

23/5/2023

BEFORE THE HONOURABLE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR AT CAMP COURT ABBOTTABAD

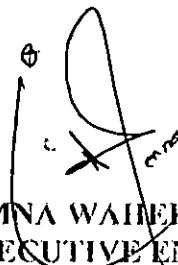
SERVICE APPEAL NO. 927/2022

MUHAMMAD SHAFIQUE.....APPELLANT

VERSUS

GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH SECRETARY
PHE & OTHERS.....RESPONDENTSINDEX

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AMNA WAHEED AWAN
EXECUTIVE ENGINEER
PUBLIC HEALTH ENGG. DIVISION
MANSEHRA

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PHE & OTHERS.....RESPONDENTS

RESPECTFULLY SHEWETH.

PARA WISE COMMENTS ON BEHALF OF RESPONDENTS 1 TO 4

PRE-LIMINARY OBJECTIONS:

1. That the Appellant has got no locus standi to file the instant Service Appeal.
2. That the Appellant is estopped by his conduct to file the instant Service Appeal.
3. That the Appellant has concealed the material facts and just to cause unwanted pressure upon respondent by filed instant Service Appeal.
4. That the Appellant has been dealt in accordance with law.
5. That the Service Appeal is barred by law.

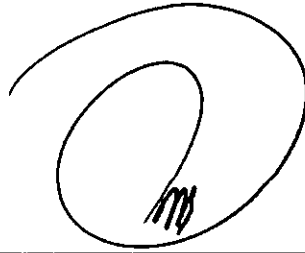
FACTS.

1. Para no.1 is Pertains to record.
2. Para no.2 is Correct but promotion of appellant as Head Clerk/ Assistant BPS 16 by office order No. **08/E-9/PHE dated 14/12/2015 (Annex A)** alongwith his posting order to Kohistan, later on appellant transferred through Office order No. **22/E-2/PHE dated 29/12/2015 (Annex B)** from Kohistan to Mansehra, after 2 days the competent authority withdrawn posting order of appellant to Mansehra in the best interest of public by office order No. **04/E-2/PHE dated 01-01-2016 (Annex C)**.
3. Para no.3 is Correct.
4. Para no.4 is Correct.
5. As per recommendations of enquiry report dated **25-01-2018 (Annex D)** respondent no.2 issued order dated **02-02-2018**. In service appeal **625/2016** Honourable Service Tribunal, set aside the withdrawal order of appellant dated **01-01-2016** but left the issue of non compliance order dated **01-01-2016** to the departmental authority. In this regard, an enquiry was carried out to the fact, that as to whether the appellant served the department w.e.f 01-01-2016 to 17-07-2017. The enquiry committee reported **(Annex D)** that Appellant (Muhammad Shafique Head Clerk) did not attend the office of the Executive Engineer PHE Division Kohistan, and recommended that his absence from the service ranging up to **one year six months and seventeen days (1 year, 6 months and 17 days)** may be converted into extraordinary leave. (leave without pay)
6. Para no.6 needs no comments.
7. Para no.7 needs no comments.


GROUNDS.


- A. Para is incorrect, that the enquiry has been properly conducted and appellant has been given full opportunity to defend himself, order is legal and according to prescribed rules and regulations.
- B. Para is incorrect, that the post was available in PHE Kohistan and the posting/ transfer order was issued.
- C. Para is incorrect, baseless and also needs proof the respondents have acted in accordance with law and in compliance to the judgment dated 17/07/2017, in letter and spirit.
- D. Para is incorrect, baseless and also needs proof. Order was passed by authority as per law and rules.
- E. In reply of ground E, it is submitted, that the post was available in PHE Kohistan so the posting/transfer order was issued and the appellant was bound to obey the orders of the competent authority.
- F. Para is incorrect, baseless and also needs proof the impugned order has been issued in accordance with law and in compliance to judgment in letter and spirit.
- G. Para needs no comments.
- H. Para needs no comments.
- I. Legal treated as per law.
- J. That the respondent seeks other points at the time of arguments.


It is therefore, graciously prayed that the instant Appeal No.927/2022 may very kindly be dismissed.



Respondent 1. _____
 SECRETARY,
 PUBLIC HEALTH ENGINEERING DEPARTMENT,
 KHYBER PAKHTUNKHWA PESHAWAR.

Respondent 2. _____ 
 CHIEF ENGINEER (NORTH/EAST)
 PUBLIC HEALTH ENGINEERING DEPARTMENT,
 KHYBER PAKHTUNKHWA PESHAWAR.

Respondent 3. _____ 
 CHIEF ENGINEER (SOUTH)
 PUBLIC HEALTH ENGINEERING DEPARTMENT,
 KHYBER PAKHTUNKHWA PESHAWAR.

Respondent 4. _____ 
 EXECUTIVE ENGINEER,
 PUBLIC HEALTH ENGINEERING,
 DIVISION MANSEHRA.

Respondent 5. _____
 Respondent 6. _____
 Respondent 7. _____
 Respondent 8. _____

Noted subject
to committee
to attend to
on this subject
general meeting
copies will be
A. B. D. 2001
A. B. D. 2001

Submittal for
use of the
A. B. D. 2001

**BEFORE THE HONOURABLE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR AT CAMP COURT ABBOTTABAD**

APPEAL NO.927/2022

MUHAMMAD SHAFIQUEAPPELLANT

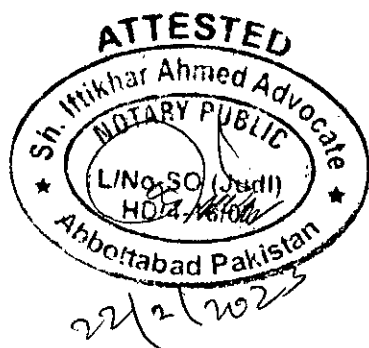
VERSUS

GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH SECRETARY
PHE & OTHERS.....RESPONDENTS

Joint Comments on Behalf of Respondents 1 to 4

AFFIDAVIT

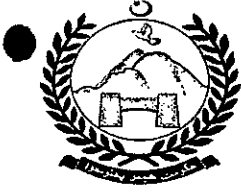
I, Amna Waheed Awan, Executive Engineer, Public Health Engg: Division Mansehra, do hereby solemnly affirms and declare that the contents of forgoing comments are true and correct according to the best of my knowledge and belief, and nothing has been suppressed from this Honorable Service Tribunal.



DEPONENT

(Signature)
(AMNA WAHEED AWAN)
EXECUTIVE ENGINEER,
PUBLIC HEALTH ENGG: DIVISION,
MANSEHRA,

Dated: _____/2023.



**GOVERNMENT OF KHYBER PAKHTUNKHWA
PUBLIC HEALTH ENGG: DEPARTMENT**

(Civil Secretariat, Technical Block, Police Line Road, Peshawar)

Dated Peshawar, the May 22, 2023

PHEDKPGovt

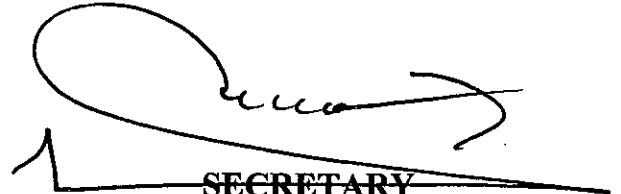
PHEDKPGovt

phed.lit@gmail.com

0919223432 0919213922

AUTHORITY LETTER

No.SO(LIT)/PHE/S.T/40-5/Shafique/Mansehra Mr. Irfan Anjum, Superintendent (BPS-17) Public Health Engineering Department (CNIC No. 17301-1478147-9) is hereby authorized to attend the Service Tribunal Khyber Pakhtunkhwa Peshawar at Camp Court, Abbottabad & submit para-wise comments in Service Appeal No.927/2022 titled "Muhammad Shafiq versus Government of Khyber Pakhtunkhwa Through Secretary Public Health Engineering & Others on behalf of the Secretary Public Health Engineering Department & Others.


**SECRETARY
PHE DEPARTMENT.**

P O F (10)



Attested
M. Muhammad Asghar Khan, Junior
 Advocate High Court
 Office No 33, Adalat Chowk
 Peshawar

Annex - A
 OFFICE OF THE CHIEF ENGINEER (SOUTH)
 PUBLIC HEALTH ENGG. DEPARTMENT
 KHYBER PAKHTUNKHWA, PESHAWAR

No: 08 / E-9 / PHE

Dated Peshawar, the 14 / 7 / 2015

On the recommendation of the Departmental Promotion Committee (DPC) in its meeting held on 18.11.2015, under the Chairmanship of Secretary PHE Department, the competent authority is pleased to promote the following Accounts Clerks (BPS-9) to the rank of Head Clerk/Assistant BPS-16, in the best interest of public.

- 1) Hassan Gul, 2) Abdul Ghani, 3) Muhammad Pervez, 4) Daud Khan, 5) Siad Nawaz, 6) Rawail Khan, 7) Pio-ud-Din, 8) Siad Rehman, 9) Muhammad Ishaque, 10) Munir Khan, 11) Sareer Ullah, 12) Sher Ali Baz, 13) Doctor Khan, 14) Muhammad Shafique, 15) Noor-ur-Rehman, 16) Aftab Kamal, 17) Iqbal-ud-Din, 18) Perviz Khan, 19) Nowshad Khan, 20) Afsar Khan, 21) Khurshid Iqbal, 22) Sadre Alam, 23) Sufi Sardar.

Consequent upon their promotion to the next rank, they will remain on probation for a period of one year, as per Civil Servants act 1973, read with appointment/promotion and transfer rules 1989, as such, the following posting are hereby ordered, with immediate effect.

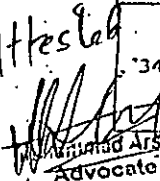
Chief Engineer (North)	
PHE Department	
Peshawar	
Serial No.	596
Date	15/7/15
Case No.	F-2
REASON	
OPINION	
REMARKS	
DATE	
SIGNATURE	
NAME	
DESIGNATION	
OFFICE	
ADDE/Focal	
PERSON (Competency)	

Mr. Suleman may be posted at PHE Circle Swat in stead of P.H.E. Division Buner

#	Name	From	To	Remarks
	Mr. Hassan Gul	Accounts Clerk PHE Division Mardan	Assistant PHE Circle Mardan	Against the existing vacancy
	Mr. Abdul Ghani	Accounts Clerk PHE Division Buner	Head Clerk PHE Division Shangln	Against the existing vacancy
3.	Mr. Suleman	Head Clerk PHE Division Swat	Head Clerk PHE Division Buner	Against the existing vacancy
4.	Mr. Muhammad Younas	Head Clerk PHE Division Abbottabad	Head Clerk PHE Division Battagram	Against the existing vacancy
5.	Mr. Muhammad Pervez	Accounts Clerk PHE Division Abbottabad	Head Clerk PHE Division Haripur	Vice Item No.11
6.	Mr. Daud Khan	Accounts Clerk PHE Division Tank	Head Clerk PHE Division Hangu	Against the existing vacancy
7.	Mr. Said Nawaz	Accounts Clerk PHE Division Karak	Head Clerk PHE Division Karak	Against the existing vacancy
8.	Mr. Rawail Khan	Accounts Clerk PHE Division Nowshera	Assistant office of Chief Engineer South	Against the existing vacancy
9.	Mr. Paio Din	Accounts Clerk PHE Division D.I.Khan	Assistant PHE Circle D.I.Khan	Against the existing vacancy
10.	Mr. Said Rehman	Accounts Clerk PHE Division Swat	Head Clerk PHE Division Swat	Vice Item No.3
11.	Mr. Muhammad Irshad	Head Clerk PHE Division Haripur	Assistant office of Chief Engineer North	Against the existing vacancy
12.	Mr. Muhammad Ishaque	Accounts Clerk PHE Division D.I.Khan	Head Clerk PHE Division D.I.Khan	Against the existing vacancy
13.	Mr. Munir Khan	Accounts Clerk PHE Division Abbottabad	Head Clerk PHE Division Abbottabad	Vice Item No.4
14.	Mr. Sareer Ullah	Accounts Clerk PHE Division Peshawar	Head Clerk PHE Division Peshawar	Against the existing vacancy
15.	Mr. Sher Ali Baz	Accounts Clerk PHE Division Lakki Marwat	Assistant PHE Circle Bannu	Against the existing vacancy
16.	Mr. Doctor Khan	Accounts Clerk (Head Clerk in (OPS) PHE Division Karak	Head Clerk PHE Division Kohat	Vice Item No.30
17.	Mr. Muhammad Shafique	Accounts Clerk PHE Division Haripur	Head Clerk PHE Division Kohistan	Against the existing vacancy
18.	Mr. Noor-ur-Rehman	Accounts Clerk PHE Division Malakand	Head Clerk PHE Division Malakand	Against the existing vacancy

Attested

19.	Mr. Aftab Kamal	Accounts Clerk office of C.E (South)	Assistant office of Chief Engineer South	Against the existing vacancy
20.	Mr. Iqbal-ud-Din	Accounts Clerk PHE Division Nowshera	Head Clerk PHE Division Nowshera	Against the existing vacancy
21.	Mr. Pervez Khan	Accounts Clerk PHE Division Mardan	Assistant PHE Circle Mardan	Against the existing vacancy
22.	Mr. Naushad Khan	Accounts Clerk PHE Division Peshawar	Assistant PHE Circle Peshawar	Against the existing vacancy
23.	Mr. Afsar Khan	Accounts Clerk PHE Division Kohat	Assistant PHE Circle Kohat	Against the existing vacancy
24.	Mr. Khurshid Iqbal	Accounts Clerk office of C.E South	Assistant office of Chief Engineer South	Against the existing vacancy
25.	Mr. Sadr-e-alam	Accounts Clerk PHE Division Charsadda	Head Clerk PHE Division Charsadda	Vice Item No.27
26.	Mr. Sofi Sardar	Accounts Clerk PHE Division Hangu	Head Clerk PHE Division Tank	Against the existing vacancy
27.	Mr. S.Rashid Ali Shah	Head Clerk PHE Division Charsadda	Assistant PHE Circle Peshawar	Against the existing vacancy
28.	Mr. Zahir Shah	Assistant PHE Circle Mardan	Head Clerk PHE Division Mardan	Against the existing vacancy
29.	Mr. Asghar Ali	Head Clerk PHE Division Bannu	Head Clerk PHE Division Dir Upper	Against the existing vacancy
30.	Mr. Kalim Khan	Head Clerk PHE Division Kohat	Head Clerk PHE Division Bannu	Vice Item No.29
31.	Mr. Abdullah	AV Clerk working against the post of Computer Operator PHE Division Hangu	Accounts Clerk PHE Division Hangu	Adjusted Vice Item No.26
32.	Mr. Abdul Sabeer	Account Clerk PHE Division Bannu	Accounts PHE Division Karak	Vice Item No.7
33.	Mr. Muhammad Aalam	Accounts Clerk PHE Circle D.I.Khan	Accounts Clerk PHE Division D.I.Khan	Vice Item No.9
34.	Mr. Maqsood-ur-Rahman	Accounts Clerk PHE Division Torghar	Accounts Clerk PHE Division Masehra	Against the existing vacancy with additional charge of Head Clerk in addition to his own duty.

Attest

 Advocate Arshad Khan Tanoli
 Advocate High Court
 Office No 33, Acharya Road
 Peshawar

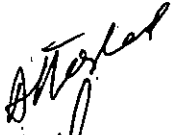
Chief Engineer (South)

Endstt: No. 08/E-2-B/PHE, / Dated Peshawar the 14 / 12 / 2015

Copy forwarded to:

1. The Secretary to Govt of Khyber Pakhtunkhwa PHED Peshawar
2. The Chief Engineer (North) Public Health Engg. Department Peshawar.
3. All Superintending Engineers (North/South) PHED.
4. PS to Minister for PHED Khyber Pakhtunkhwa Peshawar.
5. All Executive Engineers (North/South) PHED.
6. All District Accounts Officer concerned.
7. The official concerned/Master File.

Chief Engineer (South)

Attest

 SUPERVISOR
 P.H.E DEPARTMENT

Annex - B



**OFFICE OF CHIEF ENGINEER
PUBLIC HEALTH ENGINEERING DEPARTMENT
KHYBER PAKHTUNKHWA PESHAWAR**
PH#091-9211554, FAX#091-9211407, E-mail: northphed@gmail.com

No. 22 / E-2 / PHE
Dated Peshawar the, 29 / 12 / 2015

OFFICE ORDER

Mr. Muhammad Shafiq Assistant/Head Clerk, PHE Division Haripur (under transfer to PHE Division Kohistan) is hereby posted against the vacant post of Head Clerk PHE Division Manshara, relieving Mr. Maqsood-ur-Rchman Accounts Clerk of the Additional Charge of the post of Head Clerk.

Moreover Mr. Shafiq Senior Clerk PHE Sub Division Balakot is transferred & posted against the vacant post of Accounts Clerk in PHE Division Torghar, in the public interest with immediate effect.

Attested
[Signature]

Chief Engineer (North)

Muhammad Anwar Khan, Janozi
Advocate High Court
Office No: 33 Adjacent to

1. The Superintending Engineer Public Health Engineering Circle Abbottabad
2. The Executive Engineers Public Health Engineering Division Manshara/Torghar
3. District Account Officer Manshara/Torghar
4. Official concerned.

Chief Engineer (North)

Attested
[Signature]
PHE DEPARTMENT

Annex - C

P-10



**OFFICE OF CHIEF ENGINEER
PUBLIC HEALTH ENGINEERING DEPARTMENT
KHYBER PAKHTUNKHWA PESHAWAR**

Ph#091-9211554, FAX#091-9211407, E-mail: northphed@gmail.com

No. 04 / E-2 / PHE
Dated Peshawar the, 01 / 10 / 2015

OFFICE ORDER

The posting / transfer order of Muhammad Shafiq, Assistant issued vide this office No. 22/E-2/PHE dated 29.12.2015 is hereby cancelled / withdrawn in the public interest.

Chief Engineer (North)

Copy to:

1. PS to Secretary PHE Department, Peshawar with reference to his letter No. SO(Estn)/PHED/24-58/2015 dated 29.12.2015 please.
2. PS to Minister Public Health Engineering Department Peshawar please.
3. The Superintending Engineer Public Health Engineering Circle Abbottabad
4. The Executive Engineers Public Health Engineering Division Mansehra/Torghar
5. District Account Officer Mansehra/Torghar
6. Official concerned.

Chief Engineer (North)

Attested

 Advocate Arshad Khan Janjani
 Advocate High Court
 Office No. 33 Adjacent to
 District Court, Peshawar

Attested

 SUPERINTENDENT
 P.H.E DEPARTMENT

**OFFICE OF THE SUPERINTENDING ENGINEER
PUBLIC HEALTH ENGINEERING CIRCLE ABBOTTABAD**
sephedabbottabad@gmail.com Phone & FAX No.0992-383211

No.

03 167-151

Dated Abbottabad the 25/10/2018

To

The Chief Engineer (North)
Public Health Engineering Department,
Peshawar.

Subject:- **OFFICE ORDER**

Reference:- Your office order No.06/E-2/PHE dated 09/08/2017.

As desired, detailed report/facts finding enquiry regarding absence of Muhammad Shafique, Assistant/Head Clerk from Government duty since 01/01/2016 to 17/07/2017 is submitted herewith for favour of further necessary action please.

DA/ As above:

SUPERINTENDING ENGINEER

Handwritten signature

**SUPERINTENDENT
PH. DEPARTMENT**

ENQUIRY REGARDING ABSENCE PERIOD OF MUHAMMAD SHAFIQUE,
ASSISTANT/HEAD CLERK FROM GOVERNMENT DUTY SINCE
01/01/2016 TO 17/07/2017

Authority: Chief Engineer (North) Public Health Engineering
Department Peshawar Office order No.06/E-2/PHE dated
09/08/2017.

Introduction:-

Muhammad Shafique working as Accounts Clerk in the office of the Executive Engineer PHE Division Haripur was promoted to the post of Head Clerk and posted in the office of the Executive Engineer PHE Division Kohistan against the existing vacancy vide Chief Engineer (South) PHED Peshawar office order No.08/E-9/PHE dated 14/12/2015. Meanwhile Muhammad Shafique Head Clerk was under transfer to PHE Division Kohistan. he was posted against the vacant post of Head Clerk in PHE Division Mansehra vide Chief Engineer (North) PHED Peshawar office order No.22/E-2/PHE dated 29/12/2015, whereas after a few days the posting order at Mansehra District was withdrawn/cancelled by the Chief Engineer (North) PHED Peshawar vide office order No.04/E-2/PHE dated 01/01/2016. Seeing the order of cancellation, Muhammad Shafique, Head Clerk submitted an application/Departmental Appeal to the Chief Engineer (North) PHED Peshawar for restoration of his office order No.22/E-2/PHE dated 29/12/2015 in which the official was posted in PHE Division Mansehra. After submission of the application/Departmental Appeal to the Chief Engineer (North) PHED Peshawar, Muhammad Shafique, Head Clerk lodged a service Appeal No.625/2016 on 30/05/2016 before the Khyber Pakhtunkhwa Service Tribunal Camp Court, Abbottabad.

The Honourable Khyber Pakhtunkhwa Service Tribunal Camp Court Abbottabad decided the appeal on 17/07/2017 in favour of Muhammad Shafique Head Clerk and set aside the withdrawal/cancellation order No.04/E-2/PHE dated 01/01/2016 in which the official was again transferred to PHE Division Kohistan.

After decision of the Honourable Service Tribunal Camp Court Abbottabad, Muhammad Shafique Head Clerk was again posted as Head Clerk in PHE Division Mansehra vide Chief Engineer (North) PHED Peshawar office order No.06/E-2/PHE dated 09/08/2017 and the official assumed the charge of Head Clerk in PHE Division Mansehra on 27/07/2017.

As such Muhammad Shafique Head Clerk was absent from Government duty from 01/01/2016 to 17/07/2017.

Shafique
SUC-DEPENDENT
P.H.E DEPARTMENT

Observations:-

Muhammad Shafique Accounts Clerk PHE Division Haripur was promoted to the post of Head Clerk and posted in the office of the Executive Engineer PHE Division Kohistan vide Chief Engineer (South) PHED Peshawar office order No.03/E-9/PHE dated 14/12/2015 (copy attached as Annexure-I). Later on the order of posting in the office of the Executive Engineer PHE Division Kohistan was withdrawn/cancelled vide Chief Engineer (North) PHED Peshawar office order No.22/E-2/PHE (N) dated 29/12/2015 (copy attached as Annexure-II) and the official was posted in PHE Division Mansehra. Soon after the order of cancellation from PHE Division Kohistan to PHE Division Mansehra, the same order was also cancelled/withdrawn by the Chief Engineer (North) PHED Peshawar vide office order No.04/E-2/PHE dated 01/01/2016 and the official was again posted in the office of the Executive Engineer PHE Division Kohistan whereas, Muhammad Shafique, Head Clerk did not comply with the order for posting at PHE Division Kohistan and lodged a suit before the Khyber Pakhtunkhwa Service Tribunal Camp Court Abbottabad. Meanwhile, Muhammad Shafique Head Clerk did not attend the office of the Executive Engineer PHE Division Kohistan for duty and was absent from 01/01/2016 till decision of the Honourable Service Tribunal Camp Court Abbottabad i.e 17/07/2017.

Recommendations:

In view of the above mentioned facts, Mr. Shafique Head Clerk did not join the duty at PHE Division Kohistan from 01/01/2016 to 17/07/2017. It is recommended that his absence from the service ranging upto one year six months and seventeen days (1 year, 6 months and 17 days) may be converted into Extraordinary leave (leave without pay).

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SUPPLEMENTARY
PUBLIC HEALTH
DEPARTMENT

(ABDUL LATIF KHAN)
INQUIRY OFFICER/
SUPERINTENDING ENGINEER
PUBLIC HEALTH ENGINEERING
CIRCLE ABBOTTABAD

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