین کی کے دوران 60 کلامی فور مارک کی کا مارے تعیین دیکھی موجود شیمی ہے۔ میں دوران 20 کا کار موجود ہے یا شیمی؟ کے دوران 20 کا کار موجود ہے یا شیمی؟ کے ایک اور مارک علی تی جس کی کا مارے تعلی دیکھی ہے۔ میں میکھی موجود شیمی ہے۔ کی دوران موجود شیمی کی دور مارک کی کا مارے تعلی موجود شیمی ہے۔ میں میکھی نی دور مارک میں کار موجود میں موجود شیمی ہو۔ میں میکھی نی دور مارک میں دیکھی کی دور مارک میں موجود شیمی ہو۔ کی تعرین میں دیکھی تی دور مارک میں کی دور مارک میں کی دوران موجود شیمی ہو۔ میں میکھی نی دور میں میں دیکھی کی دور میں میں دوران میں دیکھی ہو۔ میں میکھی نی دور مارک میں کی گی گی ۔ میں میکھی دیکھی انجیز اور مسٹر میراک میلی گی۔ کی تقرریں محل می مارک میں دیلی گی۔ کی تقرریں محل می مارک میں دیلی تی میں دوران میں دوران میں میں دوران میں میں دین میں میں دوران میں میں میں کی تی میں میں میں کی تی تعرین میں میں میں تی گی ہیں۔ کی تعرین میں میں بی انجیز میں میں کی گی ہیں۔ کی تقرریں محل می میں لی کی میں کی دور میں میں دیلی میں میں کی دوران میں میں میں کی دوران میں			· · ·		
المسلح عن جی الا میں ایک در ایک نو میں مریک کی مریم ایک ایک مریم (advertisement) ایک ایک ایک مریم (advertisement) ایک ایک ایک مریم (advertisement) ایک ایک ایک مریک کی مریم ایک کی ایک مریک ایک ایک مریک ایک مریک ایک ایک مریم ایک مریم ایک ایک مریم ایک ایک مریم ایک ایک مریم مریم ایک مریم ایک مریم ایک مریم ایک مریم ایک مریم ایک مریم ا			ø		
 ج یا تیمین؟ ج یا تیمین؟ ج یا تیمین؟ حسر حاج حسین پیچ انجیئر ادر میٹر میارک علی امارے آش ریکارڈ میں تمرکزہ . آرؤر موجود نمین ہے۔ خاہ ایٹر خشریغ 7 فیرر CDO کے عرصہ طازمت کے دوران 60 کائ قرر تاریک کی تقییاتی Departmental Committee کی دائل 60 کائ قرر بازیمی کی ڈی او میں موجود میں تی جارے تھی۔ کی مارے تعنی ہے۔ مر مازک علی قرر بازیمی کی دائل 60 کائی قرر بازیمی کی دائل 7 میں 200 کے عرصہ طازمت مر مازک 200 کے عرصہ طازمت کے دائل 700 کا میں قرر بازیمی کی دائل 7 میں موجود میں تی میں تعنی توں میں موجود میں موجود میں ہے۔ مر مازک علی شاہ الی مشریفہ آفیر ریکارڈ میں تمریز میں موجود میں ہے۔ مر مازک علی شاہ الی مشریف آفیر کی دو ہے کی دی دائل میں موجود میں موجود میں موجود میں ہے۔ مر مازک علی شاہ الی مشریفہ آفیر میں کی دو ہے کا تیمی کی دو ہے کا تعنی دیکارڈ میں تمریز موجود میں ہے۔ میں تبکن نی دی میں کی دو مارد کی لیور میں تعنی دو میں میں میں دو میں میں ہوں ہیں ہوں ہوں میں میں موجود میں میں موجود میں میں تعنی ہوں ہوں میں میں دو میں میں میں میں میں دو میں میں میں میں موجود میں میں میں میں میں میں میں میں میں میں					· · · · · ·
 بی یا تحمین؟ مسٹر ساجہ حسین چیف انجیئر ادر مسٹر سیارک علی امارے آئن رایکارڈ میں بذکورہ آرڈز سوجرد نمیں ہے۔ ناہ ایڈ منٹریڈ آفیر CDO کے عرصہ مازمت کے دوران 60 کائن قور آسامیاں کی تقییاتی Departmental Committee نی دی او میں تجربی تو حقہ کی کی الایل کی تقییاتی ن ڈی او میں تجربی تو حقہ کی کی الایل کی تقییاتی مسٹر ساجہ حقیق کی حکم کی تقییاتی مسٹر ساجہ میں تو حقہ تحقہ کی کی کی الایل کی تقییاتی مسٹر ساجہ میں تحقہ کی تو حقہ تحقہ کی کی کی دی کی ڈی او میں تجربی تو حقیقہ کی میں کی دی تعلیم کی دو حقیقہ کی دو حقیقہ کی دو حقیقہ کی کی دو حقیقہ کی دو حقیقہ کی تعلیم کی میں کی دو حقیقہ کی کی دو حقیقہ کی کی دو حقیقہ کی کی دو حقیقہ کی تعلیم کی حکمی کی دو حقیقہ کی کی دو حقیقہ کی کی دو حقیقہ کی کی دو حقیقہ کی دو حقیقہ کی دو حقیقہ کی کی دو حقیقہ کی دو حقیقہ کی کی دو حقیقہ کی دو حقیقہ کی دو حقیقہ کی کی دو حقیقہ حقیقہ دو حقیقہ دو حقیقہ کی دو حقیقہ دو حقیقہ دیکرہ میں میں دو دو تقریم دو حقیقہ دو حقی				1	
 مستر ساجد حسین بیف انجیئر اور مستر مبارک علی المدے آف رایکارڈ میں فدگورہ آرڈر موجود فیمی ہے۔ خاہ ایل منتر بیٹر آفیر OCD کے عرصہ طازمت کے وردان 60 کائل قور آسامیاں کی تقییاتی D e p art mental Committee ک لیے آیک Bopointment Committee ک ڈی او میں مجرز بحق تحق جر کی کا 50 کائل قور خاز میں مع الماد میں مع معان موجود خین جر کی کا 50 کائل قور طاز میں مع الماد میں کہ میں مع معان میں مع میں کہ کہ کی کہ کی کہ میں کہ کہ کہ کی کہ میں کہ میں کہ کہ کہ میں کہ کہ	I	-			
عَنَّهُ اللَّهُ مَسْرَدِيدَ آیَسِرِ CDD کے عرصہ ماذرت کے بودان60 کائل فور آساییاں کی قلیماتی Departmental کی آیک الکو معرفہ کی تحق Department Committee کی ڈی او میں مجرفہ جو یا تحیی کی ڈی او میں مجرفہ جو یا تحیی مشر مبارک علی شاہ الیسٹریڈ آفسر CDD نے امارے آفس ریکارڈ میں مذکورہ مشن موجود فیس ہے۔ مشر مبارک علی شاہ الیسٹریڈ آفسر CDD نے امارے آفس ریکارڈ میں مذکورہ مشن موجود فیس ہے۔ مشر مبارک علی شاہ الیسٹریڈ آفسر CDD نے امارے آفس ریکارڈ میں مذکورہ مشن موجود فیس ہے۔ مشر مبارک علی شاہ الیسٹریڈ آفسر OD نے امارے آفس ریکارڈ میں مذکورہ مشن موجود فیس ہے۔ میں بیخش نوبی اور سمینی کی مواد کی بلور Departmental Appointment کی اس فور انتری کی مواد اور میں دیکرہ علی میں اولی کی۔ کی اس میں یونید آفیز اور مسر مبارک علی ایل میں ماہم میں یونید ایکی تراور میں مبارک علی ایل۔ کی تقریبیاں عمل میں اول کی میں کی اور ایل جلی					
ک بودان 60 کائن فور ترمایی کی تقییاتی ک لیے ایک او معر معرف تحق جر کی ک فرک او میں تجربی تحق جر کی کا ک فرک او میں تحریق جو یا نمیں جر تر فرایکرڈ میں بے ترڈر موجور بے یا نمیں جر مسر طبارت علی شاہ الیشنریز افسر CDO نے مار جارت علی شاہ الیشنریز افسر CDO نے مارے تا من ریکارڈ میں یزکور منٹس موجور قبین جے مسر طبارت علی شاہ الیشنریز افسر CDO نے مارے تا من ریکارڈ می یزکور منٹس موجور قبین جے اپنے بیان کے ساتھ اف کی جرم کی رو ے Departmental Appointment اپنے بیان کے ساتھ اف کی جرم کی رو ے Departmental Appointment مسین بیخش نیز اور ترمین نے مادارہ کی بلور کا من و انترز کی کا میں بینی اوک گئی۔ کی حقیق ایک تقرر کی میں ان گئی۔ میں مار ساچھ حسین چیف انجینز اور مسئر مبارک علی لیاں۔ میں مار حلی میں ان تکری کی اول تکی۔ کی تقرر بیان علی میں ان تکری کی ہیں آفرہ اور اور ایک ایل اور ایک ایل اور ایک کی بیند ان میں میں اور ایک ایل اور ایک ایل کی۔ میں میں میں ایک تکری میں اور ایک ایل اور میں میں اور ایک ایل ایل میں ایل تکری کی اور ایک ایل اور ایک کی ایک ایک میں کے ایک کی کی ایک تحق ایک کر اور میں میں اور ایک تو روز این میں اور ایک تو کی ایل میں ان کی تعربی اور ایک تو کی ایک اور ایک کی ایک میں اور ایک کی ایل اور ایک کی ایک میں اور ایل میں اور ایز اور ایل میں ایک تکری کی ایک تعلیم کی ایک تو ترین میں اور ایک تو کی ایک تکی۔ کی تقرر بیاں علی میں ایک تکری کی ہو ہیں تو کی ایک تھی ہو تی اور ایک تو کی ایک تھی ہوں ایک تکی ہی ہوں ایک تعربی ایک تو کی ہو ہوں ایک تو کی ایک تھی ہوں ایک تو کی تکی ہو تا ہوں ایک تو کی تھی ہوئی اور ایک تو کی تو کو تو کی تو کو کو کو کو تو کو	L . :	رڈر موجود کہیں ہے۔) ریکارڈ جن مدکورہ آ	1	
کے لیے آیک Departmental کی تقی جم کی کی ڈی او میں مجرق تعریح کی کا کا تو فر بمازیں کی ڈی او میں مجرق تعریح تقے کیا مارے مثر طبارک علی شاہ الیڈسٹریٹر تغیر کی محال مثر طبارک علی شاہ الیڈسٹریٹر تغیر کی محال اپنے بیان ترار کی شاہ الیڈسٹریٹر تغیر کی کی رہ ہے Departmental Appointment اپنے بیان ترار کی طبق کی ایک کی کا Departmental Appointment اپنے بیان تراری کی محال کی ایک لیے کی اس کی ایک میٹل کی بیاری کی لیے کی اس کی تقرری علی میں ال کی گئی۔ کی ہے تائی کی تقرریاں علی میں ال کی تی میں ان کی ایک	•			1	
کی ڈی او میں تجرآ ہو 60 کائل قور ممارت تو ڈی او میں تجرآ ہوتے تھے۔ کیا تعار ے اضر طایلارڈ میں سے آرڈر موجود ہے یا نمیں؟ مستر حیارک علی شاہ الیڈسٹرینڈ آغیر CDO نے تعار کو ایل ریلارڈ میں نہ تور، منٹس موجود نمیں ہے۔ مستر حیارک علی شاہ الیڈسٹرینڈ آغیر CDO نے تعار کو ایل ریلارڈ میں نہ تور، منٹس موجود نمیں ہے۔ السیح بیان کے ساتھ الف کی ہے جس کی رو سے Departmental Appointment السیح بیان کے ساتھ الف کی ہے جس کی رو سے Departmental Appointment مستی نیٹی نیونی اور سمینی نے 60 اثراد کی بطور مستر ساجد حسینی چیف المجیئر اور مسٹر مبارک علی کیاں۔ مسٹر ساجد حسین چیف المجیئر اور مسٹر مبارک علی کیاں۔ کی تقرریاں عمل میں ان کی تحری کی ہے ہے تیں۔					
ی ڈی او ممں تجرف ہوتے تھے۔ کیا مارے ترض بایکارڈا میں بحرق ہوتے تھے۔ کیا مارے مسٹر مبارک علی شاہ الیششریتر آفیر CDO نے مارے آض ریکارڈ میں فرکورہ منٹس موجود ضیں ہے۔ است مبارک علی شاہ الیششریتر آفیر CDO نے مارے آض ریکارڈ میں فرکورہ منٹس موجود شیس ہے۔ است یابان کے ساتھ لف کی ہے جس کی رو ہے Departmental Appointment است یکنی ہوئی اور تکیٹی نے 60افراد کی نیفور کال فور تقرری کل میں لائی گئی۔ کیل مارے آض ریکارہ مسٹر مبارک علی ایل۔ یکی میں علی میں لائی گئی۔ کیا ہے آض کی تقرریاں علی میں لائی گئی۔ کیا ہے آض					· · · · · · · · · · · · · · · · · · ·
ی ڈی او میں مجرتی ہوئے تھے۔ کیا ہمارے آض طبارک علی شاہ الدِمسْریڈ آفسر CDO نے ہمارے آف ریکارڈ میں بذکورہ منٹس موجود ضمیں ہے۔ مسٹر مبارک علی شاہ الدِمسْریڈ آفسر CDO نے ہمارے آفس ریکارڈ میں بذکورہ منٹس موجود ضمیں ہے۔ اپنے بیان کے ساتھ لف کی ہے جس کی رو ے Departmental Appointment اپنے میان تبوی اور تکمیٹی نے Oolicle کی بطور مسٹر ساچد حسین چیف انجیئز اور مسٹر مبارک علی ہاں۔ مسٹر ساچد حسین چیف انجیئز اور مسٹر مبارک علی ہاں۔ کی تقرر بیاں عملی میں لائی تکری۔ کیا ہے آفس کی تقرر بیاں عملی میں لائی تکری۔ کیا ہے آفس		1		i i	
آنس بایکارڈ میں سے آرڈر موجود سے یا نمیں؟ مسٹر مبارک علی شاہ الیڈسٹر یٹو آفسر CDO نے امارے آفس ریکارڈ میں بذکورہ منٹس موجود نمیں ہے۔ التي بیان تے ساتھ اف کی ہے جس کی رو سے Departmental Appointment مسین بگتن بنوکی اور جمیعی نے 60افراد کی بطور کاک فور آنقرری کی 160فراد کی بطور جس سے تحت این کی تقرری عمل میں لائی گئی۔ کی جارے آفس ریکارڈ میں بذکرہ منٹس موجود مسٹر ساجد حسین چیف انجینئر اور مسٹر مبارک علی ہیں۔ کی تقرریاں عمل میں لائی گئی۔ کیا ہے آفس				1	
منز مبارک علی شاہ الیڈسٹریٹر آفسر CDO نے امارے آف ریکارڈ میں بذکورہ منٹس موجود نمیں ہے۔ Minutes of The Meeting کی ایک کالی ایخ بیان کے ساتھ لف کی ہے جس کی رو ہے Departmental Appointment مسیں بگتی ہوئی اور تکینی نے 100ار کی نظور کلاک فور افترری کی Commendation کی جس کے تحت ال کی تقرری علی میں لائی گئی۔ مسئر ساجد حسین چیف انجینئر اور مسٹر مبارک علی ہاں۔ کی تقرریاں علی میں لائی تکئیں۔ کی ہے آفس			· .		-
Minutes of The Meeting ایس سی بیان کر ساتھ لف کی ہے جس کی رو ہے Departmental Appointment Gommittee میں بیکش ہوئی اور تکیش نے 60افراد کی بطور مسین بیکش ہوئی اور تکیش نے 60افراد کی بطور کال فور تقرری کل recommendation کی جس کے تحت ان کی تقرری عمل میں لائی گئی۔ کیا ہمارے آفس ریکارڈ میں ذکورہ منٹس موجود مسٹر ساجد حسین چیف انجینئر اور مسٹر مبارک علی ای ب مٹر ساجد حسین چیف انجینئر اور مسٹر مبارک علی ای ب		<u> </u>	·····		
الیتے بیان کے ساتھ لف کی ہے جس کی رو نے Departmental Appointment حسین بنگرن ہوئی اور جمینی نے 100فراد کی بطور حسین بنگرن ہوئی اور جمینی نے 100فراد کی بطور کلاس فور تقرری عمل میں لائی گئی۔ جس کے تحت ان کی تقرری عمل میں لائی گئی۔ میر ساجد حسین چیف انجینز اور مسٹر مبارک علی ہاں۔ شاہ AO کے عرصہ ملازمت کے دوران 60 افراد کی تقرر بیاں عمل میں لائی گئیں۔ کیا ہے توں		ں موجود نہیں ہے۔	ريكارد مين مذكوره منتك	ہارے آئں ا	
Departmental Appointment حسین نجگش بنوکی اور تمیٹی زیر صدارت انداد حسین نجگش بنوکی اور تمیٹی نے 160فراد کی بطور کلاس فور لفترری کی تقرری عمل میں لاکی گئی۔ جس کے تحت ان کی تقرری عمل میں لاکی گئی۔ کیا ہمارے آفس ریکارڈ میں ندکورہ منٹس موجود میں ساجد حسین چیف انجینئر اور مسٹر مبازک علی ہاں۔ مشاہ AD کے عرصہ ملازمت کے دوران 60 افراد کی تقرریاں عمل میں لائی گئیں۔ کیا یہ آفس					
Committee کی ایک میٹنگ زیر صدارت امداد حسین نیکم نو تقرری کی 100فراد کی نظور کلاس فور تقرری کی recommendation کی جس کے خصت ان کی تقرری عمل میں لائی گئی۔ کیا حارب آفس ریکارڈ میں مذکورہ منٹس موجود مسٹر ساجد حسین چیف انجینئز اور مسٹر مبارک علی ہاں۔ شاہ AO کے عرصہ ملازمت کے دوران 60 افراد کی تقرربیاں عمل میں لائی گئیں۔ کیا سے آفس		:			
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کلاس فور تقرری کی recommendation کی جس کے تحت ان کی تقرری عمل میں لاتی گئی۔ کیا ہمارے آفس ریکارڈ میں ندکورہ منٹس موجود ہیں؟ مسٹر ساجد حسین چیف انجینئز اور مسٹر مبارک علی ہاں۔ شاہ AO کے عرصہ ملازمت کے دوران 60 افراد کی تقرریاں عمل میں لاتی تکئیں۔ کیا سے آفس				• •	
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کیا ہمارے آمس ریکارڈ میں مذکورہ منٹس موجود ہیں؟ مسٹر ساجد حسین چیف انجینئر اور مسٹر مبارک علی ہاں۔ شاہ AO کے عرصہ ملازمت کے دوران 60 افراد کی تقرریاں عمل میں لائی تحکین۔ کیا سے آفس		i.			1
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مسٹر ساجد حسین چیف انجینئر اور مسٹر مبارک علی ہاں۔ اشاہ AO کے عرصہ ملازمت کے دوران 60 افراد کی تقرریاں عمل میں لائی تکئیں۔ کیا ہے آفس				•	
ا شاہ AO کے عرصہ ملازمت کے دوران 60 افراد کی تقرریاں عمل میں لائی گئیں۔ کیا ہے آفس	 		. <u></u>		
ک تقرریاں عمل میں لاتی گئیں۔ کیا یہ آض			· · ·	- Ļ	
				· .	
آرڈر مارے آم ریکارڈ ٹی موجود ہی۔					
					آرڈر جارے آفن ریکارڈ میں موجود ہیں۔
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CDO میں عدالتی احکامات پر دس سابقہ ملازمین |باں۔ کی دوبارہ تقرری کی گئی ہے اور آٹھ ملاز بین کی ایپل منظور کرتے ہوئے تقرری کی گٹی ہے۔ کیا ان کے آنیں آرڈرز ہارے ریکارڈ میں موجود *ين*؟ منٹر زرد علی خان چیف انجینئر اور مسٹر مبارک علی اس سلسلے میں سمیٹی کے منٹس یا اخباری مشتہری ریکارڈ پر موجود نہیں ہے۔ شاہ AO نے اپنے عرصہ ملازمت کے دوران 3 نی تقرريان كي - كيا اس سليل مي كوكي through pręss مشتهري (advertisement) ہوئی تقن یا Departmental Appointment Committee ی تھی یا ان کے منٹس ریکارڈ پر یں؟

لياقت على جونيتر كلرك (ريكارد كيير)

CDO Peshawar

To Cs

The Chief Engineer CDO C&W Peshawar

Subject:

SERVICE APPEAL NO. 3057/2010 JAWAD VS GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH CHIEF SECRETARY & OTHERS.

ANNEXURE - (-

(Mubarak Ali Shah) Admn. Officer CDO,

Refince:

Your letter No. 644/SA/JAWAD, dated 17/6/2015.

Sir,

In this connection it is to state that the Chief Engineer CDO C&W Peshawar was directed by the Secretary to Govt. of Khyber Pakhtunkhwa Communication & Works department vide letter No. SOE/C&WD/17-4/2010, dated 13/08/2010 (Annex-A) that all the appointments made for his office since establishment of CDO may be cancelled today (13/8/2010) positively for the reason that the appointments were made without observing codal formalities/procedure under intimation to all concerned.

In response to the above orders, the Chief Engineer (Engr. Khalid Shah) issued cancellation orders of 10 out of 35 class-ly employees (Annex-B).

In the meanwhile Mr. Khalid Shah was transferred from CDO and Sajid Hussain was posted against the vacant post (Notification dated 16/8/2010 as Annex-"C"). The later (Sajid Hussain) also issued orders of cancellation of 21 Class-IV employees vide order No. dated 18/8/20102-E/361, dated 18/8/2010 (Flag "D") who were previously appointed by Engr. Khalid Shah. Thus cancellation orders of total 31 were issued.

Engr. Sajid Hussain appointed 60 Class-IV employees (including reinstatement of 3 + 1 by transfer) as per recommendations of DSC (Annex-E) who were issued offer of appointment in the offices of CE CDO, Principal Consulting Architect, Regional and Circle Laboratories excluding Abbottabad for which the appointments were made by the S.E. Abbottabad (Annex-F) and one by SE DIKhan (Annex-G).

Muhammad Aftab and 8 others whose orders of appointment were cancelled, filed appeal in Service Tribunal which was allowed and they were reinstated in Service with all back benefits (Annex-H). The Departmental appeal filed in Supreme Court was, however, rejected (Annex-I).

Appeal of another one (Waheed Ahmad) was also decided in his favour by the Service . Tribunal with the same direction as issued in the Service Appeal No. 3125/2010.

Apart from the above, Nine other ex-officials were reinstated in services with all back benefits on appeal, being similar nature case in light of Supreme Court decision.

It is further submitted that eleven others (List at Annex-J) were authorized to draw their salary etc against other posts in light of Finance Department letter No. FD (SR-1)6-1/2001, dated 18/01/2002.

Furthermore, 7 Class-IV (list attached as Annex-K) were appointed during the tenure of Mr. Zard Ali Khan Chief Engineer CDO.

So far as the case of Jawad Khan Naib Qaşid (BPS-01) is concerned, it is submitted that reference to the Departmental Selection Committee comprising of its chairman under the chairmanship of Mr. Imdad Hussain Bangash Director (FDRP) in which Mr. Rahim Badshah S.O. Establishment was also one of its members as representative of the Administrative Department, as quoted in the order by the Service Tribunal announced on 14/5/2015 is not correct as he (Rahim Badshah) participated in the DSC meeting which was held on 15/9/2010 whereas Jawad Khan was appointed as Naib Qasid on 29/7/2010. The appointment date of Jawad Khan (29/7/2010) as such is much earlier than the DSC meeting date (15/9/2010) as quoted in the order announced by the Service Tribunal (Annex-L).

DĂ/AA

Most immediate Top priority



GOVT OF KHYBER PAKHTUNKHWA COMMUNICATION & WORKS DEPARTMENT

> (RAHIM BADSHAH) Nonio Proer (Estin)

1-11.VI.V:Com

No. SOE/C&WD/17-4/2010 Dated Peshawar, the August 13, 2010

The Chief Engineer (CDO) C&W, Peshawar

Subject:

ТО

CANCELLATION OF APPOINTMENTS MADE BY CHIEF ENGINEER

am directed to refer to the subject noted above and to state that the competent authority has been pleased to direct that all the appointments made by the Chief Engineer (CDO) C&W. Pestawar since its establishment for his office may be cancelled today (13.08.2010) positively, as the appointments have been made without observing codal formalities/procedure, under intimation to all concerned.

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Endst even No. & date

Copy is forwarded to the

1. Special Assistant to Chief

지수가 관습하다

- 2. Principal Secretary
- 3. Accountant General
- 4. Chief Engineen Coo
- 5 PS to Secretary

OFFICE OF THE CHIEF ENGINEER CENTRAL DESIGN OFFICE CEWD 8-A SHAMI ROAD PESHAWAP

Dated 13,08.2010.

No.E-2/356

OFFICE ORDER

In compliance with the directive vide Secretary, to GOKP C&W Department letter No.SOE/C&WD/17-4/2010, dated 13.08.2010, the office orders issued in respect of the following officials are hereby cancelled.

SI:No.	Name	England	
1	Mir Afzal	Father's Name	Order No. & Date
2		Muhammad Khan	2-E/307, 29.07 2010.
4	Shehzad Khan	Shaukat Khan	2 2/307, 29.07/2010. 8
3	Shahid Ahmed		2-E/306, 29:07 2010
4	Faridullah	Abdur Rashid	2-E/302, 29 07 2010
5		Badshah Gul	2-E/300, 29,07 2010
· · ·	Muhammad Aftab	Muhammad Yousaf	
6	Haroon	Fagir Muhammad	2-E/322, 29.07 2010
7	Faizullah	nagh Munammad	2-E/301, 29-07/2010
8		Siraj Muhammad	2-E/272, 19.07.2010
	Shakeel Ahmed	Gulmast Khan	
9	Akbar Hussain	Khan Afzal	2-E/273, 19:07:2010
10 .	Javed		2-E/275, 19.07 2010
		Abdur Rahim	<u>2-E/318, 29.07 2010</u>

It is further added that it seems very difficult rather impossible to withdraw/cancel all the recruitment orders regarding class-iv; as office of the CE CDO, Principal Architect & the recently established Flood Damages Restoration Project Directorate of C&W Department are all dependent and functions with the help and assistance of these very class-iv staff please:

س Copy to the

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تهيئه بالمحاصين والمع

CHIEF ENGINEER COO

Secretary, to GOKP C&W Department Peshawar, with ref. to above for information.

CHIEF ENGINE

ļ LAND ARE MINISTERTION 5 DEN ANTIMENT EGERM 違い。 6 (| Ęļu a water a state Dated Peshawar, the 16" August, 2010 A STATE AND A S 12. I. I. م بند میراند . م بند . بر . بر . **Internet** NO.SO(EII)E&AD/94230/2010 The competent recommendations of the Provincial selection Board is Measure following superintending engineer iss 19) of Continue and Non NO.SO(E-II)E&AD/94232.2010 The Competent multiple of the poent the recommendations of the Provincial Selection Board is an additional of the provincial Selection Board is a selection of the provincial Selection Sele appoint the relative. ĥ CONDITION FOR PROBATION He shall be di probation as nel future promotion sharida degleceno tresini oli sa of Rihael patricia in degleceno tresini oli sa petitoni He shall be en probation as der rules we promotion shari de Boledicto the Platforde promotion shari de Boledicto the Platforde of Rhyber Dirition as der rules we subjecte collet de rakistan on the mil-petition. He shall be on onobation as ber rules or divide rakistan on the mil-petition. He shall be on onobation as ber rules or divide rakistan on the mil-petition. He shall be on onobation as ber rules or divide rakistan on the mil-petition. He shall be on onobation as ber rules or divide rakistan on the mil-petition. REMARKS -τ**ο**· ·FROTA NAME OF 5. #. OFFICER on ٠c., es 20 89-19 Regular amir FINGY. Easis, shahbaz Khan ion RS-20 65-19 Yousaf Ϋ́. Regulaci Engr. Basis Jamai N. 00 85-20 115-19 syed Regular 13 Engr. · Basis ! sajid Hussain The appoint ment shall be subject to the arder of the feat and subject to the arder of the feat are subject to the subject of the feat are subject to the subject and many subject of the subject of the subject the many subject of the subject of the subject the many subject of the subject of the subject of the subject the many subject of the subject of the subject of the subject the many subject of the subject of the subject of the subject the subject of CIT I ES-20 AOUOINTED 85-13 zahir 'engr: ۵ Consequent upon the above the following adjustments are Arif 市にあいというではあり 2. nenceforth:-Eam of officet Name 朝始的情報理 S.# COVER NPA D 1. and State winda -新 fes 治小的 2. (65 20) ۰. 1 . Huost // it sails ٩, . ž. Engi ੇ ਨ ing AUDIONUTION ÷. ۵ ، Service Service Chuist MT łà 2004 **इ**ल्ट्रेंट ΰ. 3. 🖑 જેવાણે : ALLA (and a **建**柄 Ř 2 u;. the state of the 37, ÷ ÷ • 1 Ŗ 7.5 1.5 1.5 11 N. 11 1.1

OFFICE OF THE CHIEFENGINEER CENTRAL DESIGN OFFICE CAW DEPARTMENT RUYEER PARHTUNKHWA U-A SHAMI ROAD PESPIAWAR

No.2-EI 361 Dalad 1.6 108/2010

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OFFICE ORDER

In compliance with the directive vide Secretary, to GOKP C&W Department letter No.SOE/C&WD/17-4/2010, dated 13.08.2010; the office orders issued in respect of the following officials are hereby cancelled.

51;No.	Name	Father's Name	
	Wagar Ali Shah		Order No. & Date
2.	Muhammad Junaid Abid	I Abid Jan	2,E/312, 29.07.2010
3	Mian Amin Jan	Mian Fazal-e-Naeem	2-E/313, 29.07.2010
4.	Noorullah	Rahmatullah	2-E/309, 29.07.2010
5.	Khalid	Mohammad Sardar	2-E/271; 29.07:2010
6.	Arif Shah	Haji: Alif Shah	2.6/287, 22.07.2010
	Adnan Yaqub	Yaqub Khshi	2-E/323, 29.07.2010
8	Zafar Iqbal	Muhammad Bashir	2-E/304, 29,07,2010
9.	Waheed Ahmed	Jamshid Khan	2-E/320, 29.07.2010
10.	Asif Khan	Zarif Khan	2-E/314e 29.07:2010
11.	Amjid Ali	Ghubrin Hassan	12.E/257(d) 29.07.2010
12.	Sher Aman Shah	Mir Akbar Shah	32 E/303 29:07:2010
13.	Jawad Khan	Muhammad Younas	12-12/31/5 29:07:2010
4.	Fahim Shah	Abdul Qayum	2-E/319;29:07.2010
15	Fida Jan	Fagir Muhammad	2-E/317, 29,07.2010
_16	Rashid Hameed	Abdul Hameed	12-E/308.29-07-2010
17	Said Farosh	MianiParosh	2, E/3 10, 29,07 2010
18.	Ashfaq Ahmad	Manzal Saleen	21.12/254,101107.2010
<u> 19. '</u>	Arif Khan	Dad Karim	12:1.256:01:07:2010
	Gohar Muhammad		24.B/25510110702010
21	, Muhammad Tariq	Nemdar Khan	2.E/257(a)01.07.2010
:	· · · · · · · · · · · · · · · · · · ·		2 E/257(6)01:07.2010

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CHIEF ENGINEER COO

 Secretary, to GOKP C&W Department Peshawar, with refitto above for information please.

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CX.

CHIEF ENGINEER CDO'

A meeting of the Departmental Engenion/Selection Courts charmanship of Director FDRP (Comminication & Works Department on 15:09:2010 at 10:00 Hours. The following attended the meeting

- Engr Imdad Hussain Bangash Director FDRP C&W Department
- Engr Amer Nødeem Durran) Deputy Director FDRP C&W Department

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- Rahim Bashshah Section Officer (Establishment) C&W Department
- Mubarak Ali Shah Administrative Officer O/O Chief Engineer (€D⊙) C&W Department

Member cum Secret:

-Chairman

Member

Memberss

2. The meeting was started with recitation from the Holy Quran, The welcomed all the participants and discussed the issue and scrutinized think. sanctioned strength: position of vasadcies, their basid pay searequired qualification etc. The documents and credentials, registration respective Employment Exchange of all the candidates were checked.

case to case basis, the committee recommended the appointments candidates to the posts indicated as per Annex(s) attached.

.4. The chairman in the last thanked the participants and appreciefforts made by them

(WATE SIGK ATTS

(Own)

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1.6.2 (Amer Nadeem Durrani) Deputy Director FDRP C&W Department (Mentber)

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(Ranim Badsman) Section Officer (Esta CSW(Gebartmer (Perhoer)

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S.	In the Chief Fridinge	Eather and the second			<u>a rordarzo (0)</u>
No		Father's Name	CNIC No.	Host applied/	Recommendation of the DSC to the
1.	Khelid	Muhammad	17301-1341709-7	Driver	post with BPS
¥.	Airdui Weheed	Sardar Abdul Jameei			Driver BPS-04
2.	Mushtag Khan	Zalo Khan	16101-7892278-9	Driver	Driver BPS-04
	Zahid Khan	Taj Muhammad	17301-9141688-5	Driver	Driver:BPS-04
	i Noor ul Amin	Sabz Ali Khan	16101-9656286-3	Driver	Driver'BPS-04
) <u> </u>	Muhammad Abbas	Muhammad	17101-3760580-1	Driver	Driver BPS-04
.	ikramullah Jan	Nisar	16101-772693-1	Naib Qasid	Naib Qasid BPS01
ξ	Muhammad Asad	Sher Jan	16101-4725960-7	Naib Qasid	Naib Oasid BPS01
	LAbdul Wahab	Muhammad Naseer	16101-6926838-1	Naib Qasid	Naib Qasid BPS01
0	Riaz Ahmad	Feroz Khan	16101-2898170-5	Naib Qasid	
1	· · ·	Mehr Muhammad	17101-2135035-9	Naib Qasid	Naib Qasid BPS01 Naib Qasid BPS01
	Mazhar Ali	Muhammad · Saleem	17102-0820518-5	Naib Qasid	Naib Qasid BPS01
2	Wajid	Dilshad	17101-2826199-5		
3	Fazal Khan	Purdil Khan	17101 2000 440	Naib Qasid	Naib Qasid BPS01
-	Kausar Ali	Murad Ali	17101-3993448-1	Naib Qasid	Naib Qasid BPS01
5	Khalid Hameed	Aslam Khan	17101-4436083-5	Naib Qasid	Naib Qasid BPS01
G	Liagat Ali	Sakhi	17201-2092299-9	Naib Qasid	Naib Qasid BPS01
Ţ.	Calter Ali	Muhammad	16101-1647177-3	Naib Qesid	Naib Qasid BPS01
Ŗ	Alsa: Zaman	Hassan Dad	16101-8498681-3	Naib Qasid	
Ģ	Stored Jun	Qamar Zaman	11101-2429269-7	Naib Qasid	Naib Qasid BPS01 Naib Qasid BPS01
i.	Stovar Shah	Marafat Shah	17101-9101624-3	Chowkidar	
0	Ainaz Ali	Awal Said	16101-7877488-9	Chowkidar	Chowkidar BPS01
2	CAUSE AU	Ali Afzal	14101-5640497-5	Chowkidar	Chowkidar BPS01
3	Khan Rahoem	Gul Raheem	17101-7698194-9	Chowkidar	Chowkidar, BPS01
	Study Franks	Muhammad Safdar	16101-1534804-3	Naib Qasid	Chowkidar BPS01 Naib Qasid BPS01
4	Wilayat Ali Shah	Gul Hassan	17301-6053000-5	Lab	Lab Attendant BPS
5	huandah	Shah Asmatullah	11101-3591645-7	Attendant	02
26.	Qarib Ali Haidri			Attendant	Lab Attendarit BP: 02
7	Nasir Younas	Anwar Håider	17301-9921790-3	Naib Qasid	Since they regularly a
18	Menal Gall	Younas Ramzan	17301-5201466-9	Sweeper	daily attended the offic
		Jan Gul	17301-9047043-3	Sweeper	and performed duty as such it was recommended to resto
0	Charling Mr.		:		their orders in the pub
<u>:9</u> XC	Quain Raza	Najmul Hassan	14301-1990629-9	Driver	interest.
31	Torquilah Khan	Rafiullah Khan	11101-1478648-3	Driver	Driver BPS-04
32.	Marisoor Ahmad	Muhammad Jan	17101-3064097-7	Driver	Driver BPS-04
<u>, 2.</u>] 3	Isman Shah	Muhammad Ayaz	17301-3336536-9	Oriver	Driver BPS-04
- b-anya ay ay	-t	Noor Shah	17201-3502101-5	Lab	Driver: BPS-04: Jab Attendant BP
<u>3</u> 45	Taimoor Rauf	Abdur Rauf	13503-3515080-1	- Attendant Láb	02 Lab Attendart BP
35.	Zahir Khan	Ajmir Khani	14301-6039056-5	Attendant Lab	02 Lab Attendant BP
36.	Muhammad	Muhammad Zakir	16101-6230288-9	Attendant	02
· ; · ·	Rosbid Khan	Khan		Lab Altendant	Lab Attendant BP 02
	l .	Nasir Ali	16101-4318417-5	Lab	Lab Alteridant BP
20	Arshad Nawaz	Noor Nawaz	14202-3837070-3	Attendant Lab	Lab Attendant BP
39	Shafiullah Cleaner	<u> </u>	<u> </u>	Aftendant	
40.	Muhammad Arif Khan	Islam Gul	17301-1532829-3	Driver Naib Qasid	Driver BPS-04 Naib Qasid BPS0
41.	Shahzad Khan	Sheul	· +		VILLA CASIO BESO
42	Muhammad Kamal	Shoukat Khan	17301-4833586-7	· Naib Qasid	Naib Qasid BPS0
43.	Rahim ullah	rioa Wuhammad	17301-9356279-5	Chouildthar	Chowkidar, BPS0
		THE AWAR IS DR. B. D. WAR	14202-2832528-5	Naib Qasid	TO COMPARING SPECIF

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144	Ghazantar Abbas			in solve a 12 Matters	of the DSC to the
17	Contazaniai Abbas	Ghulam Abbas	12103-5616601-9	Driver	post with BRS
	Imran Ali Shah	Zaffar Ali Shah	15201-0597251-7	Lab	Driver BPS-04
10	Tages Anmart	- <u> </u>		Attendant	Lab Aftendant
	i sees annad	Fazal Shah	15602-3997499-1	Lab	I also find the second
	Last un Kohman			Atlendant	Lab Allendant
\mathbf{V}_{i}	Nasi Ag	Naray	13503-775471-7	Chowkidar	Chowkidar BPS01
4	l danusse	Usman Ali	15602-8550508-9	Sweeper	Swooner BPGU1
	,	Waseem Khan	15602-7218558-7	Lab	Sweeper BPS01
50	Vescen: Ailbes	i Hamidullah		Attendant	Lab Attendant BPS 02
		namidulian .	12101-0970257-3	Lab	Lab'attendant BPS
51	Magni As	Sawab Gul		attendant	02
52	Sangin Bacha		15602-0358103-1	Driver	Driver BPS-04
537	Gulab Shah	Fazle Mehboob	15602-2894168-1	Naib Qasid	Naib Qasid BPS01
	algermanage 1	Rajan Shah	11101-9427748-5	Chowkidar	Chowkidar BPS01
	<u>i N</u> aeem	Muhammad Nazir	15602-0378223-3	Chowkidar	Chowkidar BPS01
55.	Sabadur Al	Gula Khan	11101 7001 (00		
50.	Juliah Jehan	Shah Nawaz	11101-7091460-7	GWeepor	Sweeper BPS01
57	Proz. Marinet	Muhammad	12101-4330394-3	Chowkidar	Chowkidar BPS01
	1 1	Sharif	12101-0328231-5	1.ah	Lab-Attendary BPC
56	Haridullah	Habibullah	15306-8274308-9	Attendant	02
	Christer Haven	Said Hakeem	15306-3258492-7	Chowkidar.	Chowkider BPS01
60		Khan	142.004.04		Lab Attendant BPS
60	用語用的	Badshah Laig	15302-4114841-9	Attendant	02
	, .			Sweeper	Sweeper BPS01

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Brough For Ho. 091-9218923 OFFICEPOR File OUFICE CO2 11348 SUPERINTENDING ENGRAPHER-CodW CIRCLE ABBOTTABAL Phone # 0922-9310258/Fax # 93:0044 E-maile circle_rtd@yaboc.com No. 2112 / 266 / 2015.

-18 June 2015 10 19 19 19 19

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The Administrative Officer, O/O Chief Engineer (CDO) C&W Department Peshawar.

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Subject:-Reference:-

1210-121

N 83 54.15

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LIST OF STAFF OF ROAD HES **裁制ATE** STING LABORATORY C&WICIRCLE

Your office telephonic message date 17.5.2015

. As desired, the requisite information is as under, please:-

SMA		
Ly out it	Mohemmad Nejeeb	Assistant Research Officer (BRS-1944-1944)
2	Hamid Mehmood	Junior Clark (BPS-11)
. 3	Shahid Masood	Laboratory Assistant (8PS-5)
4	Saqib Habib	Laboratory Attendant (8P3-2)
17	Saleern Babar	Laboratory Attendent (BPS-2)
	Sajid Kinan	Driver (BPS-4)
1	Rahoei Ahmed	Nalb Qasid (ISP\$-1)
8	Raja Muhanimad Saidar	Chowings (EPS n)
9	Zahoor Shah	Sv/sabět (BFS-01)
	*	••••••••••••••••••••••••••••••••••••••

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OFFICE ORDERS

C due

On the recommendation of the worthy Secretary C&W Department Khy-Phakhtunkhwa Peshawar the competent authority is pleased to offer a Fost of Naib Qa (BPS-1) (Rs. 2970-90-5670) vacant in Road Research & Material testing Laboratory at C. n of DURDAN to Mubammad Khalid Khan S/O Muhammad Nasir Khan of Kulochi Dist

the will get pay at the minimum of other of the state-develop unduding us elewances as admissible under the rules. He will get all a will be the colling to a

He shall be Governed by the http://www.Phalaunkhwa Civil Servership or 144-3 and the laws applicable to the civil servant and rules made there unstor He shall for the intents and purposes be a Civil Servant expect for hurppse pension or guaranty, he shall be entitled to receive such amount contributed to him towards contributory. Provident Funds (C.P.E) along with the contributior made by the Governments to his account in the said fund, in the prescribe manner and rates fixed by the government from time to time:

His employments to Communication & Works Department is on regular basis. In pre employments to communication a group poperturant to the communication in pervices are liable to terminated at fourteen (14) days price, ablice pryon th payment of 14 days salary in lieu of the police. In case he wishes in resign at an three, 14-days notice will be necessary, or in tieu there of 14-days pay will be

He shall produce a Medical Certificate of fitness from the Medical Superintendent DHQ Hospital D.I.Khan before reporting him solf for duty as required under the He has to join his duty at his own expenses.

He shall have to serve any where in $\kappa \, {\rm P} \, K$

if he except the post of above conditions he should report to the office the Superintending Engineer C&W Circle D.I.Khan

SUPERINTRIADING ENGINEER C&W CIRCLE D.LICHAN

Secretary C&W Department K.P.K Peshawar with reference in his. recommendation/ Approval- during discussion on 25-10-2010 please. Chief Engineer (CDO) C&W Department Peshawar for information and confirmation please, as directed by the Secretary D&W.Bepartment President District Account Officer D.I.Khan. Mr. Muhammad Khalid S/O Mithammad Nabir Kilan of Kulachi Oistrict D.I.Ikha

SUPERINTEM DISENGINEER

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BEFORE THE KHYBER PAKHTUNKHWA SERV いた市場にはいなくる Commission Cont Appeal No. 3125/2010 Date of Institution Date of Decision 22.12.2010 Muhammad Aftab Ex-Naib Qasid S/O Muhammad Yousaf 12:06:2012 Flat: No. 67/C, Moh. Gulshan Rahman Colony, Kohat Road, Peshawar C/O Chief Engineer, C&W Deptt. Peshawar. (Appellant) 1. Province of Khyber Paklatunkhwa through Secretary Communication & Works Department, Reshawar 2. Chief Secretary, Khyber Pakatunkhwa, Peshawar 3. Chief Engineer, Central Design Office; C&W Department, Khyber 2. Pakhtunkhwa Peshawar. SERVICE TRIBUNAL ACT 1974 AGAINST THE ORDER THATED IN THE APPELLANT ejs: HAS BEEN CANCELLED AND HIS DEPARTMENTAL APPEAL ELICITED NO RESPONSE WITHIN THE STATUTORY PERIOD SHAHZADA IRFAN ZIA, " Advocate ; MR. ARSHAD ALAM, Addl. Government Pleader Į. For respondents. - MR. SULTAN MAHMOOD KHATTAK, MR. NOOR ALI KHAN, . -. .: UDGMENT SULTAN MAHMOOD KHALTAK, MEMBER. This appeal has been filed by Muhammad Aftab, the appellant under Section 4 of the Knyber Rakhtunkinwa Service Tribunal Act 1974, against the order dated 13.8.2010, whereby fils appointment Order has been cancelled. It has been prevention of the planter impughed order, may be set aside and inceappellant may be reinstated into service with all back benefits. he to start Brief tagts of the case is a respondent No. 3 advertised of

subjecture completion of prescribed selection process, and on the recommendations of the Department Selection Committee, he was appointed as "Naib-Qasid-by the competent authority on regular basis, vide order dated 29.7.2010. The appellant took over charge of the post-and started to performing ethics to the entries satisfaction of his, superiors Histappointment order are to be presented by the impugned order dated 13.8.2010. Feeling aggrieved, the appellant fields departmental appeal on 6.9.2010 through proper channel, which has not been decided within the statutory period of ninety days, hence the present appeal on 22.12.2010, which is well within time.

3. The appeal was admitted to regular hearing on 17.1.2011 and notices were issued to the respondents. They filed their joint written reply and contested were the appeal. The appellant-also filed rejoinder in rebuttal.

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4 The learned counsel for the appellant argued that being fully qualified for the post, the appellant was appointed as Naib Qasid by the competent authority on (20.7.2010. He took over charge and served on the post for some time and valuable rights have been accrued to him. Subsequent cancellation of appointment orderising clear violation of principles of locus poenitentiae. He fulther argued that the appointment order of the appellant has been cancelled without any reason, which is equinst the spirit of Section 24-A of General Clauses Act, In support of his . arguments, the learned counsel relied on a judgment of august Supreme Court of Pakistan as reported in PLI 1999 SC 1104. He stated no charge sheet/statement of allegations has been issued to the appellant nor proper enquiry conducted and he has been condemned unheard. In gase of removal from service, conduct of regular enquiry against a civil servant is mandatory under the law even, against a server probationer, but no such enquiny has been conducted. He requested that the appeal may be accepted as prayed.

5. The learned AGP on the other hand, argued that while appointing the appellant codal formalities have not observed. During Iseletuon process? representative of the Administrative Department was not present. Hence, appointment order of the appellant was illegal and such appointment, order can be withdraw/rescinded at any time. He requested that the appeal mayabe dismissed so that

6. The Tribunal observes that the appellant was appointed as Naib Qasid by the competent authority vide orden area 201/2010 fiel convolver charge of the post for some time and was appended as the convolver charge of the post for some time and was appended as the post of the post for some time and was appended as the post of the post for some time and was appended as the post of the post

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ş., spondents for which the appellant could not be suffered the reburner there observes that appointment order of the appellant has been subsequently withdrawn through the imprograd order dated 13.8,2010 but no reason whatsoever given for its whatsoever given for its whatsoever withdrawai of appointment order, which is against the spirit of Section 24-A, of ٠, General Clauses Act, 1897. However, the last para of the impugned order clearly shows that the Chief Engineer, CDO was not willing to cancel appointment order of the appellant and not acted independently. The impugned order is nothing but a nullity in the eyes of law. The Tribunal agrees with the arguments advanced by the learned counsel for the appellant. In view of the above, the appeal is accepted, the impugned order dated 7. - 13.8.2010 is set aside, and the appellant is reinstated into set the appellant is reinstated into set the appellant is reinstated into set the set of th benefits. Parties are left to bear their own costs. File be consigned to the record. 8 Having common questions of law and fact, this order will also dispose of other connected service appeals No. 3126/2010, Akbar Hussain, No. 3127/2010 Mir. Afzal, No. 3128/2010 Shahid Ahmad, No. 3129/2010 Asif Khan, No. 3130/2010 Arif ្លែស្ថិនក, No. 3131/2010 Gohar Muhammad, No. 3132/2010, said ត្រូវនេះosh នោក្ដី-1.1.1 3133/2010 Rashid Hameed, in the same manner. ł, مدينية. مريد **UNNOUNCED** 12.6.2012 (NOOR ALL KHAN) (SULTAN MAHNOOD KHATTAK) MEMBER MEMBER 124、当期 自己风神容 Certification 聽去 the priserry Khyber Pelfitunkh 13716 TYPE HEADER in Maria Iy crvice Wibung Peshawa 7**5**... 空性的腔 1.27 25:00 Plate of Presentation of Ah Null Bennof 19 ritte : Unger -----2 21 Tobl 1 NARCHAR uit lion ôf DateonDe **新市市市市市市**

List of Class-IV employees appointed during incumbency of Mr. Zardali Khan Chief Engineer Central Design Office, Peshawar.

STNG	Name	Designation	Appointmentsorder Noz&date
1	Muhammad Asghar	NQ,(BPS-01)	2-E/51, dated 03/04/2014
2	Khuzaif Shah	Driver (BPS-04)	191/E-3, date 24/12/2013
3	Shabeer Ahmad	Driver (BPS-04)	192/E-3, date 24/12/2013
4	Musarrat Nazir	Lab. Attendant (BPS-02)	3-E/1334, dated 21/01/2015
5	Aizaz Khan	Lab. Attendant (BPS-02)	534/E-2, date 11/07/2014
6	Kashifullah	Chowkidar (BPS-01)	03-E/1234, dated 31/12/2014
7	Noor Hussain	Sweeper (BPS-01)	3-E/1335, dated 21/01/2015

ŀ	Date of
	order
	proceeding

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Order or other proceedings with signature of judge of Magnitude

Khyber Pakhtunkhwa Service Tribunal Peshawar

Appeal No. 3057/2010 Jawad Khan-vs- Secretary Govt: of KPK C&W Department, Peshawar etc

14 05:2015

<u>PIR BAKHSH SHAH, MEMBER</u>: Counsel for the appellant (Mr.) Sajid Amin, Advocate), Mr. Muhammad Tairq, SDO and Mr. Mubarak, Ali, AO alongwith Mr. Muhammad Jan, GP for the respondents present.

2. Appellant Jawad Khan was appointed as Naib Qasid (BPS-1) vide order of the Chief Engineer C&W Department dated 29.07.2010 on the recommendation of the Departmental Selection Committee which order, was canceled by the same authority vide his order dated 18:08.2010 in compliance of the directive of the Secretary of Government of Khyber Pakhtunkhwa C&W Department letter dated 13:08:2010. Feeling aggrieved the appellant filed departmental appeal dated 01:09:2010 which was not responded despite lapse of the statutory period of 90 days, hence this appeal under Secion-4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974.

Arguments hared and record perused

3.

It is the contention of the learned counsel for the appellant that the impugned order dated 18.08.2010 is illegal and in violation of law is without lawful authority and discriminatory. The learned counsel for the appellant further stated that no charge sheet or show cause notice was issued to the appellant and that for no fault of the appellant, the appointment order was cancelled. The learned counsel stated that the loss vas adventised in the daily news paper for which the appellant applied and who was daily recommended by the Serection Committee where after he joined the past after complying with all codal formatilies of medical cic. The learned counsel also stated that after order of cancelation, of so many other temployces including block of the appellant, the testion entry department once again accommodated employees of their choice but the appellant was not reinstated and thus he was discriminated against line tearned counsel for the appellant requested that the appellant teinslated in to service with all back benefits and the impugned c be seriaster.

appeal was resisted by the leathed overnme

behalf of the respondent-department by stating that while appointing, appellant, the proper codal formalities were not observed, nor representative of the administrative department was present as member in the Selection Committee and that the Finance Department as well*as Accountant General Office were reluctant to honor the appointments for payment of the salary to the appointees was concerned.

We heard the arguments of the parties and record perused in their 6. assistance.

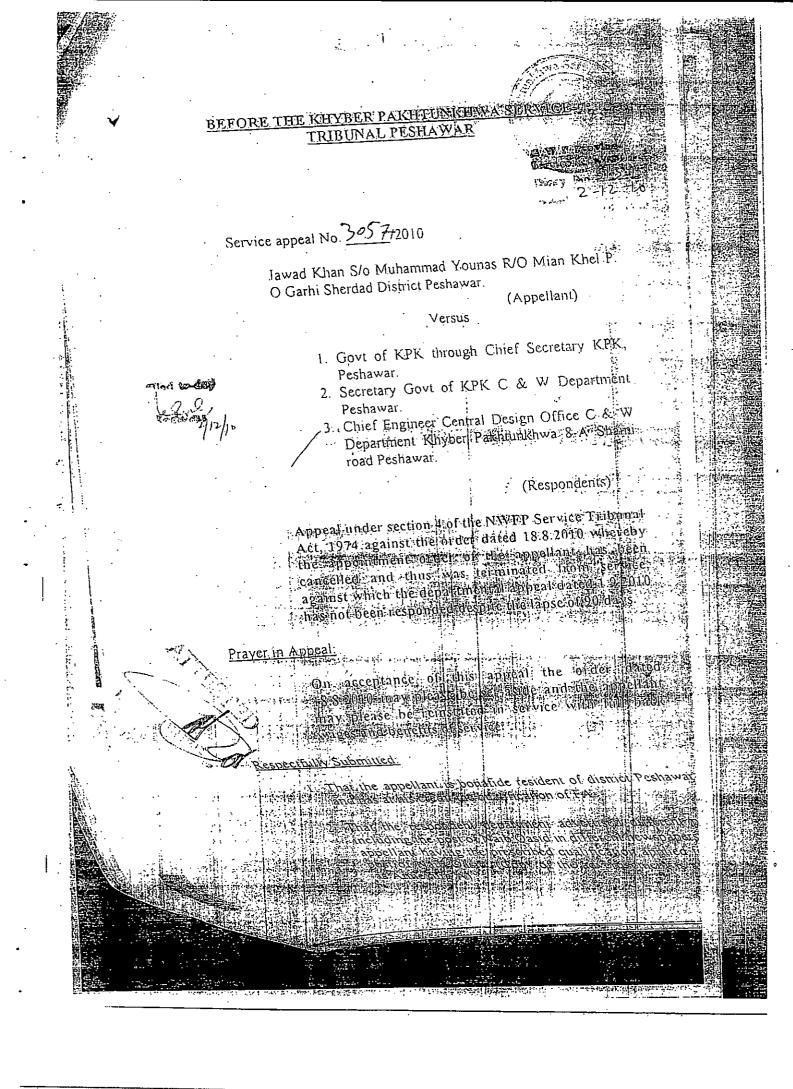
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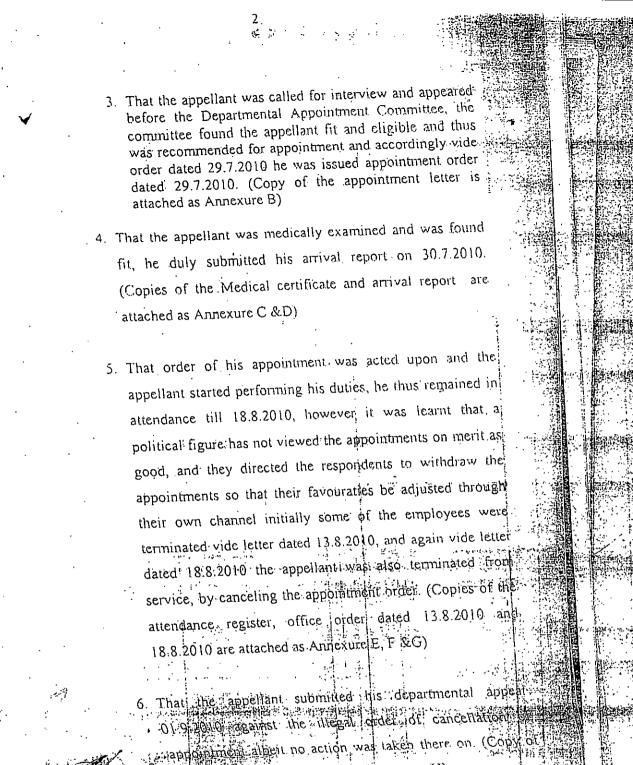
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Perusal of the record would show that Departmental Selection Committee was constituted, comprising of its chairman under the chairmanship of Mr. Imdad hussain Bangash, Director (FDRP) in which Mr. Rahim Badshah SO Establishment was also one of its Members as representative of the Administrative Department. This committee had its meeting on 15.09.2010 and recommended selectees for the purpose of appointment. In this situation, the department plea of non-representation in the Selection Committee is false. This being so, it is very important to say that appointment order of one Muhammad Aftab, Chowkidar was also canceled vide order dated 13.08.2010 who filed service appeal No. 1325/2010 which was decided in this favor vide judgment dated 12.06.2012. The respondent department filed Givil Petition No. 401 to 109, P/2012 for leave to appeal before the august Supreme Court of Pakistan which leave to appeal was also refused to the respondentdepartment vide judgment of the august Supreme Court of Pakistan dated 19.09.2012. After going through the record, this Tribunal comes to the coachusion that the instant appeal is on the same footing as with the appeal of the Muhammad Aftab, hence in the light of afore said discussion this appeal is also allowed as prayed for. There is no order as to costs File be consigned to the record:





the sprusentation is attached as Annexure H)

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7. That the appellant along with his other colleagues filed with 7. That the appellant along with his other colleagues filed with 7. That the appellant along with his other colleagues filed with 9. That the appellant along with his other colleagues filed with 9. That the appellant along with his other colleagues filed with 9. That the appellant along with his other colleagues filed with 9. That the appellant along with his other colleagues filed with 9. That the appellant along with his other colleagues filed with 9. That the appellant along with his other colleagues filed with 9. That the appellant along with his other colleagues filed with 9. That the appellant along with his other colleagues filed with 9. That the appellant along with his other colleagues filed with 9. That the appellant along with his other colleagues filed with 9. The appellant along with his other colleagues filed with 9. The appellant along with his other colleagues filed with 9. The appellant along with his other colleagues filed with 9. The appellant along with his other colleagues filed with 9. The appellant along with his other colleagues filed with 9. The appellant along with his other colleagues filed with 9. The appellant along with his other colleagues filed with 9. The appellant along with his other colleagues filed with the appellant along with t

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2.9.2010. (Copy of the judgment and order dated 2.9.2010 is attached as Annexure I)

8. That the above acts and omission of the respondents in terminating the services of the Appellant are illegal, unlawful in violation of the rules, the Appellant being aggrieved of the same submits his appeal inter alia on the following grounds:

Grounds of Appeal:

- A. That the acts and omission of the respondents whereby they have terminated the Appellant from service is illegal, in violation of law without lawful authority and against the rights of the Appellant.
- B. That the Appellant has been condemned unheard, he has not been provided any right of lisearing before terminating the appellant from service.
- C. That the Appellant is fit and chicible for the post of Naib Qasid the order of appointment has been acted upon and thus the same cannot be undone and withdrawn after decisive step has been taken.
- D. That in case there were any objection regarding appointment of the Appellant than the Appellant should have been dealt with in accordance, with section 3 of the NWFP Report from Service (Special Powers) ordinance, 2000, having not done so the order impugned is illegal and unlawful.

E. That the term canceling the appointmentiletter is alien . . tor her reader the source of the sou

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F. That the mespondents have reinstated some of the employees however it was refused in the case of the single process of the single process built with pick and single process built with pick and single process built with pick and

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instructions. (Copy of the NOC is attached as Annexure K)

- H. That the order of termination is malafide and aimed to accommodate the political favouraties and blue eyed of influential persons, thus the order impugned is liable to be struck down.
- I That the appellant is jobless since his illegal termination from service.
- J. That the Appellant seeks the permission of this Honourable tribunal to rely on additional grounds at the hearing of this appeal.

It is therefore prayed that on acceptance of this appeal the order dated 18:8.2010 may please be set aside and the appellant may please be reinstated in service with full back wages and benefits of service.

Through

с. 1 IJAZ ANWAR Advocate Peshawar FR-3 Tourth Floor Bilour Plaza Saddar road, Peshawar Cantt Phil # 103339107225 091-\$272054

Appellant

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	Before the Khyber Pakhtunkhwa	Service Tribunal Peshawal	de la	
	Before the Knyber Pakitonikitwa		T all a	
	Appeal NO. <u>3057</u> of 2010	Į.	A RAN	
	Lawad Khan S/O Muhammad Younas R/O Mian Khel PO Garhi Sherdad	·	Appellant	
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:•	 Secretary to Govt. of Khyber Pak Chief Engineer Central Design Q 	ffice		
•	C&W Department Peshawar	<u></u>	Respondents	
	Written Reply on behalf of Respondents	No. 1, 2 & 3.		
	:	1	;	
	Respectfully Sheweth		ļ	
	Preliminary Objections:			
-	1. That the appeal is not maintainable	•		
	2. That the appeal is premature.		l .	
•	a tribuction and light backnot come to	the Tribunal with cloan nanos.	1	
,	5. The appeal is not maintainable and	ninder of necessary party.		
<u>-</u> '	 That the appellant conceated the in That the appellant is estopped by in That the appeal is time barred. 	his own conduct to the me man	int appear.	
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	of salaries therefore the order v	vas withdrawmas soon as possi	ble)(Annex order 1)	
	4. As stated in above Para.	· · · · · · · ·		
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<u>i</u> 2:	1011年1月1日1日1日1日1日1日1日1日1日1日1日1日1日1日1日1日1日1	n and all all an ender realizing a set of the original		
	<u>. </u>	1946 - Marine B. Marine, Marine B. Marine B		*************

- . As per Para-3 above.
- Since all such appointments were made in violation of rules, as such the representation was not considered.
- 7. No such notice issued to the Department by the Peshawar High Court Peshawar.
- Incorrect & misconceived. No discrimination what-so-ever has been committed to the petitioner nor any Rule has been violated; hence he has got no cause of action to approach this honorable Tribunal.

Grounds

- A. Incorrect. That the appellant was treated in accordance with law, rules and facts
- B. No comments as per A above.
- C. The General clauses Act, 1897, 21 "Power to make to include power to add to amend, vary, rescind orders, rules, bye laws. The respondents have the power to recall or cancel any order.
- D. In correct as explained in Para-8 of the facts.
- E. In correct & misconceived. No discrimination what-so-ever has been committed to the petitioner.
- F Correct to the extent that meeting of a fresh Departmental Selection/Promotion Committee (DSC/DPC) was convened having proper representation of the Administrative Department which recommended re-instatement of the 3 officials.
 (Annex DPC-II)
- G. Pertains to record,
- H. In correct. That the order is legal within rules and regulation and no discrimination lias done to the appellant hence rest Para is denied.
- L. No comments.
- 1. The respondents seek leave of this honorable Fribunal to rely on additional grounds at the time of arguments.

In view of the fore going facts of the case, it is humbly prayed that the appeal which is not based on facts may please be dismissed.

Chief Elligineer CDO Secretary to Govt, of CRW Depit. Peshawar Khyber Pakhtunkhwa (Respondent No. 3). G&W Department (Respondent No. 1 & oë set aside sisted by the learned

List of Employees appointed, then terminated and then reinstated in the offic Chief Engineer (CDO) C&W Department Peshawar

1. Arikkhañ* Dad Karim Peshawar Chowkidar 0.1 E-2/253 0.107-2010 2. Said Farosh Main Farosh Mardan Driver 04 E-2/254 0.107-2010 3. Ashfaq Ahmad Manzer Saleem Charsadda Chowkidar 01 E-2/257 0.107-2010 4. Gohar Muhammad Qadir Muhammad Mardan Oriver 04 E-2/257(E) 0.107-2010 5. Muhammad Tariq Naridar Khan Charsadda Driver 04 E-2/257(E) 0.107-2010 6. Nasir Younas Younas Ramzan Peshawar Naib Gasid 01 E-2/257(E) 0.107-2010 8. Munaf Gul Jan Gul Peshawar Naib Qasid 01 E-2/257(E) 0.107-2010 9. Noorullah Rahmatullah Peshawar Driver 04 E-2/271 19-07-2010 10. Fazidullah Siraj Muhammad Swabi Naib Qasid 01 E-2/272 19-07-2010 11.		SI.			·····	r — — —			
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33 Muhammad Aftab Muhammad Yousaf Peshawar Naib Qasid 01 E-2/322 29-07-2010	ł		Zafar Iqbal	Muhaammad Bashir	Peshawar	Daftari	02	E-2/320	<u> </u>
34 Arif Shah	ł	<u> </u>		Muhammad Yousaf	Peshawar	Naib Qasid	01		
		34	Arif Shah	Haji Alif Shah	Peshawar	Lab Attendant	02	E-2/323	29-07-2010

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ANNEXURE - I

OFFICE OF THE CHIEF ENGINEER CENTRAL DESIGN OFFICE C&WD 8-A SHAMI ROAD PESHAWAR

No.E-2/356 Dated 13,98.2019.

OFFICE ORDER

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In compliance with the directive vide Secretary, to GOKP C&W Department letter No.SOE/C&WD/17-4/2010, dated 13.08.2010, the office orders issued in respect of the following officials are hereby cancelled.

SI:No.	Name	Father's Name	Order No. & Date
1	Mir Afzal	Muhammad Khan	2-E/307, 29.07.2010.
2	Shehzad Khan	Shaukat Khan	2-E/306, 29.07.2010
	Shahid Ahmed	Abdur Rashid	2-E/302, 29.07.2010
4	fariduliah	Badshah Gul	2-E/300, 29,07.2010
5	Muhammad Aftab	Muhammad Yousaf	2-E/322, 29.07.2010
5	Haroon	Faqir Muhammad	2-E/301, 29.07.2010
7	Faizullah	Siraj Muhammad	2-E/272,*19.07.2010
	Shakeel Ahmed	Gulmast Khan	2-E/273, 19.07.2010
9	Akbar Hussain	Khan Afzal	2-E/275, 19.07.2010
<u>i 0</u>	Javed	Abdur Rahim	2-E/318, 29.07.2010

It is further added that it seems very difficult rather impossible to withdraw/cancel all the recruitment orders regarding class-iv, as, office of the CE CDO, Principal Architect & the recently established Flood Damages Restoration Project Directorate of C&W Department are all dependent and functions with the help and assistance of these very class-iv staff please.

CHIEF ENGINEER COL

Copy to the:-

1. Secretary, to GOKP C&W Department Peshawar, with ref: to above for information.

CHIEF ENGINEER COO

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ANNEXURE - J



OFFICE OF THE CHIEF ENGINEER CENTRAL DESIGN OFFICE C&W DEPARTMENT KHYBER PAKHTUNKHWA 8-A,SHAMI ROAD PESHAWAR

OFFICE ORDER

No.2-E/ 36/ Dated 18 108/2010

In compliance with the directive vide Secretary, to GOKP C&W Department letter No.SOE/C&WD/17-4/2010, dated 13.08:2010, and in continuation of this office order No.E-2/356 dated 13/08/2010, the office orders issued in respect of the following officials are hereby cancelled.

li No.	Name	Father's Name	Curley N. C. D
	Waqar Ali Shah	Umar Shah	Order No. & Date
2.	Muhammad Junaid Abid	Abid Jan	2-E/312, 29\07.2010
3'	Mian Amin Jan	Mian Fazal-e-Naeem	2-E/313, 29.07.2010
	Noorullah	Rahmatullah	2-E/309, 29.07.2010
5.	Khalid		2-E/271, 29.07.2010
	ArifShah	Muhammad Sardar	2-E/287, 22.07.2010
7.	Adnan Yaqub	Haji Alif Shah	2-E/323, 29 07 2010
دا.	Zalar Iqbal	Yaqub Khushi	2-E/304, 29.07.2010
9.	Waheed Ahmed	Muhammad Bashir	2-E/320, 29.07.2010
10.	Asif Khan	Jamshid Khan	2-E/314, 29,07.2010
11.	Amjid Ali	Zarif Khan	2-E/257(d) 29.07,2010
. 12	Sher Aman Shah	Ghulam Hassan	2-E/303, 29.07.2010
13.	Jawad Khan	Mir Akbar Shah	2-E/315, 29.07.2010
14.	I Matti-ullah Shah	Muhammad Yourias	2-E/319, 29.07.2010
15	Fida Jan	Abdul Qayum	2-E/317, 29.07.2010
16.	Rashid Hameed	Faqir Muhammad	2-E/308, 29.07.2010
17		Abdul Hameed	2-E/310, 29.07:2010
18.	Said Farosh	Mian Farosh	2-E/254,01.07.2010
19.	Ashfaq Ahmad	Manzar Saleem	2-E/256, 01.07.2010
	Arif Khan	Dad Karim	2-E/253.01.07.2010
20.	Gohar Muhammad	Qadir Muhammad	<u>2-E/257(a)01.07.2010</u>
21.	Muhammad Tariq	Namdar Khan	<u>2-E/257(a)01.07.2010</u> <u>2-E/257(b)01.07.2010</u>

CHIEF ENGINEER COO

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Secretary, to GOKP C&W Department Peshawar, with ref: to above for information please.

CHIEF ENGINEER CDO



OFFICE CENTRAL OF. THE: · DESIGN 8-A SHAMI **OFFICE** NO: 10 DA TED:

2010

HNNEXURE - K ĆHIEF[‡] ROAD KHYBER PAKHTUNKHWA PESHAWAR ENGINEER

OFFICE ORDER

The appointment orders issued by this office in respect of the following officials are hereby restored with effect from the date of their appointment noted against each in the best interest of public work

Munafcul		Mame/Father's Name		Work:		
to installe	1.	Munaf Gul S/O Jan Gul	Designation	Order No.	1	~
			Sweeper	17.0/0	Jan and a state of the state of	
Hermasiv	2.	Nasir Younas S/O Younas Ramza	BPS-01	E-2/257(e)	01/07/2010	2011 - 10 10
Tores and		y rounas Ramza	n Sweeper	E-2/257(c)		: - -
	3.	Qaarib Ali S/O Anwar Haider	BPS-01	~ 4/20/(C)	01/07/2010	: ر
		- Flaider	Naib Qasid	E-2/305		• . •
			BPS±01	2 2/303	29/07/2010	
· ,						ί.

 CC_{1}

an Chief Engineer (CDO)

Administrative Officer

District Coordination Ordeor Peshawar

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- م. سطر
- Secretary to Government of Khyber Pakhtunkhwa Communication &
- Accountant General Khyber Pakhtunkhwa Peshawar. > Official Concerned. ➢ Cashier (Local)

ANNEXURE - L

List of All Employees appointed against Class-IV vacancies in 0/0 Chief Engineer Central Design Office C&W Department Peshawar

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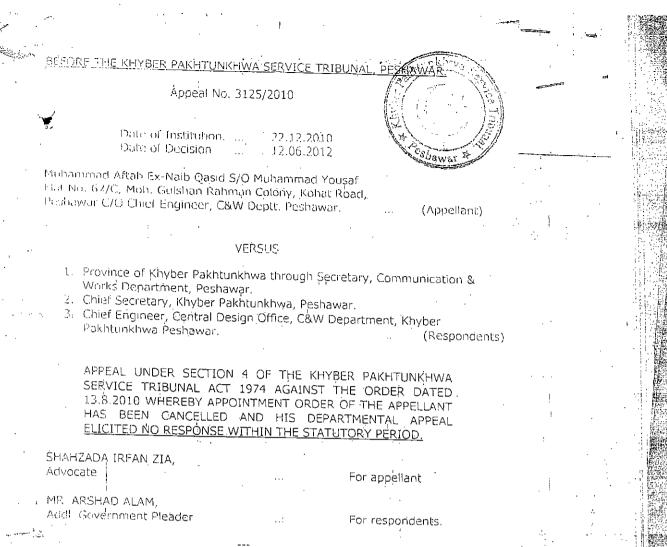
						·
S.	Name of Employee	Father's Name	CNIC No.	Designation	Date of Appointment	Station of Duty
<u>No.</u>		E	15602-3997499-1	Lab Attendant	04.10.2010	SE Circle Swat
ĭ.	Raees Ahmad		17201-3502101-5	Lab Attendant	20.09.2010	RR&MT Lab Pesh;
2.	Usman Shah	Noor Shah	13503-3515080-1	Lab Attendant	20.09.2010	SE Circle Battagram
3.	Taimoor Rauf	Abdur Rauf	14301-6039056-5	Lab Attendant	20.09.2010	SE Circle Kohat
4	Zahir Khan Muhammad Rashid Khan	Ajmir Khan Muhammad Zakir Khan	16101-6230288-9	Lab Attendant	20.09.2010	SE Circle Mardan
5.			16101-4318417-5	Lab Attendant	20.09.2010	SE Circle Mardan
6.	Farooq Nasir	Nasir Ali	14202-3837070-3	Lab Attendant	20.09.2010	SE Circle Kohat
7 <u>.</u>	Arshad Nawaz	Noor Nawaz	15201-0597251-7	Lab Attendant	28.09.2010	SE Circle Dir Lower
8.	Imran Ali Shah	Zaffar Ali Shah	12101-0328231-5	Lab Attendant	18.10.2010	SE Circle DI Khan
9.	Ijaz Ahmad	Muhammad Sharif	15602-7218558-7	Lab Attendant	08.10.2010	SE Circle Swat
<u>10:</u>	Irfanullah	Waseem Khan	12101-0970257-3	Lab attendant	08.10.2010	SE Circle DI Khan
11.	Waseem Abbas	Hamidullah	15306-3258492-7	Lab Attendant	18.10.2010	
12.	Abidullah	Said Hakeem Khan			16.09.2010	
13.	Wilayat Ali Shah	Gul Hassan Shah	17301-6053000-5	Lab Attendant	16.09.2010	
14	Ihsanullah Khan	Asmatullah Khan	11101-3591645-7	Lab Attendant		
15.	Khalid	Muhammad Sardar	17301-1341709-7	Driver	16.09.2010	
16.	Abdul Waheed	Abdul Jameel	16101-7892278-9	Driver	16.09.2010	
17.		Zalo Khan	17301-9141688-5	Driver	16.09.2010	
18	Zahid Khan	Taj Muhammad	16101-9656286-3	Driver	16.09.2010	
19		Sabz Ali Khan	17101-3760580-1	Driver	16.09.2010	
20		Najmul Hassan	14301-1990629-9		20.09.2010	
21		Muhammad Jan	17101-3064097-7		20.09.2010	
22		Muhammad Ayaz	17301-3336536-9		20.09.201	
23		Ghulam Abbas	12103-5616601-9	Driver	25.09.201	
24		Sawab Gul	15602-0358103-	1 Driver	08.10.201	
2				Driver	By transfe	er RR&MT Lab Pesh
2		Rafiullah Khan		Driver	20.09.201	
20			r 16101-772693-	1 Naib Qasid	16.09.201	
		Sher Jan	16101-4725960-	7 Naib Qasid	16.09.201	
2		Muhammad Nasee	r 16101-6926838	-I Naib Qasid	16.09.201	0 CE CDO
2		Feroz Khan	16101-2898170		16.09.20	
_	0. Abdul Wahab	Mehr Muhamma	d 17101-2135035		16.09.20	
	1. Riaz Ahmad	Muhammad Salee	m 17102-0820518	-5 Naib Qasid	16.09.20	
	2. Mazhar Ali		17101-2826199		16.09.20	10 CE CDO
	3. Wajid	Dilshad	17101-3993448		16.09.20	10 CE CDO
	4. Fazal Khan	Purdil Khan	17101-4436083			
	5. Kausar Ali	Murad Ali	17201-2092299			
- H-	36. Khalid Hameed	Aslam Khan				
. –	37. Liaqat Ali	Sakhi Muhamm				
	38. Shah Faisal	Muhammad Safd	17301-153282			
l	39. Muhammad Arif Kha		17301-483358			
[40. Shahzad Khan	Shoukat Khan	16101-849868			
. [41. Tahir Ali	Hassan Dad				
Γ	42. Rahim ullah	Awal Gul	14202-283252			
	43. Sangin Bacha	Fazle Mehboot	15602-289416	58-1 Naib Qasi	u 100.10.2	

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5.	Name of Employee	Father's Name	CNIC No.	Designation	Date of	Station of Duty
0.		!		-	Appointment	
4.	Qarib Ali Haidri	Anwar Haider	17301-9921790-3	Naib Qasid	29.07.2010	CE CDO
5:	Af <u>şar, Z</u> aman	Qamar Zaman	11101-2429269-7	Naib Qasid	16.09.2010	SE Circle Bannu
6.	Muhammad Shabeer			Naib Qasid	By Tranfer	SE Circle Battagram
<u>7.</u>	Shakeel Jan	Marafat Shah	17101-9101624-3	Chowkidar	16.09.2010	Pr. Consulting Arch,
8.	Muhammad Kamal	Fida Muhammad	17301-9356279-5	Chowkidar	20.09.2010	RR&MT Lab Pesh;
9	Bawar Shah	Awal Said	16101-7877488-9	Chowkidar	16.09.2010	SE Circle Mardan
0.	Ainaz Ali I	Ali Afzal	14101-5640497-5	Chowkidar	16.09.2010	SE Circle Kohat
1	Gulab Shah	Rajan Shah	11101-9427748 ₇ 5	Chowkidar	08.10.2010	SE Circle Bannu
2	Muhammad Naeem	Muhammad Nazir	15602-0378223-3	Chowkidar	08.10.2010	SE Circle Swat
3	Shah Jehan	Shah Nawaz	12101-4330394-3	Chowkidar	15.10.2010	SE Circle DI Khan
4.	Saif ur Rehman	Naray	13503-775471-7	Chowkidar	04.10.2010	SE Circle Battagram
5.	Khan Raheem	Gul Raheem	17101-7698194-9	Chowkidar	16.09.2010	CE CDO
6.	Faridullah	Habibullah	15306-8274308-9	Chowkidar	18.10.2010	SE Circle Dir Lower
57.	Bahadur Ali	Gula Khan	11101-7091460-7	Sweeper	08.10.2010	SE Circle Bannu
58.	Nasir Ali	Usman Ali	15602-8550508-9	Sweeper	06.10.2010	SE Circle Swat
59.	Nasir Younas	Younas Ramzan	17301-5201466-9	Sweeper	01.07.2010	CE CDO
<u>50.</u>	Munaf Gul	Jan Gul	17301-9047043-3	Sweeper	01.07.2010	CE CDO
51.	Nasrullah	Badshah Laiq	15302-4114841-9	Sweeper	18.10.2010	SE Circle Dir Lower

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MR. SULTAN MAHMOOD KHATTAK, MR. NOOR ALI KHAN

MEMBER MEMBER

JUDGMENT

SULTAN MAHMOOD KHATTAK, MEMBER. This appeal has been filed by Munammad Aftab, the appellant under Section 4 of the Khyber Pakhtunkhwa Service Triounal Act 1974, against the order dated 13.8.2010, whereby his appointment order has been concelled. It has been prayed that on acceptance of the appeal, the impugned order may be set aside and the appellant may be reinstated into service with all back benefits.

2. Brief facts of the case as averred in the memo, of appeal are that respondent No. 3 advertised posts of different categories including the post of Naib . Qasid in the press. The appellant applied for the post of Naib Qasid and after

successful completion of prescribed selection process, and on the recommendations of the Department Selection Committee, he was appointed as Naib Qasid by the compotent authority on regular basis, vide order dated 29.7.2010. The appellant took over charge of the post and started to perform his duties to the entire satisfaction of his superiors. His appointment order has been cancelled vide impugned order dated 13.8.2010. Feeling aggrieved, the appellant filed departmental appeal on 6.9.2010 through proper channel, which has not been decided within the statutory period of ninety days, hence the present appeal on 22.12.2010, which is well within time.

The appeal was admitted to regular hearing on 17.1.2011 and notices . 3. were issued to the respondents. They filed their joint written reply and contested the appeal. The appellant also filed rejoinder in rebuttal.

The learned counsel for the appellant argued that being fully qualified for 4 the post, the appellant was appointed as Naib Qasid by the competent authority on 20.7.2010. He took over charge, and served on the post for some time and valuable rights have been accrued to him. Subsequent cancellation of appointment order is in clear violation of principles of locus poenitentiae. He further argued that appointment order of the appellant has been cancelled without any reason, which is against the spirit of Section 24-A of General Clauses Act. In support of his arguments, the learged courset relied op a judgment of august Supreme Court of Pakistan as reported in PLJ 1999 SC 1104. He stated no charge sheet/statement of The proper enquiry conducted and he has been condemned unheard. In case of removal from service, conduct of regular enquiry against a civil servant is mandatory under the law even against a probationer, but no such enquiry has been conducted. He requested that the appeal may be accepted as prayed.

The learned AGP on the other hand, argued that while appointing the appellant codal formalities have not been observed. During selection process, representative of the Administrative Department was not present. Hence appointment order of the appellant was illegal and such appointment order can be withdraw/rescinded at any time. He requested that the appeal may be dismissed.

5.

6.

The Tribunal observes that the appellant was appointed as Naib Qasid by the competent authority vide order dated 29.7.2010. He took over charge of the ; post and served on the post for some time and valuable rights have been accrued to him. If there was some flaw in selection process, it was the responsibility of the

resp. "deals for which the appellant could not be suffered. The Tribunal further equipment order of the appellant has been subsequently withdrawn through the impugned order dated 13.8:2010 but no reason whatsoever given for withdrawal of appointment order, which is against the spirit of Section 24-A of General elevent of the impugned order clearly Jows that the Chief Engineer, CDO was not willing to cancel appointment order of the appellant and not acted independently. The impugned order is nothing but a nullity in the eyes of law. The Tribunal agrees with the arguments advanced by the learned counsel for the appellant.

In view of the above, the appeal is accepted, the impugned order dated 13.8.2010 is set aside, and the appellant is reinstated into service with all back benefits. Parties are left to bear their own costs. File be consigned to the record.

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8.

Having common questions of law and fact, this order will also dispose of other connected service appeals No. 3126/2010, Akbar Hussain, No. 3127/2010 Mir Alzal, No. 3128/2010 Shahid Ahmad, No. 3129/2010 Asif Khan, No. 3130/2010 Arif Khan, No. 3131/2010 Gohar Muhammad, No. 3132/2010; said Farosh and 3133/2010 Rashid Hameed, in the same manner.

ANNOUNCED 12.6.2012 (NOOR ALI KHAN) (SULTAN MAHNOOD KHATTAK) MEMBER MEMBER. Cortin tase copy

Date of Th

THE SUPREME COURT OF PAKISTAN (APPELLATE JURISDICTION)

PRESENT

ANNEXURE - N Affection to Sher Khan MR. JUSTICE EJAZ AFZAL KHAN. MR. JUSTICE IJAZ AHMED CHAUDHRY

Civil Patitions No.401 to 409-P/2012 (Against the judgment dated 12.6.2012 passed by the KPK Service Tribunal, Peshawar in Appeals No.3125-3133/10)

Secretary, Govt. of KPK, Communication & Works, Peshawar and others

Petitioners (in all cases)

Versus.

Muhammad Aftab Akbar Hussain Mir Afzal Shahid Ahmad Asif Khan Arif Khan Gohar Muhammad Said Farosh Rashid Hamid

For the petitioners:

For the respondents:

(in CPa 401-408-P/12) Date of hearing.

Respondent (m C2 401-P/12) Respondent (in CP 402-P/12) Respondent (in CP 403-P/12) Respondent (in CP 404-P/12) Respondent (in CP 405-P/12) Respondent (in CP 106-P/12) Respondent (in CP 407-P/12) Respondent (in CP 408-P/12) Respondent (in CP 109-P/12)

Mr. Zahid Khan, Addl.A.G. KPK

in person

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ORDER

EJAZ AFZAL KHAN, J .- These petitions have arisen out of the judgment dated 12.6.2012 of the Khyber Pakhtunkhwa Service Tribunal, Peshawar, whereby, the appeals filed by the respondents allowed, were the orders cancelling their appointments were set aside and they were re-instated in service with back benefits.

The main contention of the learned AddhA.G. was that 2. where codal formalities were not complied with, the appointments of the respondents being against the law could not be restored by the Service Tribunal.

We have gone through the available record carefully 3 and considered the submissions of the learned AddI.A.G.

Hator Mine Bar Citra Cale (Engineer (CDO) C&W Deptt: Postawar

Chief Engineer

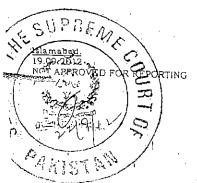
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When, we asked the learned Addi A:G. whether the asspondents were eligible for appointment against their respective posts, the answer was in the affirmative. When, we asked the learned Addi A.G. whether the person flouting the codal formalities has been proceeded against or he is still in service, the answer was that he has not been proceeded against and that he is still in service. Where the person flouting the codal formalities is still in service and enjoying all the perks and privileges with impunity why should the respondents be ousted from service for none of their faults, that too when their eligibility to hold the posts is not disputed. The impugned judgments thus being free from any error or infirmity much less legal or jurisdictional are not open to any efference.

5. For reasons discussed above, these petitions being without merit are dismissed and leave to appeal refused.



<u> 2: 101-102-0712</u>

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9681/2012 CivilCrimin. Opta of Presentation: No. of Words: No. of tolica: 12 Regulation Fee Rs: Copy Fao In: Court Pae stamps: Data of Completion of Conv Date of delivery of Copy:

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Chief Engineer CDO(R(d)

DUB VEYBER PAKHTUNKEWA SERVICE TOTBUNAL, PESH	ΔM	00014	IN AU	1001003	1000	44000					
			1973 (Mar	1.100	けいに	D. LO	K IV.	ITH INH	DARH	SHOWDED	1.1

Appeal No. 438/2011

Date of Institution ... Date of decision

Peshawar.

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Hearing

15.2.13

t4.3.2011 15.2.2013

<u>VEP SUS</u>

Government of Khyber Pakhtunkhwa through Secretary; C&W Department, Peshawar. Chief Secretary Khyber Pakhtunkhwa, Peshawar.

Chief Engineer Central Design Office, C&W Department, (Respondents)

APPEAL UNDER SECTION 4 OF THE KHYBER PAKETUNKHWA SERVICE (TRIBUNAL ACT 1974 AGAINST THE ORDER DATED 13:8:2010 WHEREBY APPCINTMENT ORDER OF THE APPELLANT HAS BEEN CANCELLED AND NO PESPONSE RECEIVED UPON THE DEPARTMENTAL REPRESENTATION/APPEAL OF THE APPLICANT WITHIN THE STATUTORY PERIOD

Order/Proceedings of the Court with signature of Judge/Magistrates	
 Appellant, with counsel and Mr. Arshad Alan	AGP for
the respondents present. Arguments heard an	d record)
perused.	· · ·

2. This appeal has been filed by Waheed Ahmad, the appellant under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, against the order dated 13.8.2010, whereby his appointment order, has been cancelled. It has been prayed that on acceptance of the appeal, the impugned order may be set aside and appointment order dated 25.7.2010 of the appellant be restored with all back/consequential benefits.

NNEXURE - (

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3. At the very outset the learned counsel, to the appellant, produced a certified copy of a consolidated judgment dated 12.6.2012 of this Tribunal in Service Appeal No. 3125/2010, Muhammad Aftab and three others, Versus Province of Khyber Pakhtunkhwa through Sectory C&W

Oppartment, Peshawar etc.", and stated that similarly elaced persons have already been reinstated into service. The appellant is also entitled to the same treatment. He requested that the appeal may be accepted as prayed for. 4. In view of the above, this appeal is also decided with the same directions as issued in Service Appeal No. 3125/2010 with further direction to the respondents to ascertain as to whether the appellant of this case is a person similarly placed person with the appellants in the i_{j.}., aforementioned service appeals or otherwise. Parties are left to bear their own costs. Hile be consigned to the record-4- Nose de Wasser ANNOUNCLU 15.2.2013 INC Parcor n den policabéa Date Sa Date of Light

TINMEXUKE - P List of 10 Nos. Class-IV Employees re-instated in Govt. Service through Court

	<u></u>	:		
SI. No.	Name of Official	Father's Name	Designation	Remarks
A	Muhammad Aftab	Muhammad Yousaf.	Naib Qasid	
2	Akbar Hussain	Khan Afzal	Naib Qasid	······
3.	Mir Afzal	Muhammad Khan	Naib Qasid	
4	Shahid Ahmad	Abdur Rasheed	Naib Qasid	<u>_</u>
5.	Asif Khan	Zarif Khan	Naib Qasid	
6.	Arif Khan	Dad Karim	Chowkidar	
7.	Gohar Muhammad	Qadir Muhammad	Driver	
8.	Said Farosh	Mian Farosh	Driver	······································
9.	Rashid Hameed	Abdul Hameed	Chowkidar	
10.	Waheed Ahmad	Jamshaid Khan	Daftari	·

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List of 08 Nos. Class-IV Employees re-instated in Govt. Service through Appeal

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SI. No.	Name of Official	Father's Name	Designation	Remarks
Į.	Haroon Khan	Faqeer Muhammad	Naib Qasid	
2.	Ashfaq Ahmad	Manzar Saleem	Chowkidar	1
3.	Noorullah	Rahmatullah	Driver	
4.	Mian Amin Jan	Mian Fazle Naeem	Naib Qasid	<u> </u>
5.	Javed	Abdur Rahim	Naib Qasid	
6.	Matitullah Shah	Abdul Qayum	Naib Qasid	
7.	Muhammad Junaid Abid	Abid Jan	Naib Qasid	<u>_</u>
8.	Zafar Iqbal	Muhammad Bashir	Daftari	

ANNEXURE - R

TOTAL ARREAR PAID TO CLASS-IV EMPLOYEES REINSTATED IN GOVT. SERVICE THROUGH COURT ORDERS AND THROUGH DEPARTMENTAL APPEAL

SI.		· · · · · · · · · · · · · · · · · · ·
No.	Arrears	Amount
1.	Arrears Paid to Class-IV Employees after	Paid
	restoration through Court Orders	2686673/-
2.	Arrears Paid to Class-IV Employees after	
	restoration through Departmental Anneal	3048583/-
	TOTAL	5735256/=
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Administrative Cithici/B&A Officer Chief Engineer (COO) C&W Cages, in Canvar Arrears Paid to Class-IV Employees after restoration through Court Orders

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يني: No.	Name of Employee	Designation	BPS	Voucher No. & Date (Month of arrear claim)	Amount Paid	Remarks
.1.	Mir Afzal	Naib Qasid	01	12/2012	259984	CDO
2 '	Shahid Khan	Naib Qasid	01	12/2012	259984	CDO
3.	Arif Khan	Chowkidar	01	12/2012	258746	СРО
4	Gohar Muhammad	Dríver	04	12/2012	267082	CDO
5	Waheed Abmad	Daftari	02	01/2014	449257	Pr. Consulting Architect
5,	Akbar Hussain	Naib Qasid	01	01/2013	292231	Xen Swat
7.	Said Farosh	Driver	04	01/2013	298671	Xen Swat
8.	Muhammad Aftab	Naib Qasid	01		273000	RR&MT Lab Peshawar
9.	Asif Khan	Naib Qasid	01		273000	RR&MT Lab Peshawar
10.	Rashid Hameed	Chowkidar	·01	01/2014	54718	CDO
	ΤΟΤΑΙ	· .			2686673/-	

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Administrative Officer Administrative Officer/ Churl Englisser (CPO) C&W Deput Peshawar

Arrears Paid to Class-IV Employees after restoration through Departmental

Appeal

<u>.</u>						
SI. No.	Name of Employee	Designation	BPS	Voucher No. & Date (Month of arrear claim)	Amount Paid	Remarks
1.	Haroon Khan	Naib Qasid	<u>0</u> 1	12/2012	259984	CDO
2.	Zafar Iqbal	Daftari	Ó2	12/2012	287875 123380	Pr. Consulting Architect CDO
3.	Javed Khan	Naib Qasid	01	01/2014 i/c dated 02-08- 2013 ⁱ	265049 138320	Pr. Consulting Architect CDO
4.	Noorullah	Driver	04	01/2014	434285	Pr. Consulting Architect
5 ;	Ashfaq Ahmad	Chowkidar	01	01/2014	420664	Pr. Consulting Architect
6.	Mian Amin Jan	Lab Assistant	05	05/2015	530638	SE Battagram
7	Matiullah Shah	Naib Qasid	01	04/2013	294194	Xen Highway Peshawar
8	Muhammad Junaid Abid	Naib Qasid	01	04/2013	294194	Xen Highway Peshawar
۰.	TOTAL				3048583/-	

Administrative Officer Administrative Officer Chief Englisheret (CDO) CSW trypt: Fouldasenr



The Administrative Officer, O/O Chief Engineer (CDO) C&W Department Poshawar,

S-shject: -

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LIST OF STAFF OF ROAD RESEARCH & MATERIAL TESTING LABORATORY CAW CIRCLE ABBOTTABAD.

Detect

References

Your office telephonic massage date 17.8.2015.

As desired, the requisite information is as under, please-

			et desninavon		
	-12232	Mohemmad Najeelo	Assistant Research Officer (SPS-16)		和言語
	5	Hemid Mehmood	Junior Clerk (BPS-11)		-
	8	Shahid Masood	Laboratory Assistant (BPS-5)		
 	4	Secib Habib	Laboratory Attendant (BPS-2)		
1	5	Saleem Babar	Laboratory Atlandant (BPS-2)		
•	4	Sajid Khan	Driver (BPS-1)		1 -1
		Raheel Ahrried	Neib Dasid (BPS-II)		
	S.	Rejo Muhannmed Saldar	Chowkidian (JPS-1)	d dari sa	بار : بار :
	9	Zahoor Shah	Sweeper (BF\$ 03)	-l- 3	

SUPERINTERDING ENGINEER

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ANNEXURE - S

SUPERINTENDING ENGINEER LEWCIRCLE ABBOTTABAL

Phone # 0092-0310258/Fax # 03:0364 E-melli-circle_stat@yabbo.com No. \mathcal{A} (\mathcal{A}) / \mathcal{A}

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2/06/2015

INEN C W DIVISION MANSEHRA

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Office of the Superintending Engineer C& W-Circle Battagram

No 224 1200 Dated Battagram the /1/2010.

OFFER OF APPOINTMENT

On the recommendation of the Departmentel Selection Committee as per its meeting held on 29/11/2010, the Competent Authority is pleased to other a post of Laboratory Attendant (EPS-2) (Rs 3035-100-6035) to Kamran Aziz S/O Ghulam Sabir on the following terms and conditions:-

. He will get pay at the minimum of (BPS-2) (Rs 3035-100-6035) including usual allowances as admissible under the rules. He will also be entitled to annual increment as per existing policy.

- He shall; be governed by the NWFP Civil servents Act-1973 and all the laws 2. applicable to the Civil servants and Rules made there under.
 - He shell, for all intents and purposes, be a Ghill servant except for purpose of pension or gratuity. In lieu of pension and gratuity, he shall be entitled to receive such amount contributed by him towards contributory Provident Fund (C.P.F) along with the contributions made by the Government to his account in the said func; in the prescribed manner and rate fixed by the Government from time to time.
 - His employment in Communication & Works Department is purely. temporary and his services are liable to be terminated without assigning any reasons at fourieen (14) days prior notice or on the payment of 14-days salary in lieu of the notice. In case he wishes to resign at any time, 14-days notice will be necessary or in lieu thereof 14-days pay will be forfeited.
 - He shall, initially be on probation for a period of two years extendable upto 3

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He Shail, produce a Medical certificate of fitness from the Medical Superintendent DHQ Hospital Mansehra, before reporting himself for duty as required under the rules.

He shall be allowed convoyance, Medical House Rent allowance, leave and TA/DA as per Govt; Rules.

He has to join duty at his own expenses.

Б.

Ζ5.

3.

If he accepts the post on the above conditions he should report to the office of the Assistant Research Officer Road Research & Material Testing Laborite C&W Circle Battagram within 14-days of the receipt of this offer and produce original certificates in connection with his qualification, domicile and health/age etc.

SuperinKinding Engineer, C&W Circle Battagram.

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CRW Circle Batteorom

Copy forwarded for information to this,

Private Secretary to Minister for Food NWFP Peshawar for Information. 1

- Chief Engineer (North) C&W Department KPK Peshawar 3
 - Assistant Research Officer Road Research & Material Testing Laborite C&W Circle Battagram.

District Account Office Mansehra.

Kamran Aziz S/O Ghuiam Sabir Mohailaha Jalal Abad Dab No.1 Mansehra.

FROM :XEN C W DIVISION MANSEHRÀ

4

б.

Office of the Superintending Engineer C&W Circle Battagram

No 2213 28 Dated Esttagram the /11/2010.

OFFER OF APPOINTMENT

On the recommendation of the Departmental Selection Committee as per its meeting held on 29/11/2010, the Competent Authority is pleased to offer a post of Sweeper (BPS-1) (Rs 2970-90-5670) to Hessen All S/O Muhammed Avi 5 on the following terms and conditions.-

- He will get pay at the minimum of (SPS-1) (Rs 2970-90-5870) including , e usual allowances as admissible under the rules. He will also be entitled to annual increment as per existing policy.
- He shall, be governed by the NWPP Civil servants Aut-1973 and all the laws 2. applicable to the Civil servants and Rules made there under.
- He shall, for all intents and purposes, be a Civil servant except for purpose 3, of pension or greatity. In lieu of pension and gratuity, he shall be entitled to receive such amount contributed by him towards contributory Provident Fund (C.P.F) along with the contributions made by the Government to his account in the said fund, in the prescribed manner and rate fixed by the Government from time to time.
 - His employment in Communication & Works Department is purely temporary and his services are liable to be terminated without assigning any reasons at fourteen (14) days prior notice or on the payment of 14-days salary in lieu of the notice. In case he wishes to resign st any time, 14-days notice will be necessary or in lieu thereof 14-days pay will be forfelted.
- He shall, initially be on probation for a period of two years extendable up o 3 5 vears,
 - He Shall, produce a Medical certificate of fitness from the Medical Superintendent OHO Hospital Mansehra, before reporting himacil for duly as required under the rules.
- He shall be allowed conveyance, Medical House Rent ellowshos, leave and .7. TA/DA as per Govt; Rules.
- <u>s.</u> He has to join duty at his own expenses,
- If he accepts the post on the above conditions he should report to the office ţ.) of the Assistant Research Officer Road Research & Material Testing Laborite C&W Circle Battagram within 14-days of the receipt of this offer and produce original certificates in connection with his qualification, comicile and health/age etc.

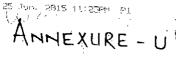
Superintending Engineer, C&W Circle Battågram.

Copy forwarded for information to the;

- Private Secretary to Minister for Food NWFP Peshawar for information. 1. 2.
 - Chief Engineer (North) C&W Department KPK Peshawar
- Assistant Research Officer Road Research & Material Testing Laborite З. C&W Circle Battagram.
- District Account Office Mansehra. 4.)...
 - Hassan Ali S/Ó Muhammad Ayub Mohallaha Jandar Banda Mansehra.

kending Engineer, CAW Circle Battagram

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CIFFICE OF THE CHIEF ENGINEER (NORTH) C8W DEPARTMENT KHYBER PAKHTUNKHWA PESHAWAR

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OFFICE ORDER

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SE TIMERGARA

Syed Abdur Rauf Driver attached to the Office of the Executive Lingineer Communication and Works Division Dir Lower at Timergarah is hereby transferred / posted to the Office of the Road Research Material Testing Laboratory C&V/ Circle Dir Lower at Timergarah with immediate effect in the public intercat

Chief Engineer (North)

3-

Secretary Communication and Works Department NWFP Peshawar. Superintending Engineer C&W Circle Dir Lower at Timergarah. Executive Engineer C&W Division Dir Lower at Timergarah. District Accounts Officer, Dir Lower at Timergarah. Official concerned.

Administrative/Officer (North)

25 Jun. 2015 11:26PM P1 CHIEF ENGINEER (NORTH)

looken & for

OFFICE OF THE CHIEF ENGINEER (M), C&W DEPARTMENT PESHAWAR.

115.175-E (\tilde{A}, \tilde{A})

DATED PESHAWAR THE3 0/04/2010

OFFICE ORDER

Mr. Muhammad, Said, Naib Qasid attached to the office of the Executive Engineer C&W Division Dir Lower is hereby transferred / posted to the Material Testing Laboratory Dir Lower at Timergarah with immediate effect in the public interest.

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The Secretary to Govt. of NWFP Communication & Works Department. The Chief Engineer (Centre) C&W Peshawar.

The Superintendent Engineer C&W Circle Dir Lower at Timergareh The Executive Engineer C&W Division Dir Upper.

The Executive Engineer C&W Division Dir Lower at Timergaran.

Official concerned. P/F of officials.

(ENGR: USMAN KHAN) CHIEF ENGINEER (NORTH) C&W Department Peshawar

ADMINISTRATIVE OFFICER

OFFICE OF THE SUPERINTENDING ENGINE C&W CIRCLE D.I. KHAN No. <u>1369/65</u> Dated: 2-6-18-2-016

ANNEXURE

OFFICE ORDERS.

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З.

On the recommendation of the worthy Secretary C&W Department Khybe Phakhtunkhwa Reshawar the competent authority is pleased to offer a Post of Naib Qasii (8PS-1) (Rs. 2970-90-5670) vacant in Road Research & Material testing Laboratory at C&V Gircle D.I.Khan to Muhammad Khalid Khan S/O Muhammad Nasir Khan of Kulachi Distric

- He will get pay at the minimum of BPS-1 (Rs. 2070-00-570) including usual allowances as admissible under the rules. He will get also be entitled to annual increment as per existing policy. 2.
- He shall be Governed by the Khyber Phaktunkhwa Civil Servants Act-1973 and all the laws applicable to the civil servant and rules made there under. 3

He shall for the intents and purposes be a Civil Servant expect for purpose of pension or guaranty, he shall be entitled to receive such amount contributed by him towards contributory Provident Funds (C.P.F) along with the contributions made by the Governments to his account in the said fund; in the prescribed manner and rates fixed by the government from time to time.

His employments to Communication & Works Department is on regular basis his services are liable to terminated at fourteen (14) days prior notice or on the payment of 14-days salary in lieu of the notice. In case he wishes to resign at any time, 14-days notice will be necessary or in lieu there of 14-days pay will be

He shall produce a Medical Certificate of fitness from the Medical Superintenclent, DHQ Hospital D.I.Khan before reporting him self for duty as required under the He has to join his duty at his own expenses.

He shall have to serve any where in K.P.K.

- if he except the post of above conditions he should report to the office the

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C&W CIRCLE D.LEHAN Secretary C&W Department K.P.K Peshawar with reference to his recommendation/ Approval during discussion on 25-10-2010 please. Chief Engineer (CDO) C&W Department Peshawar for information and confirmation please, as directed by the Secretary C&W Department Peshawar Mr: Muhammad Khalid S/O Muhammad Nasir Khan of Kulachi District D.I.Khan.

SUPERINTENDING ENGINEER

SUPERINTEN RING ENGINEER C&W CIRCLE D.I.KHAN

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