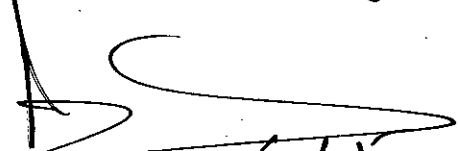



S.No. Of Order or proceedings	Date of Order or proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties or counsel where necessary.
	2.6.2015	<p style="text-align: center;"><u>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u> <u>CAMP COURT SWAT</u></p> <p style="text-align: center;">APPEAL NO. 1158/2012</p> <p style="text-align: center;">(Akhtar Gul-vs-PPO, Khyber Pakhtunkhwa and two others).</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:</u></p> <p>Appellant with counsel and Mr. Khawas Khan, S.I (legal) alongwith Mr. Anwar-ul-Haq, Govt. Pleader for respondents present. Arguments heard and record perused.</p> <p>Vide our detailed judgment of today in connected appeal No.1153/2012 titled ' Mian Rahim Jan-vs-PPO KPK etc', the impugned order dated 10.7.2012 is set aside. The fate of appellant shall be subject to outcome of fresh inquiry which shall be expeditiously conducted and concluded within a period of three months. The appeal is accepted in the above terms. Parties are, however, left to bear their own costs. File be consigned to the record.</p> <p><u>ANNOUNCED</u> 2.6.2015</p> <div style="display: flex; justify-content: space-around; align-items: flex-end;"> <div style="text-align: center;">  (Muhammad Azim Khan Afridi) Chairman </div> <div style="text-align: center;">  (Abdul Latif) Member </div> </div>

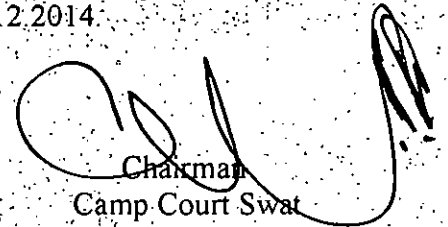
17) 03.03.2015

Appellant with counsel and Mr. Khawas Khan, S.I (legal) for respondents alongwith Mian Amir Qadir, GP present. Arguments could not be heard as the appeal before Bench-II reflecting in the order sheet of this Bench dated 02.09.2014 has not been transferred and moreover, the Bench is incomplete. To come up for final hearing before D.B on 02.06.2015 at Camp Court Swat.


(CHAIRMAN)
Camp Court Swat

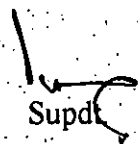
2.9.2014

Appellant with counsel (Mr Imdadullah, Advocate) and Mr Khawas Khan, S.I (legal) on behalf of respondents with Mian Amir Qadir, G.P present. Representative of the respondents produced copy of the inquiry report dated 24.5.2012, which is placed on file of appeal No.1153/2012, and copy thereof is also provided to the learned counsel for the appellant for arguments. Arguments could not be heard due to incomplete Bench. Representative of the respondents pointed out that a similar nature case, involving similar issues for determination, is pending at Peshawar before learned Bench-II. In order to avoid conflicting decisions, representative of the respondents is directed to make request to the learned Bench-II for transfer of the said case to the camp court Swat for further proceedings in the case alongwith connected appeals or else the matter be brought to the notice of the undersigned. To come up for arguments alongwith connected appeals at camp court Swat on 2.12.2014.


Chairman
Camp Court Swat

02.12.2014

Counsel for the appellant (Mr. Imdadullah, Advocate) and Mr. Khawas Khan, S.I (Legal) on behalf of respondents with Mr. Muhammad Zubair, Senior G.P present. The Tribunal is incomplete. To come up for arguments alongwith connected appeals at camp court Swat on 03.03.2015.


Supdt

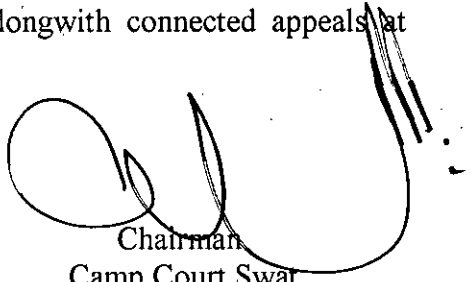
4.3.2014


Clerk of counsel for the appellant and Mr.Khawas Khan, S.I(legal) with Mr.Muhammad Zubair, Sr.GP for the respondents present. Arguments could not be heard due to strike of the Bar. To come up for arguments alongwith connected appeals at camp court Swat on 3.6.2014.


Chairman
Camp Court Swat

3.6.2014

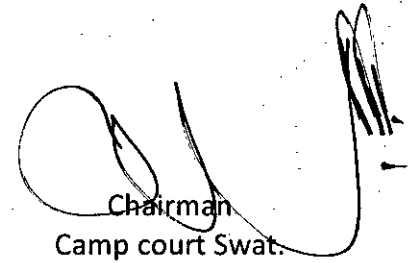
Appellant with counsel (Mr.Imdadullah, Advocate) and Mr.Khawas Khan, S.I(legal) with Mr.Muhammad Zubair, Sr.G.P for the respondents present. Copies of the relevant service record of the appellant produced by the representative of the respondents, which are placed on file for arguments alongwith connected appeals at camp court Swat on 2.9.2014.


Chairman
Camp Court Swat



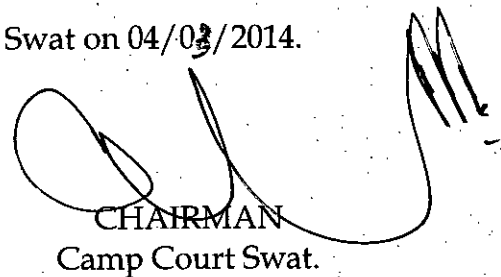
03/09/2013

Appellant with counsel and Mr. Khawas Khan, S.I(legal) for respondents with Mr. Muhammad Arif , SPL . G.P present. Arguments could not be heard due to incomplete bench. To come up for arguments at camp court swat on 03/12/2013.


Chairman
Camp court Swat.

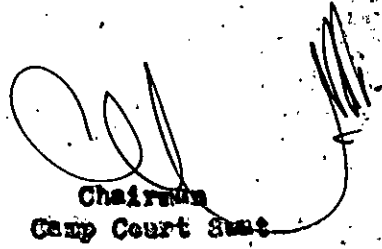
03.12.2013

Appellant with counsel (Mr. Imdadullah, advocate) and Mr. Khawas Khan, S.I (legal) for respondents with Mr. Muhammad Zubair, Sr.G.P present. Arguments could not be heard due to pre-occupation of learned counsel for the appellant (Mr. Aziz-ur-Rehman, advocate) in Darul Qaza Swat and incomplete Bench. The parties are directed to make available service record, if any, prepared subsequently to so-called absorption of the appellant as Follower Constable for determination of the status of the appellant as a Follower Constable and arguments on merits of the appeal along with connected appeals at camp court Swat on 04/03/2014.


CHAIRMAN
Camp Court Swat.

6.5.2013

Appellant with counsel and Mr. Khawas Khan,
S.I (legal) for respondents with Ms. Amina, G.P present.
Written reply on behalf of respondents received,
copy thereof is handed over to the learned counsel
for the appellant for rejoinder at camp court Swat
on 3.6.2013.



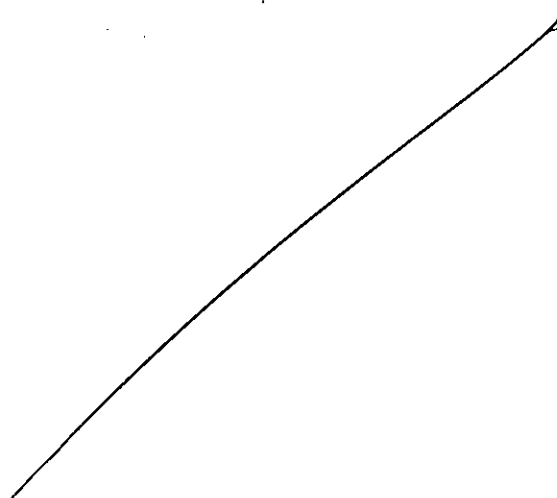
Chairman
Camp Court Swat

3.6.2013

Appellant with counsel and Mr. Khawas Khan,
S.I (legal) for respondents with Mr. Muhammad Zubair,
Sr. G.P present. Rejoinder received, copy thereof is
handed over to the learned Sr. G.P for arguments at
camp court Swat on 3.9.2013.

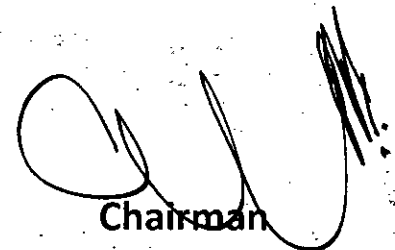


Chairman
Camp Court Swat



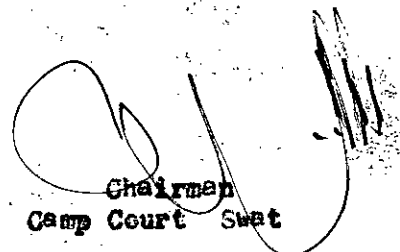
05-03-2013

Appellant with counsel and Mr. Khawas Khan , S.I (legal) for respondents with Main Amir Qadar, G.P Present. Preliminary arguments heard .The learned Counsel for the appellant argued that after initial appointment on contract basis, the appellant was enlisted as C-IV Government Servant In BPS-1 and subsequently absorbed as Follower Constable (BPS-5); but on the direction of Central Police Office, the authority dispensed with his services on the basis of one sided inquiry ,without following the procedure prescribed for departmental proceedings/inquiry and serving the Appellant with show cause notice so as to provide him opportunity of hearing and defence .The Appellant preferred departmental ^{appeal} against the Impugned order dated 10-07-2012 within time, and when received no response within the statutory Period ,he lodged this appeal. The points raised at the bar need Consideration. Therefore, the appeal is admitted to regular hearing.Process fee and Security be deposited within 10 days. To come up for written reply /comment at Camp Court swat on 01-04-2013.


Chairman
Camp Court Swat

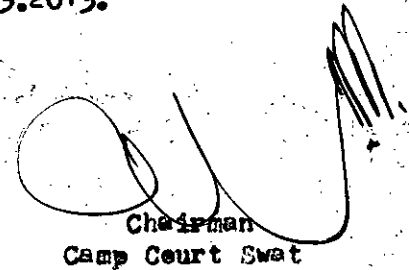
01.4.2013

Appellant with counsel (Mr.Indadullah, Advocate) and Mr.Khawas Khan, S.I(legal) for respondents with Mr.Anwar-ul-Haq, G.P present. Written reply has not been received. To come up for written reply/comments alongwith connected appeals at camp court swat on 6.5.2013.


Chairman
Camp Court Swat

12.2.2013


Appellant in person and Mr. Khawas Khan,
S.I (legal) for respondents with Mian Amir Qadir,
G.P present. Arguments could not be heard due to
strike of the High Court Bar. To come up for
preliminary hearing alongwith connected appeals
at camp court Swat on 4.3.2013.



Chairman
Camp Court Swat

04/03/2013.

Appellant in person and Mr. Khawas
Khan, S.I (legal) for respondents with
Mian Amir Qadir, G.P Present. Preliminary
arguments could not be heard due to strike of
the Bar. To come up for preliminary hearing
alongwith connected appeals on 05/03/2013.




Member
Camp Court Swat.

07/01/2013

Appellant with counsel and Mr. Khawas Khan, S.I (legal) present. Mr. Khawas Khan submitted copy of the initial appointment order of the appellant showing his appointment on contract basis. The learned counsel for the appellant contended that notwithstanding initial appointment on contract basis, once the appellant is absorbed in regular service as Follower Constable his status would be of a regular employee. The learned counsel for the appellant, however, requested for further time to provide further assistance in this regard.

To come up for further preliminary hearing alongwith connected appeals at camp court swat on 11/02/2013.


CHAIRMAN
Camp Court Swat.


11.2.2013

Appellant in person and Mr. Khawas Khan, S.I (legal) for respondents with Mian Amir Qadir, G.P present. Arguments could not be heard due to strike of the Bar. To come up for preliminary hearing alongwith connected appeals on 12.2.2013.


Chairman
Camp Court Swat

3.12.2012

Appellant with counsel (Mr. Imdadullah, Advocate) present. Arguments partly heard. The appellant has not submitted his initial appointment order alongwith his appeal so as to determine the fact whether he was appointed as regular employee or was on contract basis. The appellant is ^{AD} not in possession of the initial appointment order. Therefore, a pre-admission notice be issued to the respondents for production of service record of the appellant, including the initial appointment order of the appellant, for further preliminary hearing at camp court Swat on 7.1.2013. Mr. Khasas Khan, S.I (legal) is present in other cases, who is directed to bring the requisite record, and he should be provided a copy of the appeal for the purpose.


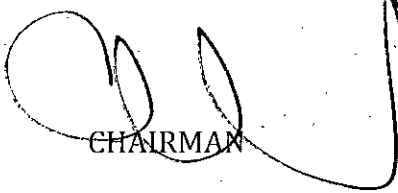
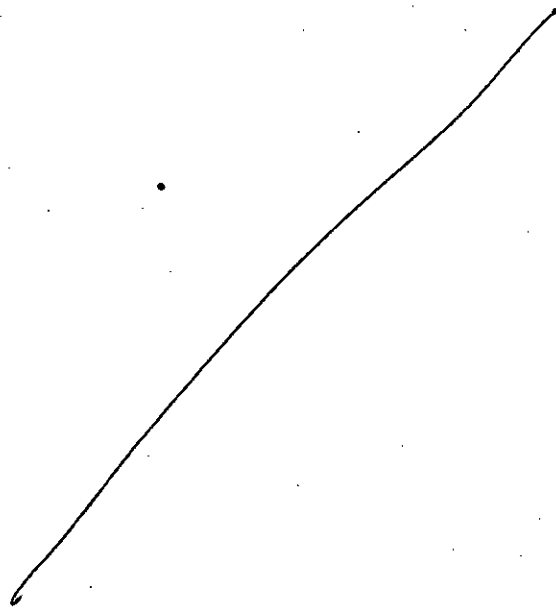

Chairman
Camp Court Swat

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 1158/2012

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	23/10/2012	<p>The appeal of Mr. Akhtar Gul presented today by Mr. Aziz-ur-Rahman Advocate may be entered in the Institution Register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	18-11-2012.	<p>This case is entrusted to Touring Bench Swat for preliminary hearing to be put up there on <u>03-12-2012</u></p> <p style="text-align: right;"> CHAIRMAN</p> 

بہت زیادہ
BEFORE THE KHYBER PAKHTUNKHWA,
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 1158 of 2012

Akhtar Gul

...Appellant

VERSUS

The Provincial Police Officer, Khyber Pakhtunkhwa and others

...Respondents

INDEX

S #	Description of documents	Annexure	Pages
1.	Memo of Appeal	1-3
2.	Memo of addresses	4
3.	Copy of the order	A	5
4.	Copy of the order	B	6
5.	Copy of the order O.B. No. 129 dated 10/07/2012	C	7
6.	Copy of the departmental representation	D	8-9
7.	Wakalat Nama	10

Appellant through



Aziz-ur-Rahman

Advocate High Court
Office: Khan Plaza, Gulshan
Chowk, Mingora, District Swat.

Cell No. 0300-9070671

①

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

Service Appeal No. 158 of 2012

Constable Akhtar Gul No. 262 Police Lines, Iqbal
Javed Shaheed, Swat.

...Appellant

VERSUS

1. The Provincial Police Officer Khyber
Pakhtunkhwa, Peshawar.
2. The Deputy Inspector General of Police Malakand
Region at Saidu Sharif Swat.
3. The District Police Officer, District Swat at
Gulkada.

...Respondents

*Appeal under Section 4 of the Khyber Pakhtunkhwa
Service Tribunal Rules, 1974 against the order OB No.
129 dated 10-07-2012 of the respondent no. 3 vide which
the appellant was reverted to Class IV from Follower
Constable against law and rules and against which the
appellant preferred a departmental representation to
the respondent No. 2 on which no action is taken as yet
despite the lapse of statutory period*

Prayer:

*That on acceptance of this appeal the order of the
respondent No. 3 may very kindly be set aside and the
appellants restored as Follower Constables*

Respectfully Sheweth:

23/10/12

Facts:

1. That the appellant was recruited in the Police Force as Class IV by the respondent No. 3 vide OB No. 137 dated 01-10-2009 and since then was regularly performing his duties to the satisfaction of the authorities. Copy of the order is enclosed as Annexure "A".
2. That the appellant was absorbed as Follower Constable by the respondent No. 3 vide order OB No. 235 dated 14-11-2011 and was allotted Constabulary No. 262. Copy of the order is enclosed as Annexure "B".
3. That the appellant was performing his duties most efficiently and confidently without giving his authorities any chance of complaint, whatsoever till date.
4. That the appellant was all of sudden reverted back as Class IV from Follower Constable by the respondent No. 3 vide order OB No. 129 dated 10-07-2012 against the law and rules. Copy of the order is enclosed as Annexure "C".
5. That the appellant feeling aggrieved from the impugned order preferred a departmental representation to the respondent No. 2 which is still pending disposal despite the lapse of statutory period, hence this appeal on the following grounds.
Copy enclosed as Annexure "D".

Grounds:

- a. That the respondents have reverted the appellant in glaring disregard for the mandatory provisions of law to the detriment of the appellant.
- b. That no inquiry has ever been conducted at all by the respondents and they have passed the impugned order in vacuum.

3

- c. That the respondents have violated the golden principles while passing the impugned order.
- d. That the respondents have misused the official authority in and have resorted to colorful use of the same, which the law never permits and is discouraged by the Apex Supreme Court of Pakistan in plethora of judgments.

It is, therefore, very respectfully prayed that on acceptance of this appeal the impugned order may very kindly be set aside and the appellant be restored as Follower Constable.

Any other relief deemed appropriate may also very kindly be granted.

Appellant
افتن گل
Akhtar Gul

Through Counsels,
Aziz-ur-Rahman
Imdad Ullah

Advocates Swat

Affidavit

It is stated on Oath that all the contents of this appeal are true and correct to the best of my knowledge and nothing has either been misstated or concealed before this Honourable Tribunal.

Deponent
افتن گل
Akhtar Gul

Muhammad M. Advocate
Oath Commissioner
District Courts Swat
No. 388 22/10/12

(4)

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

Service Appeal No. _____ of 2012

Akhtar Gul

...Appellant

VERSUS

The Provincial Police Officer, Khyber Pakhtunkhwa and others

...Respondents

MEMO OF ADDRESSES

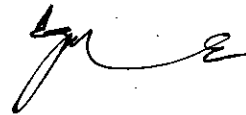
Address of appellant:-

Akhtar Gul No. 262 Police Lines, Iqbal Javed Shaheed, Swat.

Addresses of respondents:-

- (1) The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar
- (2) The Deputy Inspector General of Police Malakand Region at Saidu Sharif, Swat
- (3) District Police Officer, District Swat at Gul Kada

Appellant through



Aziz-ur-Rahman

Advocate Swat

ORDER.

Annexure ^{"A"} S


Mr. Akhter Gul son of Toti r/o Qazi Abad Shakerdara Police Station Matta is hereby enlisted as Class IV Govt Servant in HPS-01 (12970-90-5670) against the existing vacancy of this District on temporary basis subject to medical fitness and verification from the Local Police.

O.B.No. 137

Dated 1/10/09


DISTRICT POLICE OFFICER, SWAT

ATTESTED


ADVOCATE

ORDER:

Annexure "B"

6

C-IV Akhtar Gul of Javid Iqbal Shaheed Police Line Swat is hereby absorbed as Follower Constable in BPS-5 with immediate effect. His Constabulary No. 262

OB No. 235

Dated 19.11.2011


District Police Officer, Swat.

ATTESTED

Advocate

ORDER

Annexure

7

In compliance of C.P.O, Khyber Pakhtunkhwa, Peshawar decision vide Memo: No. 12055/E-II, dated 13/06/2012 and Region Office Endst: No. 6979/SB, dated 20/06/2012, the order of the following Follower Constables absorbed from Class-IV servants and 02 S.P.F Constables (Contract) absorbed / enlisted as Class-IV have been declared as cancelled. Brief facts are that the Region Office, Swat vide Memo: No. 2391/SB, dated 06/03/2012 addressed to C.P.O, Khyber Pakhtunkhwa, Peshawar that all these absorption / enlistment have been made by the D.P.O, Swat without completing codal formalities and advertisement in the newspaper with the suggestion for enquiry. In the light of which the C.P.O, Peshawar conducted enquiry through Deputy Inspector General of Police, Enquiry & Inspection, C.P.O, Peshawar vide Endst: No. 5042/E-II, dated 14/03/2012.

S. No.	Name	Remarks	OB / Dated
1.	Class IV Mian Bakht Said of Region Office Swat.	Absorbed as Follower Constable & Allotted Constabulary No. 594	OB No. 168 dated 13/08/2011
✓ 2.	Class IV Mian Rahim Jan	Absorbed as Follower Constable & Allotted Constabulary No. 709	OB No. 217 dated 25/10/2011
✓ 3.	Class IV Irfan	Absorbed as Follower Constable & Allotted Constabulary No. 560	OB No. 233 dated 17/11/2011
✓ 4.	Class IV Akhtar Gul	Absorbed as Follower Constable & Allotted Constabulary No. 262	OB No. 235 dated 19/11/2011
✓ 5.	Class IV Habib Ullah s/o Aziz ur Rahman	Absorbed as Follower Constable & Allotted Constabulary No. 149	OB No. 236 dated 21/11/2011
✓ 6.	Class IV Aziz Ur Rahman	Absorbed as Follower Constable & Allotted Constabulary No. 861	OB No. 243 dated 30/11/2011
✓ 7.	Class IV Allah Bakhsh	Absorbed as Follower Constable & Allotted Constabulary No. 544	OB No. 3 dated 04/01/2011
✓ 8.	Class IV Hazrat Hussain	Absorbed as Follower Constable & Allotted Constabulary No. 2632	OB No. 233 dated 01/11/2011
9.	S.P.F Const: Habib Ullah No. 1086 (Contract) s/o Taj Malook	Absorbed as Class IV w.e.f 01/10/2011.	OB No. 197 Dated 26/09/2011
10	S.P.F Const: Imran No. 1062 (Contract)	Absorbed as Class IV w.e.f 01/10/2011.	OB No. 197 Dated 26/09/2011

The C.P.O, Khyber Pakhtunkhwa, Peshawar vide Memo No. 12055/E-II, dated 13/6/2012, received in this office vide Region Office, Endst: No. 6979/SB, dated 20/06/2012 passed decision on the enquiry report conducted by the Superintendent of Police, Enquiry & Inspection, C.P.O Peshawar that during enquiry it has been proved that the appointment in question were made without observing laid down procedure / policy, upon which C.P.O, Peshawar further passed decision that these

ATTESTED

[Signature]
Advocate

irregular appointment be cancelled and transparent based on merit appointments be made, after fulfilling all the rules and legal requirements.

Keeping in view of position explained above, the absorption / enlistment orders as noted against each of above personnel are hereby cancelled with immediate effect.

OB No. 129

Dated: 10-7 /2012.

No. 7186-88 /OASI, Dated 10-7 /2012.


District Police Officer, Swat

Copies of above for information & necessary action to the:-

1. Deputy Inspector General of Police, Malakand Region, Saidu Sharif, Swat w/r to Region Office Endst: No. 6979/SB, dated 20/06/2012.
2. Superintendent of Police, Investigation, Swat.
3. OASI Special Force.

9

(۲)

۴۔ یہ کہ سائل نے بحیثیت کانٹریبیوٹرز افسران بالا کے مکمل تسلی کیا تھا اپنے فرائض منصبی سرانجام دی ہے۔

۵۔ یہ کہ سائل ساتویں جماعت تک تعلیم حاصل کر چکا ہے اور پرائیویٹ طور پر مزید تعلیم حاصل کرنے اور امتحان پاس کرنے کا خواہشمند ہے۔

۶۔ یہ کہ سائل اور دیگر متاثرہ ساتھیوں نے دہشت گردوں انتہا پسندوں کے خلاف اپنے جان کے پرداہ کئے بغیر ایک مہم جاری رکھے ہوئے تھے۔

۷۔ یہ کہ احکامات معترضہ بالا خلاف قانون و ضابطہ اور انصاف ہے۔

۸۔ یہ کہ احکامات معترضہ قابل عمل بدیں وجہ نہ ہے کہ سائل کو بحیثیت کانٹریبیوٹرز ضم کرنے کے بعد اس کلاس فور آسامی کو پرکری ہے۔

لہذا استدعا کی جاتی ہے کہ بمظوری درخواست نظر ثانی و رحم درخواست احکامات معترضہ کو منسوخ و کالعدم قرار دیکر سائل کو بحیثیت کانٹریبیوٹرز منصبی کا موقع دیکر اداری فرمائی جاوے۔

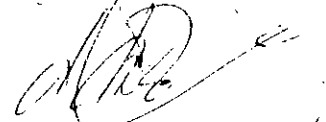
عریضا اختر گل

کانٹریبیوٹرز گل نمبر 262

متعینہ جاویدا اقبال شہید پولیس لائن سوات (سائل)

Sir,

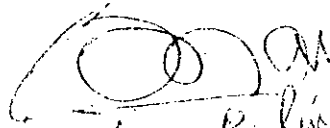
Forwarded please



DSP/ICR Swat

24-7-012

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Lo. P. Swat

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صباح ۱۳
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۱۵.۷.۱۲
۲۰.۶.۱۲

make file

ATTESTED
Advocate

بعدالت ضد سروس ٹریڈنگ سٹیٹ بینک روہتھار

قیمت ایک روپیہ	کورٹ فیس
----------------	----------

مورخہ ۱۵ اکتوبر ۲۰۱۲ء منجانب ایس ایم ایف
 مقدمہ جسٹس جی ایم حکومت روہتھار

دعویٰ سرکاری
 جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب ذہی وکل کاروائی متعلقہ آن مقام لیسٹڈ روہتھار / عمر سید الرحمن، ارماد اسٹور اینڈ کمپنی مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ و تقرر ثالث و فیصلہ پر حلف دینے جو طلب دی اور اقبال دعویٰ اور درخواست ہر قسم کی تصدیق زرا اس پر دستخط کرنے کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری ایک طرف یا اپیل کی برآمد ہوگی اور منسوخ ڈائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ بصورت ضرورت مذکور کے نسل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی جیلہ مذکورہ بالا اختیار حاصل ہونگے اور اسکا ساختہ بزواختہ منظور و قبول ہوگا اور دوران مقدمہ میں جو خرچہ و ہر جانہ التوائے مقدمہ کے سبب سے ہا گا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا و خرچہ کی وصولی کرتے وقت کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام دورہ ہر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہونگے کی پیروی مقدمہ مذکور لہذا وکالت نامہ لکھ دیا کہ سند ہے

المرقوم ۱۵ ماہ اکتوبر ۲۰۱۲

ایف۔ جی۔ گل

العبد گواہ شدہ العبد
 Attested and Accepted by
 بمقام ٹریڈنگ سٹیٹ بینک
 لکھ دیا

ORDER:

Amir "A" (S)

Mr. Akhter Gul son of Toti r/o Qazi Abad Shakardara
Police Station Matta is hereby enlisted as Class IV Govt Servant
in BPS-01 (12970-90-5670) against the existing vacancy of this
District on temporary basis subject to medical fitness and
verification from the Local Police.

O.B.No. 137

[Signature]
DISTRICT POLICE OFFICER, SWAT

Dated 1, 10 / 09

[Signature]

ORDER:

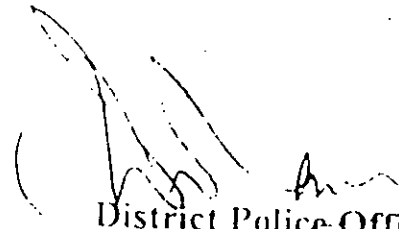
Signature "B"

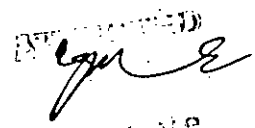
6

C-IV Akhtar Gul of Javid Iqbal Shaheed Police Line Swat is hereby absorbed as Follower Constable in BPS-5 with immediate effect. His Constabulary No. 262

OB No. 235

Dated 14.11.2011


District Police Officer, Swat.


District Police Officer

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR.

Service Appeal No.1158/2012.

Titled

Akhtar Gul No. 262 Police Lines, ~~Swat~~ Shaheed Swat.

VERSUS

Appellant.

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Deputy Inspector General of Police, Malakand Region Saidu sharif Swat.
3. District Police Officer, District Swat at Gulkada.

Respondents.

WRITTEN REPLY TO APPEAL ON BEHALF OF RESPONDENTS.

Respectfully Shewith,

The reply to appeal on behalf of Respondents No. 01 to 03 is submitted as below.

1. **Preliminary Objections.**

1. That the appellant has got no Cause of action and locus standi.
2. That the appeal is time barred.
3. That the appeal is not maintainable in its present form.
4. That the appellant is estopped by his own conduct to file the instant appeal.
5. That the appeal is bad due to mis-joinder and non-joinder of the necessary parties.
6. That the appellant has not come to the Tribunal with clean hands.

2. **FACTS.**

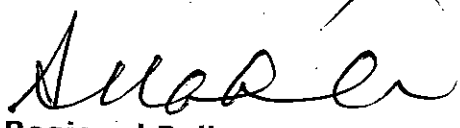
1. Para No. 1 of appeal pertains to appellant's service record.
2. Para No. 2 of appeal is correct to the extent that he was absorbed as Follower constable by the then respondent No. 3 but the same absorption/enlistment was made without fulfillment of codal formalities and advertisement in the newspapers.
3. Para No. 3 of appeal pertains to service record.
4. Para No. 4 of appeal is incorrect, appellant's absorption was made without completing codal formalities at that time and when this irregularity has come to the notice of respondent No. 2, he communicated the same to CPO, Khyber Pakhtunkhwa, Peshawar vide letter No. 2391/SB dated 06.03.2012 consequent upon which Deputy Inspector General of Police, Enquiry & Inspection CPO Peshawar conducted enquiry during which it has been proved that such absorption was made without observance of laid down procedure/policy, hence appellant's absorption order was cancelled by the respondent No. 3 vide OB No. 129 dated 10.07.2012.
5. Para No. 5 of appeal is correct to the extent that appellant filed departmental appeal but the same was without any legal substance and merits hence the appellate authority filed/turn down the same.

3. GROUND.

- A. Incorrect, appellant was absorbed/enlisted without observing codal formalities and against the laid down procedure, which was cancelled subsequently on the basis of recommendation of enquiry conducted by CPO through Deputy Inspector General of Police, Enquiry & Inspection Peshawar.
- B. Incorrect, reply already given vide para 04 above.
- C. Incorrect, respondent have not violated any law, but undo the order of the then Respondent No. 3 and passed speaking order vide OB No. 129 dated 10.07.2012.
- D. Incorrect, respondents have used their official authority purely in accordance with law/rules and on merit keeping in view the principle of Natural Justice.

It is therefore humbly prayed that the appeal of appellant may very kindly be dismissed being devoid of merits with cost.


1) Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 1)


2) Regional Police Officer,
Malakand at Saidu Sharif Swat.
(Respondent No. 2)


3) District Police Officer, Swat.
(Respondent No. 3)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No.1158/2012.

Titled

Akhtar Gul No. 262 Police Lines, ~~District Swat~~ Shaheed Swat.

VERSUS

Appellant.


1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Deputy Inspector General of Police, Malakand Region Saidu sharif Swat.
3. District Police Officer, Swat.

Respondents.

POWER OF ATTORNEY.

We, the undersigned No. 1 to 3 do hereby appoint Mr. Mohammad Ayaz DSP Legal Swat as special representative on our behalf in the above noted appeal. He is authorized to represent us before the Tribunal on each and every date fixed and to assist Govt: Pleader attach to Tribunal in Submission of record


1) Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 1)


2) Regional Police Officer,
Malakand at Saidu Sharif Swat.
(Respondent No. 2)


3) District Police Officer, Swat.
(Respondent No. 3)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

SERVICE APPEAL 1158/2012

Akhtar Gul No. 262 Ex-Constable District Swat

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar
2. The Regional Police Officer, Malakand at Saidu Sharif Swat.
3. The District Police Officer, Swat.

Respondents.

AFFIDAVIT:-

We, the above Respondents do hereby solemnly affirm on oath and declare that the contents of the appeal are correct/ true to the best of our knowledge/ belief and nothing has been kept secrete from the honorable Service Tribunal Khyber Pakhtunkhwa, Peshawar.


1) Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 1)


2) Regional Police Officer,
Malakand at Saidu Sharif Swat.
(Respondent No. 2)


3) District Police Officer, Swat.
(Respondent No. 3)

ORDER

In compliance of C.P.O, Khyber Pakhtunkhwa, Peshawar decision vide Memo: No. 12055/E-II, dated 13/06/2012 and Region Office Endst: No. 6979/SB, dated 20/06/2012, the order of the following Follower Constables absorbed from Class-IV servants and 02 S.P.F Constables (Contract) absorbed / enlisted as Class-IV have been declared as cancelled. Brief facts are that the Region Office, Swat vide Memo: No. 2391/SB, dated 06/03/2012 addressed to C.P.O, Khyber Pakhtunkhwa, Peshawar that all these absorption / enlistment have been made by the D.P.O, Swat without completing codal formalities and advertisement in the newspaper with the suggestion for enquiry. In the light of which the C.P.O, Peshawar conducted enquiry through Deputy Inspector General of Police, Enquiry & Inspection, C.P.O, Peshawar vide Endst: No. 5042/E-II, dated 14/03/2012.

S. No.	Name	Remarks	OB / Dated
1.	Class IV Mian Bakht Said of Region Office Swat.	Absorbed as Follower Constable & Allotted Constabulary No. 594	OB No. 168 dated 13/08/2011
✓2.	Class IV Mian Rahim Jan	Absorbed as Follower Constable & Allotted Constabulary No. 709	OB No. 217 dated 25/10/2011
✓3.	Class-IV Irfan	Absorbed as Follower Constable & Allotted Constabulary No. 560	OB No. 233 dated 17/11/2011
✓4.	Class-IV Akhtar Gul	Absorbed as Follower Constable & Allotted Constabulary No. 262	OB No. 235 dated 19/11/2011
✓5.	Class IV Habib Ullah s/o Aziz ur Rahman	Absorbed as Follower Constable & Allotted Constabulary No. 149	OB No. 236 dated 21/11/2011
✓6.	Class IV Aziz Ur Rahman	Absorbed as Follower Constable & Allotted Constabulary No. 861	OB No. 243 dated 30/11/2011
✓7.	Class IV Allah Bakhsh	Absorbed as Follower Constable & Allotted Constabulary No. 544	OB No. 3 dated 04/01/2011
✓8.	Class IV Hazrat Hussain	Absorbed as Follower Constable & Allotted Constabulary No. 2632	OB No. 233 dated 01/11/2011
9.	S.P.F Const: Habib Ullah No. 1086 (Contract) s/o Taj Malook	Absorbed as Class IV w.e.f 01/10/2011.	OB No. 197 Dated 26/09/2011
10	S.P.F Const: Imran No. 1062 (Contract)	Absorbed as Class IV w.e.f 01/10/2011.	OB No. 197 Dated 26/09/2011

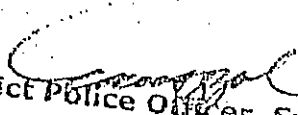
The C.P.O, Khyber Pakhtunkhwa, Peshawar vide Memo No. 12055/E-II, dated 13/6/2012, received in this office vide Region Office, Endst: No. 6979/SB, dated 20/06/2012 passed decision on the enquiry report conducted by the Superintendent of Police, Enquiry & Inspection, C.P.O Peshawar that during enquiry it has been proved that the appointment in question were made without observing laid down procedure / policy, upon which C.P.O, Peshawar further passed decision that these

ATTENDED

Associate

irregular appointment be cancelled and transparent based on merit appointments be made, after fulfilling all the rules and legal requirements.
Keeping in view of position explained above, the absorption / enlistment orders as noted against each of above personnel are hereby cancelled with immediate effect.

OB No. 129
Dated: 10-7 /2012.


District Police Officer, Swat

No. 7186-88 / OASI, Dated 10-7 /2012.

Copies of above for information & necessary action to the:-

1. Deputy Inspector General of Police, Malakand Region, Saidu Sharif, Swat w/r to Region Office Endst: No. 6979/SB, dated 20/06/2012.
2. Superintendent of Police, Investigation, Swat.
3. OASI Special Force.

From: The Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.

To : The Deputy Inspector General of Police,
Malakand Region, Swat.

No. 2055/E-II, dated Peshawar the 13/06/2012.

Subject: **INFORMATION REGARDING CLASS-IV ABSORBED AS
FOLLOWER CONSTABLE AND NEW ENLISTED
CLASS-IV SERVANT**

Memo:

Please refer to your office letter No.2391/SB, dated 06-03-2012,
on the subject noted above.

2. The matter was enquired by the Deputy Inspector General of
Police, Enquiry & Inspection, Khyber Pakhtunkhwa, Peshawar. According to
Enquiry report conducted by SP/ Enquiry & Inspection, it has been proved that
appointment in question were made without observing the laid down
procedure/policy.

3. After perusal of Enquiry Report, the worthy PPO ordered as
under :-

**"these irregular appointments be cancelled and transparent
based on merit appointments be made, after fulfilling all the
rules and legal requirements"**

(MUHAMMAD IQBAL)
AIG/Establishment,
For Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.

No. /E-II.

Copy of above alongwith original file is forwarded to the Deputy
Inspector General of Police, Enquiry & Inspection, Khyber Pakhtunkhwa,
Peshawar for information w/r to his letter No.39/E&I, dated 24-05-2012.

*Sir, Submitted for PPO perusal
and orders please.*

(MUHAMMAD IQBAL)
AIG/Establishment,
For Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.

WDIS/MKD R-iii.

*DPO/Swat
For
under*

*done by receipt
in month 19/06/12*

*M/S
19/6*

2

3

The Deputy Inspector General of Police,
Malakand Region, Saidu Sharif, Swat.

To : The Provincial Police Officer,
Khyber Pukhtunkhwa, Peshawar.

No. 2391 /SB, dated Saidu Sharif, the 06-03 /2012.

Subject: **INFORMATION REGARDING CLASS-IV ABSORBED AS FOLLOWER CONSTABLE AND NEW ENLISTED CLASS-IV SERVANT.**

Memorandum:

It is submitted that the District Police Officer, Swat has absorbed 8 Class-IV government servants as well as 2 SPF Constables as Follower Constables and allotted Constabulary Nos. (copy of District Police Officer, Swat Memo: No. 2888/EB dated 05/03/2012 is attached) without completing all codal formalities and advertisement in the newspapers.

It is, therefore, requested that necessary enquiry into the matter may kindly be ordered so that actual position is ascertained in the best interest of public.

Enclosure (1)

[Signature]
Deputy Inspector General of Police,
Malakand Region, Saidu Sharif, Swat.

on 14/3/12

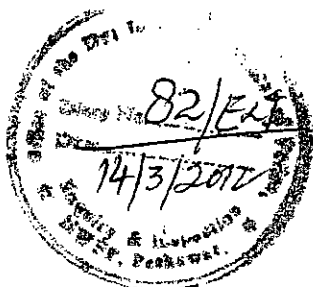
OFFICE OF THE PROVINCIAL POLICE OFFICER KHYBER PAKHTUNKHWA PESHAWAR.

No. 5042 /E-II, dated Peshawar, the 14/3 /2012.

Copy of above alongwith photo copy of DPO Swat letter No.2888/EB, dated 5/3/2012 is forwarded to Dy:Inspector General of Police E&I Khyber Pakhtunkhwa CPO with request to inquire the matter and submit report to this office as approved by Addl:IGP/HQRS: Khyber Pakhtunkhwa Peshawar.

Encl. One photo state.com

[Signature]
REGISTRAR, 13/3
FOR PROVINCIAL POLICE OFFICER,
KHYBER PAKHTUNKHWA,
PESHAWAR.



6/5
process u.

14/3/2012

Constable
Memo:
formalities

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 1158/2012

Akhtar Gul versus PPO K.P. and Others

*Rejoinder by the appellant to the written reply
of the respondents*

Respectfully Sheweth:

Preliminary Objections:

That all the preliminary objections are incorrect hence specifically denied for the reasons that the appellant has got prima facie case and has approached this Honourable Tribunal with in time and that too with clean hands.

On Facts:

1. Para 1 of the reply being admission needs no comments.
2. Para 2 of the reply is incorrect to the extent that the absorption of the appellant was made as per the law and rules, hence is denied to the extent.
3. Para 3 of the reply being admission needs no comments.
4. Para 4 of the reply is incorrect as is based on misstatement. The absorption of the appellant was made as per the law. Moreover the appellant was

never associated with any inquiry, hence this para is specifically denied.

5. *Para 5 of the reply as drafted is incorrect hence denied for the reason that the appellant has got an established right, which was denied to him.*

On Grounds:

- A. *Ground a of the reply is incorrect and misconstrued as the appellant was absorbed in accordance with the law, hence the para is denied.*
- B. *Para b of the reply is incorrect and based on misstatement for the reasons given above, hence the para is specifically denied.*
- C. *Para c of the reply as drafted is self contradicted and the respondents are blowing hot and cold at the same time. The passing of the impugned order is made in clear violations of the mandatory provisions of law, hence the para is specifically denied.*
- D. *Para d of the reply as drafted is incorrect as the principles of natural justice have been clearly done away with and the respondents have used the official authority in a very colorful and an arbitrary manner, hence the para is denied.*

It is, therefore, very respectfully prayed that on acceptance of this rejoinder the appeal of the


appellant may very kindly be decided as prayed for
in the appeal.

Appellant

Akhtar Gul

Through Counsels,


Aziz-ur-Rahman


Imdad Ullah

Advocates Swat

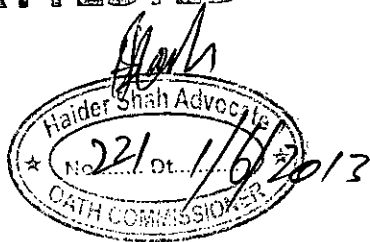
Affidavit:

It is stated on Oath that all the contents of this
rejoinder are true and correct to the best of my
knowledge and belief.

Deponent

Akhtar Gul

ATTESTED



J. No. 1

262

District *Smeat*

**CHARACTER AND SERVICE ROLL
OF**

Ex Name's Const. Akhatar Cml

CONTENTS

		PAGES
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	Marking sheet in connection with promotions to the selection grade of Constables.	
	Health Certificate.	

1/8

19¹¹ as follows
19²⁰⁻¹¹ as follows
19²⁰⁻¹¹ as follows

DISTRICT
DISTRICT
DISTRICT

AND SERVICE ROLL OF

ARY NO. () in
ARY NO. () in
ARY NO. () in

Father's Name	Tribe or Caste	Village or Town	Post and Telegraph Office	Police Station	District	Province	Date of Birth	Height	Chest Measurement	Date of Enrolment	Age on Enrolment	Distinctive Marks
707		Aghwan	Buzi Abdul Shukur	Darwa P.S. Muzaffar	Muzaffar	Sindh	10.12.1981	6-3 1/2	33" x 34 1/2"	1-10-2009 as CIV	23 years	

Roll No. Dated Received back and attached to the Fauji Misal

Service prior to present employment, which is approved for pension service.

Rank or Grade	Pay of last appointment	From	To	Period		
				Years	Month	Days
Reference to orders approving above service for pension service in the Police Department.						

I have been appointed under section 7 of the Police Act (V of 1861), and the purport of that section and the provisions of the Act under it are now in force, by which my discipline and conduct are governed have been explained to me. I agree to serve faithfully under the Police Act and to obey all lawful orders issued to me by my Superior Officers and undertake not to resign my appointment within three months of my enrolment. I have received a certificate of appointment issued under section 8 of the Police Act (V of 1861).

Signature

Impression of fingers and thumb of left hand.

Left Ring	Left Middle	Left Index	Left Thumb

6. CHARACTER ROLL OF APPOINTMENTS, PROMOTIONS, REDUCTIONS, DISCHARGES, ETC. (Continued)

1 Appointment, promoted, suspended, reduced, discharged, dismissed, resigned or died.	2 To what grade and pay appointed, promoted or reduced.	3 Date	4 No. of District Order	5 Full Signature of Superintendent of Police
<p><i>order</i></p> <p><i>absorbed as follows Custable</i></p> <p><i>in BPS: 5 (\$400.00 - 1300)</i></p> <p><i>with 19-11-2011</i></p> <p><i>and pay fixed Rs. 5400/-</i></p> <p style="text-align: right;"><i>235</i> <i>at 19/11/2011</i></p> <p><i>CP 262</i> <i>at 19-11-2011</i></p> <p><i>CP 514</i> <i>at 19-11-2011</i></p> <p><i>to BPS-5</i> <i>of 19-11-2011</i></p> <p><i>[Signature]</i></p>				

7. TRANSFERS BEYOND THE DISTRICT

1 Date	2 From	3 To	4 Authority for transfer

8. NAMES OF RELATIVES IN GOVERNMENT SERVICE.

2	3	4
Relationship	Nature of employ	District

RESIDENCE AND OTHER PARTICULARS OF HEIRS:

Rev
 (In compliance of C.O. 1244. Peshawar issue
 Memo No. 1255/E-II. dt 13-6-72 and Regn
 Office Order No. 6974/OS dt 20-6-72
 following details written on no 202 as per
 attached to check *[Signature]*
 OB. No. 124 P.O. Road 18 5100/120
 10-7-2011

[Signature]
 Distt. Police Officer, Swat,
 2

10. EDUCATIONAL QUALIFICATIONS

Educational Qualifications

76. (3) *[Handwritten signature]*

Knowledge of Languages

Un-Educated

English

Slightly Educated

Persian

Matriculation

Urdu

First Arts

Punjabi

Degree

Pashto

Note: Under line the qualifications possessed, and particulars where necessary and give date of entry.

11. PROFESSIONAL ATTAINMENTS AND SPECIAL QUALIFICATIONS:

Professional attainments:

Passed Training School Upper Class:

- • Intermediate Class
- • Lower Course
- • Finger Print Course
- • Drill Instructor's Course.
- •
- •
- •

Special Qualification
Clerical duties.

Accounts duties.

Orderly Head Constable's duties.

Moharrir's duties.

Detectives duties.

Traffic duties.

Prosecuting Inspectors,
Examinations,
and qualifications possessed.

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