


# FORM OF ORDER SHEET

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

**Appeal No.** \_\_\_\_\_

**1645/2023**

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	10/08/2023	<p>The appeal of Mr. Ijaz Ali presented today by Mr. Noor Muhammad Khattak Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on</p> <p style="text-align: right;">By the order of Chairman  REGISTRAR</p>

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

SERVICE APPEAL NO. 1645 /2023

IJAZ ALI

VS

L.G & R.D DEPTT:

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**APPELLANT**

Through

  
**NOOR MOHAMMAD KHATTAK**  
ADVOCATE SUPREME COURT

-1-

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

APPEAL NO. 1645 / 2023

Mr. Ijaz Ali, Village Secretary (BPS-09),  
Village Council Permoli North, Tehsil Razzar, District Swabi.

.....APPELLANT

**VERSUS**

- 1- The Government of Khyber Pakhtunkhwa through Secretary Local Government and Rural Development Department, Civil Secretariat, Peshawar.
- 2- The Director General Local Government and Rural Development Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Assistant Director Local Government and Rural Development Department, District Swabi.

..... RESPONDENTS

**APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE INACTION OF THE RESPONDENTS BY NOT GRANTING SENIORITY TO THE APPELLANT W.E.F. 14.01.2016 I.E. FROM THE DATE WHEN OTHER COLLEAGUE OF THE APPELLANT HAS BEEN APPOINTED AS VILLAGE SECRETARY AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.**

**PRAYER:**

That on acceptance of this appeal the respondents may kindly be directed to grant seniority to the appellant against the post of village secretary (BPS-09) w.e.f. 14.01.2016 with all consequential back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

**R/SHEWETH:**

**ON FACTS:**

- 1- That appellant is the employee of respondent Department and working as Village Secretary (BPS-09), since from the date of appointment.
- 2- That the respondent department advertised certain post of Secretary, Village/Neighbor Hood Council in daily newspaper, whereby appellant as well as other candidates have applied for the said post. The appellant appeared in the written test secured high marks but astonishingly the appellant despite better merit position

was ignored and the respondent through office order dated 14.01.2016 issued appointment order to other candidates. Copy of the office order dated 14-01-2016 is attached as **Annexure** ..... **A.**

3- That appellant feeling aggrieved from the inaction of the respondents by not appointing being top on the merit list, filed WP No.589-P/2016 before the Peshawar High Court which was decided in favour of appellant as prayed for vide Judgment dated 21.02.2018. Copy of the memo of WP and judgment dated 21.02.2018 are attached as **Annexure** ..... **B.**

4- That it is important to mentioned here that the privet respondent in the ibid WP Filed Review Petition No.56-P/2018 against the supra Judgment dated 21.02.2018 but the same has been dismissed in limine vide order dated 03.05.2018. Copy of the order dated 03.05.2018 is attached as annexure.....**C.**

5- That the respondent while implementing the judgment passed by Peshawar High Court vide dated 21.02.2018 issued appointment order dated 31.07.2018 but with immediate effect and not from the date when the other colleagues are issued appointment order dated 14.01.2016. Copy of appointment order date 31.07.2018 is attached as **Annexure** ..... **D.**

6- That the appellant feeling aggrieved from the inaction of the respondents by not granting seniority w.e.f. 14.01.2016 i.e. from the date when the other colleagues were issued appointment order, filed Departmental Appeal which was not responded till date. Copy of Departmental Appeal is attached as **Annexure** ..... **E.**

7- That appellant feeling aggrieved and having no other remedy but to file the instant service appeal on the following grounds amongst the others.

**GROUND:**

A- That the inaction of the respondents by not granting seniority to the appellant w.e.f. 14.01.2016 i.e. from the date of appointment of other colleagues is against the Law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.

B- That appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article-4 and 25 of the Constitution of Islamic Republic of Pakistan-1973.

- C- That the respondents acted in arbitrary and malafide manner while not granting seniority to the appellant w.e.f. 14.01.2016 i.e. the date of appointment of other colleagues is also against norms of Natural Justice.
- D- That act of the respondents by not granting seniority to the appellant w.e.f. 14.01.2016 i.e. the date of appointment of other colleagues against the principle of natural justice, hence not tenable and liable to be set aside.
- E- That the appellant has been highly discriminated with the act of the respondents by not granting seniority to the appellant w.e.f. 14.01.2016 i.e. the date of appointment of other colleagues.
- F- That the act of the respondent by not granting seniority to the appellant w.e.f. 14.01.2016 i.e. the date of appointment of other colleagues is also against the spirit of the judgment passed by Peshawar High in writ petitions No.263-M/2014 vide Judgment dated 16-10-2017. Copy of the Judgment is attached as annexure.....**F.**
- G- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore, most humbly prayed that the appeal of the appellant may be accepted as prayed for.

Dated:

**APPELLANT**

  
**Ijaz Ali**


**THROUGH:**

  
**NOOR MOHAMMAD KHATTAK**

  
**UMAR FAROOQ MOHMAND**

  
**KAMRAN KHAN**

  
**AYOUB KHAN GHILZAI**

  
**MEHMOOD JAN**

**ADVOCATES HIGH COURT**

-4-

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

SERVICE APPEAL NO. \_\_\_\_\_/2023

IJAZ ALI

VS

L.G & R.D DEPTT:

**AFFIDAVIT**

I, Ijaz Ali, Village secretary BPS-09 Village Council Permoli North, Tehsil Razzar, District Swabi, do hereby solemnly affirm that the contents of this Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court/Tribunal.

  
**DEPONENT**

"A"  
-5-

OFFICE OF THE DEPUTY COMMISSIONER, SWABI

No. 182-307/DCS/EA Dated: 14/01/2016.

APPOINTMENT ORDER.

Consequent upon the recommendations of the Selection & Recruitment Committee made in its Meeting held on 07/01/2016 at 11:00 A.M, the following persons placed on the merit list are hereby appointed as Secretary (BPS-07) of Village/ Neighborhood Council as noted against their names, in District Swabi, with immediate effect, on the terms and conditions appended below:

TEHSIL SWABI:

S#	Name	Father Name	Former Union Council	Native V/N Council	Appointed for V/N Council
1	Abdul Sattar	Dilbar Khan	Gar Munara	Zaida Rural	Zaida Rural
2	Asif Raza	Raza Khan	Jhanda	Baja	Baja
3	Abdul Hafeez Ahmad	Faqir Jamal	-do-	Boqa	Boqa
4	Ibrahim Khan	Alam Khan	-do-	Jhanda	Jhanda
5	Waheed Murad	Abdul Ghani	Maneri Bala	Maneri Bala-III	Maneri Bala-III
6	Zia Ullah	Fazal Ullah	Maneri Payan	Maneri Payan-I	Maneri Payan-I
7	Shahid Rahman	Rahman Sher	-do-	-do-	Maneri Bala-I
8	Inam Ullah	Zaridad Khan	-do-	Maneri Payan-II	Maneri Payan-II
9	Shahzad Shah	Ubaid Ullah Shah	-do-	Maneri Payan-III	Maneri Payan-III
10	Ghani Alam	Banat Khan	-do-	-do-	Maneri Bala-II
11	Sabir Ali	Wali Muhammad	Marghuz	Marghuz Aka Khail	Gar Munara
12	Shah Fahad	Sardar Ahmad	-do-	Marghuz Yara Khail Gharbi	Yousafi
13	Younas	Gul Nawaz Khan	Pabaini	Malak Abad	Malak Abad
14	Akhtar Rehman	Gul Rehman	-do-	Pabaini	Pabaini
15	Ibrahim	Muhammad Umar	-do-	Panjman	Panjman
16	Junaid Khan	Shakir Ullah	Salim Khan	Salim Khan Central	Salim Khan Central
17	Abid Ali	Habib Ur Rahman	-do-	Salim Khan East	Salim Khan East
18	Syed Amir Shah	Syed Quraish	-do-	Salim Khan West	Salim Khan West

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S#	Name	Father Name	Former Union Council	Native V/N Council	Appointed for V/N Council
19	Fazl Amin	Fazl Rehman	Shahmansoor	Shahmansoor-I	Shahmansoor-I
20	Sohaib Hayat	Abdul Bashir	-do-	Shahmansoor-II	Shahmansoor-II
21	Naveed Hussain	Said Zarin Shah	Swabi Khas	Swabi Khas-II	Swabi Maneri-II
22	Inayat Ullah	Miqdad	Swabi Maneri	Swabi Maneri-I	Swabi Maneri-I
23	Faisal Qaseem	Aseem Khan	Thand Koi	Kaddi	Thand Koi North
24	Muhammad Raheel	Ali Haidar Shah	-do-	-do-	Thand Koi South
25	Rashid Khan	Hayat Sher	Thand Koi	Dodair	Dodhair

**TEHSIL RAZZAR:**

S#	Name	Father Name	Former Union Council	Native V/N Council	Appointed for V/N Council
26	Shabbir Ahmad	Jehan Ali	Adina	Adina-II	Adina-II
27	Murad Ali	Ahmad Ali	Asota Sharif	Asota	Asota
28	Shayan Iqbal	Bahar mand Sahibzada	Bachai	Bachai	Bachai
29	Junaid Ahmad	Raham Dad	-do-	Sikandari	Sikandari
30	Hamid Ali	Usman Ghani	Chak Nodeh	Chak Nodeh-II	Chak Nodeh-II
31	Asim Ahmad	Ahmad Ali	Dagai	Dagai-I	Dagai-I
32	Atif Aman	Mir Aman	-do-	Dagai-II	Dagai-II
33	Zeeshan Akbar	Mian Fazli Akbar	Dobian	Dobian-I	Dobian-I
34	Anees Ahmad	Malik Aman	-do-	-do-	Daulat
35	Walid Ilahi	Raham Ilahi	-do-	-do-	Nazar
36	Abid Ali	Shamsher Khan	-do-	Dobian-II	Dobian-II
37	Muhammad Zahid	Fazli Wahid	Ismaila	Ismaila	Ismaila South
38	Muhammad Usman Khan	Samar Khan	-do-	-do-	Ismaila Sher Garhi
39	Zakir Hussain	Zar Khitab	Kalu Khan	Kalu Khan-I	Kalu Khan-I
40	Qazi Mohib	Muhammad Iqbal	-do-	Kalu Khan-II	Kalu Khan-II
41	Muhammad Sohail	Shah Jehan	-do-	-do-	Kalu Khan-V
42	Majid Ali	Biladar	Kernal Sher Kalay	Kernal Sher Kalay East	Kernal Sher Kalay East
43	Waqar Ahmad Jang	Bahader Jang	Naranji	Naranji-I	Naranji-I



S#	Name	Father Name	Former Union Council	Native V/N Council	Appointed for V/N Council
44	Khair Ul Taj	Shamsul Qamar	-do-	Naranji-II	Naranji-II
45	Muhammad Jawad Khan	Misal Khan	Parmoli	Parmoli South	Parmoli South
46	Rasheed Khan	Masal Khan	-do-	-do-	Sher Dara
47	Faheem Said	Usman Said	-do-	Ghulaman	Ghulaman
48	Safdar Ali Shah	Mufareh Shah	-do-	Parmoli North	Parmoli North
49	Zahid Ali	Shah Wali	Sard China	Rokhani	Rokhani
50	Fazli Subhan	Aziz Ur Rahman	-do-	Bazargai	Bazargai
51	Jawad Alam	Ghani Bahadar	-do-	Sard China	Sard China
52	Adil Hayat	Syed Mahmood Shah	Sheikh Jana	Sheikh Jana-I	Sheikh Jana-I
53	Zul Qarnain Haider	Muhammad Nisar	-do-	Sheikh Jana-II	Sheikh Jana-II
54	Khizer Hayat	Allah Yar	-do-	Sheikh Jana-III	Sheikh Jana-III
55	Main Ishtiaq Ali	Main Tajbar Ali	Sudher	Sudher	Urmal Dheri
56	Nadeem Ahmad	Ajab Gul	-do-	-do-	Sudher
57	Muhammad Iqbal	Muhammad Shuaib	-do-	Sadri	Sadri
58	Anayat Ullah	Nabi Ullah	Tarakai	Tarakai-I	Tarakai-I
59	Murtaza Ali	Noor Ul Basar	-do-	-do-	Tarakai-II
60	Salman Shehzad	Ghulam Qadir	Turlandi	Turlandi	Shaheda
61	Hazrat Bilal	Sajeed Gul	-do-	Naudeh	Managai
62	Syed Zafar Ali Shah	Syed Ali Shah	-do-	Kalu Dher	Kalu Dher
63	Qudrat Ullah	Kamdar Khan	Yaqobi	Yaqobi-I	Yaqobai-I
64	Muhammad Ayaz	Shad Ali	-do-	-do-	Yaqobai-II
65	Abid Said	Amir Said	-do-	Chak Yarhussain	Chak Yarhussain
66	Hamdullah	Zawar Khan	Yar Hussain East	Yar Hussain East-I	Yar Hussain East-I
67	Ashfaq Ullah	Gul Qamar	-do-	Yar Hussain East-II	Yar Hussain East-II
68	Asghar Khan	Murad Khan	-do-	Yar Hussain East-III	Yar Hussain East-III
69	Muhammad Amir Bilal	Muhammad Mustafa	Yar Hussain West	Yar Hussain West-I	Yar Hussain West-I
70	Sohail Hassan	Hassan Sher	-do-	Yar Hussain West-II	Yar Hussain West-II

TEHSIL LAHOR:

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S#	Name	Father Name	Former Union Council	Native V/N Council	Appointed for V/N Council
71	Fazal Zahid	Fazal Karim	Anbar	Sheikh Dheri	Sheikh Dheri
72	Rameez Ali Shah	Shoaib ur Rehman	-do-	Kunda Mera	Kunda Mera
73	Khanzaib	Islam ud Din	Beka	Bazar	Bazar
74	Muhammad Shakir	Farman Gul	-do-	Bazar	Nabi
75	Baz Muhammad	Shan Muhammad	Jehangira	Alladher	Alladher
76	Muhammad Meekail	Abdul Qayum	-do-	-do-	Jehangira-III
77	Rohan ud Din	Qutab ud Din	-do-	Jehangira-II	Jehangira-II
78	Sher Zaman	Gul Zaman	-do-	Jehangira-I	Jehangira-I
79	Faheem Ullah	Tajdar Ullah	Jalbai	Jalbai-I	Jalbai-I
80	Waqar Ahmad	Khushdil Khan	-do-	Jalbai-II	Jalbai Mera
81	Ibrahim Shah	Ishaq	-do-	-do-	Jalbai-II
82	Ubaid Ullah	Karim Ullah	Jalsai	Jalsai-I	Jalsai-I
83	Khateeb ur Rehman Qureshi	Noor ur Basar	-do-	Jalsai-II	Jalsai-II
84	Yasir Khan	Dadu Khan	Kunda	Hund	Hund
85	Muhammad Rashid Khan	Abid Khan	Lahor Gharbi	Lahor Gharbi-II	Lahor Sharqi-I
86	Adnan Ahmad	Noor ur Basar	-do-	-do-	Manki-I
87	Maher Amin	Fazal Qadeem	Manki	Manki-II	Manki-II
88	Syed Asim Ali Shah	Noor Wali Shah	Mathani Changan	Mathani Changan-I	Mathani Changan-I
89	Muhammad Bilal Jehangir	Sher Ali Khan	-do-	-do-	Tano
90	Sheraz Khan	Yahya Khan	Tordher	Tordher-II	Tordher-II

TEHSIL TOPI:

S#	Name	Father Name	Former Union Council	Native V/N Council	Appointed for V/N Council
91	Sahibzada Muhammad Usman	Sahibzada Muhammad Iqbal	Batakara	Topi Rural	Topi Rural
92	Bakhtiar Ahmad	Mir Taj	Gabasni	Mangal Chai	Mangal Chai

S#	Name	Father Name	Former Union Council	Native V/N Council	Appointed for V/N Council
93	Sher Zaman Khan	Taj Muhammad Khan	-do-	Chanai	Chanai
94	Abdullah	Fazal Amin	Gandaf	Gandaf-II	Gandaf-II
95	Sultan Zaib	Gulfaraz Khan	-do-	-do-	Gandaf-I
96	Mohammad Saraj	Ali Haider	-do-	Bada	Bada
97	Tariq Amin	Ghulam Sharif	Gani Chatra	Gani Chatra	Dewal
98	Abdul Sattar	Said Wahab	-do-	-do-	Gani Chatra
99	Adnan	Ghulam Sharif	-do-	-do-	Qadra
100	Anwar Waqas	Multan Ahmad	-do-	-do-	Takei
101	Khush Nabi	Sahib Shah	-do-	Utla	Utla
102	Jan Muhammad	Muhammad Gul	Kabgani	Kabgani	Kabgani
103	Zafar Ahmad	Zahir Ullah	Kalabat	Kalabat-II	Kalabat-II
104	Zahir Shah	Hussain Shah	Kotha	Kotha-I	Kotha-I
105	Akmal Khan	Fazal Qadir	-do-	Kotha-III	Kotha-III
106	Mudassir Ahmad	Mohammad Ayub	-do-	-do-	Kotha-II
107	Adil Hayat	Yousaf Khan	Maini	Maini-I	Maini-I
108	Javed Rehman	Abdur Rahman	-do-	Maini-III	Maini-III
109	Muhammad Haris	Muhammad Sajjad	Topi East	Topi East-I	Topi East-I
110	Taimur Hussain Shah	Syed Muzaffar Shah	-do-	Topi East-II	Topi East-II
111	Yasir Nawaz	Sherullah	-do-	Topi East-III	Topi East-III
112	Wasim Khan	Liaqat Ali	Topi West	Topi West-I	Topi West-I
113	Tariq Ahmad	Aurang Zeb Khan	-do-	Topi West-II	Topi West-II
114	Said Zada	Sher Zada	-do-	-do-	Maini-II
115	Ubaid Zaman	Aman Ullah	-do-	-do-	Topi West-III
116	Yousaf Ahmad	Meher Rahim	Zarobi	Zarobi West	Zarobi West
117	Hazrat Ali	Abdul Hameed Khan	-do-	Zarobi East	Zarobi East

**Terms and Conditions:**

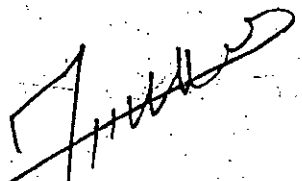
1. Their Services shall be governed by rules/ prescribed Policy of the Government.
2. They will be considered on probation for a period of one year which may be extended to further one year. During the probation period, their Services are liable to be dispensed without assigning any reason or notice, if their performance was not up to the mark.

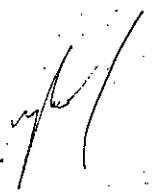
3. This offer of appointment is subject to verification of their academic credentials / Degrees/ Certificates etc from the concerned recognized Board/ Institute/ University etc. If any of the credentials of a person were found fake, his appointment is liable to be cancelled. Moreover, necessary legal action would also be initiated against him.
4. Health and age Certificate issued by the Medical Superintendent DHQ Hospital, Swabi be produced before joining the post.
5. Any other law, rules or instructions from the Government on time to time would also be applicable.
6. The appointment in respect of persons at S.No. 05, 18,54 & 58 is subject to the condition of grant of relaxation in upper age limit by the competent authority.
7. If the above offer is accepted, you should report to the office of Assistant Director, Local Govt: & Rural Development Department, Swabi within fifteen days of the issuance of this office order, otherwise the offer will automatically stands cancelled.

  
Deputy Commissioner, Swabi/  
(Chairman S & R Committee)

Copy forwarded to:

1. The Secretary to Govt: of Khyber Pakhtunkhwa, Local Govt: Elections & Rural Development Department, Peshawar.
2. The Commissioner Mardan Division, Mardan.
3. The Director General, Local Govt: & Rural Development Department, Khyber Pakhtunkhwa, Peshawar.
4. The PSO to Chief Minister, Khyber Pakhtunkhwa, Peshawar.
5. The PSO to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
6. The Section Officer (Establishment), Local Govt: & Rural Development Department, Peshawar.
7. The Medical Superintendent DHQ Hospital Swabi.
8. The District Accounts Officer, Swabi.
9. The Assistant Director, Local Govt: & Rural Development Department, Swabi.
10. All concerned for compliance.

  
Deputy Commissioner, Swabi/  
(Chairman S & R Committee)



"B"

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**BEFORE THE PESHAWAR HIGH COURT, PESHAWAR**

W.P.No. 589-1/2016



Ijaz Ali S/o Jehanzeb  
R/o Village & Post office Parmoli,  
Tehsil Razar, District Swabi

..... Petitioner

**VERSUS**

- 1) Govt of Khyber Pakhtunkhwa through Chief Secretary at Peshawar
- 2) Secretary Local Government Govt. of Khyber Pakhtunkhwa at Peshawar
- 3) Assistant Director Local Government, Govt. of Khyber Pakhtunkhwa at Swabi
- 4) Deputy Commissioner (Chairman S&R Committee), Swabi
- 5) Safdar Ali Shah S/o Mufarikh Shah R/o Village & Post office Parmoli, Tehsil Razar, District Swabi (Secretary Village Council Permoli North, Swabi)

..... Respondents

WRIT PETITION UNDER ARTICLE 199  
OF THE CONSTITUTION OF THE  
ISLAMIC REPUBLIC OF PAKISTAN,  
1973

**ATTESTED**  
EXAMINER  
Peshawar High Court  
31 MAR 2018

Respectfully Sheweth;  
May it please your honour;

**ED TODAY** That petitioner is law abiding citizen of the land and  
By Registrar resident & domicile of the Province of Khyber  
7 FEB 2016

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- 1) Pakhtunkhwa and being qualified and competent for the post of Secretary Village/ Neighbour Hood Council (BPS-07) advertised by the respondents applied for the same and successfully attended the written test and subsequently merit list was prepared where petitioner got a total score of 68 while respondent No.5 got total score of 61 and petitioner was sanguine of his success and appointment, but instead respondent No.5 was appointed. (Copies of the merit list and appointment order dated 14.01.2016 are attached as Annex "A & B" respectively)
- 2) That the private respondent No.5 was appointed by the official respondents in violation of the law/ rules and principles of natural justice and despite the presentations made to the respondent NO.4 on 18.01.201, petitioner was not only left unheard, but were deprived of their valuable constitutional and legal rights and respondents No.5 was appointed illegally due to nepotism and favoritism and no action was taken on petitioner presentation. (Copy of the presentation is attached as Annex "C")
- 3) That feeling aggrieved of the acts and omissions of the respondents and having no other alternate adequate, efficacious and speedy remedy the petitioner approaches this Hon'ble Court in its constitutional

jurisdiction on the following amongst other grounds:-

FILED TODAY  
Deputy Registrar  
(17 FEB 2016)

ATTESTED  
SEAL  
Deputy Registrar High Court

31 MAR 2016

WP589P2016-GROUNDS

GROUND:-

- A. That acts and omissions of the respondents are illegal, unconstitutional and violative of merit.
- B. That respondents violation and high handed attitude is clear from appointment order of private respondent No.5 on 14.01.2016, and the said having no legal footing and this Hon'ble Court in its constitutional jurisdiction can declare the same null and void.
- C. That respondent NO.5 does not belong to permoli North instead by mentioning permoli North he has committed cheating and has obtained appointment through fraud.
- D. That in case of availability of candidate from Village Council respondent No.5 who belong to adjacent council been appointed instead petitioner should have been appointed.
- E. That petitioner's total score is 68 and respondent No.5 secured 61 hence instead of respondent No.5 petitioner should have been appointed.
- F. That the respondents are not acting legally, transparently and merit are under fire and interference of this Hon'ble Court in its constitutional jurisdiction is the mandate of law and the prestigious constitution of the land.

FILED TODAY  
Deputy Registrar  
17 FEB 2016

*[Signature]*  
FILED  
31 FEB 2016

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G. That other relevant grounds not specifically raised may also be allowed to be agitated during arguments on this petition.


It is, therefore most humbly prayed that on acceptance of the instant writ petition by declaring the appointment of private respondent illegal, and void ab initio the official respondent be directed to issue appointment order of petitioner against as Secretary Union Council.

Any other ancillary and necessary relief not specifically asked for may also be granted in favour of petitioner.

**INTERIM RELIEF:-**

By way of interim relief further appointment, taking of charge etc may graciously be suspended till further order.

Petitioner   
Through

  
Akbar Ali  
Advocate, High Court  
Peshawar

**CERTIFICATE:**

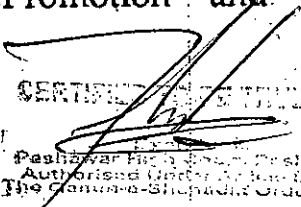
Certified that as per information and instructions furnished by my client no such like writ petition has earlier been filed by the petitioner.

  
Advocate

**LIST OF BOOKS:**

- 1) Constitution of Islamic Republic of Pakistan, 1973.
- 2) KPK Civil Servants (Appointment, Promotion and Transfer) Rules.
- 3) Any other law book.

FILED TODAY  
Deputy Registrar  
17 FEB 2016

  
CERTIFIED TRUE COPY  
Peshawar High Court, Peshawar  
Authorized Under Section 17 of  
The Courts-Shop Act Order 1984

31 MAR 2016



**BEFORE THE PESHAWAR HIGH COURT, PESHAWAR**

W.P.No. 5994/2016

Ijaz Ali ..... Petitioner

**VERSUS**

Govt of Khyber Pakhtunkhwa through Chief  
Secretary at Peshawar and others..... Respondents

**AFFIDAVIT**

I, Akbar Ali, Advocate (Counsel for Petitioner), do hereby affirm and declare as per information furnished by my client that the contents of the accompanying **Writ Petition** are true and correct and nothing has been concealed from this hon'ble court.

Notarized: 129/16

Certified that the above was verified on solemnly affirmation before me on this 17th day of Feb 16 at Peshawar to Akbar Ali who was identified by Self who is personally known to me.

[Signature] 19/2/2016

Notary Public

[Signature]  
Deponent

[Signature]  
**FILED TODAY**  
Deputy Registrar  
17 FEB 2016

[Signature]  
**CERTIFIED TO BE TRUE COPY**  
Peshawar High Court, Peshawar  
Authorized Under Article 37 of  
The Constitution Order 1984  
31 MAR 2016

-16-



**JUDGMENT SHEET**  
**PESHAWAR HIGH COURT, PESHAWAR**  
**(JUDICIAL DEPARTMENT)**

WP No. 589-P/2016

**JUDGMENT.**

Date of hearing: 21.02.2018.

Petitioner: Qasim Ali by: Akbar Ali - Advocate.

Respondent: by: Spd. Mubashir Shah - Advocate & - Aoshad Ahmad Khan Advocate.

**WAOAR AHMAD SETH, J:-** Through the instant

Writ Petition, petitioner has prayed for issuance of an appropriate writ declaring the appointment of private respondent No.5 as illegal and void ab-initio with further direction to official respondents to issue his appointment order against the post of Secretary Union Council.

2. In essence, grievance of the petitioner is that the respondents advertised the post of Secretary Village/Neighbour Hood Council (BPS-07) and he being qualified applied for the same and after appearing in the written test, he scored 68 while respondent No.5 scored 61 and was sanguine for appointment against the post in question but instead of petitioner, respondent No. 5 has been appointed;

hence, the instant Writ Petition.

**ATTESTED**  
EXAMINER  
Peshawar High Court  
03 APR 2018

3. Respondents No. 1 to 4 have furnished comments and opposed the writ of petitioner.

4. Arguments heard and record perused.

5. According to the Tehsil Wise merit list of Secretaries V/N Councils (District Swabi), annexed with the comments of respondents, petitioner is at serial No. 67 and his total score is 74 while respondent No. 5 is at serial No. 73 and his total score is 65, thus, it is apparent from the said merit list that petitioner's score is high then respondent No.5 but inspite of that, respondent No.5 has been appointed, which is illegal, unconstitutional and violative of merit; thus, is liable to be set aside.

6. In view of the above, this Writ Petition is allowed as prayed for.

*Waqar Ahmad Seth & Musarat Hildes*

**ANNOUNCED.**  
**Dated: 21.02.2018**

**JUDGE**

**JUDGE**

=====

"C" (D) -18-



BEFORE THE PESHAWAR HIGH COURT  
PESHAWAR

Review No 567 /2018  
IN  
WRIT PETITION NO 589-P/2016

Safdar Ali Shah son of Mufarikh Shah village and post  
office Parmoli Tehsil Razar ,District Swabi. Secretary  
village Council Permoli North Swabi.

----- [Petitioner]

*Versus*

1. Ijaz Ali S/O Jehanzeb R/o village & Post office  
Parmoli Tehsil Razar, District Swabi.
2. Govt: of KPK through Chief Secretary at  
Peshawar.
3. Secretary Local Government of Khyber  
Pakhtunhkhwa at Swabi.
4. Assistan Director Local Government of KPK at  
Swabi.
5. Deputy Commissioner (Chairman S&R Committee )  
Swabi .

----- [ Respondents ]

REVIEW PETITION UNDER SECTION 114

C.P.C IN THE ORDER PASSED BY THE

HONOURABLE D.B CONSTITUTED BY

JUSTICE WAQAR AHMAD SETH AND

FILED TODAY  
Deputy Registrar  
17 MAR 2018

**ATTESTED**

EXAMINER  
Peshawar High Court

22 MAY 2018



PESHAWAR HIGH COURT, PESHAWAR

ORDER SHEET

Date of Order or Proceedings	Order or others Proceedings with Signature of Judge
1	2
03.05.2018	<p><b>Review Petition No. 56-P/2018 in WP No. 589-P/2016</b></p> <p><b>Present: Mr. Rawil Khan, Advocate, for the petitioner.</b></p> <p>*****</p> <p><b>MUSARRAT HILALI J.-</b> Petitioner, Safdar Ali Shah, seeks review of the judgment dated 21.02.2018 delivered by this Court in WP No. 589-P/2016.</p> <p>2. This Court, while disposing of W.P No. 589-P/2016, had passed the following order:-</p> <p>5. According to the Tehsil Wise merit list of Secretaries V/N Councils (District Swabi), annexed with the comments of respondents, petitioner is at serial No.67 and his total score is 74 while respondent No.5 is at serial No. 73 and his total score is 65, thus, it is apparent from the said merit list that petitioner's score is high then respondent No.5 but inspite of that, respondent No.5 has been appointed, which is illegal, unconstitutional and violative of merit; thus, is liable to be set aside.</p> <p>6. In view of the above, this Writ Petition is allowed as prayed for.</p> <p>3. The learned counsel for the petitioner seeks review of the judgment on the following grounds:-</p>

*Handwritten signature/initials*

ATTESTED  
 CLERK  
 PESHAWAR HIGH COURT  
 22 MAY 2018

i. that the petitioner was appointed as Secretary Village Council (BPS-07) after observing all the codal formalities by the official respondents.

ii. that the petitioner committed no favoritism or nepotism.

iii. that the petitioner during service became overage and due to loss of this job, he cannot apply to any government job, and if this Hon'ble Court deems appropriate may direct the respondents to consider the petitioner against the vacant post, if available, to save his future.

4. The petitioner, in this review petition, sought to review this Court's judgment, referred to above, which had already been decided on merits, as this Court, with conscious application of mind, had passed the judgment under review.

5. Consequently, this petition, being without any merit, is dismissed in limine, however, the respondents are directed to consider the petitioner for appointment against the vacant post, if available, on compassionate grounds.

*[Signature]*  
JUDGE

*[Signature]*  
JUDGE

**Announced**  
**03.05.2018.**

(DB) Hon'ble Mr. Justice Waqar Ahmad Seth  
Hon'ble Justice Musarrat Hilal

Noor Shah, PS

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EXAMINER  
Peshawar High Court, Peshawar  
Authorized Under Article 57 of  
The Qanun-e-Shahadat Order 1984

22 MAY 2018

No. 1986 AD (LG-SB)/Apptt-II Dated Swabi the 31 107 /2018

APPOINTMENT ORDER

Consequent upon the direction(s) of the judgment dated 21/02/2018 of Honorable Peshawar High Court, Peshawar in Writ Petition No.589-P/2016 and subsequently judgment dated 03/05/2018 in Review Petition No.56-P/2018, Mr. Ijaz Ali s/o Jehanzeb is hereby appointed as Village Secretary (BPS-09) in Village Council Permolli North, Tehsil Razzar & District Swabi with immediate effect on the terms and conditions as given below.

Terms & Conditions:

1. His service shall be governed by rules or prescribed policy of the Provincial Government.
2. He will be considered on probation for a period of one year which may be extended to further one year. During the probation period, his services are liable to be dispensed without assigning any reason/notice, if his performance was not upto the mark.
3. This offer of the appointment is subject to verification of his documents/credentials from the concerned quarter. If any of his credentials were found fake, your appointment is liable to be cancelled. Moreover, necessary legal action would also be initiated against him.
4. Health and age certificate issued by the Medical Superintendent, DHQ Hospital Swabi be produced before joining the post.
5. Any other Law, Rules/Instruction from Government on time to time would also be applicable.
6. If the above offer is accepted, he should report to the office of Assistant Director, LG&RDD Swabi within fifteen days of the issuance of this office order, otherwise the offer will automatically stand cancelled.

ASSISTANT DIRECTOR  
Local Govt & Rural Dev. Deptt. Swabi

Endat: of No. & date even.

Copy forwarded to:

1. The Registrar, Peshawar High Court, Peshawar.
2. The Director General, LG&RDD, Khyber Pakhtunkhwa, Peshawar.
3. The Deputy Commissioner, Swabi.
4. The Medical Superintendent, DHQ Hospital Swabi.
5. The District Accounts Officer, Swabi.
6. PS to Secretary LG, E & RDD, Khyber Pakhtunkhwa, Peshawar.
7. The Assistant Director (Lit), LG&RDD, Khyber Pakhtunkhwa, Peshawar.
8. Mr. Ijaz Ali s/o Jehanzeb.

Better copy P. No. (21)

GOVT. OF KHYBER PAKHTUNKHWA  
LOCAL GOVERNMENT & RURAL DEVELOPMENT DEPARTMENT  
OFFICE OF THE ASSISTANT DIRECTOR, SWABI

No. 1986AD(LG-SB)Apptt-II

Dated 31.07.2018

**APPOINTMENT ORDER**

Consequent upon the directions(s) of the judgment dated 21/02/20218 of Honorable Peshawar High Court, Peshawar in Writ Petition No. 589-P/2016 and subsequently judgment dated 03/05/2018 in Review Petition No. 56-p/2018, Mr Ijaz Ali S/o Jehanzeb is hereby appointed as Village Secretary (BPS-09) in Village Council Permolj North, Tehsil Razzar & District Swabi with immediate effect on the terms and conditions as given below.

**Terms & Conditions**

1. His service shall be governed by rules or prescribed policy of the Provincial Government.
2. He will be considered on probation for a period of one year which may be extended to further one year. During the probation period, his services are liable to be dispensed without assigning any reason /notice, if his performance was not upto the mark.
3. This offer of the appointment is subject to verification of his documents/credentials from the concerned quarter. If any of his credentials were found fake, your appointment is liable to be cancelled. Moreover, necessary legal action would also be initiated against him.
4. Health and age certificate issued by the Medical Superintendent, DHQ Hospital Swabi be produced before joining the post.
5. Any other Law, Ruled/Instruction from government on time to time would also be applicable.
6. If the above offer is accepted, he should report to the office of Assistant Director, LG&RDD Swabi within fifteen days of the issuance of this office order, otherwise the offer will automatically stand cancelled.

ASSISTANT DIRECTOR

Local Govt & Rural Dev: Deptt: Swabi

Endst: of No. & date even



"E" -22-

TO,

THE DIRECTOR GENERAL LOCAL GOVT & RURAL DEVELOPMENT DEPARTMENT,  
KHYBER PAKHTUNKHWA, PESHAWAR.

THROUGH PROPER CHANNEL

Subject: - DEPARTMENTAL APPEAL AGAINST THE INACTION OF THE DEPARTMENT BY  
NOT GRANTING SENIORITY TO THE APPELLANT W.E.F. 14.01.2016 I.E. FROM THE DATE  
WHEN OTHER COLLEAGUE OF THE APPELLANT HAS BEEN APPOINTED AS VILLAGE  
SECRETARY.

**Respectfully Submitted:-**

1. That appellant is the employee of your good self-Department and working as Village Secretary (BPS-09), since from the date of appointment.
2. That the department advertised certain post of Secretary, Village/Neighbor Hood Council in daily newspaper, whereby appellant as well as other candidates have applied for the said post. The appellant appeared in the written test secured high marks but astonishingly the appellant despite better merit position was ignored and the department through office order dated 14.01.2016 issued appointment order to other candidates
3. That appellant feeling aggrieved from the inaction of the department by not appointing being top on the merit list, filed WP No.589-P/2016 before the Peshawar High Court which was decided in favour of appellant as prayed for vide Judgment dated 21.02.2018.
4. That it is important to mentioned here that the private respondent in the ibid WP filed Review Petition No.56-P/2018 against the supra Judgment dated 21.02.2018 but the same has been dismissed in limine vide order dated 03.05.2018.
5. That the department while implementing the judgment passed by Peshawar High Court vide dated 21.02.2018 issued appointment order dated 31.07.2018 but with immediate effect and not from the date when the other colleagues are issued appointment order dated 14.01.2016.

**GROUNDS:-**

- A. That the inaction of the department by not granting seniority to the appellant w.e.f. 14.01.2016 i.e. from the date of appointment of other colleagues is against the Law, facts, norms of natural justice.
- B. That appellant has not been treated by the department in accordance with law and rules on the subject noted above and as such the departments violated Article-4 and 25 of the Constitution of Islamic Republic of Pakistan-1973.
- C. That the appellant is entitled to be treated according to law and rules being his fundamental right guaranteed in the constitution of land.

It is therefore prayed that on acceptance of this appeal the concerned authority may kindly be directed to grant seniority to the appellant against the post of village secretary (BPS-09) w.e.f. 14.01.2016 with all consequential back benefits.

**Dated:-25.04.2023.**

  
Ijaz Ali,

Village Secretary (BPS-09),  
Village Council Permolli North, Tehsil Razzar, District Swabi.

"F" 23

JUDGMENT SHEET  
IN THE PESHAWAR HIGH COURT,  
MINGORA BENCH (DAR-UL-QAZA), SWAT  
(Judicial Department)

W.P No. 227-M/2014  
With Interim Relief

Mst. Saima Gul w/o Fayaz Ali Shah r/o Bambolai Payeen, Tehsil  
Adenzai, District Dir Lower. (Petitioner)

Versus

Government of Khyber Pakhtunkhwa through Secretary  
Elementary and Secondary Education, Civil Secretariat Peshawar  
and 04 others. (Respondents)

Present: Abdul Qayyum, Advocate for petitioner.  
Mr. Rafiq Ahmad, Assistant A.G. alongwith  
Muhammad Shoaib, A.D.O, Dir Lower for official  
respondents.

W.P No. 228-M/2014  
With Interim Relief

Mst. Husna Razaq d/o Abdul Razaq, r/o Village Morani Payeen,  
Tehsil Balabat, District Dir Lower. (Petitioner)

Versus

Government of Khyber Pakhtunkhwa through Secretary (E & SE)  
Department, Khyber Pakhtunkhwa, Peshawar and 17 others  
(Respondents)

Present: Nemo for petitioner  
Mr. Rafiq Ahmad, Assistant A.G alongwith  
Muhammad Shoaib, A.D.O, Dir Lower for official  
respondents.

W.P No. 251-M/2014  
With Interim Relief

Rabia Gul d/o Gul Sharif Khan r/o Mayar, Tehsil Samar Bagh,  
District Dir Lower. (Petitioner)

Versus

Government of Khyber Pakhtunkhwa through Secretary  
Elementary and Secondary Education, Civil Secretariat Peshawar  
and 04 others. (Respondents)

Present: Mr. Abdul Qayyum, Advocate for petitioner.  
Mr. Rafiq Ahmad, Assistant A.G. alongwith  
Muhammad Shoaib, A.D.O, Dir Lower for official  
respondents.

W.P No. 263-M/2014  
With Interim Relief

*Mst. Aneela Sarwat w/o Waleed Zaman r/o Mohallah  
Akhunzaddgan, Mayar, Tehsil Samar Bagh, District Dir Lower.*  
(Petitioner)

*Versus*

*Government of Khyber Pakhtunkhwa through Secretary  
Elementary and Secondary Education, Civil Secretariat Peshawar  
and 04 others*

(Respondents)

Present:

*Mr. Abdul Qayum, Advocate for petitioner.*

*Mr. Rafiq Ahmad, Assistant A.G. alongwith  
Muhammad Shoaib, A.D.O, Dir Lower for official  
respondents.*

Date of hearing: 16.10.2017

JUDGMENT

IJAZ ANWAR, J.- Through this single judgment we intend to dispose of this petition i.e W.P No. 227-M/2014 as well as the connected petitions bearing W.P No. 228-M/2014, W.P. No. 251-M/2014 and W.P No. 263-M/2014, as common questions of law and facts are involved in all these petitions.

2. As per assertions of petitioner in the instant writ petition, the respondent department advertised various posts including the post of Physical Education Teacher (P.E.T BPS-15) in G.G.M.S Bambolai, Dir Lower through advertisement on 5<sup>th</sup> January, 2014 published in daily "Aaj". Petitioner, being an active player of different games in her educational career and also an

athlete besides, having the requisite qualification of M.Sc and Senior Diploma in Physical Education (S.D.P.E) alongwith experience applied for the said post. She secured 51/100 marks in NTS and obtained accumulative score of 104.34 and was optimistic for her appointment but astonishingly private respondent No.5 Mst. Lubnaz Begum was appointed as P.E.T in the mentioned school and the petitioner was ignored.

3. Petitioner Mst. Husna Razzaq in W.P No. 228-M/2014 has averred that she applied for the post of P.E.T having the requisite qualification and experience in the advertisement published on 05.01.2014 in daily "Aaj". She scored 107.24 marks in the NTS and stood 2<sup>nd</sup> amongst the candidates for the said post but private respondents No.4 to 18 were appointed and the petitioner was ignored despite she was higher in qualification than the candidates appointed vide order dated 03.05.2014.

4. Mst. Rabia Gul, who has filed W.P No. 251-M/2014, has asserted that she applied for the post of P.E.T in five different schools as per policy. After passing the N.T.S, the petitioner scored


first position in G.G.M.S Shontala with accumulative score of 97.4 marks. She also signed an offer letter dated 29.04.2014 issued by Respondent No.3 for her appointment in G.G.H.S Badin but private respondents No. 4 and 5 were appointed as P.E.Ts in the mentioned schools and the petitioner was not considered for her appointment.

5. Similarly, petitioner Mst. Aneela Sarwat in W.P No. 263-M/2014 has averred that the respondent department advertised the posts of P.E.T (female) vide advertisement dated 04.01.2014 published in Daily Express. Petitioner having Senior Diploma in Physical Education and Master degree in Health and Physical Education, applied for five schools through N.T.S. and remained successful in the said test. Thereafter she was called for interview. Grievance of the petitioner is that she obtained accumulative score of 81.34, however, her Senior Diploma in Physical Education was not considered, hence, private respondents No. 4 & 5 were selected and the petitioner was ignored despite she was higher in qualification.





appointment against the posts of P.E.T. We have noticed that despite the decisions of this Court which have been maintained upto the apex Court, the respondents are continuously not adhering to the judgments of this Court that is why the candidates are approaching this Court again and again for this issue. The august Supreme Court of Pakistan in a celebrated judgment rendered in the case titled "Hameed Akhtar Niazi V/s. The Secretary, Establishment Division, Government of Pakistan and others" (1996 SCMR 1185) held that:-



"We may observe that if the Tribunal or this Court decides a point of law relating to the terms of service of a civil servant which covers not only the case of the civil servant who litigated, but also of other civil servants, who may have not taken any legal proceedings, in such a case, the dictates of justice and rule of good governance demand that the benefit of the above judgment be extended to other civil servants, who may not be parties to the above litigation instead of compelling them to approach the Tribunal or any other legal forum".

The same view was followed by the apex Court in another judgment in the case titled "Government of Punjab, through Secretary Education, Civil Secretariat, Lahore and others V/s.

Sameena Parveen and others" (2009

SCMR 1).

8. We have also noticed from perusal of the record that petitioners in all these writ petitions were not allowed the marks by respondents for holding the degree of Master of Health and Physical Education and they have also not considered their Senior Diploma in Physical Education. We, thus, are left with no other choice but to allow all these petitions with direction to the official respondents to allow appointment of petitioners against the posts of P.E.T by considering their respective professional qualification of S.D.P.E and M.Sc in Health and Physical Education into their accumulative scores. Needless to observe that the petitioners shall be appointed w.e.f the date their other colleagues were appointed pursuant to the same advertisement. They shall be entitled to seniority but not to arrears of salaries. Moreover, the candidates/private respondents, if any, already appointed shall not be disturbed.

9. Before parting with this judgment we may observe that this Court in judgment dated



16.05.2013 rendered in the case titled "*Naqib Sultan V/s. Govt. of Khyber Pakhtunkhwa*" (W.P No. 264-M/2011), judgment dated 31.03.2004 in the case titled "*Jan Muhammad and others V/s. Govt. of NWFP and others*" (W.P No.1472/2003), judgment dated 28.06.2016 in the case titled "*Ijaz-ul-Haq V/s. Govt. of Khyber Pakhtunkhwa and others*" (W.P No. 644-P/2016), judgment dated 24.02.2009 in case titled "*Taj Pari V/s. Govt. and others*" (W.P No. 864/2007), judgment dated 28.05.2004 in case titled "*Masood Khan V/s. Govt. of NWFP and others*" (W.P No. 1484/2003) and judgment dated 02.05.2000 in case titled "*Muhammad Azam and others V/s. Govt. of NWFP and others*" (W.P No. 652-M/1999) discarded the objections of respondent department regarding non considering the qualification of S.D.P.E for the post of P.E.T and those judgments were either maintained by the apex Court or no appeal has been filed thereagainst and attained finality. For ready reference one judgment is referred which was delivered on 27.06.2006 by the apex Court in the case titled i.e. "*Umair Wahid V/s. Govt of NWFP*" (C.P No. 193-P/2006) but

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despite this the department is repeating this objection. We, therefore, direct the Director of Elementary and Secondary Education to circulate this judgment to all the District Officers of Education Department of the Province with strict directions to consider the holders of higher qualification of S.D.P.E and M.Sc in Physical Education for the posts of P.E.T and not to force the candidates for approaching the Courts again and again for the decided issue.

Announced  
Dt: 16.10.2017

*Mohammad Ibrahim Khun*  
JUDGE

*Ijaz Anwar*  
JUDGE

*Ahmed*  
*19/10*

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

APPEAL No        /2023

Ijaz Ali

(APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

**VERSUS**

Govt of KPK

(RESPONDENT)  
(DEFENDANT)

I/We Appellant

Do hereby appoint and constitute **Noor Mohammad Khattak Advocate Supreme Court** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated.        /        /2023

**CLIENT**

**ACCEPTED**

26.7.2023  
**NOOR MOHAMMAD KHATTAK**  
**ADVOCATE SUPREME COURT**

**WALEED ADNAN**

**KAMRAN KHAN**

**UMAR FAROOQ MOHMAND**

**MUHAMMAD AYUB**

**MAHMOOD JAN**  
**ADVOCATES**

&

**OFFICE:**

Flat No. (TF) 291-292 3<sup>rd</sup> Floor,  
Deans Trade Centre, Peshawar Cantt.  
(0311-9314232)