

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

S.A No. 138/2023

Akhtar Iqbal

..... (Applicant)

VERSUS

Secretary Transport & Mass Transport, Khyber Pakhtunkhwa and Others (Respondents)

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Dated: 30/05/2023


DEPONENT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

S.A. NO.138/2023

Akhtar Iqbal

.....(Appellant)

VERSUS

Secretary Transport & Mass Transit, Khyber Pakhtunkhwa

..... (Respondent)

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS No. 01 and 02

Respectfully Sheweth,

That the respondents submit as under: -

Preliminary Objections;

1. That the appellant has got no cause of action to file the instant appeal.
2. That the appellant is estopped by his own conduct to file the instant appeal.
3. That the appeal is bad in its present shape and is not maintainable in its present form.
4. That the instant appeal is false, frivolous and vexatious and is liable to be dismissed with special compensatory costs.
5. That with utmost respect this Honorable Tribunal has got no jurisdiction to entertain the present appeal.
6. That the appeal is bad for non-joinder and miss-joinder of necessary parties.
7. That the appellant has got no locus standi to file the instant appeal.
8. That the present appellant has concealed the material facts from this Hon'ble Tribunal.
9. That the instant appeal is barred by Law and limitation

ON FACTS:

- 1) Para 1 of the appeal pertains to record.
- 2) Para 2 of the appeal pertains to record.
- 3) Para 3 of the appeal pertains to record.
- 4) Para 4 is partially correct. The fact is that after the bill/act of regularization named Khyber Pakhtunkhwa Employees of Transport & Mass Transit Department (Regularization of Services) 2019, was passed. The respondent department carried out Scrutiny in light of Section 3 of the subject act (**Annex-A**). The scrutiny committee checked the appointment of Mr. Akhtar Iqbal and Mr. Adeel Shaukat according to services rules enforced at the time of their appointment and regularization and declared them **ineligible** because they didn't possess the qualification required for the post of Motor Vehicle Examiner (**Diploma of Associate Engineer in Automobile/Auto & Diesel Technology (DAE three years)**). In light of the recommendations of scrutiny committee and consequent

upon its approval, the respondent department dispensed with the services of Mr. Akhtar Iqbal and Mr. Adeel Shaukat vide Order No.DIR/TPT/2-25/2247-56 & No/DIR/TPT/2-25/2235-46 dated: 15-02-2021 (**Annex-B**). Mr. Akhtar Iqbal and Mr. Adeel Shaukat challenged the recommendations of scrutiny committee in the Hon'ble Peshawar High Court vide writ petition No. **4666/2020**. Hon'ble Court accepted the said petition and declared the recommendation of the said committee null and void. The case was then referred to Law Department for scrutiny of the said decision of writ petition No. **4669/2020** for filing of CPLA in the august Supreme Court of Pakistan, however; Law Department declared the respondent department proposal for filing of CPLA as not fit case for filing of CPLA. In light of recommendations of Law Department, the services of Mr. Akhtar Iqbal and Mr. Adeel Shaukat were regularized.

- 5) Para 5 of the appeal is correct, respondents act according to law and rules.
- 6) Para 6 of the appeal is correct. The Answering respondents are competent to make changes in service rules from time to time in the best public interest and to make sure each employee of the respondent department have a clear line of promotion and career path which is the right of each employee including Maintenance Supervisor (BPS-13) of Directorate of Transport who was promoted to the post of Senior Motor Vehicle Examiner (BPS-16) (**acting charge basis**) on 10% quota as per the notified service rules. Educational qualification required for the post of Maintenance Supervisor (BPS-13) and Motor Vehicle Examiner (BPS-12) is exactly the same i.e. Diploma of Associate Engineer (DAE) in Automobile Technology. So, no rights of the appellants have been violated.
- 7) Para 7 of the appeal is correct to the extent that the said notification was issued in public interest because before the said amendment in clause 15 of service rules the qualification required for the post of Senior/District Motor Vehicle Examiner was:-
 - i. At least second class Bachelor of Technology (Hons), Four years degree in Automobile/Auto & Diesel Technology from Govt. recognized College of Technology or University of Engineering and Technology; or
 - ii. At least second class BSc. Mechanical Engineering from recognized University of Engineering and Technology.

The abovementioned required qualifications are with a preference clause given to qualification of B.Tech (Hons) in Automobile/Auto & Diesel Technology, however, it is important to mention that no HEC recognized University or Government College of Technology offers B.Tech (Hons) four years in Automobile/Auto & Diesel Technology in Khyber Pakhtunkhwa thus making it inevitable to make changes in services rules of the respondent Directorate in the best public interest.

- 8) Para 8 of the appeal is correct. Total number of Sanction posts of Senior/District Motor Vehicle Examiners is 13 among which one (01) Maintenance Supervisor (BPS-13) & eight (08) Motor Vehicle Examiners (BPS-12) have been already promoted to the post of Senior/District Motor Vehicle Examiners (BPS-16) and the quota of promotion has been exhausted. Remaining 4 posts of Senior Motor Vehicle Examiners (BPS-16) reserved for initial quota as per notified service rules of Directorate of Transport have already been advertised through Educational Testing and Evaluation Agency. The said advertisement for the recruitment of Senior/District Motor Vehicle Examiners (BPS-16) and Motor Vehicle Examiners

(BPS-12) (female quota) was advertised by the Answering Respondents to be conducted by ETEA and the online application form was available on the website of ETEA. ETEA has already conducted written test for the same posts and shared the final result with the department and only interviews are pending, however, now, the recruitment process has been stopped due to the ban imposed by Election Commissioner of Pakistan on all kinds of recruitment. The required qualification for the said posts is Diploma of Associate Engineer in Automobile/Auto & Diesel Technology (DAE three years) with five (05) years of experience in a Government Organization while Mr. Akhtar Iqbal, Mr. Adeel Shaukat do not possess the required/prescribed qualification and Mr. Badi uz Zaman age is above the permissible limit of 21-30 years reflected in column 04 of notified service rules **(17 years overage)** even after considering all allowed age relaxations. Mr. Muhammad Hassan Bilal had a fair chance to apply and appear in the recruitment process of Senior/District Motor Vehicle Examiner (BPS-16) for initial recruitment of ETEA test but he could not avail the chance.

- 9) Para 9 of the appeal is incorrect. It is submitted that the departmental appeal of the appellants has been heard by the Competent Forum that is Secretary Transport & Mass Transit Department and dismissed on merits. In the minutes of the meeting of the said appeal it was decided that in the notified service rules 50% quota is by promotion and 10% quota reserved for Maintenance Supervisors while 40% is by initial recruitment. The posts are already advertised in accordance with the notified service rules. Withdrawal of the already published advertisement will lead to non-ending litigation as it in accordance with the notified service rules. **(Annexed-C).**
- 10) Para 10 of the appeal is incorrect.

GROUND:

- A. Ground A of the appeal is incorrect.
- B. Ground B of the appeal is incorrect. Recruitment to the posts of Senior/District Motor Vehicle Examiners (BPS-16) and Motor Vehicle Examiners (BPS-12) advertised through ETEA is in accordance with the notified rules of the respondent Directorate. The appeal of the appellant is malafide and imposes a monopoly on the recruitment of the said posts. Explained in detail in para 08 of the Facts.
- C. Ground C of the appeal is incorrect. No legal rights have been violated and the recruitment to the said posts is under the notified service rules of the respondent Directorate.
- D. Ground D of the appeal is incorrect. Total Nine (09) posts of Senior/District Motor Vehicle Examiners (promotion quota) have already been filled by Departmental Promotion Committee under the notified rules of the respondent Directorate. The appellants are junior to those promoted to the post of Senior/District Motor Vehicle Examiner so no rights of the respondents have been violated.
- E. Ground E of the appeal is incorrect. Presently there is no vacant post of Senior/District Motor Vehicle Examiner (BPS-16) (Promotion quota) as per the notified rules.

- F. Ground F of the appeal is incorrect. The appellants were equally treated without any discrimination.
- G. Ground G of the appeal is incorrect. As explained earlier, Maintenance Supervisor (BPS-13) was promoted to the post of Senior Motor Vehicle Examiners (BPS-16) on his own quota (10%) fixed in the service rules of the responding Directorate, which is mentioned in Serial 15, clause 2, mentioned at Page 30 of the main appeal.
- H. Ground H of the appeal is legal and needs no comments.
- I. Ground I of the appeal is legal and needs no comments.
- J. Ground J of the appeal needs no comments.
- K. Ground K of the appeal is incorrect. The detailed reply has already been submitted.
- L. Incorrect

It is most humbly prayed that on acceptance of the instant parawise comments, the Service appeal may graciously be dismissed, please.



Secretary (R-01)
Transport & Mass Transit
Department
Govt. of Khyber Pakhtunkhwa



Director (R-02)
Directorate of Transport
Khyber Pakhtunkhwa

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

S.A No. 138/2023

Akhtar Iqbal

..... (Appellant)

VERSUS

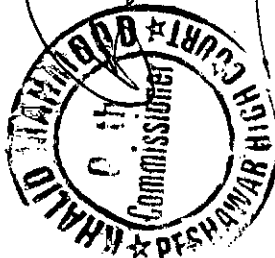
Secretary Transport & Mass Transit, Khyber Pakhtunkhwa and Other

..... (Respondents)

AFFIDAVIT

I, Hamdullah, Assistant Director, Directorate of Transport and Mass Transit, do hereby solemnly declare on oath that the contents of the parawise comments of the foregoing service appeal on behalf of respondents No.01 & 02 are true and correct to the best of my knowledge and belief and nothing has been kept secret from this Honorable Tribunal.

Dated: 30-05-2023



DEPONENT

CNIC # 17301-1507414-7

Cell # 0301-8892842

06



**GOVERNMENT OF KHYBER PAKHTUNKHWA
TRANSPORT & MASS TRANSIT DEPARTMENT**

(Mian Rashid Hussain Shaheed Memorial Block, Civil Secretariat Peshawar Khyber Pakhtunkhwa)

AUTHORITY LETTER

It is certified that **Mr. Hamdullah**, Superintendent/Assistant Director (Legal) (BPS-17) of Directorate of Transport is hereby authorized to attend the Service Tribunal, Khyber Pakhtunkhwa on behalf of Respondent No.01 & 02 (Secretary, Transport & Mass Transit Department and Director, Transport) in the **Service Appeals NO. 138, 139, 140 & 141 "Akhtar Iqbal, Adil Shoukat, Muhammad Badi-uz-Zaman & Muhammad Hassan Bilal vs Government of Khyber Pakhtunkhwa"**.

-SD-

Secretary

Transport and Mass Transit Department
Govt of Khyber Pakhtunkhwa

Section Officer (Lit)

Transport and Mass Transit Department
Govt of Khyber Pakhtunkhwa

05-A



**DIRECTORATE OF TRANSPORT & MASS TRANSIT
KHYBER PAKHTUNKHWA**

091-9212647

Ground Floor Benevolent Fund Building, Peshawar Cantt. E-mail: directoratc.legal2002@gmail.com

AUTHORITY LETTER

Hamd Ullah, Assistant Director (Legal), Directorate of Transport, Khyber Pakhtunkhwa is hereby authorized to attend and submit the parawise comments etc in the Service Tribunal, Khyber Pakhtunkhwa in Service Appeal No **138/2023** titled **Akhtar Iqbal Vs Secretary Transport & Mass Transit and Others etc.** on behalf of Director Transport, Khyber Pakhtunkhwa.

**DIRECTOR TRANSPORT
KHYBER PAKHTUNKHWA**

Annex A
07

Subject: - MINUTES OF THE SCRUTINY COMMITTEE CONSTITUTED FOR THE VERIFICATION CREDENTIAL OF THE MOTOR VEHICLE EXAMINERS /VEHICLE EMISSION TESTING STATION APPOINTED ON CONTRACT BASIS AND REGULARIZED UNDER SERVICE REGULARIZATION ACT 2019

A scrutiny committee was constituted vide Government of Khyber Pakhtunkhwa, Transport & Mass Transit Department notification No.SO(E)/TD/3-11/Reg:MVEs/VETs/2019-20. The scrutiny committee held its meeting on 26-08-2020 and a subsequent meeting on 18-09-2020.

2. The subject scrutiny was carried on in light of section 3 of Regularization of Services Act No.XXXVI of 2019.

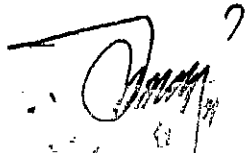
3. The appointment of the officers/officials were checked according to service rules enforced at the time of appointments of the officials and presently enforced service rules of the Directorate of Transport & Mass Transit, Khyber Pakhtunkhwa. The incumbents at serial No. 3 & 4 have made a representation vide Transport Department letter No.SO(E)/TD/2-33/MVEs/2019-20/9149-50 dated: 09-09-2020 for consideration of BSc (Mechanical Engineering)/ B.Tech (Mechanical Technology) as eligibility for appointment as Motor Vehicle Examiner. The scrutiny committee already considered the qualification as per notified service rules enforced at the time of their appointment and noted that there is a preference clause given to qualification of Auto & Diesel Technology.

4. The recommendations of the scrutiny committee regarding Motor Vehicle Examiners are as under against every officer/officials:-

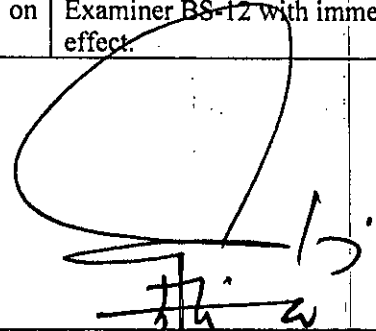
Sr. No.	Name	Details	Recommendations
1.	Muhammad Hassam Bilal S/O Wisal Muhammad,	Education/ Qualification DAE Auto, his date of birth is 14-08-1984 and he was appointed as Motor Vehicle Examiner BS-11, on 06-02-2014 on contract basis.	The scrutiny committee verified his credentials and found him <u>eligible</u> to be regularized as Motor Vehicle Examiner BS-12 with immediate effect.
2.	Mr. Adeel Shaukat S/O Shaukat Ullah	Education/ Qualification B.Tech Mechanical, his date of birth is 02-04-1982 and he was appointed as Motor Vehicle Examiner BS-11, on 14-02-2014 on contract basis.	The scrutiny committee verified his credentials and found him <u>ineligible</u> to be regularized as Motor Vehicle Examiner BS-12 with immediate effect.
3.	Mr. Akhtar Iqbal S/O Perviaz Khan	Education/ Qualification BSc. Mechanical, his date of birth is 19-03-1978 and he was appointed as Motor Vehicle Examiner BS-11, on 14-02-2014 on contract basis.	The scrutiny committee verified his credentials and found him <u>ineligible</u> to be regularized as Motor Vehicle Examiner BS-12 with immediate effect.

03


4.	Muhammad Haroon Jan S/O Sadiq Ullah	Education/ Qualification B.Tech Mechanical, his date of birth is 10-03-1990 and he was appointed as Motor Vehicle Examiner BS-11, on 06-02-2014 on contract basis.	The scrutiny committee verified his credentials and found him <u>ineligible</u> to be regularized as Motor Vehicle Examiner BS-12 with immediate effect.
5.	Mr. Inayat Ullah S/O Ghazi Umar Hayat	Education/ Qualification DAE Auto & Diesel, his date of birth is 18-11-1993 and he was appointed as Motor Vehicle Examiner BS-11, on 14-02-2014 on contract basis.	The scrutiny committee verified his credentials and found him <u>eligible</u> to be regularized as Motor Vehicle Examiner BS-12 with immediate effect.
6.	Mr. Badiuzzaman Khan S/O Shams ul Haq	Education/ Qualification DAE Auto & Diesel, his date of birth is 06-10-1972 and he was appointed as Motor Vehicle Examiner BS-11, on 27-02-2014 on contract basis.	The scrutiny committee verified his credentials and found him <u>eligible</u> to be regularized as Motor Vehicle Examiner BS-12 with immediate effect.
7.	Mr. Hamad Ali S/O Muhammad Aziz Zia	Education/ Qualification DAE Auto & Diesel, his date of birth is 15-03-1986 and he was appointed as Motor Vehicle Examiner BS-11, on 06-02-2014 on contract basis.	The scrutiny committee verified his credentials and found him <u>eligible</u> to be regularized as Motor Vehicle Examiner BS-12 with immediate effect.
8.	Mr. Ayaz Muhammad S/O Dost Muhammad	Education/ Qualification DAE Auto & Diesel, his date of birth is 12-02-1994 and he was appointed as Motor Vehicle Examiner BS-11, on 14-02-2014 on contract basis.	The scrutiny committee verified his credentials and found him <u>eligible</u> to be regularized as Motor Vehicle Examiner BS-12 with immediate effect.



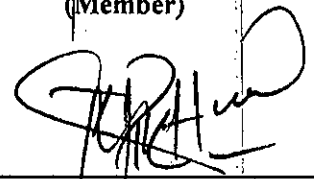
Deputy Secretary-I
Transport & Mass Transit Department
(Member)



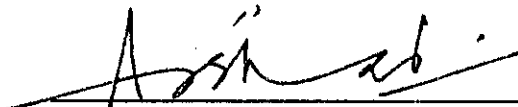
Representative Establishment
Department
(Member)



Representative of Finance Department
(Member)



Representative of Law Department
(Member)



Director Transport & Mass Transit
(Chairman)



DIRECTORATE OF TRANSPORT & MASS TRANSIT KHYBER PAKHTUNKHWA *Annex B*

Ground Floor Benevolent Fund Building, Peshawar Cantt ☎: 091-9214185/9212061
Dated Peshawar, the 15-02-2021

09
08
28/1

ORDER

NO. Dir/TPT/2-25/ 2247-86:

WHEREAS, Mr. Akhtar Iqbal s/o Pervaiz Khan, was appointed as Motor Vehicle Examiner (BPS-12) on adhoc basis, on dated 06-02-2014 and

WHEREAS, Provincial Assembly of Khyber Pakhtunkhwa passed an Act namely "The Khyber Pakhtunkhwa Employees of Transport and Mass Transit Department (Regularization of Services) Act, 2019 (Khyber Pakhtunkhwa Act No. XXXVI of 2019)" dated 8th October, 2019, and

WHEREAS, under Section 3 of the above referred Act, the Government of Khyber Pakhtunkhwa in Transport and Mass Transit Department notified a scrutiny committee vide letter NO. SO(E)/TD/3-11/Reg: MVEs/VETs/2019-20 and

WHEREAS, the scrutiny committee held its deliberation in the light of the above referred Act, relevant rules and available record, and submitted its recommendation to the Government of Khyber Pakhtunkhwa in Transport and Mass Transit Department vide letter NO. Dir/TPT/2-26/Regularization/26035 dated 13-10-2020, and

WHEREAS, the Government of Khyber Pakhtunkhwa in Transport and Mass Transit Department approved the recommendations of the scrutiny committee and communicated vide letter NO. SO(E)/TD/3-10/2019-20/MVEs&VETs Reg/939-41 dated 11-02-2021, and

NOW THEREFORE, in the light of the recommendations of the scrutiny committee and consequent upon its approval, the competent authority, hereby dispense with the services of Mr. Akhtar Iqbal s/o Pervaiz Khan, Motor Vehicle Examiner (BPS-12) appointed on adhoc basis, with immediate effect.

[Signature]
DIRECTOR 15/2/21
Transport & Mass Transit
Khyber Pakhtunkhwa

Endst: No.

Copy is forwarded to the:

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. PSO to Chief Secretary, Government of Khyber Pakhtunkhwa.
4. All Administrative Secretaries to Government of Khyber Pakhtunkhwa.
5. Speaker, Provincial Assembly, Government of Khyber Pakhtunkhwa.
6. Deputy Secretary, Provincial Assembly, Government of Khyber Pakhtunkhwa.
7. The Chairman, Khyber Pakhtunkhwa Public Service Commission.
8. PS to Additional Chief Secretary (P & D), Government of Khyber Pakhtunkhwa.
9. PS to Minister Transport & Mass Transit, Khyber Pakhtunkhwa.
10. PS to Secretary, Transport & Mass Transit Department, Govt. of Khyber Pakhtunkhwa.
11. Budget Officer-II, Finance Department, Govt. of Khyber Pakhtunkhwa.
12. Officials concerned.

[Signature]
DIRECTOR 15/2/21
Transport & Mass Transit
Khyber Pakhtunkhwa



DIRECTORATE OF TRANSPORT & MASS TRANSIT KHYBER PAKHTUNKHWA

Ground Floor Benevolent Fund Building, Peshawar Cantt ☎: 091-9214185/9212061

Dated Peshawar, the 15-02-2021

ORDER

NO.Dir/TPT/2-25/ 2235-46 :

WHEREAS, Mr. Adeel Shaukat s/o Shaukat Ullah, was appointed as Motor Vehicle Examiner (BPS-12) on adhoc basis, on dated 06-02-2014 and

WHEREAS, Provincial Assembly of Khyber Pakhtunkhwa passed an Act namely "The Khyber Pakhtunkhwa Employees of Transport and Mass Transit Department (Regularization of Services) Act, 2019 (Khyber Pakhtunkhwa Act No.XXXVI of 2019)" dated 8th October, 2019, and

WHEREAS, under Section 3 of the above referred Act, the Government of Khyber Pakhtunkhwa in Transport and Mass Transit Department notified a scrutiny committee vide letter NO. SO(E)/TD/3-11/Reg:MVEs/VETs/2019-20 and

WHEREAS, the scrutiny committee held its deliberation in the light of the above referred Act, relevant rules and available record, and submitted its recommendation to the Government of Khyber Pakhtunkhwa in Transport and Mass Transit Department vide letter NO. Dir/TPT/2-26/Regularization/26035 dated 13-10-2020, and

WHEREAS, the Government of Khyber Pakhtunkhwa in Transport and Mass Transit Department approved the recommendations of the scrutiny committee and communicated vide letter NO. SO(E)/TD/3-10/2019-20/MVEs&VETs Reg/939-41 dated 11-02-2021, and

NOW THEREFORE, in the light of the recommendations of the scrutiny committee and consequent upon its approval, the competent authority hereby dispense with the services of Mr. Adeel Shaukat s/o Shaukat Ullah, Motor Vehicle Examiner (BPS-12) appointed on adhoc basis, with immediate effect.


DIRECTOR 15/2/21
Transport & Mass Transit
Khyber Pakhtunkhwa

Endst: No.

Copy is forwarded to the:

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. PSO to Chief Secretary, Government of Khyber Pakhtunkhwa.
4. All Administrative Secretaries to Government of Khyber Pakhtunkhwa.
5. Speaker, Provincial Assembly, Government of Khyber Pakhtunkhwa.
6. Deputy Secretary, Provincial Assembly, Government of Khyber Pakhtunkhwa.
7. The Chairman, Khyber Pakhtunkhwa Public Service Commission.
8. PS to Additional Chief Secretary (P & D), Government of Khyber Pakhtunkhwa.
9. PS to Minister Transport & Mass Transit, Khyber Pakhtunkhwa.
10. PS to Secretary, Transport & Mass Transit Department, Govt. of Khyber Pakhtunkhwa.
11. Budget Officer-II, Finance Department, Govt. of Khyber Pakhtunkhwa.
12. Officials concerned.


DIRECTOR 15/2/21
Transport & Mass Transit
Khyber Pakhtunkhwa



GOVERNMENT OF KHYBER PAKHTUNKHWA
TRANSPORT & MASS TRANSIT
DEPARTMENT

Ph: 091-9211782

No. SO(E)/TD/2-53/Rec of DOT/2021-22
Dated: 06/01/2023

393-94

To

The Director Transport,
Khyber Pakhtunkhwa.

Subject: - MINUTES OF MEETING REGARDING THE APPEAL TO WITHDRAW
THE ADVERTISEMENT FOR THE POST OF DISTRICT/SENIOR MVEs
BY THE DIRECTORATE OF TRANSPORT IN NEWS PAPER ON
HUMANITARIAN GROUNDS.

I am directed to refer to the subject noted above and to enclose herewith minutes of the subject meeting held on 03.01.2023 under the Chairmanship of Secretary Transport & Mass Transit Department for information and further necessary action, please.

(IJAZ RAHIM)
SECTION OFFICER (ESTT)

Encl: As Above:

Endst: No. & Date Even

Copy forwarded to the:-

1. PS to Secretary Transport & Mass Transit Department, Peshawar.
2. Master file.

(ESTT)
SECTION OFFICER (Estt)



GOVERNMENT OF KHYBER PAKHTUNKHWA
TRANSPORT & MASS TRANSIT DEPARTMENT

Annex: "C"

12/1

12

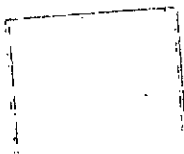
Subject: MINUTES OF MEETING REGARDING THE APPEAL TO WITHDRAW THE ADVERTISEMENT FOR THE POST OF DISTRICT/SENIOR MVEs BY THE DIRECTORATE OF TRANSPORT IN NEWS PAPER ON HUMANITARIAN GROUNDS HELD ON 03.01.2023 AT 02:00 PM.

A meeting was held under the Chairmanship of Secretary, Transport & Mass Transit Department on 03.01.2023 at 02:00 PM in his office, regarding appeal submitted by all MVEs of Directorate of Transport to withdraw advertisement for the post of District and Senior Motor Vehicle Examiner (SMVEs). (List of participant attached.)

The Chair welcomed the participants and thereafter, invited Director Transport to apprise the forum about the agenda of the meeting. The Director Transport appraised the forum about the notified service rules for MVEs where, 50% quota is by promotion, 10% quota reserved for maintenance supervisors while 40% is by initial recruitment. The already published advertisement is in accordance with the notified service rules and test is expected to be taken in the near future. Withdrawal of the already published advertisement will lead to unending litigation as it is in accordance with the rules in vogue.

The Chair agreed with Director Transport to carry on with the current recruitment process however, directions were passed to revisit the service rules and submit draft service rules for placing before SSRC for approval, in order to facilitate the already experienced MVEs of Directorate of Transport.

The meeting ended with a vote of thanks from and to the chair.





GOVERNMENT OF KHYBER PAKHTUNKHWA
TRANSPORT & MASS TRANSIT DEPARTMENT

13

ATTENDANCE SHEET

Subject:- MEETING REGARDING APPEAL TO WITHDRAW THE ADVERTISEMENT FOR THE POST OF DISTRICT/SENIOR MVEs BY THE DIRECTORATE OF TRANSPORT IN NEWS PAPER ON HUMANITARIAN GROUNDS on 03 January 2023 at 02:00 PM.

No.	Name	Designation	Dept. Order/Serial No.	Signature
1.	Tariq Ali Khan	AS Transport		
2.	Qaisar Khan	Director Transport		
3.	Amir Ahmad	Deputy Secy Tpt		
4.	Salman Nisar	DY Dir		
5.	Ijaz Rahim	SO (E)		
6.	M. Farooq	Supdt (E)		
7.				
8.				
9.				
10.				
11.				
12.				

Transport & Mass Transit
Khyber Pakhtunkhwa

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

S.A. NO.138/2023

Akhtar Iqbal

.....(Appellant)

VERSUS

Secretary Transport & Mass Transit, Khyber Pakhtunkhwa

..... (Respondent)

REPLY TO THE APPLICATION FOR GRANT OF TEMPORARY INJUNCTION.**PRELIMINARY OBJECTIONS: -**

1. That the petitioner has got no cause of action to file the instant application.
2. That the petitioner is estopped by his own conduct to file the instant petition.
3. That the application is barred by law and limitation.

ON FACTS:

- 1) Para No. 1 is incorrect. The petitioner has no cause of action to file the instant petition.
- 2) The petitioner has no prima facie case because the advertisement of the subject post is processed according to service rules of the Answering Respondents in good faith and public interest to be filed on open merit basis.
- 3) Para No. 03 of the Petition is incorrect. No balance of convenience lies in favor of the applicants.
- 4) Para No. 04 of the Petition is incorrect. Their nature of job is public dealing and there is no discrimination of powers. No irreparable loss will be caused to the applicants as they are already serving in the department against the post of Motor Vehicle Examiners in their respective districts. They are exercising the same power of district MVEs and Senior MVEs, issuing Fitness certificates to public service vehicles (passengers and goods), conducting Driving Tests of LTV/HTV/PSV Driving Licenses, issue condemnation certificates of government vehicles as well as accident reports in their respective jurisdictions and getting full fringed benefits and salaries from the Government. However, they will be promoted to the higher posts as well as the vacancies are created.

It is therefore humbly prayed that application of the applicant may kindly be dismissed.

Dated: 29-05-2023



Applicant / Respondent

AFFIDAVIT

Solemnly affirm and declare on oath that the contents of this written reply are true and correct to the best of my knowledge and record and nothing has been concealed from this Hon'ble Court.

Deponent