

30.12.2015

Counsel for the appellant and Mr. Usman Ghani, Sr.GP with Muhammad Siddique Admn. Officer for the respondents present. Arguments heard and record perused. Vide our detailed judgment of today in connected appeal No. 665/2014, titled "Farhanullah Versus Govt. of KPK through Secretary, Public Health Engg. Department, Civil Sectt. Peshawar and others.", this appeal is also disposed of as per detailed judgment. Parties are left to bear their own costs. File be consigned to the record.

ANNOUNCED
30.12.2015



MEMBER



MEMBER

19.11.2015

Appellant with counsel and Mr. Muhammad Sadique, Admin Officer alongwith Mr. Usmañ Ghani, Sr.GP for respondents present. Since arguments in some connected appeal have been heard today and fixed for order on 2.12.2015 therefore, this appeal is also adjourned to 2.12.2015 for arguments alongwith connected appeals.

MEMBER


MEMBER

2.12.2015

Counsel for the appellant and Sr.GP with Muhammad Siddique Admn. Officer for the respondents present. Since the court time is over, therefore, case is adjourned to 3.12.15 for order.

Member


Member

3.12.2015

Counsel for the appellant and Sr.GP with Muhammad Siddique Admn. Officer for the respondents present. There are three other similar appeals of Abdullah Noor etc. fixed for to-day in which the appellants have not yet submitted their rejoinder and requested for adjournment. Hence, we prefer to keep these appeals pending till appeals of Abdullah Noor etc. are ripe. Therefore, case is adjourned to 24.12.15 for order.


Member


Member

24.12.2015

Since 24.12.2015 has been declared as public holiday therefore, the case is adjourned to for the same 30.12.2015.


READER

31.08.2015

Clerk of counsel for the appellant and Muhammad Yaseen, Supdt alongwith Mr. Ziaullah, GP for the respondents present. Clerk of counsel for the appellant requested for adjournment due to General strike of the Bar. To come up for arguments on 21-09-2015.



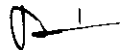
Member



Member

21.09.2015

Counsel for the appellant and Mr. Muhammad Sadique, Admin Officer alongwith Mr. Usman Ghani, Sr.GP for respondents present. Arguments heard. To come up for order on 21-10-15.



Member



Member

21.10.2015

Counsel for the appellant and Mr. Muhammad Sadique, Admin Officer alongwith Mr. Usman Ghani, Sr. GP for respondents present. Since connected appeals have been fixed for arguments therefore, this case is also adjourned to 19-11-15 for order.



MEMBER



MEMBER

13.10.2014

The Hon'ble Bench is on tour therefore, case is adjourned to 26.12.2014.


Reader.

26.12.2014

Counsel for the appellant and Mr. Muhammad Adeel Butt, AAG for the respondents present. The Tribunal is incomplete. To come up for written reply/comments on 15.04.2015.


Reader.

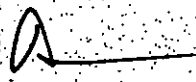
15.04.2015

Agent of counsel for the appellant and Mr. Muhammad Yasin, Supdt. alongwith Addl. A.G. for respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 21.5.2015 to be heard alongwith connected appeals including appeal No. 723/2014.


Chairman

21.05.2015

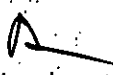
Counsel for the appellant and Addl. A.G. for respondents present. Rejoinder submitted, copy whereof supplied to the learned Addl. A.G. To come up for arguments on 12.8.2015.


Member.


Member

12.08.2015

Counsel for the appellant and Muhammad Yaseen, Supdt alongwith with Mr. Ziaullah, GP for the respondents present. Arguments could not be heard due to Learned Member is on leave, therefore the case is adjourned to 31-8-2015 for arguments.


Member

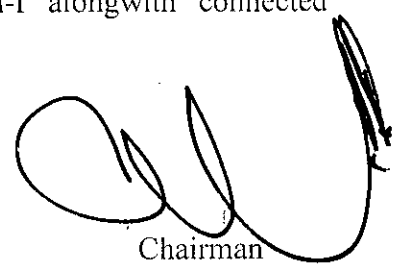
Appeal No. 786/2014
Mr. Amir Muqaddas Din

3. 08.08.2014

Appellant with counsel present and heard. The learned counsel for the appellant, inter alia, contended that having been validly appointed and having served the respondent department for 5 years and after successful completion of probation period, and being confirmed in service, the appellant alongwith other 33 civil servants was served with a joint show cause notice containing the charge of his irregular appointment owing to non-compliance with the provisions of rules applicable to appointment in Government service; and was eventually terminated from service vide order dated 14.02.2014 by the Chief Engineer (South), Public Health Engineering Department, Khyber Pakhtunkhwa Peshawar. The learned counsel argued that not only the order of termination was illegal as it was not specified therein as to under what provision of law/rules the authority could resort to the penalty of 'termination' as there is no provision of 'termination' in the disciplinary laws, neither the appellant could be made to suffer for fault/irregularity, if any, on the part of the respondent-department. The learned counsel maintained that in most of the cases the competent authority was Chief Engineer (North), therefore, the Chief Engineer (South) had no authority to impose the impugned penalty on the appellant. The learned counsel concluded that the so-called authority himself made a statement before the august Supreme Court of Pakistan and then made order of the Supreme Court basis for the impugned action against the appellant while incorrectly interpreting and applying the general order with regard to illegal appointments in the respondent-department as a basis for the impugned order. The learned counsel for the appellant pointed out that a similar nature appeal titled Mr. Farhan Ullah vs Government of Khyber Pakhtunkhwa (Service Appeal No.665/2014) has already been admitted for regular hearing and fixed before the Final Bench-I for further proceedings on 13.10.2014. The points raised at the Bar need consideration. Admit. Subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments before the Final Bench-I alongwith connected appeals on 13.10.2014.

Appellant Deposited
Security & Process Fee.
Rs. 300/- Bank
Receipt is Attached with File.


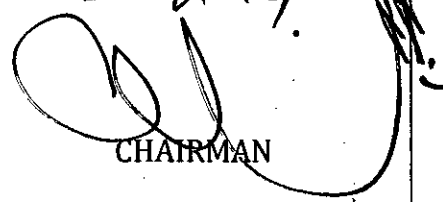
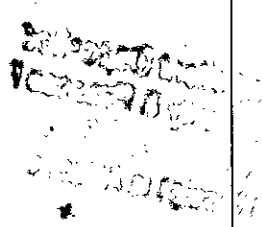
J. M.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 786/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	04/06/2014	<p>The appeal of Mr. Amir Muqtada Qureshi resubmitted today by Mr. Muhammad Asif Yousafzai Advocate, may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	6-6-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>8-8-2014</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> <p style="text-align: right;"></p>


This is an appeal filed by Mr. Amir Muqtada Qureshi Sub-Engineer PHE Department, today on 26/05/2014 against the order dated 14.02.2014 against which he preferred a departmental appeal on 27.02.2014 (date mentioned in para-6 of the memo of appeal) which is premature as laid down in an authority reported as 2005-SCMR-890.

As such the instant appeal is returned in original to the appellant/counsel. The appellant would be at liberty to resubmit fresh appeal after maturity of cause of action and also removing the following deficiencies.

- 1- Copies of Judgments of High Court and Supreme Court of Pakistan mentioned in para-3 and 7 of the memo of appeal are not attached with the appeal which may be placed on it.
- 2- Copies of show cause notice and its reply mentioned in the memo of appeal are not attached with the appeal which may be placed on it.
- 3- Copy of impugned termination order and departmental appeal against it are not attached with the appeal which may be placed on it.
- 4- Appeal may be page marked
- 5- Annexures of the appeal may be attested.
- 6- Five more copies/sets of the appeal along with annexures i.e complete in all respect may also be submitted with the appeal.

No. 807/ST,

Dt. 26/5/2014


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. M.Asif Yousafzai Adv. Pesh.

Submitted after compliance



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

Appeal No. 786 /2014


Mr. Amir Muqtada Qureshi V/S PHE Department, KPK.


INDEX

S.No.	Documents	Annexure	Page No.
1.	Memo of Appeal	-----	01-05
2.	Copy of Appointment Order	- A -	06
3.	Copy of Medical Fitness Certificate.	- B -	07
4.	Copy of Arrival Report.	- C -	08
5.	Copy of Service Book	- D -	09-13
6.	Copy of Transfer Order	-D-1-	14
7.	Copy of Judgment	- E -	15-16
8.	Copy of Show Cause Notice	- F -	17-18
9.	Copy of Reply	-G-	19-20
10.	Copy of Termination order	H	21
11.	Copy of Appeal	I	22-27
12.	Copy of High Court	J	28-31
13.	Copy of Supreme Court Judgment	K	32
14.	Vakalat Nama	-----	33

APPELLANT
Amir Muqtada Qureshi

THROUGH:


(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR.

And

(Taimur Ali Khan)
Advocate, Peshawar.

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

Appeal No. 786 /2014

Mr. Amir Muqtada Qureshi, Ex-Sub-Engineer,
Office of the Sub Engineer,
Public Health Engineering Division,
Mansehra.

~~26/5/2014~~
769
26/5/2014

APPELLANT

VERSUS

1. The Secretary, Public Health Engineering Department, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. The Chief Engineer (South), Public Health Engineering, Khyber Pakhtunkhwa, Peshawar.
3. The Executive Engineer, Public Health Engineering Circle, Abbottabad.

RESPONDENTS

.....

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 14.2.2014 WHEREBY THE APPELLANT WAS TERMINATED FOR NO GOOD GROUND AND AGAINST NOT TAKING ANY ACTION ON THE DEPARTMENTAL APPELLANT OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF 90 DAYS.

.....

PRAYER:

THAT ON ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 14.2.2014 MAY BE SET ASIDE AND THE APPELLANT MAY BE REINSTATED WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY, WHICH THIS TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

re-submitted to-207
and filed.

~~26/5/14~~
4/6/14

RESPECTFULLY SHEWETH:

1. That the appellant was appointed as Sub Engineer on the recommendation of Departmental Selection Committee by the competent authority vide order dated 22.12.2009. The appellant got his medical fitness certificate and reported his arrival on 01.01.2010. Copy of Appointment Order, Medical Fitness Certificate and Arrival Report are attached as Annexure-A, B and C.
2. That it is also worth to mention here that the proper Service Book of the appellant was also maintained by the respondent department in which all relevant entries are record. Copy of Service Bok is attached as Annexure-D.
3. That the appellant was transferred to the office of the Sub Engineer PHE Division, Mansehra on 3.2.2014. Copy of Order is attached as Annexure-D-1.
4. That in other cases of a different nature, the Supreme Court passed an order on 15.1.2014, wherein the Chief Engineer Mr. Sikandar Khan gave statement that although many other illegal appointees in the department have been removed from service but against many other such action is in progress at various stages and they are still in service. Therefore, the Honorable Supreme Court directed the Chief Engineer to complete the process within one month against the illegal pending cases against the illegal appointees. Copy of Judgment is attached as Annexure-E.
5. That the Chief Engineer to save his skin issued an Omni bus show-cause notice and adopted a slipshod manner for removing the appellant from service. Copy of the Show cause notice is attached as Annexure-F.
6. That the appellant submitted reply to the show cause notice in which the appellant has explained with details and rebutted the objections/allegation leveled against him with full reasons and justification which

were not taken in consideration at all. Copy of Reply and Show Cause Notice are attached as Annexure-G.

7. That on 14.2.2014 the appellant was terminated from service without following proper procedure and codal formalities. The appellant also filed an appeal against the termination order on 27.2.2014 and waited for statutory period but no reply has been received. Copy of Order and Appeal are attached as Annexure-H and I.
8. That the appellant and other colleagues also went in a Writ Petition before the Peshawar High Court Peshawar in Writ Petition No.615-P/2014 which was decided on 26.2.2014 and the Writ Petition of the petitioners was dismissed for having no jurisdiction as they were civil servant. Then the petitioners went in appeal before the august Supreme Court of Pakistan which was heard on 28.4.2014 and while dismissing the appeal of the petitioners, the Honorable Supreme Court observed that the Service Tribunal shall decide the appeal as mandated in law. Copy of High Court and Supreme Court Judgment are attached as Annexure-J and K.
9. That as the statutory period on the departmental appeal of the appellant has also completed in the meanwhile, therefore, the appellant comes to this august Honorable Tribunal on the following amongst the others:

GROUND:

- A) That the impugned termination order dated 14.2.2014 and not taking any action on the departmental appeal of the appellant is against the law, facts, norms of justice and material on record and hence not tenable.
- B) That the appellant has been condemned unheard and not treated according to law and rules because being a civil servant of the province, the appellant has not been dealt with E&D Rules 2011 and removed from service in a slipshod manner.


- C) That neither the appellant was served with charge sheet and statement of allegation nor regular enquiry was conducted in the matter so much so the respondents also violated the rules-5 (1) (a) of E&D Rules 2011. Whereby it was mandatory under the law to pass the speaking order for dispensing with the enquiry. Thus , the lacking such procedure the impugned order is liable to be set aside.
- D) That no chance of personal hearing was provided to the appellant which is the violation of declare law and principle of AUDI ALTERAM PARTEM as reported in the case of Aneesa Rehman.
- E) That even the termination order is not in existence because there is no word "Termination" is provided in the relevant law and rules.
- F) That according to the Government Notification dated 8.4.2006 all post from BPS-1 to BPS-15 in PHE department were declared as Distt: Cadre post which was not within purview Public Service Commission that is why the allegations of being non recommendee of the PSC is not a good grounds.
- G) That the appellant possesses the prescribed qualification and got his appointment as per law and rules.
- H) That as far as the NOC from the PSC is concerned that is also not correct keeping in view the Department Notification dated 30.4.2008 wherein the Chief Engineers were authorized for making appointment form BPS-1 to BPS-15 through Departmental Selection Committee.
- I) That the appellant can not be held responsible for the lapse / irregularities committed by the department and in such cases the Hon'ble Supreme Court of Pakistan has held the department responsible and reinstated the poor employees.

J) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

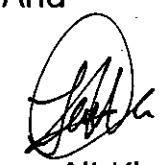
It is, therefore, most humbly prayed that the appeal of the appellant maybe accepted as prayed for.

APPELLANT 
Amir Muqtada Qureshi

THROUGH:


(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR.

And


(Taimur Ali Khan)
Advocate, Peshawar.

A
-
6

**OFFICE OF THE CHIEF ENGINEER
PUBLIC HEALTH ENGG:DEPARTMENT
NWFP, PESHAWAR.**

No. 00 / E - 4 / PHE

Dated Pesh: the 22 / 12 / 2009.

OFFICE ORDER.

On the recommendation of the Department Selection Committee as per its meeting held on 02/12/2009, the competent authority is pleased to offer a post of Sub Engineer (BPS-11) to Mr. Muqtada Qureshi S/O Afsar Ali Qureshi R/O House No.175, Sector F-1 Phase-6 Hayatabad Peshawar on the following terms and conditions :-

- 1) He will get pay at the minimum of BPS-11 (Rs.4115 - 275 - 12396) including usual allowances as admissible under the rule. He will also be entitled to annual increment as per existing policy.
- 2) He shall be governed by the NWFP Civil Servants Act 1973 and all the laws applicable to the Civil Servants and Rules made there under.
- 3) He shall, for all intents and purposes, be Civil Servant except for purpose of pension or gratuity. In lieu of pension and gratuity, he shall be entitled to receive such amount contributed by him towards Contributory Provident Funds (C.P.F) alongwith the contributions made by Government to his account in the said fund, in the prescribed manner.
- 4) His employment in the PHE Department is purely temporary and his services are liable to be terminated without assigning any reason at fourteen (14) days notice or on the payment of 14 days salary in lieu of the notice. In case he wishes to resign at any time, 14 days notice will be necessary or in lieu thereof 14 days pay will be forfeited.
- 5) He shall, initially, be on probation for a period of two years extendable upto 3 years.
- 6) He shall produce a medical certificate of fitness from Medical Superintendent, Swabi before reporting himself for duty to the O/O Deputy District Officer Water Supply & Sanitation Swabi, as required under the rules.
- 7) He has to join duty at his own expenses.
- 8) If he accepts the post of these conditions, he should report for duty to the Deputy District Officer Water Supply & Sanitation Swabi within 14 days of the receipt of this offer and produce original certificates in connection with his qualifications, domicile and age.

Copy to the :-

- 1) Deputy District Officer WS&S Swabi.
- 2) District Accounts Officer Swabi.
- 3) Mr. Muqtada Qureshi S/O Afsar Ali Qureshi R/O House No.175, Sector F-1 Phase-6 Hayatabad Peshawar.

CHIEF ENGINEER
ATTESTED
/

/
CHIEF ENGINEER

B

7

MEDICAL CERTIFICATE

Name of Official..... Mr. Muqtada Qureshi

Caste or race..... Muslim

Father's name..... Mr. Afsar Ali Qureshi

Residence..... Village House No. 175 Sector E-1 Phase-6 Hayatabad

Peshawar

Date of birth..... 01/01/1986

Exact height by measurement..... 5'-7"

Personal mark of identification..... Hole at side nose

Signature of the Official..... [Signature]

Signature of head of office.....

Seal of Office

I do hereby certify that I have examined Mr. Muqtada Qureshi a candidate for employment in the Office of the Public Health Engg: Deptt: (Swabi) and can not discover that he had any disease communicable or other constitutional affection or bodily infirmity except.....

I do not consider this as disqualification for employment in the office of the above His age according to his own statement 24 year and by appearance about 24 years.

LEFT HAND THUMB AND FINGER IMPRESSIONS

Medical Superintendent, Civil Hospital, Medical Superintendent, D.H.Q. Hospital Swabi

01/01/2010

ATTESTED

TO

C 8


The Dy-Dist Officer,
Water Supply and
Sanitation, SWABI.

Subject :- Arrival Report.

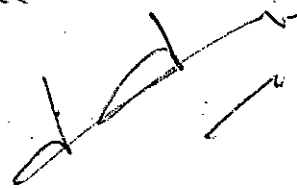
Respected Sir!

In compliance to
Chief Engineer, Public Health Engg;
Deptt; MINFP, Peshawar Office Order No
06/E-4/PHE dated 22-12-2009,
I submit my arrival Report
for duty today the first January
2010 (Forenoon).

Thank you.

H.C
Form 14


Yours Obediently,



MUQTADA - QURESHI
Sub-Engineer.

d. 01/01/2010.

ATTESTED


Note: The entries in this page should be renewed or re-attested at least every five years and the signature to line 9 and 10 should be dated.

1. Name: MUQTADA BURESHI

2. Race: Pathan.

3. Residence: House NO. 175 F-I Phase - G Hayat Abad Peshawar.

4. Father's name and residence: Afsar Ali Bureshi H. No. 175, F-I, Phase - G, Hayat Abad Peshawar.

5. Date of birth by Christian era as nearly as can be ascertained: 1.1.1986 (1st January Nineteen Eighty Six)

6. Exact height by measurement: 5-7

7. Personal marks for identification: Mole on right side of Nose

8. Left hand thumb and finger impression of (Non-Gazetted) officer:

Little Finger



Ring Finger



Middle Finger



Fore Finger



Thumb



9. Signature of Government Servant:

[Handwritten signature]

10. Signature and designation of the Head of the Office, or other Attesting Officer.

[Handwritten signature]
DEPUTY DISTRICT OFFICER
WATER SUPPLY & SANITATION
WORKS & SERVICES DEPT
PESHAWAR

ATTESTED
[Signature]

1 Name of post	2 Whether substantive or officiating and whether permanent or temporary	3 If officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C.S.R.	4 Pay in substantive post	5 Additional Pay for officiating	6 Other emolument falling under the term "p"	7 Date of appointment	8 Signature of Government Servant.	9 Designation of the office, station of posts 1 to 8
DEPUTY DISTRICT OFFICER WATER SUPPLY & SANITATION WORKS & SERVICES DEPT SUB-EXAMINER								
BPS-11 (4115-275-12394)				Rs 4115/-		01/01/2010	<i>[Signature]</i>	
BPS-11 (6600-460-20400)				Rs 7060/pm		1-7-2011		
				Rs 7520/pm		1-12-11		

ATTESTED
[Signature]

Signature of Government Servant.	Post Designation of the office holding officer station of posts 1 to 8	10 Date of termination or appointment.	11 Reason of termination such as promotion, transfer, dismissal, etc.)	12 Signature of the head of the office or other attesting officer.	13 Leave		14 Signature of the head of the office or other attesting officer	15 Reference to any recorded punishment or censure or praise of the Government Servant.	
					Nature and duration of leave taken.	Allocation of period of leave on average pay upto four months for which leave salary is debit to another Government			
						Period			Government to which debit
	APPOINTED AS SUB ENGINEER in BPS-11 (4115-275-12396) in the of Deputy DIST. Officer WWS (WWS) Swabi vide Chief Engineer PHED Naot Peshawar No 06/E-4/PHD Dated 22-12-2009 and submitted MR on 07-07-2010.								
	Annual increment granted:							Service verified from 01-1-2010 to 30-11-2010 from the office copy of Pay bill.	
	Executive Engineer P.H. Eng. Division, Swabi							Executive Engineer P.H. Eng. Division, Swabi	
	Executive Engineer P.H. Eng. Divin: Swabi							Executive Engineer P.H. Eng. Divin: Swabi	
	Annual increment granted							Service verified from 1-12-2010 to 30-11-2011 from the office copy of Pay bill.	
	Executive Engineer P.H. Eng. Divin: Swabi							Executive Engineer P.H. Eng. Divin: Swabi	

DEPUTY DISTRICT OFFICER
 WATER SUPPLY & SANITATION
 WORKS & SERVICES DEPT
 SWABI

Executive Engineer
 P.H. Eng. Divin: Swabi

Executive Engineer
 P.H. Eng. Divin: Swabi

Executive Engineer
 P.H. Eng. Division, Swabi

Executive Engineer
 P.H. Eng. Divin: Swabi

1	2	3	4	5	6	7	9
Name of post	Whether substantive or officiating and whether permanent or temporary	If officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C.S.R.	Pay in substantive post	Additional Pay for officiating	Other emolument falling under the term "p"	Date of appointment	Signature and Signal of the head of Government or other attesting authority in attesting column
BPS-11 16600-960-20400				Rs-7980/- PM		1-12-2012	
M 11				RS=8440/- PM		1-12-2013	
							<p style="text-align: right;">ATTESTED</p>

9	10	11	12	13		14	15	
				Leave				
				Nature and duration of leave taken.	Allocation of period of leave on average pay upto four months for which leave salary is debitabale to another Government			
Signature and Designation of the head of the office or other attesting officer in attestation of columns 1 to 8		Date of termination or appointment.	Reason of termination such as promotion, transfer, dismissal, etc.)	Signature of the head of the office or other attesting officer.	Period	Government to which debitabale	Signature of the head of the office or other attesting officer	Reference to a recorded punishment or censure or praise of the Government Servant.
Signature and Designation of the head of the office or other attesting officer in attestation of columns 1 to 8		Date of termination or appointment.	Reason of termination such as promotion, transfer, dismissal, etc.)	Signature of the head of the office or other attesting officer.	Nature and duration of leave taken.	Allocation of period of leave on average pay upto four months for which leave salary is debitabale to another Government	Signature of the head of the office or other attesting officer	Reference to a recorded punishment or censure or praise of the Government Servant.
Annual Increment granted						Service verified w.e.f 1.12.2011 To 30.11.2012		
Executive Engineer P.H. Haggi Divin, Swaha						Executive Engineer P.H. Haggi Divin, Swaha		
Annual Increment granted						Service verified w.e.f 1-12-2012 To 30-11-2013		
Executive Engineer P.H. Haggi Divin Swaha						Executive Engineer P.H. Haggi Divin, Swaha		
Service verified w.e.f 1-12-2013 To 4/2/2014.				Transferred to PHE Division Manshehra vide Secretary P.HED KPK c/order No. SO(ESTU)/PHED/1-43/2014 dt: 3/2/2014. and reported departure on dt: 4/2/2014 (A.M).				
Executive Engineer P.H. Haggi Divin Swaha						Executive Engineer P.H. Haggi Divin, Swaha		



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

Dated Peshawar, the February 3, 2014

D-I

14

To be substituted for the orders bearing same number & date

ORDER

No.SO(ESTT)/PHED/1-43/2014. The competent authority has been pleased to order the transfers / postings of the following Sub Engineers of the Public Health Engineering Department, with immediate effect in the public interest:-

SNo	Name	From	To	Remarks
1.	Mr.Inam ul Haq (BPS-11)	Sub Engineer PHE Division Nowshera.	Sub Engineer PHE Division Buner.	Against the vacant post.
2.	Mr.Imtiaz (BPS-11)	Sub Engineer PHE Division Battagram.	Sub Engineer PHE Division Nowshera.	Vice No.1
3.	Mr.Muhammad Kamal (BPS-11)	Under transfer as Sub Engineer PHE Division Mansehra.	Sub Engineer PHE Division Swabi.	Vice No.4
4.	Mr.Amir Muqtada Qureshi(BPS-11)	Sub Engineer PHE Division Swabi.	Sub Engineer PHE Division Mansehra.	Vice No.3

SECRETARY

ENDST: No.SO(ESTT)/PHED/1-43/2014

Dated Peshawar, the February 3, 2014

Copy forwarded for information and necessary action to the:-

1. Chief Engineer (North) PHE Department NWFP, Peshawar.
2. Chief Engineer (South) PHE Department, NWFP, Peshawar.
3. PS to Minister PHE, Khyber Pakhtunkhwa.
4. PS to Secretary PHE Department, Khyber Pakhtunkhwa, Peshawar.
5. Superintending Engineers, PHE Circle, Peshawar, Mardan, Malakand at Timergara, Kohat & Abbottabad.
6. Executive Engineers PHE Divisions, Nowshera, Buner, Battagram, Mansehra, Swabi & Kohat.
7. District Accounts Officers Nowshera, Buner, Battagram, Mansehra, Swabi & Kohat.
8. Officials concerned.
9. Office Order File /Personal Files.

03/02/2014
SECTION OFFICER (ESTT)

ATTESTED

15

IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

PRESENT:

MR. JUSTICE ANWAR ZAHEER JAMALI.
MR. JUSTICE EJAZ AFZAL KHAN.

C. Ps. No. 2026 and 2029 of 2013.
(On appeal against the judgment
dt. 2.10.2013 passed by the
Peshawar High Court, Peshawar in
W. Ps. No. 271-P and 663-P of 2013).

Mushtaq Ahmed and another.
Muhammad Nasir Ali and others.

(in CP. 2026/13)
(in CP. 2029/13)
...Petitioners

Versus

Government of KPK through Chief Secretary,
Peshawar and others.

(in both cases)
...Respondents

For the petitioners:

Mr. Ghulam Nabi Khan, ASC.
Syed Safdar Hussain, AOR.

For the respondents:
(on court notice)

Sikandar Khan, Chief Engineer, PHEK, KPK.

Date of hearing:

15.01.2014.

ORDER

ANWAR ZAHEER JAMALI J. - After hearing the arguments of the learned ASC for the petitioners and careful perusal of the case record particularly the reasons assigned in the impugned judgment, we are satisfied that no case for grant of leave to appeal is made out, including the plea of discrimination raised by the petitioners, as one wrong or any number of wrongs, cannot be made basis to justify an illegal action under the garb of Article 25 of the Constitution. Both these petitions are, therefore, dismissed. Leave is refused.

2. So far as some other illegalities in the appointments brought to our notice is concerned, in response to our earlier order

dated 09.01.2014, Mr. Sikandar Khan, Chief Engineer, Public Health Engineering, Department, KPK is present in Court, he states that

ATTESTED

Superintendent
Supreme Court of Pakistan
Islamabad

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C.E.P.H.E. Deptt. (South)	
Diary No. 480	
Date 25-01-2014	
Case No.	
CREATED (S)	
SEND	
Director	
Designation	
ASST	
INFO	

C.P. 2026/13 & 2029/13

although many other illegal appointees in his department have been removed from service, but against many others such action is in process at various stages and they are still in service.

In view of the above statement, he is directed to finalize the action against such illegal appointees within one month from today and submit his report through Registrar of this Court. In case, he faces any difficulty in this regard, those difficulties may also be brought to our notice so that appropriate orders may be passed.

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Sd/- Anwar Zaheer Jamali, J.
Sd/- Ejaz Afzal Khan, J

Certified to be True Copy

Supintendent
Supreme Court of Pakistan
Islamabad



GR No: 640/14 Civil/Criminal

Date of Presentation: 15-1-14

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Compared by/Prepared by: [Signature]

Received by: [Signature]

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OFFICE OF THE CHIEF ENGINEER (SOUTH)
PUBLIC HEALTH ENGG: DEPARTMENT
KHYBER PAKHTUNKHWA, PESHAWAR

F

No. 32 / E - 4 / PHE

Dated Peshawar, the 21 / 01 / 2014

17

To

- | | |
|-------------------------------|----------------------------|
| 1. Mr. Tariq Nawaz | Sub Engineer, |
| 2. Mr. Sajjad Khan | Sub Engineer, |
| 3. Mr. S. Muhammad Ihsan Shah | Sub Engineer, |
| 4. Mr. S. Muhammad Ali Sajjad | Sub Engineer, |
| 5. Mr. Abdul Samad | Sub Engineer, |
| 6. Mr. Shaukat Ali | Sub Engineer, |
| 7. Mr. M. Ali Noor | Sub Engineer, |
| 8. Mr. Irshad Elahi | Sub Engineer, |
| 9. Mr. Hussain Zaman | Sub Engineer, |
| 10. Mr. Salim Nawaz | Sub Engineer, |
| 11. Mr. S. Ashfaq Ahmad | Sub Engineer, |
| 12. Mr. Murtaza Ali | Sub Engineer, |
| 13. Mr. Sahar Gul | Sub Engineer, |
| 14. Mr. Ishfaq | Sub Engineer, |
| 15. Mr. Abdul Shahid | Sub Engineer, |
| 16. Mr. Kashif Raza | Sub Engineer, |
| 17. Mr. Waqar Ali | Sub Engineer, |
| 18. Mr. Muslim Shah | Sub Engineer, |
| 19. Mr. Ishtiaq Ahmad | Sub Engineer, |
| 20. Mr. Zuhib Khan | Sub Engineer, |
| 21. Mr. S. Hassan Ali | Sub Engineer, |
| 22. Mr. Mohsin Ali | Sub Engineer, |
| 23. Mr. Muqtada Qureshi | Sub Engineer, |
| 24. Mr. Ishfaq Ahmad | Sub Engineer, |
| 25. Mr. M. Qaiser Khan | Senior Scale Stenographer, |
| 26. Mr. Nomanullah | Steno Typist, |
| 27. Mr. M. Imran | Steno Typist, |
| 28. Mr. M. Jamil | Steno Typist, |
| 29. Mr. Iftikhar | Steno Typist, |
| 30. Mr. Shah Khalid | Steno Typist, |
| 31. Mr. Aziz Ullah | Steno Typist, |
| 32. Mr. Farhan Ullah | Data E/Operator, |
| 33. Mr. Farman Ali | Data E/Operator, |
| 34. Mr. Murtaza Qureshi | |

A. H. H. H.
Assistant Director Admin
Oil & Gas Facilitation Unit
FATA Secretariat Peshawar
M

Subject: SHOW CAUSE NOTICE

In compliance of Supreme Court of Pakistan decision dated 15.1.2014 action against all illegal appointee's are being taken immediately. As such you are hereby served with this show cause notice regarding your appointment as under:

1. In light of S&GD letter No.SOR-I(S&GAD)/1-117/91(C) dated 12.10.1993 the appointment of Sub Engineer, Steno Typist/Stenographer and Data E/Operator continued to be made through recommendation of Public Service Commission. Whereas you have been appointed without the recommendation of Public Service Commission which is contrary to the prevailing rules. Therefore you are directed to provide recommendation of Public Service Commission, if any.
2. Your appointment orders have been made in contravention of Govt led down policy vide circulated notification No. SOR-VI/EXAD/1-10/2005/Vol-VI-dated 15.11.2007.

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3. The content of your appointment orders reveal that you have been appointed without recommendation of the Public Service Commission, of Khyber Pakhtunkhwa. No NOC obtained from the Public Service Commission for recruitment, no requisition submitted to Secretary Works & Services Department, no sanction/approval was obtained from Administrative Secretary, no Departmental Promotion Selection Committee constituted by the Secretary Works & Services Department, not advertised and nor the appointment are modified in terms of para-13 and 14 of N.W.F.P Civil servant (appointment, promotion and transfer rules 1989). Codal formalities have not been fulfilled in your appointments.
4. Necessary sanction to condonation of the violation of codal formalities have not been accorded by the competent Authority.

Keeping in view the above, you are directed to furnish reply to the show cause notice within 15-days positively; otherwise it will be presumed that you have nothing in your defense. As such ex-party action will be taken against you under the E&D rules which will entail your termination from service.

Chief Engineer (South)

Copy forwarded to:

1. The Secretary to Govt of Khyber Pakhtunkhwa Public Health Engg: Department Peshawar.
2. The Chief Engineer (North) Public Health Engg: Department Peshawar.
3. All Superintending Engineers/Executive Engineers in South/North ^{FATA W&S} Public Health Engg: Department. They are directed to serve the show cause noticed to the above named officials working in your office.

Chief Engineer (South)

Assistant Director Admin
Oil & Gas Facilitation Unit
FATA Secretariat Peshawar

ATTESTED

To

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

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Subject: - **SHOW CAUSE NOTICE.**

Reference: - Your No.32/E-4/PHE dated 21-01-2014 received by me on /02/2014 which shows that the same has un-lawfully and malafidely been issued by you in the back date.

It is submitted that I am working in PHE Division Manshera as Sub Engg and is only under the controlling authority of the worthy Chief Engineer (North) PHED as competent authority. Therefore, the Show Cause Notice issued to me under your signature on that reason too is unauthorized and un-lawful. However, para wise explanation is submitted as under:-

1. In this connection your attention is invited to E.A.D letter No.SOS-Pool(E&AD)/1-10/2002 dated 08/4/2006 declaring the posts in B-I to B-15 in W&S Department (i.e. C&W and PHE) as District Cadre Posts and outside the purview of P.S.C. Therefore, W & S Department was directed neither to place any such requisition before the P.S.C. nor the P.S.C. was required to advertise such posts (Annexure-I). The E&A Department, vide letter No.SOR-V(E&AD)/1-368/2005(SE) dated 02/5/2007 addressed to P.S.C. and copy thereof endorsed to Secretary W&S Department, further stated that the requisition made by the W&S Department, for filling in the vacant posts may be considered as withdrawn (Annexure-II). In the circumstances, the recommendation of P.S.C. for appointment against such posts, were uncalled for.
2. My appointment against the post was made by the Competent Authority as I having the prescribed qualifications for the same. Hence there involve no contravention to Govt: Policy.
3. As explained in the above paras, it was not the purview of P.S.C. to make recommendation against these Posts, therefore there was no need of N.O.C etc. from them. From the above letters it reveals that requisition for the vacant posts was made, but the same was withdrawn by the E&A Department. Therefore, the Secretary W&S Department, vide his Notification No. E&A/W&S/11-23/2001 dated 30-4-08 assigned all the Establishment matters of officials from BPS-1 to BPS-15 to the respective Chief Engineers of the C&W and PHE Wings of W&S Department (Annexure-IV). Therefore, his approval/sanction for appointment against such posts was not required. Moreover, my appointment was made by the competent authority through the DSC.
4. As a candidate and junior employee of the Department, I do not know about any violation of codal formalities in the process of appointment. However, if there is some lapse in procedure, that is supposed to be tackled by the concerned hands with the competent forum for rectification/regularization, rather to proceed against me without any fault of mine at this belated stage/time where I have spent the useful part of my life of about 4 1/2 years and have since crossed/near to cross the upper age limit of 30 years and have been overaged.

It is added that I am not party in the case of Mushtaq Ahmad & others C.P No.2026/13 & Muhammad Nasir Ali & others CP No.2029/13, therefore, the decision of the Honourable Supreme Court of Pakistan dated 15.01.2014 is not applicable upon me.

In view of above explanation, it is very humbly prayed that the charges may be dropped.

Thanking you.

Yours Obediently

ATTESTED

Dated /4 /02/2014.

(Amir Muqataa Qureshi)
Sub Engg, PHE Department Manshera

Copy to the:-

1. Registrar, Supreme Court of Pakistan, Islamabad with reference to C.Ps N.2026 & 2029 of 2013.
2. Registrar, Peshawar High Court, Peshawar w/r to W.Ps No,271-P & 663-P of 2013 w/r to above.

They are requested to direct the Chief Engineer (South) PHE Peshawar to avoid from taking such drastic & one sided action i.e. without proper enquiry & opportunity of hearing etc; as required under the law/ natural justice.

3. PS to Secretary PHE Department Peshawar.

Dated: 14/02/2014

(Amir Muqtada Qureshi)
Sub Engg;
PHE Department Peshawar

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OFFICE OF THE CHIEF ENGINEER (SOUTH)
PUBLIC HEALTH ENGG: DEPARTMENT
KHYBER PAKHTUNKHWA, PESHAWAR

No. 23 / E-4 / PHE,
Dated Peshawar, the 11/02/2014

To

Mr. Muqtada Qureshi s/o Afsar Ali Qureshi
Sub Engineer P.H.Engg Division
Swabi

Subject: TERMINATION FROM SERVICE

Your recruitment in PHED made vide this office letter No.06/E-4 /PHE dated 22.12.2009 was illegal and unlawful due to non-fulfillment of codal formalities.

2. Your appointment as a Sub Engineer has been reviewed on the direction of Supreme Court of Pakistan Order dated 15.01.2014 in the civil petition No.2026 and 2029 of 2013, Mushtaq Ahmad and Muhammad Nasir Ali and others. The Supreme Court of Pakistan directed the undersigned to finalize action against all illegal appointees within one month. In this regard direction of Establishment & Administration Department vide his No.SOR-V(E&AD)/15-3/2009 dated 30.1.2013 received through Secretary PHE Department Khyber Pakhtunkhwa Peshawar No.SO(Estt)/PHED/1-90/2012-13 dated 3.2.2014 record of the recruitment of Sub Engineer and other staff has been checked and found the following irregularities committed by the appointing authority in your appointment.

1. Vacancies/posts of Sub Engineers were not advertized through news paper.
2. Initial recruitment of Sub Engineers will continue to be made through recommendation of the Public Service Commission in light of S&GAD letter No.SOR-1 (S&GAD)1-117/91(c) dated 12.10.1993. in this case NOC was not obtained from Public Service Commission before issuance of your appointment order. A requisition for filling up these posts were not placed with Khyber Pakhtunkhwa Public Service Commission and you have not qualified test and interview conducted by the Public Service Commission during this period. As such your appointment without recommendation of the Public Service Commission is invalid and unlawful.
3. Approval from Administrative Secretary was not obtained by the appointing authority before making your appointment.
4. Departmental selection committee was not constituted by the Administrative Secretary.
5. You have also failed to reply to the show cause notice issued vide this office No. 32/E-4 /PHE dated 21.01.2014 in your defense with in stipulated period.
6. The above mentioned irregularities committed by the appointing authority in your appointment process prove that you were illegally appointed and there is no justification to retain you in the service of PHED. You are therefore terminated from the Post of Sub Engineer with immediate effect.

ATTESTED

Chief Engineer (South)

Copy forwarded to:

1. The Secretary to Govt of Khyber Pakhtunkhwa Public Health Engg: Department Peshawar.
2. PS to Minister for Public Health Engg: Department Khyber Pakhtunkhwa Peshawar.
3. The Accountant General Khyber Pakhtunkhwa Peshawar.
4. The Chief Engineer (North) Public Health Engg: Department Peshawar.
5. The Chief Engineer (FATA) Works & Services Department Peshawar.
6. All Superintending Engineers/Executive Engineers in South/North P.H.Engg: Department.
7. All District Accounts Officer in Khyber Pakhtunkhwa.

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To

The Secretary,
Government of Khyber Pakhtunkhwa,
Public Health Engineering Department,
Peshawar.

Subject: Departmental appeal under Section 22 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule 3 of the KP Civil Servants (Appeal) Rules, 1986 against the impugned order dated 14.02.2014 whereby the services of appellant was terminated with immediate effect by the Chief Engineer (South) of the Public Health Engineering Department, Peshawar.

Respected Sir,

1. That appellant being qualified for the post of Sub Engineer so he applied for the existed vacancies of Sub Engineers in the Public Health Engineering Department Khyber Pakhtunkhwa Peshawar. After observing the codal formalities, on the recommendation of **Departmental Selection Committee** he was appointed as Sub Engineer (BPS-11) on regular basis from his respective date of appointment issued by the Chief Engineer.
2. That after completing the requisite formalities including medical fitness certificate, the appellant joined duties at his respective place of posting. The respondent department also maintained the service book of the appellant and necessary entries have been made therein from time to time.
3. That the appellant is regular employee of the respondent department working against the permanent post since his respective appointment having more than five years service at his credit with excellent service record.
4. That some other employees whose appointments were made on adhoc basis so they agitated their regularisation under the Khyber

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Pakhtunkhwa Employees (Regularization of Services) Act, 2009 before this Hon'ble Court through two separate writ petition NOs.271-P/2013 and 663-P/2013 which were dismissed by common judgment passed on 02.10.2013.

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5. That the impugned judgment was challenged by the same employees before Hon'ble Supreme Court of Pakistan through C.P. No.2026 and 2029 of 2013 but same were also dismissed on 15.01.2014. However during the proceedings, Mr. Sikandar Khan Chief Engineer, Public Health Engineering Department, Khyber Pakhtunkhwa orally brought into the notice of Hon'ble Supreme Court of Pakistan about the existence of illegal appointees in the department and accordingly he was directed to finalize the action against such illegal appointees within one month.

6. That a joint show cause notice was issued to appellant alongwith others vide letter No.32/E-4/PHE dated 21.01.2014 by Chief Engineer (South) therein he has unlawfully and malafidely shown the appointments of appellant and others as illegal. Since the copy of show cause notice was not received within stipulated time therefore he submitted an application before the Chief Engineer (South) requesting for extension in period of reply but before submitting the requisite reply, now which had been submitted, the Chief Engineer (South) had issued the impugned order dated 14.02.2014 thereby his services were terminated with immediate effect.

Grounds:

A. That the appointment of appellant was made by competent authority on regular basis on the recommendation of Departmental Selection Committee. He was within age limit, having prescribe qualifications thus in such circumstances the Chief Engineer (South) was unjustified to treat the valid appointment of appellant as illegal.

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- B. That it is pertinent to mention that by notification vide No.SO(O&N)E&AD/8-16/2000 dated 01.08.2001 the three departments namely Public Health Engineering, Physical Planning & Housing and Communication and Works Department were merged into Works and Services Department as mentioned in order dated 05.11.2001 and meanwhile the Khyber Pakhtunkhwa Local Government Ordinance, 2001 was also promulgated (now repealed) and under section 14 thereof the administrative and financial authority for management of the offices of the government specified in Part-A of the first schedule was decentralized to district government. Similarly the posts in BPS-01 to 15 in the Works and Services Department were also declared as district cadre posts vide notification No.SO(Estt:)W&S/13-1/77 dated 22.03.2005 as referred in letter dated 08.04.2006 by the Establishment Department to W&S Department.
- C. That when the posts in BPS-01 to 15 in W&S Department were declared **District Cadre Posts including the post of appellant** then a letter was written to Secretary Khyber Pakhtunkhwa Public Service Commission, Peshawar on 02.05.2007 therein requested for withdrawal the requisition for filling in the vacant posts of Sub Engineers (B-11) in the W&S Department and done accordingly. In such circumstances the plea of Chief Engineer (South) regarding non fulfilling the requirements of recommendation of **Public Service Commission, Khyber Pakhtunkhwa** in the cases of appellant is unjustified, unreasonable, malafide and without lawful authority and not sustainable under the law and rules.
- D. That in view of clause 5 of the appointment order of each appellant, his service was placed on probation for a period of two years extendable upto three years which the appellant has completed satisfactory becoming a confirmed employee of the office Chief Engineer. At the time of passing of impugned order the appellant has rendered more

ATTESIED

than five years service to the department efficiently, satisfactory and without any complaint. Therefore the Chief Engineer has not acted in accordance with law and rules and unlawfully passed the impugned order without observing codal formalities as required in the case of a confirmed employee. Therefore the impugned order thereby appellant was terminated has no legal sanctity being without lawful authority.

- E. That clause 2 of appointment orders of appellant provides that he will be governed by the Khyber Pakhtunkhwa Civil Servants Act, 1973 and all the laws applicable to the Civil Servants and Rules made thereunder and similarly in the impugned show cause notice mentioned that action would be taken under the Efficiency and Disciplinary Rules, 2011 but the Chief Engineer has not followed any law in passing the impugned order which is arbitrary, unjust and unfair and not warranted, liable to be set aside.
- F. That in the impugned order, Chief Engineer used the word of "termination" which neither applicable in the case of appellant being confirmed employees of the department nor prescribed in the E&D Rules, 2011 therefore the impugned order is ambiguous, vague and illegal not sustainable under the law and rules.
- G. That Chief Engineer has malafidely brought in the notice of the Hon'ble Supreme Court of Pakistan during the hearing of an other case. Neither he supplied any list of illegal appointments to Hon'ble Supreme Court of Pakistan at that very moment nor specified such illegal appointments but in general way he mentioned the existence of illegal appointments in the department which now he has exploited the situation and purposely held the appointments of appellant and others as illegal and issued the impugned order of termination without legal justification.

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- H. That the impugned order has been passed at the back of appellant. Neither any regular enquiry has been conducted nor a fair opportunity was provided to them to defend their cases therefore the impugned order is illegal, without lawful authority being violative of principle of natural justice.
- I. That the appellant was continuously serving the department having more than five years service at their credit without any complaint which accrued vested rights in his favour which could not be taken away or withdrawn by the authority under the principle of locus poenitentiae.
- J. That in case of any defect in the appointment of appellant is existed for which only the departmental authority is responsible and not the appellant therefore the action of the Chief Engineer is not warranted under the law and rules and the impugned order is illegal and of no legal effect.
- K. That the appellant is a permanent and confirmed employee of the department and performing his respective duty efficiently since the date of his appointment during which he was provided all the benefits and privileges attached with his post including annual increments. Now the appellant has crossed the upper age limit, supporting a family with his children who are getting education in various schools and colleges thus in such circumstances, the Chief Engineer has no legal and moral justification to hold the appointment of appellant as illegal. Therefore the act and action of the Chief Engineer is tainted with malafide intention, unlawful and not operative against the vested rights of appellant.

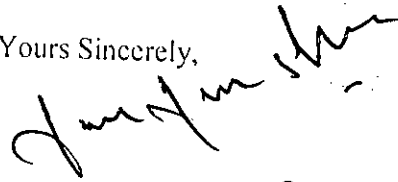
It is, therefore, humbly prayed that on acceptance of this departmental appeal, the impugned order dated 14.02.2014 thereby the services of appellant

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was terminated with immediate effect, may kindly be set aside and appellant may graciously be reinstated with all back benefits.

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Yours Sincerely,



Dated: 28 / 02 / 2014

(Amir Muqtada Qureshi)
Ex-Sub Engineer,
PHE Dept.

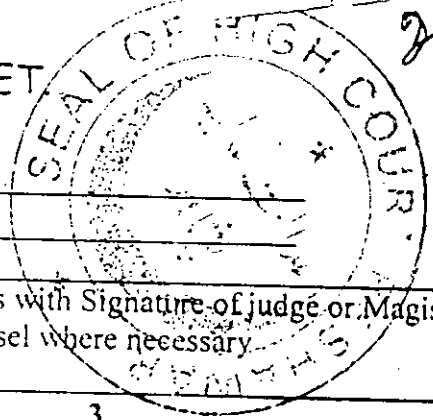
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PESHAWAR HIGH COURT, PESHAWAR
FORM "A"
FORM OF ORDER SHEET

Court of _____
Case No _____



Serial No of order or proceeding	Date of Order or Proceeding	Order or other proceedings with Signature of judge or Magistrate and that of parties or counsel where necessary
1	2	3
	26.02.2014	<p><u>W.P No.615-P/2014.</u></p> <p><u>Present:-</u> Mr. Khushdil Khan, Advocate for petitioners. *****</p> <p><u>MALIK MANZOOR HUSSAIN, J:-</u> Through instant petition, the petitioners are invoking Constitutional jurisdiction of this Court and prays as follows:-</p> <ol style="list-style-type: none"> 1. <i>Declare the act of respondent No.3 against the fundamental rights as guaranteed under chapter 1 of part II of the Constitution, 1973.</i> 2. <i>Direct the respondent No.3 to act in accordance with law and rules on subject and also treat the petitioners in accordance with law and rules and their appointments be treated as legal and valid for all purposes.</i> 3. <i>Set aside the impugned order of termination issued on 14.02.2014 being malafide, unlawful, unjustified and violative of principle</i>

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EXAMINED
PESHAWAR HIGH COURT
MAY 2014

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natural justice.

2. Briefly, the facts as per contents of instant petition are that the petitioners were appointed as sub-Engineers (BPS-11) in Public Health Engineer Department, Government of Khyber Pukhtunkhwa, Peshawar. While hearing Civil Petitions No.2016/2013 and No.2029/2013, the August Supreme Court of Pakistan take notice of illegal appointments in the petitioners Department, directed the Chief Engineer of the Department to finalize the action against illegal appointees. For convenience, it would be appropriate to reproduce the relevant para of Judgment dated 15.01.2014 of August Apex Court, which is as under:-

"So far as some other illegalities in the appointments brought to our notice is concerned, in response to our earlier order dated 09.01.2014, Mr. Sikandar Khan, chief Engineer, Public Health engineering, Department, KPK is present in Court, he states that although many other illegal appointees in his department have been removed from service, but against many others such action is in process at various stages and they are still in service.

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Peshawar
2014

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In view of the above statement, he is directed to finalize the action against such illegal appointees within one month from today and submit his report through Registrar of this Court. In case, he faces any difficulty in this regard, those difficulties may also be brought to our notice so that appropriate orders may be passed".

In pursuance thereof show cause notices were issued and ultimately through impugned order dated 18.02.2014 the services of petitioners were terminated.

3. At the very outset the learned counsel for the petitioners was confronted with the legal position with respect to the fact that the petitioners, who claims themselves to be civil servants under Civil Servant Act 1973, whether their termination orders does not come within ambit of terms and condition of service, and whether the petition is maintainable under barring Provision of Article 212 of the Constitution, 1973? There was no plausible explanation in this regard. The Provision of Article 199 of the Constitution through which the remedies are sought by the petitioners are subject to the Provision of Article 212(3) of the Constitution. It is

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well settled by now that even illegal orders, or order without jurisdiction, regarding Civil Servant, can only be challenged in the proper forum established under the law.

4. Admittedly termination orders of the petitioners related to terms and condition of their services, therefore, Constitutional petition under Article 199 is not maintainable by virtue of article 212 of the Constitution and Section 4 of Service Tribunal Act 1973.

In view of what has been observed above, this petitioner is dismissed being not entertainable, however petitioners are at liberty to seek their remedies before proper forum if so advised.

Announced.
26.02.2014

Justice Yashraj Akbari

JUDGE

Justice Malik Mansoor Hussain

JUDGE

CERTIFIED TO BE TRUE COPY

Evolutionary
Peshawar High Court, Peshawar
Punjab and Ferozepore
The Constitution of Pakistan
Order 87 of 2014
2 MAY 2014

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No. of Pages	12
Date of Presentation of Petition	1993
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Total	24
Date of Presentation of Petition	31-5-14
Date of Presentation of Copy	3-5-14
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IN THE SUPREME COURT OF PAKISTAN
APPELLATE JURISDICTION

PRESENT:

MR. JUSTICE TASSADUQ HUSSAIN JILLANI, HCJ
MR. JUSTICE SH. AZMAT SAEED

CIVIL PETITION NO. 551 OF 2014

(On appeal from the judgment dated 26.2.2014 passed by the Peshawar High Court, Peshawar in WP No. 515-P/2014)

Tariq Nawaz Khan and others

... Petitioners

VERSUS

Government of KPK through Chief Secretary, Peshawar and others

... Respondents

For the Petitioners: Mir Aurangzeb, ASC

For the Respondents: N.R.

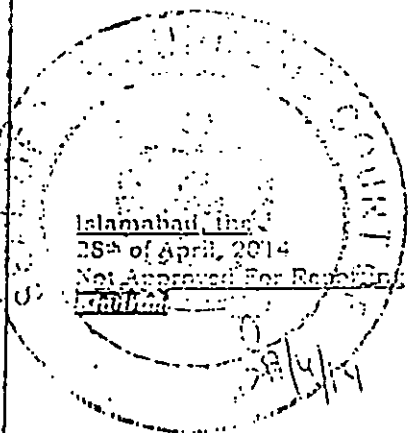
Date of Hearing: 25.04.2014

ORDER

TASSADUQ HUSSAIN JILLANI, CJ.- Petitioners are civil servants and they challenged the order terminating their services in a Constitution petition which stands dismissed vide the impugned order mainly on the ground that the said petition was not maintainable in view of Article 212 of the Constitution read with Section 4 of the Service Tribunal Act, 1973. The only ground being taken by the learned High Court to invoke Article 199 of the Constitution is that the competent authority in the department had passed the order of termination of petitioners' services pursuant to a judgment of this Court and the learned Service Tribunal may be diffident to decide the case independently and in accordance with law.

2. We are afraid, the apprehension of the petitioners is misconceived. In the event of filing the appeal, the Service Tribunal shall decide the appeal as mandated in law. Disposed of in terms noted above. *18/4*

Sd/- Tassaduq Hussain Jillani, CJ
Sd/- Sh. Azmat Saeed, J



Certified to be True Copy

[Signature]
29/4/14
Superintendent
Supreme Court of Pakistan
Islamabad

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[Signature]

VAKALAT NAMA

NO. _____/20

IN THE COURT OF Service Tribunal, Peshawar

Amir Muqitada Qureshi

(Appellant)
(Petitioner)
(Plaintiff)

VERSUS

PHE Deptt:

(Respondent)
(Defendant)

I/We Amir Muqitada Qureshi

Do hereby appoint and constitute **M. Asif Yousafzai, Advocate, Peshawar,** ^{by Taimur Ali Khan Adil} 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 costs.

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. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated 23/05/2024

[Signature]
(CLIENT)

ACCEPTED

[Signature]
M. ASIF YOUSAFZAI
Advocate

M. ASIF YOUSAFZAI
Advocate High Court,
Peshawar.

OFFICE:

Room No.1, Upper-Floor,
Islamia Club Building,
Khyber Bazar Peshawar.
Ph.091-2211391-
0333-9103240

[Signature]
Taimur Ali Khan
Advocate

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

APPEAL NO. 786 /2014.

Notice to the opposite
Side from the date
fixed
PHE Deptt:
17/10/14

MR. Amir Muqtada

VS

PHE Deptt:

**APPLICATION FOR RESTRAINING THE
RESPONDENTS FROM FILLING THE POST OF
APPELLANT TILL THE DISPOSAL OF MAIN
APPEAL.**

R.SHEWETH.

- 1- That the above noted appeal is pending before this august Tribunal against the termination order dated. 14.2.2014 ,whereby the appellant was terminated from the post of Sub engineer.
- 2- That the appeal has been admitted to full hearing on 8.8.2014 and now is fixed for reply of the respondents on 26.12.2014.
- 3- That in mean time the respondents have requested the KPK Public Service Commission to fill that post and for that purpose the post has been advertised on 15.09.2014. Copy of the advertisement is attached as Annexure – A-1.
- 4- That if the said post is filled in then at the end of decision in favour of appellant, for which the appellant is hopeful, the complication of availability of post will arise and there is likelihood that the appellant will be suffering from undue hardships due to non-availability of post.

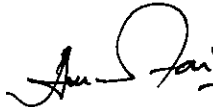
5- That to meet the ends of justice it would be appropriate to restrain the respondents from filling the post from which the appellant has been terminated to avoid legal complications.

It is therefore most humbly prayed that the respondents may be restrained from making appointments on the post from which the appellant has been terminated till the decision on main appeal. Any other remedy deems appropriate at this stage may also be awarded in favour of appellant.

APPELLANT/PETITIONER.

AMIR MUQTADA

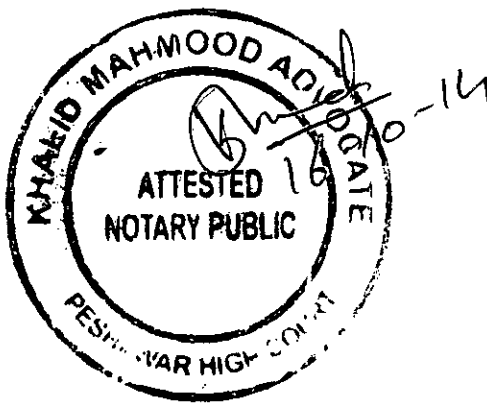
THROUGH;


M.ASIF YOUSAFZAI

ADVOCATE.

AFFIDAVIT.

It is affirmed that the contents of this application are true and correct.




DEPONENT.

**KHYBER PAKHTUNKHWA PUBLIC SERVICE
COMMISSION**

2- Fort Road Peshawar Cantt:

Website: www.kppsc.gov.pk

Tele: Nos. 091-9214131, 9213563, 9213750, 9212897

Dated: 15.09.2014

ADVERTISEMENT No. 05 / 2014.

Applications, on prescribed form, are invited for the following posts from Pakistani citizens having domicile of Khyber Pakhtunkhwa / F.A.T.A by **14.10.2014** (candidates applying from abroad by **28.10.2014**). Incomplete applications and applications without supporting documents required to prove the claim of the candidates shall be rejected.

AGRICULTURE LIVESTOCK & COOPERATIVE DEPTT:

1. **TWO (02) POSTS OF RESEARCH OFFICER (FODDER & FORAGES) IN AGRICULTURE LIVESTOCK & FISHERIES DEPARTMENT.**

QUALIFICATION: M.Sc. Agriculture preferably in Agronomy or equivalent qualification from a recognized University.

AGE LIMIT: 25 to 32 years. **PAY SCALE:** BPS-17 **ELIGIBILITY:** Both sexes.

ALLOCATION: One each to Zone-3 & Zone-4.

2. **ONE (01) POST OF AGRICULTURE OFFICER IN AGRICULTURE LIVESTOCK & FISHERIES DEPARTMENT.**

QUALIFICATION: M.Sc. Agriculture preferably in Agronomy or equivalent qualification from a recognized University.

AGE LIMIT: 25 to 32 years. **PAY SCALE:** BPS-17 **ELIGIBILITY:** Both sexes.

ALLOCATION: Merit.

3. **FOUR (04) POSTS OF COMPUTER OPERATOR IN LIVESTOCK & COOPERATIVE (FISHERIES) DEPARTMENT.**

QUALIFICATION: Second Class Graduation with one year Diploma in IT from Board of Technical Education or its Equivalent.

AGE LIMIT: 18 to 30 years. **PAY SCALE:** BPS-12 **ELIGIBILITY:** Both sexes.

ALLOCATION: One each to Zone-1, Zone-2, Zone-3 and Zone-4.

4. **FOUR (04) POSTS OF FISHERIES SUPERVISOR IN LIVESTOCK & COOPERATIVE (FISHERIES) DEPARTMENT.**

QUALIFICATION: F.Sc Pre Medical in 2nd Division from a recognized Board.

AGE LIMIT: 18 to 30 years. **PAY SCALE:** BPS-11 **ELIGIBILITY:** Both sexes.

MINES AND MINERAL DEVELOPMENT DEPARTMENT

ONE (01) LEFTOVER POST OF SENIOR MINERAL PROCESSING ENGINEER.

QUALIFICATION: a) Bachelor's Degree in Metallurgical or Mining Engineering from a recognized university; and b) At least seven years experience of research and development work for mineral processing up-gradation, concentration or extraction conducted in any reputable research and development organization or mineral processing laboratory or mineral based industry.

AGE LIMIT: 28 to 40 years. **PAY SCALE:** BPS-18 **ELIGIBILITY:** Male
ALLOCATION: Merit.

THREE (03) LEFTOVER POSTS OF CARTOGRAPHER (BPS-11).

QUALIFICATION: Intermediate with Certificate or Diploma in Cartography from a recognized Board, with two years experience in Auto CAD / Geographical information System Software.

AGE LIMIT: 21 to 32 years. **PAY SCALE:** BPS-11 **ELIGIBILITY:** Male
ALLOCATION: One each to Zones-1, Zone-2 and Zone-3.

POPULATION WELFARE DEPARTMENT

ONE (01) LEFTOVER POST OF JUNIOR SCALE STENOGRAPHER IN DIRECTORATE OF POPULATION WELFARE FATA SECRETARIAT.

QUALIFICATION: Intermediate with 50/40 words per minute in shorthand and Typing and having at least six months Diploma / Certificate in computers / Information Technology from the Board of Technical Education or an institute recognized from it.

AGE LIMIT: 18 to 30 years. **PAY SCALE:** BPS-14 **ELIGIBILITY:** Male.
ALLOCATION: Zone-1.

PUBLIC HEALTH ENGINEERING DEPARTMENT

THIRTY THREE (33) POSTS OF SUB ENGINEER CIVIL IN PUBLIC HEALTH ENGINEERING DEPARTMENT

QUALIFICATION: Three (03) years Diploma of Associate Engineering (Civil) from a recognized Technical Board.

PAY SCALE: BPS-11. **AGE LIMIT:** 18-30 Years. **ELIGIBILITY:** Both Sexes

ALLOCATION: Seven each to Zone-1 & Zone-2. Eight to Zone-3. Six to Zone-4 and Five to Zone-5.

ONE (01) POST OF SUB ENGINEER ELECTRICAL IN PUBLIC HEALTH ENGINEERING DEPARTMENT.

QUALIFICATION: Three (03) years Diploma of Associate Engineering

Experience wherever prescribed shall be counted after the minimum qualifications for the post(s), if not specifically provided otherwise against the advertised post(s). The candidates applying for posts requiring experience are advised to fill in the requisite proforma and provide the experience certificate available on the Commission's website and submit it alongwith the application form. The application form without this proforma and certificate shall not be accepted/ processed.

In case the number of applications of candidates is disproportionately higher than the number of posts, short listing will be made in anyone of the following manner: -

- (a) Written Test in the Subject.
- (b) General Knowledge or Psychological General Ability Test.
- (c) Academic and/or Professional record as the Commission may decide.

SPECIFIED BRANCHES OF THE NATIONAL BANK OF PAKISTAN.

- (1) Main Branches of:
Parachinar, Mardan, Swabi, Malakand, Shangla, Chitral, Timargara, Daggar, D.I.Khan, Bannu, Karak, Kohat, Hangu, Lakki Marwat, Abbottabad, Haripur, and Mansehra
- (2) Saddar Road Branch, Tehkal Payan Branch, G.T Road (Nishtar Abad) Branch and University Campus Branch Peshawar.
- (3) Tehsil Bazar Branch Charsadda, Nowshera Cantt: Branch, Bank Square Branch Mingora and City Branch Tank

Note: -The candidate who apply for the post(s) are advised to make sure that they are eligible for the post in all respects because eligibility of the candidate will be determined strictly according to the rules after conduct of all essential tests.

(HAYAT HUSSAIN)
Accounts Officer
(for Secretary)
Khyber Pakhtunkhwa
Public Service Commission
Peshawar

BEFORE THE HON.BLE SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA PESHAWAR.

Writt petition No 786/2014

Mr. Amir Muqtada Qureshi S/O Afsar Ali Qureshi
Ex-Sub Engineer PHE: Divn: Mansehra.

..... (Appellant)

Versus

1. *Secretary to Govt: of Khyber Pakhtunkhwa Public Health Engg: Department Peshawar.*
2. *Chief Engineer (South) Public Health Engg: Department Khyber Pakhtunkhwa Peshawar.*
3. *Executive Engineer Public Health Engg: Circle, Abbottabad*

WRITTEN REPLY ON BEHALF OF RESPONDENTS NO 1 TO 3

Respectfully stated

Para-wise comments of the Respondent 1 to 3 are as under:-

PRELIMINARY OBJECTIONS.

- 1). *That the appellant has got no cause of action.*
- 2). *That the appellant is estopped by his own conduct to bring the instant appeal.*
- 3). *That the present appeal is not maintainable in its present form and shap.*
- 4). *That the appellant has got no locus standi.*
- 5). *That the appellant has not come to the Tribunal with clean hands.*
- 6). *That the appeal is bad for non-joinder and misjoinder of necessary parties.*
- 7). *That the appeal is barred by Law & limitation*
- 8). *That this Honourable Service Tribunal has no jurisdiction to entertain the present appeal.*

BRIEF HISTORY

A writ petition bearing No W.P 271-P/2013 was filed by Mr. Mushtaq Ahmad, etc, for extending benefits of regularization, before the Peshawar High Court order, Peshawar and the same was declined by the Peshawar High Court, (Copy of the judgment dated 2.10.2013 is annexed as Annexure-A). The said petitioners then moved a Civil Petition No 2026 and 2029 of 2013 before the August Supreme Court of Pakistan. Though the August Supreme Court of Pakistan dismissed the same and directed the department to finalize the action against the illegal appointees within one month. Upon completion of the legal formalities i.e issuance of Show Cause Notice etc, the action was taken against the appellant.

ON THE FACTS.

1-5). Denied as drafted as one wrong or any number of wrongs cannot be made bases to justify an illegal action. The post of Sub Engineer BPS-11 comes in the purview of Public Service Commission according to the Public Service Commission Ordinance and ESTA Code, (Copy of the Public Service Commission Ordinance and the concerned rules of the ESTA code and advice of Establishment Department dated 17/03/2014 is attached as annexure B, C & D), therefore, the then Chief Engineer was not competent to appoint the Appellant. This was the reason that the name of the appellant was never included in the Seniority list of Sub Engineers and the same was never challenged by the appellant. (Copy of the Seniority list are annexed as Annexure-E

Upon the direction of the August Supreme Court and on completion of legal formalities, the appellant was removed from service. It is pertinent to mention that the department had already initiated proceedings against the then Chief Engineer and other DSC members (Copy of letters in this respect are attached as Annexure-F).

6). Incorrect. The appellant failed to produce recommendation letter issue by Public Service Commission regarding his selection for the

post of Sub Engineer and also failed to produce sanction accorded by the competent authority regarding condonation of violation of codal formalities in his appointment. Therefore his reply was not considered.

- 7) *Incorrect. The Apex court directed for finalizing action against all such illegal appointees on 15.1.2014 (Annexure-G). As the appellant was illegally appointed therefore he was terminated from service. There was no weightage in his appeal.*
- 8). *Pertains to court record, hence needs no comments.*
- 9). *The appellant has got not cause of action to file instant appeal and his appeal is liable to be dismissed.*

GROUNDS

- A). *Incorrect. The appellant was illegally appointed without fulfillment of requisite codal formalities. He was terminated because he was illegally appointed. There was no weightage in his representation.*
- B). *Incorrect. Sufficient time was given in show cause notice to the appellant but he failed to produce any document in his defence. As he was not appointed on the recommendation of Public Service Commission. Therefore his name was not included in the seniority list of Sub Engineers and does not fall in the category of civil servant. Therefore E&D rules are not applicable in this case.*
- C). *Incorrect. The case of illegal appointment of Sub Engineers and others was forwarded to Establishment Department for advice. Establishment Department extended advice and declared their appointment illegal. The action against illegal appointees had to*

finalize with in one month on the direction of Apex Court. E&D rules are not applicable in present case.

- D). *Incorrect. Sufficient time was given in the show cause notice to the appellant to produce documentary proof regarding advertisement of the vacancies, written test interview and selection criteria. The appellant failed to produce any valid document to justify his appointment.*
- E). *Incorrect. The appellant was appointed without fulfillment of requisite codal formalities and without recommendation of Public Service Commission. Therefore the appellant was terminated in order to appoint nominee of Public Service Commission in his place.*
- F). *Incorrect. The posts in BPS-1 to 15 were declared as district cadre posts, the then Chief Engineer, the provincial head of Public Health Engg: Department had wrongly exercised his powers to make recruitment of appellant against District cadre posts. Recruitment of District cadre posts fall in the purview of District Coordination Officer. According to ESTA Code and Public Service Commission Ordinance the post of Sub Engineer shall be filled on the recommendation of Public Service Commission.*
- G). *Incorrect. Nomination of Public Service Commission is prerequisite for appointment as Sub Engineer in Public Health Engg: Department. The appellant was appointed without recommendation of Public Service Commission which is against standing recruitment policy of Khyber Pakhtunkhwa.*
- H). *Incorrect. The Notification issued by Secretary Works & Service Department dated 30.4.2008 as referred by the appellant is related*

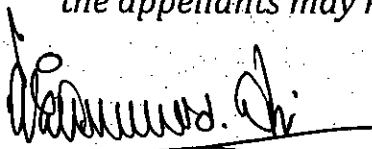
only for posting/transfer of officials from BPS-1 to 16 and not for recruitment (Annexure-H)

- i). Incorrect. The appellant is responsible for not appearing in test and interview conducted by Public Service Commission for the post of Sub Engineers in 2011 and 2012, advertised on 7.4.2011 (Annexure-I). Therefore judgement of Apex Court pertained to petty employees like Chowkidar, Naib Qasid and Junior Clerk. This judgement is not applicable on the posts to be filled through the recommendation of Public Service Commission.

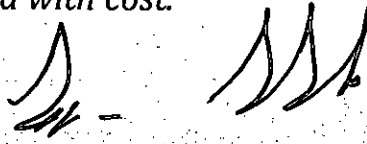
The termination Order of the appellant is consistent with the Judgement of Supreme Court of Pakistan dated 17.3.2014 in constitution petition No 6 of 2011 CMA 5216 of 2012 Syed Mubashir Raza Jaffari verses EOBI (Annexure-J).

- ii). The respondent seek leave of this Honourable Tribunal to raise additional grounds and proof at the time of arguments.

In this case article 25 of the constitution has been violated by not giving equal right of opportunity to the citizen of the Khyber Pakhtunkhwa and FATA having the requisite Qualification zonal allocation formula has been violated. Appointment of the appellant is without lawful authority and of no legal effect. It is therefore humbly prayed that in view of the above written reply, the appeal of the appellants may kindly be dismissed with cost.



SECRETARY
TO GOVT: OF KHYBER PAKHTUNKHWA
PUBLIC HEALTH ENGG: DEPARTMENT
(Respondent No 1)



CHIEF ENGINEER (SOUTH)
PUBLIC HEALTH ENGG: DEPARTMENT
KHYBER PAKHTUNKHWA
(Respondent No 2)

BEFORE THE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA PESHAWAR.

- 1). Service Appeal No 786/2014
- 2). Mr. Amir Muqtada Qureshi Ex-Sub Engineer
PHE: Division Mansehra Appellant.

Versus.

- 1). Secretary to Govt: of Khyber Pakhtunkhwa
Public Health Engg: Department Peshawar.
- 2). Chief Engineer (South)
Public Health Engg: Department Peshawar.
- 3). The Executive Engineer PHE: Circle
Abbottabad.
- Respondent.

AFFIDAVIT.

I, Sikandar Khan, Chief Engineer (South) Public Health Engg: Department Khyber Pakhtunkhwa Peshawar do hereby solemnly affirm that the contents of the accompanying written statements are true and correct to the best of my knowledge and nothing has been concealed from this honourable this tribunal.


DEPONENT.

**BEFORE THE HON.BLE SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA PESHAWAR**

Writ Petition No. 786/2014
Amir Muqtada

VERSUS

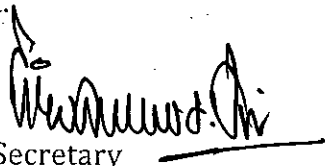
Govt of Khyber Pakhtunkhwa

Subject: **Parawise comments to the application of the appellant.**

RESPECTFULLY SHAWETH

1. Correct
2. Correct
3. Correct
4. The appellant was illegally appointed without advertisement, interview/test and recommendation of Public Service Commission. On direction of Apex court Supreme Court of Pakistan on 15.1.2014 to finalize action against the illegally appointees. Accordingly the appellant was terminated after fulfillment of all codal formalities. There is no weightage in his appeal as the appellant was illegally appointed by violating all codal formalities. If this Hon,able Tribunal restrained the respondent from filling the post the public at huge will suffer inoperable loss.
5. The appellant terminated upon the direction of Supreme Court of Pakistan as he was appointed by unlawful authority without advertisement, test, interview and recommendation of Public Service Commission which is pre-requisite for filling of post from BPS-11 and above. The appellant also failed to qualify test interview conducted in 2011-12 by the Public Service commission for filling of post of Sub Engineers. The department was facing great hard ships due to shortage of sub Engineers, falling vacant in the department and submitted requisition of 39-Nos Sub Engineer to Public Service Commission for filling these posts in the interest of Govt. There is no bar on the appellant to appear in the test/interview for the post of Sub Engineers in Public Service Commission. Written comments in the main appeal may be read as integral part of the reply.

It is therefore requested that the application of the appellant may kindly be dismissed with cost.



Secretary
to Govt of Khyber Pakhtunkhwa
Public Health Engg: Department
Peshawar
(Respondent No.1)

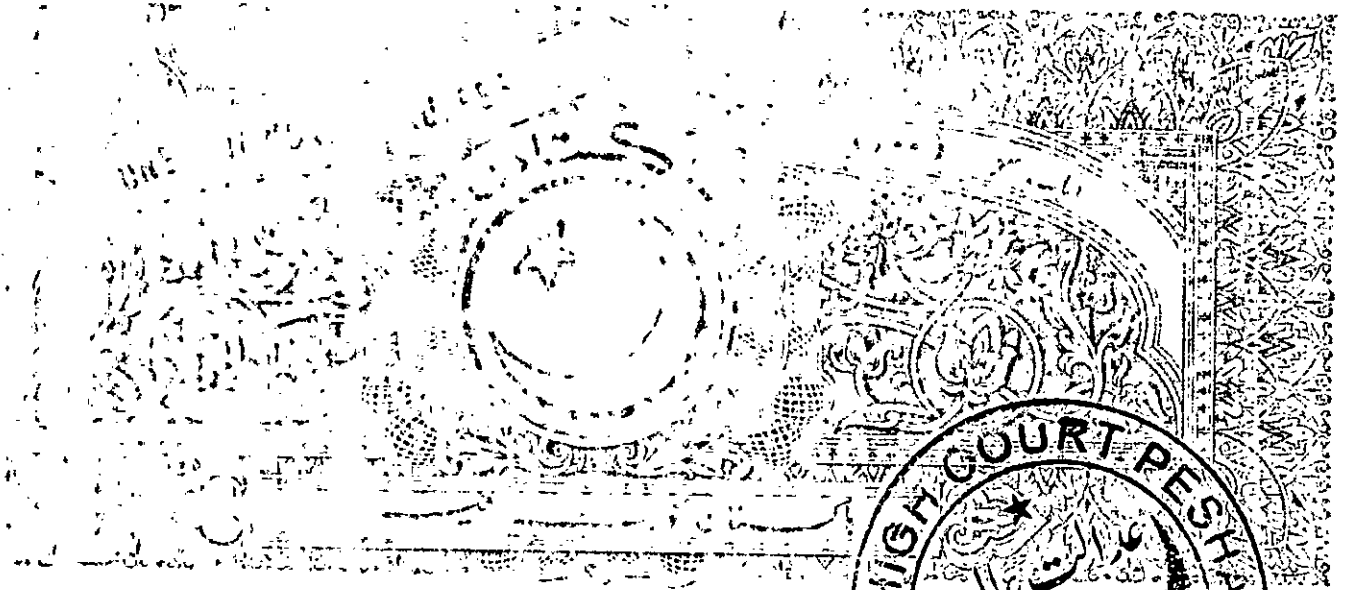


Chief Engineer (South)
Public Health Engg: Department
Khyber Pakhtunkhwa
Peshawar
(Respondent No.2)

Annex-A

1

100 RS.



IN THE PESHAWAR HIGH COURT, PESHAWAR

Writ Petition No 271-P-2013

1. Muzahid Arif et al vs. Let Nawaz

2. Sh. Imtiaz son of Hyas Khan

3. Respondent Sub Engineer, in Public Health Engineering department
Khyber Pakhtunkhwa, Peshawar Division, Peshawar

vs.

4. Government of Khyber Pakhtunkhwa
through Chief Secretary, Civil Secretariat Peshawar

5. Public Health Engineering, Secretary,
Government of Khyber Pakhtunkhwa Secretariat Peshawar

6. Chief Engineer, Public Health Engineering
Department, Khyber Pakhtunkhwa Secretariat Peshawar

7. Sub Engineer, Public Health Engineering
Department, Khyber Pakhtunkhwa Secretariat Peshawar

ATTESTED

EXAMINED
Peshawar High Court

20 FEB 2014

Respondent

79

JUDGMENT SHEET

IN THE PESHAWAR HIGH COURT, PESHAWAR.
JUDICIAL DEPARTMENT

W.P. 271-P of 2013 with interim relief (N).

JUDGMENT

Date of hearing: 2.10.2013.

Petitioner/Mushtaq Ahmad etc. by Mr. Shah Nawaz
Khan, advocate.

Respondent/*Govt. Mr. Rehman, WPM 1009.*

MUSARRAT HILALI, J. This judgment shall also decide
W.P. 663-P of 2013 entitled "Muhammad Nisar Khan Vs.
Govt." as common question of law and fact is involved in
both these petitions.

2. According to the petitioners, they obtained Diploma
of Associate Engineer in the year, 1995 in different
technologies and since then are working in various
Government Organizations/Projects. However, on 2.1.2011
they were appointed as Sub-Engineers in the
respondent/department on ad-hoc basis after due process.
They were still in service when the respondents re-appointed
them vide office order dated 8.1.2012. Prior to the
appointment of petitioners, the Provincial Government
promulgated Act No.XVI of 2009 vide which services of all

ATTESTED

EXAMINER
Peshawar High Court,

20 FEB 2014

the adhoc/contract employees of the Province were regularized, however, the same benefit was not extended to the petitioners. Moreover, services of some six Sub-Engineers have been regularized after appointment of the petitioners. The petitioners preferred an application/appeal to the competent authority as well as to the Human Rights Cell of this court. In this respect, a letter dated 21.12.2013 was addressed to Human Rights Cell by the respondents, wherein, it was stated that Sub-Engineers, namely, Sher Hayat and Mushtaq Ahmad, who were 38 and 39 years old, respectively and were debarred from future employment in any institution of the Provincial/Federal Government for the reasons beyond their control. Nevertheless, handsome share of posts of Sub-Engineers were lying in the department and as a gesture of good will, the petitioners can be accommodated on regular basis. According to the petitioners, they waited for some time but did not receive any fruitful result from the respondents whereas their tenure is going to expire. Hence necessitated the filing of instant constitutional petitions.

3. Learned counsel for petitioners contends that the respondents have acted mala fide by regularizing the services of other employees similarly placed, who were appointed after the petitioners but the same benefit has been

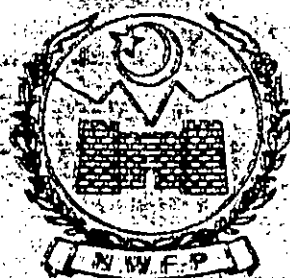
EXAMINER
Peshawar High Court,
20 FEB 2014

denied to the petitioners, thus, the treatment meted out to them is discriminatory, which is not tenable in law. He was of the view that the petitioners and their families will stand in long line of jobless people and would face hardship, if not regularized. He maintained that the act of respondents is in violation of judgments of superior courts rendered in various cases. Further contended that the petitioners have become overage for appointment in any institution of the Provincial/Federal Government, which fact is beyond their control and if not regularized will spoil their future. Also contended that there are vacant posts available against which the petitioners can be accommodated. According to the learned counsel, the impugned act of respondents is in violation of Article 25 (2) of the Constitution, therefore, they be directed to regularize the services of the petitioners like other similarly placed employees.

4. Learned AAG controverted the arguments from other side and straight away referred to the advertisement dated 23rd April, 2010 against which the petitioners were appointed as Sub-Engineers, wherein it was clearly mentioned that the term of appointment would be on adhoc basis for one year or till the arrival of the recommendees of the Public Service Commission or whichever is earlier. He was of the view that as the period of one year has elapsed,

ATTESTED
EXAMINED
PASHA
20 FEB 2014

EXTRAORDINARY
GOVERNMENT



ANNEXURE **13**
REGISTERED NO. P. 111
GAZETTE

North-West Frontier Province

Published by Authority

PESHAWAR, FRIDAY, 9TH AUGUST, 2002.

GOVERNMENT OF THE NORTH-WEST FRONTIER PROVINCE,
LAW DEPARTMENT.

NOTIFICATION

9th August, 2002.

No. LEGIS:1(20)/73/6131.—The following Ordinance by the Governor of the North-West Frontier Province is hereby published for general information:—

**THE NORTH-WEST FRONTIER PROVINCE
PUBLIC SERVICE COMMISSION (AMENDMENT)
ORDINANCE, 2002.**

N.-W.F.P. ORDINANCE NO. XXVII OF 2002.

**AN
ORDINANCE**

*further to amend the North-West Frontier Province
Public Service Commission Ordinance, 2002.*

WHEREAS it is expedient further to amend the North-West Frontier Province Public Service Commission Ordinance, 1978 (N.-W.F.P. Ord. No XI of 1978), for the purposes hereafter appearing;

AND WHEREAS the Governor of the North-West Frontier Province is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in pursuance of the Proclamation of Emergency of the fourteenth day of October, 1999, as amended upto date, and the Provisional Constitution Order No. 1 of 1999, read with Article 4 of the Provisional Constitution (Amendment) Order No. 9 of 1999, and in exercise of all powers enabling him in that behalf, the Governor of the North-West Frontier Province is pleased to make and promulgate the following Ordinance:

(2) (3)

1. **Short title and commencement.**—(1) This Ordinance may be called the North-West Frontier Province, Public Service Commission (Amendment) Ordinance, 2002.

(2) It shall come into force at once.

2. **Amendment of section 3 of N.-W.F.P. Ord. No. XI of 1978.**—In the North-West Frontier Province Public Service Commission Ordinance, 1978, hereinafter referred to as the said Ordinance, in section 3,—

(a) in sub-section (3), the full stop appearing at the end shall be replaced by a colon and thereafter the following proviso shall be inserted, namely:

“Provided that a serving member of the Commission may be appointed as Chairman for a term not exceeding the un-expired portion of his term as such member.”;

(b) in sub-section (4), the words and figure “and has been retired in basic pay scale 20 or above” shall be added after the word “years” appearing at the end.

3. **Amendment of section 4 of N.-W.F.P. Ord. No. XI of 1978.**—In the said Ordinance, in section 4, for sub-section (1), the following shall be substituted, namely:

“(1) A member of the Commission shall hold office for a term of five years from the date on which he enters upon office and shall not be eligible for re-appointment:

Provided that a person holding office as Chairman or a member immediately before the commencement of the North-West Frontier Province Public Service Commission (Amendment) Ordinance, 2002, shall cease to hold office on such date as the Governor may direct.”.

4. **Insertion of new section 4A to N.-W.F.P. Ord. XI of 1978.**—In the said Ordinance, after section 4, as so amended, the following new section 4A shall be inserted, namely:

“4A. **Oath of office.**—Before entering upon office, the Chairman and a member shall take oath in the form set out in the Schedule to this Ordinance, before the Governor in the case of Chairman, and before the Chairman in case of a member.”.

5. **Insertion of new section 5 to N.-W.F.P. Ord. XI of 1978.**—In the said Ordinance, for section 5 omitted by N.-W.F.P. Act No. XX of 1987, following shall be inserted, namely:

“5. **Ineligibility for further employment.**—On ceasing to hold office, a member shall not be eligible for further employment in the Service of Pakistan.”.

6. **Amendment of section 7 of N.-W.F.P. Ord. No. XI of 1978.**—(1) In the said Ordinance, for section 7, the following shall be substituted, namely:

7. **Functions of the Commission.**—(1) The functions of the Commission shall be—

(a) to conduct tests and examinations for recruitment of persons to—

(i) the civil services of the Province and civil posts in connection with the affairs of the Province in basic pay scales 16 and above or equivalent, and

(ii) posts in basic pay scales 11 to 15 or equivalent specified in following Departments (except the District cadre posts)—

1. Civil Secretariat (through Establishment Department);
2. Board of Revenue;
3. Police Department;
4. Prison Department;
5. Services and Works Department;
6. Irrigation Department;
7. Industries, Labour and Manpower Department;
8. Health Department;
9. Education Department;
10. Local Government and Rural Development Department;
11. Excise and Taxation Department;
12. Food Department;
13. Physical Planning and Environment Department including Urban Development Board; and
14. Organizations, except autonomous bodies, under the Health and Education Departments;

(b) to advise the Governor—

(i) on matters relating to qualifications for, and method of recruitment to, services and posts referred to in clause (a);

(ii) on the principles to be followed in making:

(1) initial appointments to the services and posts referred to in clause (a);

(2) appointments by promotion to posts in BPS-17 and above; and

(3) transfer from one service to another; and

(4) (5)

(iii) on any other matter which the Governor may refer to the Commission.

Explanation.—In this section, recruitment means initial appointment other than by promotion or transfer.

(2) Recruitment to the following posts shall be outside the preview of the Commission:

- (i) post in the Governor's House;
- (ii) posts to be filled on adhoc basis for a period of six months or less; provided that before filling the post, prior approval shall be obtained from the Commission;
- (iii) posts to be filled by re-employing as retired officer; provided that the re-employment is made for a specified period not exceeding two years in a post not higher than the post in which the person was employed on regular basis before recruitment.
retired

7. **Insertion of Section 10A of Ordinance XI of 1978.**—In the said Ordinance after section 10, the following new section shall be inserted, namely:

“10A. Power of the Commission to make regulation.—Subject to the provisions of this Ordinance and the rules made thereunder, the Commission may make regulations for carrying out the purposes of this Ordinance.”

8. **Addition of Schedule to the N.W.F.P. Ordinance XI of 1978.**—In the said Ordinance, the following Schedule shall be added at the end, namely:

“SCHEDULE

[Section 4A]

I, _____ do solemnly swear that I will bear true faith and allegiance to Pakistan. That, as a Chairman (or Member) of the North-West Frontier Province Public Service Commission, I will discharge my duties and perform my functions honestly, to the best of my ability and faithfully in accordance with the Constitution of the Islamic Republic of Pakistan and the law and always in the interest of the solidarity, integrity and well-being and prosperity of Pakistan.

That I will not allow any personal interest to influence my official conduct or my official decisions and that in the performance of my functions, whether in the selection of persons for recruitment of appointment or in any other way, I will act without fear or favour, affection or ill-will."

Peshawar,
Dated the 6th August, 2002.

Lt. Gen. (Rtd.) IFTIKHAR HUSSAIN SHAH,
Governor of the North-West Frontier Province.

SALIM KHAN,
Secretary to Government of North-West Frontier Province,
Law Department.

*Printed by the Controller,
Ptg. & Staly. Dept., NWFP, Pesh.*

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(Establishment Code)

Khyber Pakhtunkhwa

Rs. 875

Law Books Publishers

- S
- (viii) Shirani Area.
 - (ix) Merged Areas of Hazara and Mardan Division and Upper Tanawal.
 - (x) Swat District.
 - (xi) Upper Dir District.
 - (xii) Lower Dir District.
 - (xiii) Chitral District.
 - (xiv) Buner District.
 - (xv) Kala Dhaka Area.
 - (xvi) Kohistan District.
 - (xvii) Shangla District.
 - (xviii) Gadoon Area in Swabi District.
 - (xix) Backward areas of Mansehra and District Batagram.
 - (xx) Backward areas of Haripur District, i.e. Kalanjar, Filed Kanungo Circle of Tehsil Haripur and Amazai Field Kanungo circle of Tehsil Ghazi.

RECRUITMENT INCLUDING AGE RELAXATION POLICY

Subject:- RECRUITMENT POLICY FOR THE PROVINCIAL SERVICES AGE RELAXATION FOR SPECIAL POSTS.

I am directed to refer to this Department circular letter of even number dated 1st February, 1993, on the subject cited above, and to say that new recruitment policy has been reviewed by the Provincial Government. It has been decided to revise the existing policy as under:-

- (a) Recruitment to posts in BPS-16 and above as well as the posts of Assistant Sub-Inspectors of Police, Naib Tehsildars, Zilladars and Sub-Engineers will continue to be made through the NWFP Public Service Commission. However, the Commission may make efforts to finalize the recruitment within six months of the receipt of the requisition duly completed from the Administrative Department.
- (b) Recruitment to posts in the various Government Departments as indicated below will also henceforth be made by the NWFP Public Service Commission:-
 - (i) - **All Departments including Board of Revenue, NWFP-**
 - (1) Senior Scale Stenographer(B-15)
 - (2) Data Processing Supervisor(B-14)
 - (3) Junior Scale Stenographer(B-12)
 - (4) Assistant (B-11)
 - (5) Draftsman(B-11)
 - (ii) **Board of Revenue-**
 - (1) Sub-Registrar(B-14)
 - (2) Excise and Taxation Inspector(B-11)

Annex - D



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT & ADMN: DEPARTMENT
(REGULATION WING)

No.SOR-V(E&AD)/15-3/2009
Dated 17th March, 2014

To

The Secretary to Govt. of Khyber Pakhtunkhwa,
PHE Department.

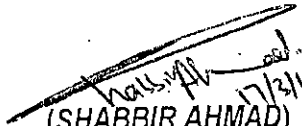
Subject: ADVICE REGARDING STATUS OF APPOINTMENT.

2-112/c

Dear Sir,

I am directed to refer to your letter No.SO(Est)/PHED/1-90/2012-13/321 dated 04-3-2014 on the subject noted above and to state the post of Sub Engineer is Provincial Cadre post and fall under the purview of Public Service Commission. The Department is not empowered to fill the post without the recommendation of Public Service Commission. Therefore the person so appointed on the post of Sub Engineer BPS-11, his appointment is irregular, illegal. However the Department should initiate disciplinary action against the officer/officers who was/were involved in appointment of such illegal appointment of Sub Engineers and brought him/them to the justice.

Yours faithfully,


(SHABBIR AHMAD)
SECTION OFFICER (REG-V)

Vertical stamp: 17/3/14

DS/AD

Handwritten notes:
18/3/14
S/E irregular
put up on relevant file
Supd

Public Health Engineering Department

Annex - ~~E~~

5

Seniority List of Sub Engineer (BPS-11) as stood on 31.12.2010

S.No	Name	Father Name	Home District	Qualification	Date of Birth	Date of Commencement of Service	Date of Appointment to Present Post	Remarks
1	Sareerullah	Inayat Ullah	Peshawar	DAE (M)	14.03.1952	02.04.1978	01.04.1978	
2	Hamid ur Rehman	Abdul Ali	Charsadda	DAE (M)	08.03.1953	06.05.1978	06.05.1978	
3	Saleem Khan	Sohrab Khan	Lakki	DAE	11.12.1959	13.09.1980	08.09.1980	
4	Fazle Mabood	Habib ur Rehman	Malakand	DAE (C)	10.04.1961	26.07.1981	06.05.1982	
5	Sajjad Ali	Rahim Dad	Swabi	DAE	01.03.1962	08.09.1981	06.05.1982	
6	Iqbal Hussain	Dilawar Khan	Peshawar	DAE (C)	05.09.1958	04.10.1981	06.05.1982	
7	Mushtaq Ahmad	Khushal Khan	Mansehra	DAE (C)	20.10.1956	17.10.1981	06.05.1982	
8	Nasir ud Din <i>(died)</i>	Dar Malook	Bannu	DAE (C)	01.10.1960	31.12.1981	06.05.1982	
9	Alam Zeb	Sar Biland Khan	FR Bannu	DAE (C)	24.08.1960	16.03.1982	06.05.1982	
10	Allah Nawaz	Shah Nawaz	Bannu	DAE (C)	05.12.1959	27.03.1982	06.05.1982	
11	Khurshid Anwar	Haji Fateh ullah	D.I.Khan	DAE (C)	04.03.1960	04.04.1982	06.05.1982	
12	Muhammad Ilyas	Fazal Razaq	Dir Upper	DAE (C)	08.09.1958	15.04.1982	06.05.1982	
13	Karamat Ullah	Khan Azam	Bannu	DAE (C)	15.03.1961	18.05.1982	18.05.1982	
14	Laiq Zaman	Gul Shaib Khan	Bannu	DAE (C)	27.01.1959	03.07.1982	23.06.1982	
15	Abdul Ghaffar <i>(died)</i>	Haji Muhammad Akbar	Lakki	DAE (C)	10.06.1961	21.10.1982	09.10.1982	
16	Asif Farooq	Karim Nawaz	Karak	DAE (C)	02.01.1960	22.11.1982	20.11.1982	
17	Aziz ur Rehman	Muhammad Azim	Karak	DAE (C)	02.06.1962	14.04.1983	26.03.1983	
18	Inamul Haq	Lal Ghaffar	Karak	DAE (C)	18.03.1963	06.04.1983	06.04.1983	
19	Khurshid Iqbal	H.Abdul Rashid	Haripur	DAE (C)	03.01.1959	01.12.1984	20.11.1984	
20	Umer Hayat	H.Gulam Nabi	Bannu	DAE (C)	25.03.1962	24.11.1984	20.11.1984	
21	Hassan Khan	Sar Biland Khan	Malakand	DAE (C)	08.02.1963	22.11.1984	20.11.1984	
22	Arif Saeed	Amal Rehman	Karak	DAE (C)	03.04.1963	01.12.1984	20.11.1984	
23	Lajbar Khan	Zabata Khan	Mardan	DAE (C)	18.04.1963	01.12.1984	20.11.1984	
24	Falak Naz	Shah Nam Raza	Swat	DAE (C)	03.01.1957	31.12.1984	23.12.1984	
25	Muhammad Yousaf	Muhammad Ibrahim	D.I.Khan	DAE (M)	20.05.1964	25.04.1985	08.04.1985	
26	Muhammad Pervez	Faqir Muhammad	D.I.Khan	DAE (C)	01.10.1960	06.07.1985	03.07.1985	
27	Sahib Zarin	Mohayoud Din	Dir Lower	DAE (C)	22.07.1958	18.12.1985	18.12.1985	
28	Samiullah Jan	Danish Khan	Peshawar	DAE (C)	16.06.1959	18.12.1985	18.12.1985	
29	Muhammad Ali	Muhammad Zaman	Swat	DAE (C)	21.04.1964	26.12.1985	18.12.1985	
30	Muhammad Riaz	Muhammad Khan	Malakand	DAE (C)	01.01.1965	30.12.1985	18.12.1985	
31	Allaud Din	Muhammad Ajun Khan	Mansehra	DAE (C)	21.06.1961	10.07.1986	09.07.1986	
32	Anwar Khan	Ghulam Khan	Mansehra	DAE (C)	06.04.1963	19.07.1986	09.07.1986	

(Signature)
A.O. (CN)

Seniority List of Sub Engineer (BPS-11) as stood on 31.12.2010

S.No	Name	Father Name	Home District	Qualification	Date of Birth	Date of Commencement of Service	Date of Appointment to Present Post	Remarks
33	S.Abid Hussain Shah	Syed Pir Zaman Shah	Abbottabad	DAE	13.03.1964	17.07.1986	09.07.1986	
34	Bashir Ahmad	Wazir Zada	Dir Lower	DAE (C)	08.12.1964	23.10.1986	23.10.1986	
35	Shahid Saeed	Saeed ur Rehman	Manshra	DAE (C)	26.08.1965	23.12.1985	18.12.1985	
36	Aziz ur Rehman	Mehmood Khan	Bannu	DAE (C)	15.12.1960	28.10.1981	18.04.1987	
37	Zoor Ali	Said Muhammad	FR Bannu	DAE (C)	05.03.1960	11.01.1982	18.04.1987	
38	Mekail Khan	Muhammad Shebli	Bannu	DAE (M)	09.10.1961	27.12.1982	18.04.1987	
39	Najeeb ur Rehman	Abdur Rehman	Karak	DAE (C)	02.02.1963	09.02.1983	18.04.1987	
40	Khubz ur Rehman	Mir Abas	FR Bannu	DAE (C)	10.03.1964	18.05.1987	18.05.1987	
41	Abbas Khan	Ali Akbar Khan	Abbottabad	DAE (C)	01.02.1966	18.05.1987	18.05.1987	
42	Rashid Ahmad	H.Muhammad Saddique	Lakki	DAE (C)	14.03.1959	09.06.1987	09.06.1987	
43	Said Faisal	Syed Wahid Shah	Swabi	DAE (C)	03.01.1959	23.08.1987	23.08.1987	
44	Muhammad Sharif Shah		SWA	DAE (C)	01.05.1963	20.10.1987	20.10.1987	
45	Abdur Rehman	Mehar Dil Khan	Tank	DAE (C)	06.09.1963	11.10.1987	08.10.1987	
46	Nisar Ali	Haji Gujar Khan	Swat	DAE (C)	01.04.1964	10.10.1987	10.10.1987	
47	Aslat Khan	Muhammad Azim	Mardan	DAE (C)	06.02.1965	14.10.1987	14.10.1987	
48	Muhammad Yaseen	Faqir Shah	Swabi	DAE (C)	04.03.1964	14.10.1987	14.10.1987	
49	Muhammad Ashraf	Amir Zada	Peshawar	DAE (C)	02.11.1967	18.10.1987	18.10.1987	
50	Islam Gul	M.Sahib Gul	Karak	DAE (C)	10.09.1963	26.10.1987	21.10.1987	
51	Muhammad Younis	Rehan ud Din	Sawbi	DAE (C)	02.01.1959	29.08.1989	29.08.1989	
52	Khalid Wahab	Dost Muhammat	Karak	DAE (C)	15.07.1961	29.08.1989	29.08.1989	
53	Karim Nawaz	Gul Daraz	D.I.Khan	DAE (C)	01.03.1962	09.06.1985	29.08.1989	
54	Irshad Ahmad	Malik Elahi Bakhsh	D.I.Khan	DAE (C)	28.03.1962	03.03.1986	29.08.1989	
55	Bahre Karam	Rahmat Shah	Malakand	DAE (C)	15.04.1958	15.04.1986	29.08.1989	
56	Khalid Afzal	Mir Sahib Jan	NWA	DAE	20.02.1960	29.08.1989	29.08.1989	
57	Hazrat Muhammad	Shamsi Bahadar	Dir Lower	DAE (C)	01.05.1965	05.10.1986	29.08.1989	
58	Muhammad Yousaf Jan	Abdullah jan	D.I.Khan	DAE (C)	01.04.1961	18.10.1987	29.08.1989	
59	Muhammad Hamayun	Dure Marjan	Karak	DAE (C)	10.09.1963	29.08.1989	29.08.1989	
60	Muhammad Kamal	Hazrat Jamal	Mardan	DAE (C)	01.04.1962	13.01.1988	29.08.1989	
61	Sikandar Azam	Amir Daraz Khan	NWA	DAE (C)	15.11.1961	12.12.1989	06.12.1989	
62	Muhammad Iqbal	Abdul Rahim	Bajaur	DAE (C)	01.08.1964	11.12.1989	06.12.1989	
63	Muheet Khan	Rias Khan	Karak	DAE (C)	08.06.1965	10.12.1989	06.12.1989	
64	Syed Zia ur Rehman	S.Hidayat ur Rehman	Mardan	DAE (C)	01.04.1965	09.12.1989	06.12.1989	
65	Riaz Ahmad	Ghulam Muhammad	Dir Lower	DAE (C)	01.03.1966	10.12.1989	06.12.1989	
66	Aurangzeb	Jehanzeb	Mohmand	B-Tech(Hon-C)	25.10.1968	13.12.1989	06.12.1989	

13.12.89

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Seniority List of Sub Engineer (BPS-11) as stood on 31.12.2010

S.No	Name	Father Name	Home District	Qualification	Date of Birth	Date of Commencement of Service	Date of Appointment to Present Post	Remarks
67	Hazrat Hussain	Muhammad Hanif	Swat	DAE (C)	15.03.1960	22.08.1987	06.12.1989	
68	Sardar Ijaz Anwar	Muhammad Yaqoob	Abbottabad	DAE (C)	01.04.1966	09.12.1989	06.12.1989	
69	Iftikhar Ahmad	Dr. M.Zakir Khan	Mansehra	DAE (C)	02.05.1965	09.12.1989	06.12.1989	
70	Akhtar Hussain	Amir Amanullah Khan	Swat	DAE (C)	05.01.1968	14.12.1989	06.12.1989	
71	Muhammad Yaqoob	Amir Sahib Rehman	Bannu	DAE (C)	10.04.1963	27.03.1990	26.03.1990	B.Tech
72	Walayat Said		Dir Lower	DAE (C)	15.09.1967	05.04.1990	05.04.1990	
73	Syed Haleem Shah	S.Imdad Hussain Shah	Mansehra	DAE (C)	11.04.1965	01.04.1990	26.03.1990	
74	Misal Khan		D.I.Khan	DAE (C)	15.07.1966	06.05.1990	06.05.1990	
75	Imdad Hussain Shah	Syed M.Afzal shah	Mansehra	DAE (C)	25.04.1971	14.11.1992	12.11.1992	
76	Muhammad Amjad		Bannu	DAE (C)	18.04.1969	16.09.1993	16.09.1993	
77	Saqi Muhammad	Amir Muhammad	Swabi	DAE (C)	19.04.1969	25.09.1993	16.09.1993	
78	Irshad Mahmood	Sultan Muhammad	Dir Upper	DAE (C)	20.12.1965	23.09.1993	16.09.1993	
79	Nasir Nawaz Khan	M.Nawaz Khan	Mansehra	DAE (C)	01.02.1973	06.03.1996	26.02.1996	
80	S.Zahid Hussain Kazmi	S.Manzoor Hussain Kazmi	Abbottabad	B.Tech Hons	11.10.1971	25.03.1996	26.02.1996	B.Tech
81	Mehboob ur Rehman	Habib ur Rehman	Haripur	DAE	10.04.1971	11.04.1996	26.02.1996	
82	Jehanzeb	Shadi Gul	NWA	DAE@BE(E)	01.04.1971	27.02.1996	26.02.1996	
83	Amir Zada	Bahadar Khan	Mardan	DAE (C)	14.05.1965	04.03.1996	26.02.1996	
84	Zahid Hussain Shah	Syed Muzaffar Shah	Mansehra	B.Tech (C)	01.02.1972	27.02.1996	26.02.1996	B.Tech
85	Ishfaq Ahmad	Zarbat Shah	FR Kohat	DAE (C)	01.05.1970	26.02.1996	26.02.1996	
86	Muhammad Khan	Sher Ahmad Khan	Haripur	DAE (C)	23.01.1954	27.11.1988	19.05.2008	joined PHE in 2008
87	Amanullah		Peshawar	DAE (C)	02.03.1955	22.11.1988	19.05.2008	joined PHE in 2008
88	Malik Muhammad Irfan		D.I.Khan	DAE (C)	16.06.1959	22.11.1988	19.05.2008	joined PHE in 2008
89	Abdul Hameed	Abdul Latif	Kohat	D.A.E	18.09.1959	24.11.1988	19.05.2008	joined PHE in 2008
90	Intizar Muhammad		Swabi	DAE (C)	20.12.1960	22.11.1988	19.05.2008	joined PHE in 2008
91	Dilawar Khan	Muhammad Rehman	SWA	DAE (C)	23.02.1962	22.11.1988	29.03.2008	joined PHE in 2008
92	Muhammad Ilyas	Khanza Gul	NWA	DAE (C)	25.03.1962	28.11.1988	22.05.2008	joined PHE in 2008
93	Aziz ur Rehman		Khyber	DAE (C)	08.10.1962	22.11.1988	19.05.2008	joined PHE in 2008
94	Muhammad Rais	Hazrat Khan	SWA	DAE (C)	20.04.1963	26.11.1988	31.05.2008	joined PHE in 2008
95	Tariq Khan		Swat	DAE (C)	01.04.1964	22.11.1988	19.05.2008	joined PHE in 2008
96	Muhammad Nazif	Muhammad Hussain	Nowshera	DAE (C)	05.01.1964	30.11.1988	28.03.2008	joined PHE in 2008
97	Abdali Shah	Haji Sufaid Shah	Malakand	DAE (C)	01.02.1966	26.11.1988	26.03.2008	joined PHE in 2008
98	Arif Qayum Khan	Abdul Qayum	Bannu	DAE (C)	12.10.1966	23.11.1988	29.03.2008	joined PHE in 2008
99	Amin Gul		Malakand	DAE (C)	15.10.1966	22.11.1988	19.05.2008	joined PHE in 2008
100	Asghar Hussain	Gul Akbar	Khyber	DAE (C)	14.11.1968	22.11.1988	31.03.2008	joined PHE in 2008

Seniority List of Sub Engineer (BPS-11) as stood on 31.12.2010

S.No	Name	Father Name	Home District	Qualification	Date of Birth	Date of Commencement of Service	Date of Appointment to Present Post	Remarks
101	Mislah-ud-Din	Sharif Ullah	Dir Lower	DAE (C)	20.02.1965	24.11.1988	26.03.2008	joined PHE in 2008
102	Atta Muhammad	Muhammad Younas	Mansehra	DAE (C)	10.04.1971	08.09.1997	01.07.2008	
103	Raheel Shahzad	Muhammad Farid	Mansehra	DAE (C)	16.09.1976	30.08.1997	01.07.2008	
104	Sheikh Islam ud Din	Sheikh Nizam-ud-Din	D.I.Khan	DAE (C)	08.03.1961	29.08.1987	11.02.2009	
105	Farid Ullah	Sherin Dad	Bannu	DAE (C)	10.01.1962	01.09.1987	11.02.2009	
106	Mumtaz Khan	Zardad Khan	Bannu	DAE (C)	01.03.1963	27.12.1987	11.02.2009	
107	Imtiaz Muhammad	Hazrat Wali	Swabi	DAE (C)	09.01.1971	20.12.1994	11.02.2009	
108	Shujaul Mulk	Shahi Mulk	Swat	DAE (C)	01.04.1970	03.10.1995	11.02.2009	
109	Shahid Ayaz	Mir Shad Ali	Karak	DAE (M)	03.03.1963	07.02.1990	11.02.2009	
110	Zahid Ullah	Abdullah Jan	Dir	DAE (C)	11.08.1972	28.06.1995	11.02.2009	
111	Farman Ullah	Farid Gul	Bannu	DAE (C)	04.04.1971	26.09.1995	11.02.2009	
112	Behzad Khan		Peshawar	DAE (C)	25.11.1958	16.07.1981		
113	Abdul Salam	Mir Khalim Khan	D.I.Khan	DAE (C)	25.08.1968	02.07.1995	30.07.2009	

Chief Engineer (South)
Public Health Engg: Department
Khyber Pakhtunkhwa Peshawar

Endstt: No. 22/E-16/PHE

Dated Peshawar the

30/04/2011

Copy of the Seniority List is forwarded to the: -

- 1 - Chief Engineer (North) Public Health Engg: Department Khyber Pakhtunkhwa Peshawar.
- 2 - All Superintending Engineers in Public Health Engg: Department Khyber Pakhtunkhwa.
- 3 - All Executive Engineers in Public Health Engg: Department Khyber Pakhtunkhwa.
- 4 - Section Officer (Estt) Public Health Engg: Department Khyber Pakhtunkhwa Peshawar

Chief Engineer (South)
Public Health Engg: Department
Khyber Pakhtunkhwa Peshawar

Public Health Engineering Department

Final Seniority List of Sub Engineer (BPS-11) as stood on 31.08.2013

S.No	Name	Father Name	Home District	Qulification	Date of Birth	Date of Commencement of Service	Date of Appointment to Present Post	Remarks
1	Saleem Khan	Sohrab Khan	Lakki	DAE	11.12.1959	13.09.1980	08.09.1980	
2	Fazle Mabood	Habib ur Rehman	Malakand	DAE (C)	10.04.1961	26.07.1981	06.05.1982	
3	Sajjad Ali	Rahim Dad	Swabi	DAE	01.03.1962	08.09.1981	06.05.1982	
4	Mushtaq Ahmad	Khushal Khan	Mansehra	DAE (C)	20.10.1956	17.10.1981	06.05.1982	
5	Alam Zeb	Sar Biland Khan	FR Bannu	DAE (C)	24.08.1960	16.03.1982	06.05.1982	
6	Allah Nawaz	Shah Nawaz	Bannu	DAE (C)	05.12.1959	27.03.1982	06.05.1982	
7	Khurshid Anwar	Haji Fateh ullah	D.I.Khan	DAE (C)	04.03.1960	04.04.1982	06.05.1982	
8	Muhammad Ilyas	Fazal Razaq	Dir Upper	DAE (C)	08.09.1958	15.04.1982	06.05.1982	
9	Karamat Ullah	Khan Azam	Bannu	DAE (C)	15.03.1961	18.05.1982	18.05.1982	
10	Laiq Zaman	Gul Shaib Khan	Bannu	DAE (C)	27.01.1959	03.07.1982	23.06.1982	
11	Asif Farooq	Karim Nawaz	Karak	DAE (C)	02.01.1960	22.11.1982	20.11.1982	
12	Inamul Haq	Lal Ghaffar	Karak	DAE (C)	18.03.1963	06.04.1983	06.04.1983	
13	Khurshid Iqbal	H.Abdul Rashid	Haripur	DAE (C)	03.01.1959	01.12.1984	20.11.1984	
14	Umer Hayat	H.Gulam Nabi	Bannu	DAE (C)	25.03.1962	24.11.1984	20.11.1984	
15	Hassan Khan	Sar Biland Khan	Malakand	DAE (C)	08.02.1963	22.11.1984	20.11.1984	
16	Arif Saeed	Amal Rehman	Karak	DAE (C)	03.04.1963	01.12.1984	20.11.1984	
17	Lajbar Khan	Zabata Khan	Mardan	DAE (C)	18.04.1963	01.12.1984	20.11.1984	
18	Falak Naz	Shah Nam Raza	Swat	DAE (C)	03.01.1957	31.12.1984	23.12.1984	
19	Muhammad Yousaf	Muhammad Ibrahim	D.I.Khan	DAE (M)	20.05.1964	25.04.1985	08.04.1985	
20	Muhammad Pervez	Faqir Muhammad	D.I.Khan	DAE (C) P	01.10.1960	06.07.1985	03.07.1985	
21	Sahib Zarin	Mohayoud Din	Dir Lower	DAE (C)	22.07.1958	18.12.1985	18.12.1985	
22	Samiullah Jan	Danish Khan	Peshawar	DAE (C)	16.06.1959	18.12.1985	18.12.1985	

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CC/CS
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Public Health Engineering Department

Final Seniority List of Sub Engineer (BPS-11) as stood on 31.08.2013


S.No	Name	Father Name	Home District	Qualification	Date of Birth	Date of Commencement of Service	Date of Appointment to Present Post	Remarks
23	Muhammad Ali	Muhammad Zaman	Swat	DAE (C)	21.04.1964	26.12.1985	18.12.1985	
24	Muhammad Riaz	Muhammad Khan	Malakand	DAE (C)	01.01.1965	30.12.1985	18.12.1985	
25	Shahid Saeed	Saeed ur Rehman	Mansehra	DAE (C)	26.08.1965	23.12.1985	18.12.1985	
26	Allaud Din	Muhammad Ajun Khan	Mansehra	DAE (C)	21.06.1961	10.07.1986	09.07.1986	
27	Anwar Khan	Ghulam Khan	Mansehra	DAE (C)	06.04.1963	19.07.1986	09.07.1986	
28	S.Abid Hussain Shah	Syed Pir Zaman Shah	Abbottabad	DAE	13.03.1964	17.07.1986	09.07.1986	
29	Bashir Ahmad	Wazir Zada	Dir Lower	DAE (C)	08.12.1964	23.10.1986	23.10.1986	
30	Aziz ur Rehman	Mehmood Khan	Bannu	DAE (C)	15.12.1960	28.10.1981	18.04.1987	
31	Zoor Ali	Said Muhammad	FR Bannu	DAE (C)	05.03.1960	11.01.1982	18.04.1987	
32	Mekail Khan	Muhammad Shebli	Bannu	DAE (C)	09.10.1961	27.12.1982	18.04.1987	
33	Najeeb ur Rehman	Abdur Rehman	Karak	DAE (C)	02.02.1963	09.02.1983	18.04.1987	
34	Khuzb ur Rehman	Mir Abas	FR Bannu	DAE (C)	10.03.1964	18.05.1987	18.05.1987	
35	Abbas Khan	Ali Akbar Khan	Abbottabad	DAE (C)	01.02.1966	18.05.1987	18.05.1987	
36	Rashid Ahmad	H.Muhammad Saddique	Lakki	DAE (C)	14.03.1959	09.06.1987	09.06.1987	
37	Said Faisal	Syed Wahid Shah	Swabi	DAE (C)	03.01.1959	29.05.1979	29.05.1979	
38	Muhammad Shafiq Shah	Abdul Hamid Shah	SWA	DAE (C)	01.05.1963	20.10.1987	20.10.1987	
39	Abdur Rehman	Mehar Dil Khan	Tank	DAE (C)	06.09.1963	11.10.1987	08.10.1987	
40	Nisar Ali	Haji Gujar Khan	Swat	DAE (C)	01.04.1964	10.10.1987	10.10.1987	
41	Aslat Khan	Muhammad Azim	Mardan	DAE (C)	06.02.1965	14.10.1987	14.10.1987	
42	Muhammad Yaseen	Faqir Shah	Swabi	DAE (C)	04.03.1964	14.10.1987	14.10.1987	
43	Muhammad Ashraf	Amir Zada	Peshawar	DAE (C)	02.11.1967	18.10.1987	18.10.1987	
44	Islam Gul	M.Sahib Gul	Karak	DAE (C)	10.09.1963	26.10.1987	21.10.1987	
45	Muhammad Younis	Rehan ud Din	Sawbi	DAE (C)	02.01.1959	29.08.1989	29.08.1989	
46	Khalid Wahab	Dost Muhammad	Karak	DAE (C)	15.07.1961	29.08.1989	29.08.1989	
47	Karim Nawaz	Gul Daraz	D.I.Khan	DAE (C)	01.03.1962	09.06.1985	29.08.1989	
48	Irshad Ahmad	Malik Elahi Bakhsh	D.I.Khan	DAE (C)	28.03.1962	03.03.1986	29.08.1989	
49	Bahre Karam	Rahmat Shah	Malakand	DAE (C)	15.04.1958	15.04.1986	29.08.1989	

*See (s)
Page No*

Public Health Engineering Department

Final Seniority List of Sub Engineer (BPS-11) as stood on 31.08.2013

S.No	Name	Father Name	Home District	Qualification	Date of Birth	Date of Commencement of Service	Date of Appointment to Present Post	Remarks
50	Khalid Afzal	Mir Sahib Jan	NWA	DAE	20.02.1960	29.08.1989	29.08.1989	
51	Muhammad Yousaf Jan	Abdullah jan	D.I.Khan	DAE (C)	01.04.1961	18.10.1987	29.08.1989	
52	Muhammad Hamayun	Dure Marjan	Karak	DAE (C)	10.09.1963	29.08.1989	29.08.1989	
53	Muhammad Kamal	Hazrat Jamal	Mardan	DAE (C)	01.04.1962	13.01.1988	29.08.1989	
54	Sikandar Azam	Amir Daraz Khan	NWA	DAE (C)	15.11.1961	12.12.1989	06.12.1989	
55	Muhammad Iqbal	Abdul Rahim	Bajaur	DAE (C)	01.08.1964	11.12.1989	06.12.1989	
56	Muheet Khan	Rias Khan	Karak	DAE (C)	08.06.1965	10.12.1989	06.12.1989	
57	Syed Zia ur Rehman	S.Hidayat ur Rehman	Mardan	DAE (C)	01.04.1965	09.12.1989	06.12.1989	
58	Hazrat Hussain	Muhammad Hanif	Swat	DAE (C)	15.03.1960	22.08.1987	06.12.1989	
59	Sardar Ijaz Anwar	Muhammad Yaqoob	Abbottabad	DAE (C)	01.04.1966	09.12.1989	06.12.1989	
60	Iftikhar Ahmad	Dr. M.Zakir Khan	Mansehra	DAE (C)	02.05.1965	09.12.1989	06.12.1989	
61	Akhtar Hussain	Amir Amanullah Khan	Swat	DAE (C)	05.01.1968	14.12.1989	06.12.1989	
62	Muhammad Tahir	Aibat Khan	Kohat	DAE (C) Bs.C	16.03.1965	31.03.1990	26.03.1990	
63	Walayat Said		Dir Lower	DAE (C)	15.09.1967	05.04.1990	05.04.1990	
64	Syed Haleem Shah	S.Imdad Hussain Shah	Mansehra	DAE (C)	11.04.1965	01.04.1990	26.03.1990	
65	Misal Khan		D.I.Khan	DAE (C)	15.07.1966	06.05.1990	06.05.1990	
66	Imdad Hussain Shah	Syed M.Afzal shah	Mansehra	DAE (C)	25.04.1971	14.11.1992	12.11.1992	
67	Muhammad Amjad		Bannu	DAE (C)	18.04.1969	16.09.1993	16.09.1993	
68	Saqi Muhammad	Amir Muhammad	Swabi	DAE (C)	19.04.1969	25.09.1993	16.09.1993	
69	Nasir Nawaz Khan	M.Nawaz Khan	Mansehra	DAE (C)	01.02.1973	06.03.1996	26.02.1996	
70	Mehboob ur Rehman	Habib ur Rehman	Haripur	DAE	10.04.1971	11.04.1996	26.02.1996	

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 (Date) 10

Public Health Engineering Department

Final Seniority List of Sub Engineer (BPS-11) as stood on 31.08.2013


S.No	Name	Father Name	Home District	Qualification	Date of Birth	Date of Commencement of Service	Date of Appointment to Present Post	Remarks
71	Jehanzeb	Shadi Gul	NWA	DAE@BE(E)	01.04.1971	27.02.1996	26.02.1996	
72	Amir Zada	Bahadar Khan	Mardan	DAE (C)	14.05.1965	04.03.1996	26.02.1996	
73	Ishfaq Ahmad	Zarbat Shah	FR Kohat	DAE (C)	01.05.1970	26.02.1996	26.02.1996	
74	Muhammad Khan	Sher Ahmad Khan	Haripur	DAE (C)	23.01.1954	27.11.1988	19.05.2008	absorbed in PHED on 13.3.2008
75	Amanullah		Peshawar	DAE (C)	02.03.1955	22.11.1988	19.05.2008	absorbed in PHED on 13.3.2008
76	Abdul Hameed	Abdul Latif	Kohat	D.A.E	18.09.1959	24.11.1988	19.05.2008	absorbed in PHED on 13.3.2008
77	Intizar Muhammad		Swabi	DAE (C)	20.12.1960	22.11.1988	19.05.2008	absorbed in PHED on 13.3.2008
78	Dilawar Khan	Muhammad Rehman	SWA	DAE (C)	23.02.1962	22.11.1988	29.03.2008	absorbed in PHED on 13.3.2008
79	Muhammad Ilyas	Khanza Gul	NWA	DAE (C)	25.03.1962	28.11.1988	22.05.2008	absorbed in PHED on 13.3.2008
80	Aziz ur Rehman		Khyber	DAE (C)	08.10.1962	22.11.1988	19.05.2008	absorbed in PHED on 13.3.2008
81	Muhammad Rais	Hazrat Khan	SWA	DAE (C)	20.04.1963	26.11.1988	31.05.2008	absorbed in PHED on 13.3.2008
82	Tariq Khan		Swat	DAE (C)	01.04.1964	22.11.1988	19.05.2008	absorbed in PHED on 13.3.2008
83	Muhammad Nazif	Muhammad Hussain	Nowshera	DAE (C)	05.01.1964	30.11.1988	28.03.2008	absorbed in PHED on 13.3.2008
84	Abdali Shah	Haji Sufaid Shah	Malakand	DAE (C)	01.02.1966	26.11.1988	26.03.2008	absorbed in PHED on 13.3.2008
85	Arif Qayum Khan	Abdul Qayum	Bannu	DAE (C)	12.10.1966	23.11.1988	29.03.2008	absorbed in PHED on 13.3.2008
86	AminGul		Malakand	DAE (C)	15.10.1966	22.11.1988	19.05.2008	absorbed in PHED on 13.3.2008
87	Asghar Hussain	Gul Akbar	Khyber	DAE (C)	14.11.1968	22.11.1988	31.03.2008	absorbed in PHED on 13.3.2008
88	Mislah-ud-Din	Sharif Ullah	Dir Lower	DAE (C)	20.02.1965	24.11.1988	26.03.2008	absorbed in PHED on 13.3.2008
89	Atta Muhammad	Muhammad Younas	Mansehra	DAE (C)	10.04.1971	08.09.1997	01.07.2008	
90	Raheel Shahzad	Muhammad Farid	Mansehra	DAE (C)	16.09.1976	30.08.1997	01.07.2008	
91	Sheikh Islam ud Din	Sheikh Nizam-ud-Din	D.I.Khan	DAE (C)	08.03.1961	29.08.1987	11.02.2009	
92	Farid Ullah	Sherin Dad	Bannu	DAE (C)	10.01.1962	01.09.1987	11.02.2009	

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Public Health Engineering Department

Final Seniority List of Sub Engineer (BPS-11) as stood on 31.08.2013

S.No	Name	Father Name	Home District	Qualification	Date of Birth	Date of Commencement of Service	Date of Appointment to Present Post	Remarks
93	Mumtaz Khan	Zardad Khan	Bannu	DAE (C)	01.03.1963	27.12.1987	11.02.2009	
94	Imtiaz Muhammad	Hazrat Wali	Swabi	DAE (C)	09.01.1971	20.12.1994	11.02.2009	
95	Shujaul Mulk	Shahi Mulk	Swat	DAE (C)	01.04.1970	03.10.1995	11.02.2009	
96	Shahid Ayaz	Mir Shad Ali	Karak	DAE (M)	03.03.1963	07.02.1990	11.02.2009	
97	Zahid Ullah		Dir	DAE (C)	11.08.1972	28.06.1995	11.02.2009	
98	Farman Ullah	Farid Gul	Bannu	DAE (C)	04.04.1971	26.09.1995	11.02.2009	
99	Abdul Salam	Mir Khalim Khan	D.I.Khan	DAE (C)	25.08.1968	02.07.1995	30.07.2009	


Chief Engineer (South)
Public Health Engg: Department
Khyber Pakhtunkhwa Peshawar


Endstt: No. 05/E-16/PHE

Dated Peshawar the

28/10/2013

Copy of the Seniority List is forwarded to the: -

- 1 - Chief Engineer (North) Public Health Engg: Department Khyber Pakhtunkhwa Peshawar.
- 2 - All Superintending Engineers in Public Health Engg: Department Khyber Pakhtunkhwa.
- 3 - All Executive Engineers in Public Health Engg: Department Khyber Pakhtunkhwa.
- 4 - Section Officer (Estt) Public Health Engg: Department Khyber Pakhtunkhwa Peshawar


Administrative Officer (South)
Public Health Engg: Department
Khyber Pakhtunkhwa Peshawar

Annex-F



OFFICE OF THE CHIEF ENGINEER (SOUTH)
PUBLIC HEALTH ENGG: DEPARTMENT
KHYBER PAKHTUNKHWA, PESHAWAR

No. 21 /E-13/south/ PHE,

Dated Peshawar, the 04 /04/2014

To,

The Secretary to Govt of Khyber Pakhtunkhwa,
Public Health Engineering Department,
Peshawar

Subject: **ENQUIRY INTO ILLEGAL APPOINTMENT**

Reference: Your letter No.SO(E)/PHE/8-27/2013/242-2, dated 24-2-2014
This office letter No. 04/E-13(S)/PHE dated 27.2.2014

In this regard it is once again submitted that illegal appointments in PHE Department have been made in various times by various officers as under please:

A. The Departmental Selection Committee comprising of the following have recommended approved illegal selection of the appointments of Sub Engineers/Steno typists/Stenographer and Data Entry Operators which were in purview of Public Service Commission by violating all rules.

- | | |
|---|------------|
| 5. Mr. Allaudin Khan (Retired) Chief Engineer | Chairman |
| 6. Mr. Syed Bakar Shah S.O (E=II) W&SD | Member. |
| 7. Mr. Abdul Bashir ADO (SE HQ) | Member. |
| 8. Mr. Afsar Ali Qureshi Admn: officer | Secretary. |

B. Five No. Sub Engineers were illegally appointed by Mr. Ghulam Mujtaba the then Chief Engineer PHED directly without involvement of A.O or any staff Member. Similarly one Junior Clerk Mr. Farhanullah has also been promoted to the post of Sub Engineer by Mr. Ghulam Mujtaba the then Chief Engineer signed fake promotion letter with fake dispatch number without involvement of any staff member.

Keeping in view the above it is requested that departmental proceedings against the above officer may kindly be initiated in the interest of Govt please.

Chief Engineer (South)



OFFICE OF THE CHIEF ENGINEER (SOUTH)
PUBLIC HEALTH ENGG: DEPARTMENT
KHYBER PAKHTUNKHWA, PESHAWAR

NOTE FOR MINISTER PHE

Subject: NOTE FOR PERUSAL OF MINISTER PHED REGARDING ACTION POSITION OF PENDING ENQUIRY

The honourable Minister for PHED has desired to high light and submit position of irregularities/violation of rules committed by officer/official and action taken/required in these cases. The details of such cases are narrated as under:

Sl: No	Description of Irregularities	Action Required against	Remarks
1-	Appointments of 32-Nos Illegal Appointment on the Post of Public Service Commission Preview	Mr. Alla-ud-Din CE (Rd) Mr. Abdul Bashir SE (HQ) Mr. Baqir Shah SO (Rd) Mr. Afsar Ali Qureshi B&AO	Annex-I
2-	Un-lawful appointment of 5-Nos Sub Engineers	Mr. Ghulam Mujtaba SE Kohat	Annex-II
3-	Un-lawful promotion of Farhanullah Junior Clerk to the post of Sub Engineer	Mr. Ghulam Mujtaba SE Kohat	Annex-III
4-	Un-lawful promotion of Abdur Rahim Work Superintendent to the Post of Sub Engineer	Mr. Ghulam Mujtaba SE Kohat	Annex-IV
5-	Un-lawful promotion of Zahid Ullah Junior Clerk and Zaid Ullah Draftsman to the post of Sub Engineer.	Mr. Alla-ud-Din Mr. Afsar Ali Qureshi B&AO	Annex-V
6-	Un-lawful abolishing the post of Work Superintendant and conversion/adjustment Malik Ayaz as Accounts Clerk on wrong cadre post.	Mr. Afsar Ali Qureshi B&AO	Annex-VI
7-	Un-lawful appointment of Mist Beena Rani as J/Clerk and giving salary without performing duty resulting loss to Govt of about Rs.600000/-	Mr. Alla-ud-Din Mr. Afsar Ali Qureshi B&AO	Annex-VII

Secretary, PHE South:
Dairy No. 1038
Dated: 03-10-2014

8- Involvement in standardization of fake Firms M/S KB and Bismillah for supply of Voltage stabilizer to facilitate M/S Itihad & Co, just to fulfill the formalities of existing of 3-Nos Firm, required for competition of bids.

Mr. Alla-ud-Din
Mr. Afsar Ali Qureshi B&AO

Annex-VIII

9- Creation of post against fake WSS in District Lakki

Mr. Qadirullah SDO
Mr. Afsar Ali Qureshi B&AO


Annex-IX

10- Illegal appointment of Mr. Murtaza Qureshi S/O Afsar Ali Qureshi (B&AO) Data Entry Operator (BPS-12) and then subsequently unlawfully conversion/appointment to the rank of Assistant (BPS-14) and facilitated/posted at Head Clerk in PHE Division Mardan while drawing pay from C.E Office Peshawar on higher salary rates. How also involving in irregularities in tendering etc. in PHE Division Mardan.

Mr. Afsar Ali Qureshi B&AO

Annex-X

2. Submitted for favour of initiating punitive action against above named officers for violating rules and giving great financial loss to Govt Exchequer by making payment to illegal appointees/promotes and standardization of fake firms.


Chief Engineer (South)


Secretary PHED

3.


Order is solicited to the proposal contained at Para-2 also

Para-2 is approved initiate action through NAB & ESTD Deptt. for recovery/disciplinary action.

Minister for PHE


31/10/14

Secretary PHED


ISHAH FARMAN
MINISTER FOR INFORMATION, CULTURE
& PHE
PAKHTUNKHWA
10/10/14

MINUTES OF THE MEETING OF D.S.C (PHED) HELD ON 13/08/2008
AT 10.00 A.M. REGARDING SELECTION OF SUB ENGINEER /
STENOGRAPHERS & DEO UNDER THE CHAIRMANSHIP OF CHIEF
ENGINEER PHE DEPARTMENT NWFP.

A meeting of the DSC was convened on 13.08.2008 at 10.00 A.M in this office for selection of the candidates for the posts of Sub Engineer / Stenotypists & DEO. The following attended the meeting:-

- | | | |
|----|--|-----------|
| 1) | Mr. Allauddin Khan Gandapur
Chief Engineer PHE | Chairman |
| 2) | Syed Baqir Shah
Section Officer (E-II)
W&S Department. | Member |
| 3) | Mr. Bashir Ahmad
ADO PHE Peshawar | Member |
| 4) | Mr. Afsar Ali Qureshi
Administrative Officer PHE | Secretary |

The Chairman of the Committee after welcoming the participants highlighted the objective of the meeting and stated that the Department is having a number of vacant posts of Sub Engineer / Steno typist & DEO etc; where, as per procedure these posts are to be filled in through PSC. But due to implementation of Devolution Plan, the Commission is not clear as to whether appointments against such posts come under the domain of District or Provincial Governments. The posts therefore, are running unfilled since long for want of clarification..

The Honourable Chief Minister NWFP, taking notice of the situation has provided a list of applicants through his Political Secretary (Annex-I) for their appointments against these posts by the Departmental Authority which is placed before the Committee for consideration & selection of the applicants containing in the said list.

The Chairman further reiterated that the matter was also discussed by him with worthy Secretary Works & Services Department who giving the reference of a Notification issued by his office bearing No.E&A/W&S/11-23/2001, dated 30.04.2008 (Annex-II) where-under all the appointments, transfer & postings of employees from BPS-01 to BPS-16 have been assigned to the Chief Engineer PHE, therefore the orders of Honourable Chief Minister NWFP, may be complied with by the Chief Engineer at his level.

The Committee examined the applications / documents made available by the Chief Minister's House in detail & found the same other wise eligible, hence unanimously recommended the applicants for their appointments against the relevant existing and future vacancies as under:-

<u>S.No.</u>	<u>Name of Applicant</u>	<u>Name of Posts</u>
1.	Mr. Tariq Nawaz Khan S/O Amir Nawaz Khan District Bannu.	Sub Engineer
2.	Mr. Muhammad Sajjad S/O Banut Khan District D.I.Khan.	-do-
3.	Mr. S.M. Ihsan Shah S/O S.M.Hassan Shah District D.I.Khan.	-do-

<u>S.No.</u>	<u>Name of Applicant</u>	<u>Name of Posts</u>
4.	Mr. S.M Ali Sajjad S/O S.Abid Hussain Shah District D.I.Khan.	-do-
5.	Mr. Abdul Samad S/O Abdul Mueed District Malakand.	-do-
6.	Mr. Shaukat Ali S/O Ghulam Qadir District Karak.	-do-
7.	Mr. Muhammad Ali Noor S/O Noor Muhammad District D.I.Khan.	-do-
8.	Mr. Irshad Elahi S/O Shah Nawaz District D.I.Khan.	-do-
9.	Mr. Hussain Zaman S/O Syed Zaman District Malakand.	-do-
10.	Mr. Saleem Nawaz S/O Karim Nawaz District D.I.Khan.	-do-
11.	Mr. S.Ashfaq Ahmad S/O S.Jamil ud Din District Malakand.	-do-
12.	Mr. Murtaz Ali S/O Abdul Haq District Malakand.	-do-
13.	Mr. Sahar Gul S/O Abdul Jalil District Lakki Marwat.	-do-
14.	Mr. Samiullah S/O Khuda Baksh District D.I.Khan.	-do-
15.	Mr. Abdul Shahid Sadiqui S/O Abdul Azim District Dir Upper.	-do-
16.	Mr. Asfaq Ahmad S/O Muhammad Shuiab District Malakand.	-do-
17.	Mr. Kashif Raza S/o S.Abid Hussain District D.I.Khan.	Sub Engineer
18.	Mr. Waqas Ali S/O Farznad Ali District Nowshera.	-do-
19.	Mr. Muslim Shah S/O Mehmood Shah District Mardan.	-do-
20.	Mr. Ishtiaq Ahmad S/O Tahmeed Ullah District Chursadda.	-do-
21.	Mr. Zohaib Khan S/O Jehanzeb Khan District Mardan.	-do-
22.	Mr. S. Hassan Ali S/O S.Ajmal Shah District Charsadda.	-do-
23.	Mr. Mohsin Ali S/O Muhammad Pervez District D.I.Khan.	-do-
24.	Mr. Muqtada S/O Afsar Ali District Peshawar.	-do-
25.	Mr. Iftikhar S/O Chainar Gul District Mardan.	Stenotypiest
26.	Mr. Noor Muhammad /O Jamroz Khan District Peshawar.	-do-
27.	Mr. Aziz Ullah SD/O Abid Ullah District Bannu.	-do-
28.	Mr. Farhan Ullah S/o Aziz Ullah District Bannu.	-do-
29.	Mr. Murtaza S/O Afsar Ali District Peshawar.	D.E.O

A-1

(ALLAUDDIN KHAN GANDAPUR)
Chief Engineer PHE (Chairman)

(ABDUL BASHIR)
ADO PHE (Member / Representative)

(SYED BAQIR SHAH)
Section Officer (E-II)
W&S Deptt: (Member)

(AFSAR ALI QURESHI)
Administrative Officer PHE
(Secretary)

Subject: APPOINTMENTS AGAINST THE VACANT POSTS OF SUB ENGINEER / STENOTYPIST & DEO.

It has come in to the notice of Honourble Chief Minister, NWFP, that a number of posts of Sub Engineer / Stenotypists & DEO are lying vacant in PHE. While discussing the matter of appointments against these posts with Chief Engineer PHE on more than one occasions, it was told that the posts of BPS-10 and above are to be filled-in through PSC. Where on the other hand due to implementation of Dependent Plan, the Commission is not clear as to whether appointments against these posts, is the prerogative of the respective District or Provincial Governments.

In view of above, the Honourble Chief Minister NWFP, has been pleased to direct to consider the application of the following personnels for their appointments against the vacant posts by the Departmental Authority to bridge the gap of the staff & to ensure smooth working of the newly separated / established PHE Department. Necessary sanction to the condonation of the requisite codal formalities if any will be accorded by the competent authority at due course of time separately:-

A-1

<u>S.No</u>	<u>Name of Applicant</u>	<u>Name of Post</u>
1.	Mr. Tariq Nawaz Khan S/O Amir Nawaz Khan District Bannu.	Sub Engineer
2.	Mr. Muhammad Sajjad S/O Banut Khan District D.I.Khan.	-do-
3.	Mr. S.M. Ihsan Shah S/O S.M.Hassan Shah District D.I.Khan	-do-
4.	Mr. S.M Ali Sajjad S/O S.Abid Hussain Shah District D.I.Khan.	-do-
5.	Mr. Abdul Samad S/O Abdul Mueed District Malakand.	-do-
6.	Mr. Shaukat Ali S/O Ghulam Qadir-District Karak.	-do-
7.	Mr. Muhammad Ali Noor S/O Noor Muhammad District D.I.Khan	-do-
8.	Mr. Irshad Elahi S/O Shah Nawaz District D.I.Khan	-do-
9.	Mr. Hussain Zaman S/O Syed Zaman District Malakand.	-do-
10.	Mr. Saleem Nawaz S/O Karim Nawaz District D.I.Khan.	-do-
11.	Mr. S.Ashfaq Ahmad S/O S.Jamil ud Din District Malakand.	-do-
12.	Mr. Murtaz Ali S/O Abdul Haq District Malakand.	-do-
13.	Mr. Sahar Gul S/O Abdul Jalil District Lakki Marwat.	-do-
14.	Mr. Samiullah S/O Khuda Baksh District D.I.Khan.	-do-
15.	Mr. Abdul Shahid Sadiqui S/O Abdul Azim District Dir Upper.	-do-
16.	Mr. Asfaq Ahmad S/O Muhammad Shuiab District Malakand.	-do-
17.	Mr. Kashif Raza S/o S.Abid Hussain District D.I.KLhan.	-do-
18.	Mr. Waqas Ali S/O Farznad Ali District Nowshera.	-do-
19.	Mr. Muslim Shah S/O Mehmood Shah District Mardan.	-do-
20.	Mr. Ishtiaq Ahmad S/O Tahrneed Ullah District Charsadda.	-do-
21.	Mr. Zohaib Khan S/O Jehanzeb Khan District Mardan.	-do-
22.	Mr. S. Hassan Ali S/O S.Ajmal Shah District Charsadda.	-do-
23.	Mr. Mohsin Ali S/O Muhammad Pervez District D.I.Khan.	-do-
24.	Mr. Muqtada S/O Afsar Ali District Peshawar.	-do-
25.	Mr. Iftikhar S/O Chainar Gul District Mardan.	Stenotypiest
26.	Mr. Noor Muhammad /O Jamroz Khan District Peshawar.	-do-
27.	Mr. Aziz Ullah SD/O Abid Ullah District Bannu.	-do-
28.	Mr. Farhan Ullah S/o Aziz Ullah District Bannu.	-do-
29.	Mr. Murtaz S/O Afsar Ali District Peshawar	D.E.O



Political Secretary to
Chief Minister NWFP

**MINUTES OF THE MEETING OF D.S.C (PHED) HELD ON 02/12/2009
AT 10.00 A.M. FOR SELECTION OF SUB ENGINEER &
STENOTYPISTS UNDER THE CHAIRMANSHIP OF CHIEF
ENGINEER PHE DEPARTMENT NWFP.**

A meeting of the DSC was held on 2.12.2009 at 10.00 A.M in the office of the Chief Engineer PHE for selection of the applicants against posts of Sub Engineer & Stenotypists. The following participated in the meeting:-

- | | | |
|----|--|-----------|
| 1) | Mr. Allauddin Khan Gandapur
Chief Engineer PHE | Chairman |
| 2) | Syed Baqir Shah
Section Officer (E-II)
W&S Department. | Member |
| 3) | Mr. Bashir Ahmad
ADO PHE Peshawar | Member |
| 4) | Mr. Afsar Ali Qureshi
Administrative Officer PHE | Secretary |


The Chairman highlighting the background of the case stated that appointments of following applicants have since been made, out of the list provided by the Chief Minister's House (Annex-I) duly recommended by the D.S.C in its meeting held on 13.08.2008 (Annex-II):-

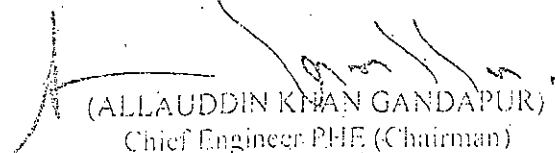
S#	Name	Name of Post
1	Mr. Tariq Nawaz Khan S/O Amir Nawaz Khan District Bannu	Sub Engineer
2	Mr. Muhammad Sajjad S/O Banut Khan District D.I.Khan	-do-
3	Mr. S.M.Ihsan Shah S/O S.M. Hassan Shah District D.I.Khan	-do-
4	Mr. S.M. Ali Sajjad S/O S. Abid Hussain Shah District D.I.Khan	-do-
5	Mr. Abdul Samad S/O Abdul Mueed District Malakand	-do-
6	Mr. Shaukat Ali S/O Ghulam Qadir District Karak	-do-
7	Mr. Muhammad Ali Noor S/O Noor Muhammad District D.I.Khan	-do-
8	Mr. Irshad Elahi S/O Shah Nawaz District D.I.Khan	-do-
9	Mr. Hussain Zaman S/O Syed Zaman District Malakand	-do-
10	Mr. Murtaza S/O Afsar Ali District Peshawar	D.E.O


The Chairman further elaborated that due to creation of new PHE Offices at Lakki Marwat, Tank, Bannu, Hangu & Nowshera, the new posts are required to be filled-in by this office, as the PSC is still un-cleared about the issue of appointments. Therefore, the rest of the applicants already recommended by the DSC have been placed before the Committee again to consider & recommend the same for appointments against the vacant posts, afresh, to comply with the orders of Honourable Chief Minister NWFP, in toto.

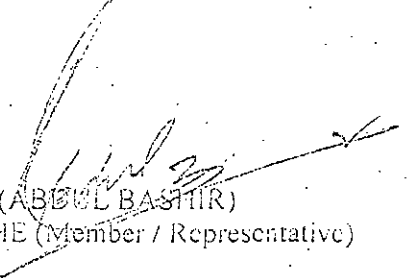
The Committee, therefore, once again examined the case and recommended the applicants for their appointments on the posts noted against each, as under:-

Sl	Name	Name of Post
1	Mr. Saleem Nawaz S/O Karim Nawaz District D.I.Khan	Sub Engineer
2	Mr. S. Ashfaq Ahmad S/O S. Jamil ud Din District Malakand	-do-
3	Mr. Murtaza Ali S/O Abdul Haq District Malakand	-do-
4	Mr. Sahar Gul S/O Abdul Jalil District Lakki Marwat	-do-
5	Mr. Samiullah S/O Khuda Baksh District D.I.Khan	-do-
6	Mr. Abdul Shahid Sadiqui S/O Abdul Azim District Dir Upper	-do-
7	Mr. Ashfaq Ahmad S/O Muhammad Shuiab District Malakand	-do-
8	Mr. Kashif Raza S/O S. Abid Hussain District D.I.Khan	-do-
9	Mr. Waqas Ali S/O Farzand Ali District Nowshera	-do-
10	Mr. Muslim Shah S/O Mehmood Shah District Mardan	-do-
11	Mr. Ishtiaq Ahmad T/O Tahmeed Ullah District Charsadda	-do-
12	Mr. Zohaib Khan S/O Jehanzeb-Khan District Mardan	-do-
13	Mr. S. Hassan Ali S/O S. Ajmal Shah District Charsadda	-do-
14	Mr. Moshin Ali S/O Muhammad Pervez District D.I.Khan	-do-
15	Mr. Muqtada S/O Afsar Ali District Peshawar	-do-
16	Mr. Muhammad Qaisar Khan S/O Babu Jan District Mardan	-do-
17	Mr. Muhammad Ifukhar S/O Chainar Gul District Mardan	Stenotypist
18	Mr. Noor Muhammad S/O Jamroz Khan District Peshawar	-do-
19	Mr. Shah Khalid S/O Waffadar Khan District Swabi	-do-
20	Mr. Aziz Ullah S/O Abid Ullah Khan District Bannu	-do-
21	Mr. Farhanullah S/O Aziz Ullah District Bannu.	-do-


(SYED BAQIR SHAH)
Section Officer (E-II)
W&S Deptt. (Member)


(ALLAUDDIN KHAN GANDAPUR)
Chief Engineer PHE (Chairman)


(AFSHAR ALI QURESHI)
Administrative Officer PHE
(Secretary)


(ABUL BASTIR)
ADO PHE (Member / Representative)

Ph: 9082235
Fax: 9220406

REGISTERED
Nos. C.P. 2026 & 2029 of 2013 - SCJ
SUPREME COURT OF PAKISTAN.

Islamabad, dated 16/1/2014.

The Registrar,
Supreme Court of Pakistan,
Islamabad.

The Registrar,
Peshawar High Court,
Peshawar.

Subject: **CIVIL PETITION NOS. 2026 & 2029 OF 2013.**
Mushtaq Ahmed & another ...in C.P. 2026/2013
Muhammad Nasir Ali & others ...in C.P. 2029/2013
VERSUS
Government of Khyber Pakhtunkhwa through Chief Secretary,
Peshawar & others ...in both cases

**On appeal from the Judgment/Order of the
Peshawar High Court, Peshawar dated
02.10.2013 in W.P. 271-P & 663-P/2013**

Dear Sir,

I am directed to enclose herewith a certified copy of the Order of this Court dated 15.01.2014 **dismissing** the above cited civil petitions **with directions** for information and further necessary action.

I am also to invite your attention to the directions of this Court contained in the enclosed Order.

Please acknowledge receipt of this letter along with its enclosure immediately.

Encl: Order

Yours faithfully,



(NAZAR ABBAS)
ASSISTANT REGISTRAR (IMP)
FOR REGISTRAR

Copy with a certified copy of the Order of this Court dated 15.01.2014 is forwarded to Mr. Sikandar Khan, Chief Engineer, Public Health Engineering Department, Khyber Pakhtunkhwa, Peshawar for immediate necessary action and report compliance.

Encl: Order



ASSISTANT REGISTRAR (IMP)
FOR REGISTRAR

IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

PRESENT:

MR. JUSTICE ANWAR ZAHEER JAMALI
MR. JUSTICE EJAZ AFZAL KHAN

C. Ps. No. 2026 and 2029 of 2013.

(On appeal against the judgment
dt. 2.10.2013 passed by the
Peshawar High Court, Peshawar in
W. Ps. No. 271-P and 663-P of 2013).

Mushtaq Ahmed and another.
Muhammad Nasir Ali and others.

(in C.P. 2026/13)

(in C.P. 2029/13)

.....Petitioners

Versus:

Government of KPK through Chief Secretary,
Peshawar and others.

(in both cases)

.....Respondents

For the petitioners: Mr. Ghulam Nabi Khan, ASC.
Syed Safdar Hussain, AOR.

For the respondents: Sikandar Khan, Chief Engineer, PHEK, KPK.
(on court notice)

Date of hearing: 15.01.2014.

ORDER

ANWAR ZAHEER JAMALI, J. - After hearing the arguments
of the learned ASC for the petitioners and careful perusal of the case
record particularly the reasons assigned in the impugned judgment,
we are satisfied that no case for grant of leave to appeal is made out,
including the plea of discrimination raised by the petitioners, as one
wrong or any number of wrongs, cannot be made basis to justify an
illegal action under the garb of Article 25 of the Constitution. Both
these petitions are, therefore, dismissed. Leave is refused.

2. So far as some other illegalities in the appointments
brought to our notice is concerned, in response to our earlier order
dated 09.01.2014, Mr. Sikandar Khan, Chief Engineer, Public Health
Engineering, Department, KPK is present in Court, he states that

ATTESTED



Superintendent
Supreme Court of Pakistan

although many other illegal appointees in his department have been removed from service, but against many others such action is in process at various stages and they are still in service.

3. In view of the above statement, he is directed to finalize the action against such illegal appointees within one month from today and submit his report through Registrar of this Court. In case, he faces any difficulty in this regard, those difficulties may also be brought to our notice so that appropriate orders may be passed.

Sd/ Ammar Zahoor Javali
Sd/ Ejaz Afzal Khan

Certified to be True Copy

[Signature] 16-1-14

Superintendent
Supreme Court of Pakistan
Islamabad



Annex-4

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

No.SO(Estt)/PHED/1-55/2010
Dated Peshawar, the October 05, 2011

To

1. The Chief Engineer (South),
PHE Department Peshawar
2. ✓ The Chief Engineer (North),
PHE Department Peshawar

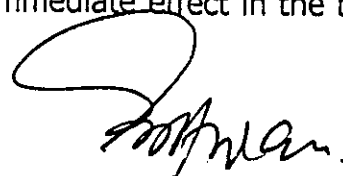
Subject: **DISTRIBUTION OF WORKS/DUTIES.**

I am directed to refer to the subject noted above and to state that the competent authority has been pleased to approve the distribution of works/duties amongst the Chief Engineers of PHE Department as under:

Posting/Transfer:

The Chief Engineer (South) and Chief Engineer (North) PHED shall make postings/transfers of the employees from BPS-1 to BPS-15 including Sub Engineers in BPS-16, within their respective jurisdictions whenever so required in the best public interest. In case of Postings/Transfers of **Inter-Territorial** jurisdiction i.e. from South to North vice versa, the Chief Engineer (South) PHED shall make such postings/transfers in consultation with the Chief Engineer (North) PHED. In case of any disagreement amongst both the Chief Engineers, the issue will be brought into the notice of Secretary PHED in writing for his prior approval. Substitute will be provided in case of transfer of any official from the jurisdiction of Chief Engineer (North) PHED & vice versa. However, copies of all posting/transfer orders will invariably be endorsed to the other Chief Engineer for his office record. The service record/personal files of all officials shall be maintained by the Chief Engineer (South) PHED.

The above orders shall be implemented with immediate effect in the best public interest.


**(SHABBIR AHMAD AWAN)
SECTION OFFICER (ESTT)**

Endst: No & Date as above:

Copy of the above is forwarded for information to the:

1. Special Assistant to Chief Minister Khyber Pakhtunkhwa Peshawar.
2. P.S. to Secretary PHE Department Peshawar.

SECTION OFFICER (ESTT)

KHYBER PAKHTUNKHWA PUBLIC SERVICE COMMISSION**2- Fort Road Peshawar Cantt:****Website: www.nwfppsc.gov.pk****Tele: Nos. 091-9214131, 9213563, 9213750, 9212897**Dated: 07.04.2011**ADVERTISEMENT No. 02 / 2011.**

Applications, on prescribed form, are invited for the following posts from Pakistani citizens having domicile of Khyber Pakhtunkhwa / F.A.T.A by 07.05.2011 (candidates applying from abroad by 21.05.2011). Incomplete applications and applications without supporting documents required to prove the claim of the candidates shall be rejected without intimation to the candidates.

AGRICULTURE, LIVESTOCK & CO-OPERATIVE DEPTT:

1. **FIVE (05) POSTS OF FEMALE LIVESTOCK PRODUCTION OFFICER (HEALTH) IN L&DD DEPTT:**

QUALIFICATION: (i) B.Sc (Hons) Animal Husbandry from a recognized University; OR (ii) Doctor of Veterinary Medicine (DVM) or equivalent qualification in veterinary sciences from a recognized university and registered with Pakistan Veterinary Medical Council.

AGE LIMIT: 22 to 35 years. **PAY SCALE:** BPS-17 **ELIGIBILITY:** Female.
ALLOCATION: Two to Zone-1 and One each to Zone-2, 3 and 5.

2. **THREE (03) POSTS OF SOIL CONSERVATION ASSISTANT**

QUALIFICATION: (a) M.Sc Agriculture (Soil Science) from a recognized University, OR (b) B.Sc (Hons) Agriculture with Soil Science as major subject obtained after four years of academic instructions after F.Sc from a recognized university; OR (c) B.sc Agriculture Engineering from a recognized university.

AGE LIMIT: 21 to 35 years. **PAY SCALE:** BPS-17 **ELIGIBILITY:** Both Sexes.
ALLOCATION: One each to Merit, Zone-1 and 5.

3. **ONE (01) POST OF BIO-CHEMIST**

QUALIFICATION: Doctor of Veterinary Medicine (DVM) or equivalent qualification in veterinary sciences with M.Sc in Biochemistry or M.Sc (Hons) in Animal Nutrition recognized by Pakistan Veterinary Medical Council.

AGE LIMIT: 25 to 32 years. **PAY SCALE:** BPS-17 **ELIGIBILITY:** Both Sexes.
ALLOCATION: Merit.

C & W DEPARTMENT

4. **THIRTEEN (13) POSTS OF JUNIOR SCALE STENOGRAPHER.**

QUALIFICATION: (i) Intermediate or equivalent qualification from recognized a Board. (ii) A speed of 60 words per minute in Shorthand in English and 35 words per minute in typewriting in English and knowledge of Computer in using MS Word and MS Excel.

AGE LIMIT: 18 to 30 years. **PAY SCALE:** BPS-12 **ELIGIBILITY:** Both Sexes.
ALLOCATION: Three to Zone-1, Five each to Zone- 3 and 5.

69.	<p>EIGHT (08) POSTS OF MALE SERVEYOR IN MINES AND MINERALS DEPTT:</p> <p>QUALIFICATION: F.SC Pre Engineering or equivalent qualification from recognized Board of Intermediate and Secondary Education with (a) Mine Surveyor Competency Certificate under Mines Act 1923 and (b) Certificate in Auto cad from a recognized institute</p> <p>AGE LIMIT: 18 to 30 years. PAY SCALE: BPS-11 ELIGIBILITY: Male ALLOCATION: Two each to Zone-1,2,3 and One each to Zone-4 & 5.</p>
70.	<p>THREE (03) POSTS OF COMPUTER OPERATOR IN DIRECTORATE GENERAL OF TECHNICAL EDUCATION AND MANPOWER TRAINING</p> <p>QUALIFICATION: (a) Bachelor Degree from a recognized University and (b) Diploma of one year duration in Information Technology from a recognized Institute.</p> <p>AGE LIMIT: 20 to 32 years. PAY SCALE: BPS-11 ELIGIBILITY: Male ALLOCATION: One each to Zone-1, 2 and 3.</p>
PUBLIC HEALTH ENGINEERING DEPTT:	
71.	<p>TWO (02) POSTS OF RESEARCH OFFICER/ HYDRO-GEOLOGIST.</p> <p>QUALIFICATION: Second Division M.Sc (Hydro-Geology) OR B.Sc (Civil/ Agriculture Engineering) with two years relevant experience Or Second Division M.Sc (Water Resources/ Civil Engineering) from a recognized University.</p> <p>AGE LIMIT: 21 to 32 years. PAY SCALE: BPS-17 ELIGIBILITY: Both Sexes ALLOCATION: One each to Merit and Zone-1.</p>
72.	<p>EIGHTEEN (18) POSTS OF ASSISTANT SOCIAL ORGANIZER.</p> <p>QUALIFICATION: Second Class Master Degree in Social Sciences from a recognized University.</p> <p>AGE LIMIT: 21 to 30 years. PAY SCALE: BPS-16 ELIGIBILITY: Both Sexes ALLOCATION: Five to Merit, Three each to Zone-1, 2, 3 and Two each to Zone-4&5.</p>
73.	<p>TWO (02) POSTS OF ASSISTANT SOCIAL ORGANIZER (WOMEN QUOTA).</p> <p>QUALIFICATION: Second Class Master Degree in Social Sciences from a recognized University.</p> <p>AGE LIMIT: 21 to 30 years. PAY SCALE: BPS-16 ELIGIBILITY: Female ALLOCATION: Merit.</p>
74.	<p>SEVEN (07) POSTS OF ASSISTANT RESEARCH OFFICER (WATER QUALITY).</p> <p>QUALIFICATION: Second Division B.Sc (Microbiology or Chemistry) from a recognized University.</p> <p>AGE LIMIT: 21 to 30 years. PAY SCALE: BPS-16 ELIGIBILITY: Both Sexes. ALLOCATION: One each to Merit, Zone-2, 3, 4, 5 and Two to Zone-1</p>

75.

EIGHT (08) POSTS OF JUNIOR SCALE STENOGRAPHER.

QUALIFICATION: (i) 2ND Class Intermediate/ D.com or equivalent qualification from recognized a Board; and (ii) A speed of 50 words per minute in English Shorthand and 35 words per minute in English Typing.

AGE LIMIT: 18 to 30 years. **PAY SCALE:** BPS-12 **ELIGIBILITY:** Both Sexes
ALLOCATION: Two each to Zone-1, 2 & 3 and One each to Zone-4 and 5.

76.

EIGHTEEN (18) POSTS OF SUB ENGINEER CIVIL.

QUALIFICATION: Three years Diploma of Associate Engineering Civil from a recognized Institute.

AGE LIMIT: 18 to 30 years. **PAY SCALE:** BPS-11 **ELIGIBILITY:** Male
ALLOCATION: Four each to Zone-1, 2, 3 and Three each to Zone-4 and 5.

77.

TWO (02) POSTS OF SUB ENGINEER CIVIL (WOMEN QUOTA).

QUALIFICATION: Three years Diploma of Associate Engineering Civil from a recognized Institute.

AGE LIMIT: 18 to 30 years. **PAY SCALE:** BPS-11 **ELIGIBILITY:** Female
ALLOCATION: Merit.

78.

FOUR (04) POSTS OF DRAFTSMAN.

QUALIFICATION: (i) Second Division Secondary School Certificate from a recognized Board and (ii) Two years duration Certificate Course in Civil Draftsmanship from a recognized Board of Technical Education.

AGE LIMIT: 18 to 30 years. **PAY SCALE:** BPS-11 **ELIGIBILITY:** Both Sexes
ALLOCATION: One each to Zone-1, 2, 3 and 4.

**PROVINCIAL PUBLIC SAFETY AND POLICE COMPLAINT
COMMISSION**

79.

ONE (01) POST OF FEMALE JUNIOR SCALE STENOGRAPHER CUM COMPUTER OPERATOR

QUALIFICATION: (i) FA/ F.SC in second division from recognized Board (ii) One year diploma in Computer Science from an institute recognized by the Board of Technical Education. (iii) A speed of 60 words per minute in English Shorthand and 35 words per minute in English Typewriting.

AGE LIMIT: 18 to 30 years. **PAY SCALE:** BPS-12 **ELIGIBILITY:** Female
ALLOCATION: Merit

**SPORTS, TOURISM, CULTURE, ARCHAEOLOGY & MUSEUMS
DEPARTMENT**

80.

ONE (01) POST OF ADMINISTRATOR

QUALIFICATION: Bachelor Degree from a recognized university with at least five years experience in management / administration.

AGE LIMIT: 21 to 35 years. **PAY SCALE:** BPS-17 **ELIGIBILITY:** Male
ALLOCATION: Zone-1

In the Supreme Court of Pakistan
(Appellate Jurisdiction)

Present:
Mr. Justice Anwar Zaheer Jamali
Mr. Justice Asif Saeed Khan Khosa
Mr. Justice Mushir Alam

Constitution Petition No.6 of 2011, C.M.A.
No.5216 of 2012 and H.R.C. No.49012-P of 2010

Constitution Petition No. 6 of 2011
(Against illegal appointments and corruptions in EOBI)

Syed Mubashir Raza Jaffri, etc. Petitioners

Versus

Employees Old Age Benefits Institutions (EOBI) through its
President of Board, Board of Trustees, & others Respondents

Petitioners No.1 & 2: In person.
For respondents No. 1 & 3: Mr. Saiful Malook, ASC
Mr. M. S. Khattak, AOR
On behalf of Federation: Mirza Waqas Rauf, DAG
Mr. Pervaiz Khan, D.G., H.R.
On Court Notice: Mr. Abdul Latif Yousafzai,
Advocate General, KPK
Malik Faisal Rafique, Addl. A.G,
Punjab.
Other respondents: N.R.

AND

C.M.A. No. 5216 of 2012 in
Constitution Petition No. 6 of 2011
(Against appointment of Raja Azeemul
Haq as Executive Director of the World Bank)

For the Federation: Mirza Waqas Rauf, DAG
Mr. Pervaiz Khan, DG, HR, EOBI.
On behalf of Raja
Azeemul Haq: Ch. Afrasiab Khan, ASC
Mr. M. S. Khattak, AOR *a/w applicant*

AND**H. R. C. No. 48012-P of 2010**

(Application by Tajamal Hussain against illegal appointments and massive corruption in EOBI)

For the applicant: In person.

For appointed officials: Sardar M. Aslam, ASC

For Chairman EOBI: Mr. Saiful Malook, ASC
Mr. M.S. Khattak, AOR

For Raja Azeemul Haq: Ch. Afrasiab Khan, ASC
Mr. M. S. Khattak, AOR *a/w applicant*

For applicants Mutali Khan, etc: Mr. Athar Minallah, ASC
Mr. M. S. Khattak, AOR

For applicants/Intervener: Mr. Abdul Hafeez Pirzada, Sr. ASC
Mian Gul Hassan Aurangzeb, ASC

For applicants in CMA 1720/2011: Nemo.

Date of hearing: 11.12.2013

Judgment

Anwar Zaheer Jamali, J - On 2.2.2011, the petitioners brought Constitution Petition No.6 of 2011, under Article 184(3) of the Constitution of Islamic Republic of Pakistan 1973 ("the Constitution"), for agitating their two fold grievances against the Employees Old Age Benefit Institution ("EOBI"), a body established under the Employees Old Age Benefit Act XIV of 1976 ("the Act 1976"), and its management, arraying EOBI, the Federation of Pakistan through Ministry of Labour and Manpower, M/s Zafar Iqbal Gondal, Chairman, EOBI, Mushtaq Samoo, Director, EOBI/Secretary Board of Trustees, Kanwar Waheed Khursheed, Director General

(Investment)/Convener of Selection Committee-2, Muhammad Hanif, Officiating Director General/ Convener of Selection Committee-I and Mirza Imtiaz Ahmed, Acting Director General (Finance & Accounts), Convener of Selection Committee-3, as respondents. The averments made in the petition reveal that the first grievance of the petitioners is regarding appointment of more than 213 persons in BPS-16 to BPS-20, as detailed in the petition, in a patently illegal manner on the basis of political influence, nepotism and cronyism, under the chairmanship of respondent No.3 (Zafar Iqbal Gondal), in league with respondents No.4 to 7, while the other grievance is as regards large scale financial corruption and mismanagement of funds of the EOBI, as detailed in the petition. Based on such allegations, reliefs prayed for in the petition read as under:-

- i) Declare that all the impugned appointments made in the Respondent No.1/EOBI are unlawful, illegal and void ab initio and in violation of prescribed recruitment procedure/ operating manual.
- ii) Declare that EOB Fund cannot be utilized or invested in contravention and violation of EOB Act 1976 and EOB (Investment) Rules, 1979.
- iii) Declare that any amount utilized in corrupt practices by the EOBI Management/Respondents and others are without lawful authority and the same may be recovered from the Respondents.
- iv) Direct that the respondents that any Fund invested against the spirit of EOB Act 1976 and EOB (Investment) Rules 1979 shall be disinvested.

- v) Grant any other relief which as deemed appropriate, just and proper by this Hon'ble Court in very circumstances of the case."

2. Since thereafter, during the proceedings of this petition, several orders of interim nature have been passed by the Court, primarily, to find out the substance of these allegations against the respondents, whereupon several miscellaneous applications/concise statements/replies and documents have been submitted and brought on record by the respondents in an attempt to justify such appointments and to explain their position as regards mismanagement of funds of the EOBI. In addition to it, in response to our order dated 12.9.2013, directing publication of general notice regarding the present proceedings in some newspapers of wide circulation from Islamabad and Karachi, for information of the appointees of EOBI whose appointments have been challenged or who are likely to be affected with the outcome of these proceedings, many miscellaneous applications for impleadment as party to these proceedings have been received from various groups/individuals, who, according to their claim are such appointees or are likely to be affected from any final outcome of these proceedings, which have been entertained and allowed.

3. Another human rights case on the same subject and relating to similar grievances, bearing No.48012-P of 2010, which is based on the complaint dated 30.9.2010, made by

one Tajamul Hussain has also been tagged with this petition, in terms of order dated 20.4.2011, which has thus proceeded along with this petition. In the said human rights case, inter alia, illegal appointments allegedly made in EOBI have been brought to the Court's notice and challenged on the basis of facts detailed in the said complaint.

4. It seems that while proceedings in these two cases were sub-judice before the Court, with reference to a programme aired through some T.V. channel on 27.6.2013, titled as "corruption scandal of more than forty billion rupees in the EOBI" on 29.6.2013, a detailed note was submitted by the Registrar of the Court before the Honourable Chief Justice of Pakistan, unfolding therein the attributions of the participants of the said programme against EOBI with specific reference to the (i) purchase of plots in DHA, (ii) purchase of Crown Plaza in F-7 Markaz, Islamabad, (iii) purchase of two controversial plots in Sukkur, (iv) development of cricket ground in Islamabad, (v) purchase of several plots from CDA, (vi) purchase of forty kanals sixteen marlas land in Lahore, (vii) purchase of four floors of plaza/hotel in Lahore, (viii) construction of seven star hotel in front of Lahore Airport, (ix) construction of M-9 motorway by EOBI, (x) purchase of twenty acres land near Karachi Airport in billions and (xi) purchase of two 4300 cc parado jeeps for personal use of the Chairman, EOBI. Taking notice of such allegations contained in the note

of the Registrar, per order of the Honourable Chief Justice dated 29.6.2013, it was converted into Constitution Petition No.35 of 2013, which is now separately proceeding to probe into the allegations of financial corruption and misuse of funds allegedly made in the EOBI by its management and other high ranking Government officials involved in the said scam. Since the issue of financial corruption and misuse of funds etc. in EOBI has now been taken up separately in the said Constitution petition of which this Court is seized, and proceedings are pending, we deem it appropriate to proceed further and adjudicate the present petition alongwith HRC No.48012-P of 2010 and CMA No.5216 of 2012, only to the extent of the case of the petitioners/complainant regarding illegal appointments in EOBI, leaving the other aspects relating to the financial corruption, misuse of funds and mismanagement etc. in EOBI to be exclusively dealt with in other Constitution petition No.35 of 2013.

5. Reverting to the facts and the grounds stated in Constitution Petition No.6 of 2011 and HRC No.48012-P of 2010 in this context and for their proper understanding, it will be useful to summarize the same as under:

6. The petitioners in Constitutional Petition No.6/2011 have called in question the manner in which more than 213 appointments were made in EOBI (which is said to form almost 40% of the total strength of its Officer cadre)

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alleging that as such appointments were made in flagrant violation of the prescribed recruitment procedure set out, *inter alia*, in Clause No. 02.05.2 of the EOBI Operating Manual Chapter 2, they are therefore unlawful, illegal and liable to be set aside.

7. It has been contended that in April 2009, EOBI advertised vacancies inviting applications to fill a large number of posts from grades 16 to 20 against which 23648 applications were received and from which suitable applicants were to be shortlisted. It was alleged that even before commencement of the normal recruitment procedure, appointments against 132 vacancies were already finalized and made on the basis of political pressure, nepotism and cronyism, while some other persons managed their appointments on deputation basis against regular posts for which vacancies had already been advertised. Many of whom were later absorbed as Regular Officers in violation of the quota earmarked for different provinces, they did not belong to. The petitioners have also submitted that some lists of names were sent by the Personal Secretary to the Federal Minister of Labour and Manpower, which were then forwarded to the then Deputy Director General (HRD) Javed Iqbal and these persons were later appointed in Grade 16 and above, as opposed to those individuals who had applied through the advertisement. Moreover, as per the regulations, shortlisted candidates were

to be called for a written test on the basis of the requirement of Operating Manual as well as the resolutions passed by the Board of Trustees, but this procedure was completely ignored. The petitioners have been further aggrieved by the purported act of the respondents for allegedly issuing back-dated appointment letters to various handpicked persons in order to avoid being in contempt of an interim order of the Peshawar High Court passed in Writ Petition No. 209/2010 whereby the respondents were restrained from issuing any appointment letters till the disposal of the said petition.

8. The petitioners in this case have further raised their finger towards the manner in which appointments were fast-tracked; the committees established to interview applicants concluded their interviews on 1st June 2010 and appointment letters were issued on 2nd June 2010, indicating that the committee's recommendations were approved by Respondent No. 3 within one day, after which appointment letters were sent to all within the span of one working day. The petitioners have also been aggrieved by the fact that these unlawful appointees did not provide any documents proving their educational qualifications etc. that had to be attached with each candidate's application, subject to verification by the HEC. Indeed, there were apparently many appointees who claimed to have completed their education in 2010, whereas

the selection process called for all applications that fitted the requisite educational criteria in the year 2009.

9. In Human Rights Case No. 48012/P-2010, nearly identical allegations regarding irregular appointments have been levelled against the respondents (EOBI). It has been forcefully alleged that the recruitments were made in a *mala-fide* manner whereby those individuals who had links with politically influential persons within the then ruling PPP government were appointed. The petitioner reiterated and drew court's attention towards the fact that all posts had been filled without completion of the requirement of written tests which is against the EOBI recruitment procedure. Moreover, the then Chairman EOBI, Mr. Zafar Iqbal Gondal, was also accused of making a large number of appointments from the elected constituencies of his elder brother, Mr. Nazar Muhammad Gondal, former Federal Minister of Food and Agriculture, District Mandi Bahauddin and Mr. Nadeem Afzal Chann, MNA (NA 64 Sargodha) sitting Chairman, PAC, on the basis of nepotism and corruption.

10. In addition to it, another action regarding the purported irregular appointment of Mr. Raja Azeem-ul-Haq Minhas, as Executive Director, World Bank has been challenged through CMA No 5216/2012 in Constitutional Petition No.6/2011. In this regard, notice was taken by the Court after certain news reports highlighting the issues

surrounding his appointment, promotion, deputation etc. It was contended that he did not have the requisite experience or qualifications for the job and was appointed Executive Director in the World Bank due to political pressure as he was son-in-law of the then Prime Minister, Raja Pervez Ashraf at the time of his appointment to the World Bank. A look at his service record reveals that Mr. Minhas was serving as Senior Joint Secretary on a grade 21 post because of out of turn promotions received by him due to his personal affiliations with persons who held high political offices, otherwise he was an officer of the income tax group, working in grade 18 when the PPP government came into power. He left this post and was hired by the EOBI in grade 20 on 2.6.2010 and then went on to hold the Acting Charge of the post of Director General on BS 21 from 15.02.2012 till 23.05.2012, after which he assumed the post of Senior Joint Secretary on deputation basis at the Prime Minister Secretariat. To examine these aspects, on 21.2.2013 notices were ordered to be sent to the Establishment Division, Federation of Pakistan to furnish details regarding his appointment to the World Bank. However, during the course of such proceedings on 6.6.2013 he resigned from the post of Executive Director, World Bank. Nevertheless, his appointment in EOBI pursuant to the aforesaid advertisement or otherwise is to be examined like other cases of appointment in order to

see whether there was any illegality or irregularity attached to it or it was made in a transparent manner on merit criteria.

11. It will be pertinent to mention here that in their detailed reply earlier submitted by respondent No.1, though they conceded to certain material illegalities/irregularities committed in the process of appointments by the management of EOBI, still they attempted to defend and justify these appointments on the pretext that all individuals were appointed on the basis of recruitment procedure laid down in the relevant rules and regulations. However, due to the qualifications of some candidates and urgency in the matter regarding filling up the vacant seats, candidates were only called for interviews, without written test. Such a decision, it was submitted, was not contrary to rule regulation or earlier practice of the EOBI and that it was settled law that a practice followed persistently by a department itself takes the place of a 'rule'. Furthermore, according to the Investment Personnel (Contract Appointment) Regulations, 2007 issued by the Board of Trustees u/s 45 of the Act, it allows selection committees to conduct "interviews or tests". Moreover the respondents strongly challenged the maintainability of the petition, protesting that the petitioner had neither pointed towards any fundamental right that was being adversely affected, nor the core requirement of "public interest" was fulfilled as the issue

revolved around a restricted group of persons appointed in the EOBI and not in respect of the nation or the public at large.

12. We have heard the arguments of learned ASCs, who are representing different parties to these proceedings as well as for the interveners, and with their assistance carefully perused the bulky case record of these proceedings. As called upon by the Court, the petitioner Syed Mubassar Raza Jaffery in Const. P. No.6 of 2011 and Mr. Tajammal Hussain in HRC No.48012-P of 2010 made their respective submissions only to the extent of allegations of illegal appointments in EOBI, which are in line with the contentions raised in their respective petitions. In this regard, they further made reference to several documents as well as applicable service/ appointment rules and regulations of EOBI, which were daringly and dishonestly circumvented and violated by the officials of EOBI, at the helm of the affairs at the relevant time. The pith and substance of their arguments was that whatever grievances they have voiced in the present proceedings, those has been fully substantiated and corroborated from the documents produced by them and the report of fact finding committee on recruitment/appointments constituted by the present management of EOBI, has remained undisputed/ uncontroverted, rather conceded by the learned ASC for the official respondents Mr. Saiful Malook, Mirza Waqas Rauf, D.A.G. for the Federation of Pakistan and even learned ASCs

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for the interveners have not ventured to say much to the contrary regarding the authenticity of such report, except that all this has happened due to change in the management of EOBI.

13. Mr. Abdul Hafeez Pirzada, learned Sr. ASC for the interveners during his arguments firstly stressed upon the humanitarian aspect of the case. According to him it will be highly unjust, unfair and harsh that in case these petitions are allowed so many appointees in the EOBI, who have been performing well to the satisfaction of the institution for many years, for no fault on their part, will now be removed from service and rendered jobless. More particularly, in the circumstances when already percentage of unemployment in the country has reached at a very high level, which is resulting in sheer frustration amongst the educated class of the country. He, however, seriously questioned the maintainability of the petition and H.R.C. within the ambit of Article 184(3) of the Constitution. According to him, such course, if followed by the Court, will negate the vested rights of the appointees with reference to Articles 4 and 10A of the Constitution, which ensures that every citizen is to be dealt with in accordance with law and has a right to fair trial. In support of his submissions, he placed reliance on the cases of Managing Director, SSGC Ltd. Versus Ghulam Abbas (PLD 2003 S.C. 724) and All Pakistan Newspapers Society versus Federation of

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Pakistan (PLD 2004 S.C. 600). In the 1st case the apex Court dealt with hundreds of petitions of the employees of Sui Southern Company Limited in relation to their service dispute and in that context also considered the question of discrimination on the yardstick of Article 25 of the Constitution and scope of review under Article 188 of the Constitution. As a result the review petitions were allowed and cases were remanded to the Federal Service Tribunal for decision of their dispute afresh. In the 2nd case, broad principles for invoking jurisdiction of the Supreme Court under Article 184(3) of the Constitution were discussed. It was held that it provided an expeditious and inexpensive remedy for protection of fundamental rights from legislative and executive interference, particularly, in a situation when there is no other adequate remedy and that question of public importance with reference to enforcement of fundamental rights was involved. With these observations, the petition under Article 184(3) of the Constitution, challenging the vires of 7th Wage Board Award was held not maintainable, as the said award was only valid to the extent of working journalists and did not affect the public at large qua fundamental right of speech under Article 19 of the Constitution.

14. In the end Mr. Abdul Hafeez Pirzada reiterated his submission that for the sake of smooth functioning of the institution (EOBI) and to save the families of such appointees

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from starvation, a lenient view of the matter may be taken as regards the purported irregularities in their appointments. However, those responsible for such illegalities may be separately taken to task in accordance with law.

15. We have given due consideration to the submissions of the learned Sr. ASC, relating to exercise of our jurisdiction under Article 184 (3) of the Constitution, but are in disagreement with him for the reason that the controversy involved in the present petition and connected human rights case is clearly within the domain of public interest litigation qua violation of fundamental rights of citizens at large by a public body (EOBI) in the matter of selection and appointments. In such circumstances, it is the respondent No.1 EOBI, whose affairs are being probed and looked into by the Court and not the individual grievance by or against the appointees, who may be the affectees of the ultimate decision of the Court in these proceedings. As a matter of fact, on 12.9.2013 order for publication of general notice regarding the pendency of these proceedings was passed by this Court in order to afford an opportunity of hearing to the appointees of EOBI, whose appointments are under challenge in these proceedings or who are likely to be affected with the outcome of these proceedings. It was for this reason that office was directed to publish a general notice in few newspapers of wide circulation from Islamabad and Karachi, apprising all such

employees of EOBI about the pendency of these proceedings so that in case, anyone of them has any interest in the fate of these proceedings, may appear and contest the matter. Thus, it was in the larger interest of justice and for the above reason that all the applications of interveners, who are more than 190 in number, were entertained and opportunity of hearing was allowed. Otherwise, they had no independent right to participate in the proceedings of this case or to allege violation of Articles 4 & 10A of the Constitution in their individual cases. If any case law is needed to fortify this view, reference can be made to the case of Sindh High Court Bar Association versus Federation of Pakistan (PLD 2009 S.C. 879), wherein the Court while expounding upon the ambit of Article 184 (3) settled the law by stating that it is now a well-entrenched principle that the breach of fundamental rights of *a class of persons, who collectively suffer due to such breach, and there does not seem to be any possible relief being granted from any quarter due to their inability to seek or obtain relief, ... are entitled to file petition under Article 184(3)*". Such a view lends full support to the maintainability of the petition as the grievance in hand concerns the rights of more than 23,127 applicants whose applications were passed over due to nepotism and political pressure, in contravention of their fundamental rights enshrined under the Constitution, which in turn also affects the public at large as it calls into question

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the manner in which the bureaucratic system is being abused by the ruling elite. Such a view is also supported by another case of Syed Mahmood Akthar Naqvi v. Federation of Pakistan, (PLD 2013 SC 195) wherein the Court held that as the issue under examination concerned political pressure placed on the civil service by the executive, the petition was maintainable under Article 184(3) as it relates to the infringement of fundamental rights of civil servants under Article 9, 14 and 18 of the Constitution. It was recognized as being an issue of public importance as the civil service is deemed to be an essential component of the executive arm of the state. Yet another judgment of five member Bench of this Court, which supports the maintainability of this petition under Article 184(3) of the Constitution, is in H.R.C. No.40927-S of 2012 regarding pensionary benefits of the Judges of Superior Courts (PLD 2013 S.C. 829), wherein combined effect of Articles 184(3), 187 and 188 of the Constitution has been dilated with the observation that the apex Court has unlimited jurisdiction to set the law correct, to cure injustice, save it from becoming an abuse of the process of law and the judicial system and for this pass any order to foster the cause of justice; eliminating the chances of perpetuating illegality and to save an aggrieved party from being rendered remediless. Thus we have no doubt about the maintainability of this petition and the human rights case and the arguments of learned Sr. ASC Mr. Pirzada as

regards the limited scope of Article 184(3) of Constitution are devoid of force.

16. M/s Sardar M. Aslam and Athar Minallah, two other learned ASCs for some other appointees/respondents in these proceedings, have adopted the arguments of Mr. Pirzada with their additional submissions that in case an adverse order is passed against the appointees, whose appointments have been assailed in these two cases, their future will be ruined, therefore, a via media may be sorted out to accommodate them at their jobs or atleast in the fresh process of selection and appointments in the EOBI.

17. Ch. Afrasiab Khan, learned ASC for Raja Azeem-ul-Haq Minhas has made reference to various replies submitted on his behalf in response to C.M.A. No.5216 of 2012, which has been heard together with these petitions and contended that since during the pendency of these proceedings on 6.6.2013 he has resigned from his post in the World Bank, therefore, any further action against him would not be justified. However, as regards the irregularities highlighted by the petitioners in the appointment of Raja Azeem-ul-Haq Minhas in the EOBI qua his rapid promotions and deputation etc., he insisted that there is no such procedural lapse in this regard, which can be termed as illegal or mala-fide. Mere fact that he is son-in-law of the then Prime Minister Raja Pervaiz Ashraf cannot be taken as his disqualification to hold such

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high posts or get rapid promotions as it was done solely on merit criteria. However, he did not argue much as to the manner of his appointment and frequent promotions in the EOBI as mentioned in the report of fact finding committee, which also forms part of this judgment.

18. Conversely, Mr. Saiful Malook, learned ASC for respondents No.1 to 3, has uprightly supported the case of petitioners as regards hundreds of illegal appointments made in the EOBI during the period from January, 2009 to May 2012 and onwards, which are now under challenge in these two petitions or subject matter of contempt proceedings regarding other appointments made in EOBI during the pendency of these proceedings. He candidly stated that the earlier reply to these petitions submitted on behalf of EOBI was based on concocted facts and managed at the behest of the then Chairman, EOBI, who thought that he was above all laws of the land. He made reference to several documents, particularly, the lists of illegal appointees given in the memo of these petitions and the detailed report of fact finding committee on recruitment/appointments to show that how the practice of nepotism, corruption and political exigencies was rampantly followed in a *mala-fide* manner for making such illegal appointments. To sum up, he stated that all illegal appointments challenged in these proceedings or otherwise made during the pendency of these proceedings may be set

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aside and directions be issued to the management of EOBI for undertaking this exercise afresh in a transparent manner strictly in accordance with the rules and regulations of appointment and on merits.

19. Detailed facts recorded in the preceding paragraphs of this judgment, particularly, with reference to the undisputed documents gain full support from the report of fact finding committee on recruitment/appointments submitted by respondent No.1 before the Court on 28.8.2013. Therefore, before proceeding further it will be useful to reproduce the same as under:-

Report of Fact Finding Committee on Recruitment/Appointment

Recruitments made in the Institution (EOBI) since 2009 are under judicial scrutiny of the Hon'able Supreme Court of Pakistan in constitutional petition No.6 of 2011 and Human Rights Case No.48012-P of 2010.

2. In order to firm-up its position in the matter subjudice before the apex court and to examine the process of recruitment adopted in the Institution during the last three years, the new management of EOBI decided to carry out a fact finding exercise. A Committee comprising of the following officers was constituted to ascertain the facts of the recruitment made by the Institution during these years commencing from January 2009 vide Office Order No.259/2013 dated 25.7.2013 (**Annex-I**). The Committee was required to indicate irregularities/ violation of codal formalities of the prescribed procedure/ process of recruitment.

- | | | |
|------|---------------------------------|-------------------|
| i. | Pervaiz Ahmed, DG (Audit) | Convener |
| ii. | Javed Iqbal DG (HR &GAD) | Member |
| iii. | M. Meraj Nezamuddin, DDG (HR) | Member/ Secretary |
| iv. | Ch. Abdul Latif, Director (Law) | Member |

v. Ferozuddin Sheikh, AD (Recruitment) Member

Mr. Ayaz Ahmed Uqaili DDG, IT has been co-opted as member vide Office Order No.286/2013 dated 26.8.2013.

3. EOBI (Employees' Service) Regulations, 1980 having been framed under Section 45 of EOB Act, 1976 and notified vide S.R.O. 413(1)/81 of Ministry of Labour, Manpower and Overseas Pakistanis (Labour Division) dated 9th May, 1981 published in the Gazette of Pakistan (Extra ordinary), EOBI Recruitment Procedures framed under Regulations-10 of EOBI (Employees' Service) Regulations, 1980 and relevant provisions of the Operating Manual (clause 02.4.3) approved in 64th meeting of the Board of Trustees held on 09.05.2003 regulate Recruitment in EOBI.

4. History of recruitment in EOBI reveals that whenever appointments to the posts of Executive Officer (Grade-6/BPS-16) & Assistant Director (Grade-07/BPS-17) had been made, written tests of the shortlisted candidates had been done. In 2007 written tests were held to short list the applicants even for the post of Deputy Director (Finance) in view of the large number of applications received for the posts so advertised.

5. From the records maintained in HR Department, EOBI Head Office, Karachi, it was observed that following recruitments had been carried out during the relevant period.

- A. Recruitment of 132 officers in June 2010 as per advertisement of 16.4.2009 (Annex-II)
- B. Recruitment by Absorption of seven (07) deputationist in March 2010 (Annex-III).
- C. Contract Appointment of 238 officials and their subsequent regularization by the Cabinet sub-committee from Sept 2011 to May 2012.

A. **Recruitment of 132 Officers:**

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6. It has been observed that the Institution (EOBI) called for applications through public notice published in leading newspapers on 16.4.2009 to fill up 213 vacant posts of officers and staff. Applications for the advertised posts were called through a Web-Portal specifically hosted for the purpose besides through P.O Box as per convenience of the applicants. **(Annex-II)**.

7. As per record of the IT Department, which was managing the data of applicants, 23,137 applications (officers-19,195), staff-3,942) were received through post and e-mail. 17,979 applications were received by the cut-off date 15.5.2009 by web portal, whereas data entry of 5,158 applications received by post was completed by 14th July, 2009. After necessary filtration, data of 21,236 (officers-17,569 and staff-3,667) (Annex-IV) emerged to be referred as the "Original List" in the report subsequently. Post wise break-up of the applications received is detailed as under:-

i.	Dy. Director General	124
ii.	Director (Ops)	158
iii.	Director (Law)	48
iv.	Dy. Director (Ofc)	157
v.	Dy. Director (Ops)	411
vi.	Assistant Director (Ofc)	2502
vii.	Assistant Director (Ops)	4345
viii.	Assistant Director (Finance)	3925
ix.	Assistant Director (Law)	197
x.	Assistant Director I.T (Net Working)	1646
xi.	Assistant Director I.T (Software)	491
xii.	Assistant Director I.T (S&C)	542
xiii.	Executive Officer (Office)	3023
	Total (Officers)	17569
	Staff	3667
	Total (Officers and Staff)	21236

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8. While the HR Department in close liaison with IT Department (**Annex-V**) was gearing up to further process the recruitment against 132 posts of Officers, the EOBI management was changed. Mr. Mushtaq Ahmed Samo assumed additional charge of the Head of H R Department in addition to his own duties as Secretary BoT. Complete data file was handed over to Mr. Mushtaq Ahmed Samo who under supervision of Dr. Imtiaz, then Special Assistant to the Chairman further processed the recruitment. Short-listing of the candidates were not done by the relevant Departmental Selection Committees. Three different Selection Committees were notified for conducting interviews for the posts of Executive Officers, Assistant Directors and Deputy Directors for all cadres viz. Operations, Office, Finance, IT and Law on geographical basis. Whereas, EOBI Recruitment Procedures prescribe one standing Departmental Selection Committees for each Cadre. (**Annex-VI**). Therefore, seven selection committees were required to be constituted for conducting interviews for the posts of Executive Officer, Assistant Director & Deputy Director in Operation/Office, Finance, I.T. and Law Cadres and for Director (Law), Director (Operations) and Deputy Director General (Operations).

9. Written Test for short listing of the large number of applications as detailed above should have been held as per practice and as required under clause 02.5.2.1(b) of the Operating Manual (**Annex-VII**). However, the recruitment process was finalized without any such written tests for the positions of Dy. Director/Assistant Director/Executive Officer and offers of appointment were issued (**Annex-VIII**). The whole process was completed by 01.06.2010.

10. Number of applications at the time of interview subsequently risen to 23,648 (**Annex-IX**). No record of call letters issued was maintained and original evaluation sheet (grade assessment) filled by the members of the Selection Committees were not preserved and placed on records to scrutinize/authenticate average marking prepared for appointments. Similarly police verification and medical tests of the appointed persons were not carried out in most of the cases.

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11. Scrutiny of the records reveal that 132 appointment letters were issued on 02.06.2010 to various persons across Pakistan on 01.06.2010 perhaps to escape from the injunctive order dated 02.06.2010, passed by the Peshawar High Court, Abbottabad Bench in writ petition No.209/2009 (**Annex-X**) restraining EOBI to issue appointment letter to any person. These appointment letters had been sent without any dispatch numbers and entering into the register for record maintenance and tracking.

12. Scrutiny of the records, relevant files and data submitted by IT Department during the process of recruitment, the Committee observed that a number of discrepancies/irregularities in the process of recruitment were carried out in these appointments. Defective short-listing owing to which candidates having un-matched/irrelevant qualifications, acquiring qualification after appointment, deficient post qualification experience, over-age and without required domiciles were entertained as indicated below:

- i. Unmatched/irrelevant qualifications: 21 cases
- ii. Acquiring qualifications after appointments: 29 cases
- iii. Deficient post qualification experience: 8 cases
- iv. Over age: 21 cases

B. Recruitment by absorption of seven (07) deputationists in March 2010.

13. Seven officials working on deputation in Grade-03, 06 & 07 as Assistant, Executive Officer and Assistant Director respectively were absorbed in EOBI w.e.f. 30th March 2010 vide Office Order No.53/2010 (**Annex-III**). It was observed that while absorbing these deputationists requirement of provincial/regional quota was not observed. It was also noted that in one case qualification prescribed for the post was also not observed.

C. Contract Appointment of 238 officials on contract/daily wages/contingent basis/internee & their subsequent regularization by the Cabinet sub-committee from September 2011 to May 2012:

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management of EOBI speaks volumes about the mismanagement, corruption, nepotism and politicising of the disputed appointments in a mala-fide manner, thereby crushing the merit criteria in a public owned establishment of the Government. It is extremely sad that despite the guidelines given by the apex Court in a series of judgments with reference to fundamental rights guaranteed to each citizen of this country in terms of Articles 4, 9 & 25 of the Constitution, qua selection and appointments in government service and public owned corporations and institutions, many persons like the then Chairman, did not realize or adhere to the reality of merit criteria and were adamant to play with the future of the younger generation for their own good and to achieve their nefarious designs. Though there is ample material available on record, *inter alia*, in the form of detailed list of hand picked appointees, reproduced in paragraph 14 of the memo of petition No.6 of 2011, and several others such lists placed on record of connected human rights case, containing large number of names of politicians, elected members of the National and Provincial Assemblies, Ministers and other persons of so called elite class in the country, however, we have purposely refrained from reproducing such lists to avoid exposing these persons at this stage as it may scandalize them or otherwise cause prejudice to their interest. But as a test case, to demonstrate how persons belonging to one political

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group and from two constituencies/areas (Mandi Bahauddin/Sargodha) from where Mr. Nazar Muhammad Gondal, brother of Chairman, EOBI Mr. Zafar Iqbal Gondal, was the elected M.N.A. (N.A. 109 Mandi Bah-u-din) and sitting Minister of Food & Agriculture/CADD from the ruling party, while Mr. Nadeem Afzal Chann, M.N.A. (N.A. 64 Sargodha) and sitting Chairman, PAC, nephew of Mr. Zafar Iqbal Gondal, Chairman, EOBI, were out of way, in an illegal manner obliged and accommodated in the matter of their appointments in bulk, and for the sake of ready reference, a chart prepared and produced by the petitioners, which remained uncontroverted, is reproduced as under to fortify this position:-

Sr. No	Name of Employee	Designation	Personal No	District / Domicile
1	Mutalli Khan Gondal	Director	924345	Mandi Baha-u-din
2	Muhammad Tahir	Asstt Director	924583	Mandi Baha-u-din
3	Pervez Iqbal Mughal	Asstt Director	927844	Mandi Baha-u-din
	Amir Shoaib	Asstt Director	924572	Mandi Baha-u-din
5	Shehzad Aleem	Asstt Director	925906	Mandi Baha-u-din
6	Wajid Waseem	Asstt Director	924629	Mandi Baha-u-din
7	Sheraz Tanveer	Asstt Director	925315	Mandi Baha-u-din
8	Faisal Shehzad	Asstt Director	925622	Mandi Baha-u-din
9	Imtiaz Ahmad	Asstt Director	928007	Mandi Baha-u-din
10	Khawaja Zulqarnain	Asstt Director	925166	Mandi Baha-u-din
11	Waqas Noor	Asstt Director	925984	Mandi Baha-u-din
12	Hafiz Qamar Abbas	Asstt Director	924594	Mandi Baha-u-din
13	Zaman Gondal	Asstt Director	924801	Mandi Baha-u-din
15	Sarfraz Ahmad Gondal	Executive Officer	925995	Mandi Baha-u-din
16	Imran Gondal	Executive Officer	924618	Mandi Baha-u-din
17	Syed Asad Ali	Executive Officer	926001	Mandi Baha-u-din

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18	Zaheer Abbas	Executive Officer	925600	Mandi Baha-u-din
19	Aftab Gondal	Executive Officer	925224	Mandi Baha-u-din
20	Gulzar Ahmad Tulla	Superindent	924083	Mandi Baha-u-din
21	Mudassar Shehzad Gondal	Asstt.	926669	Mandi Baha-u-din
22	Muqaddas Shehzad Gondal	Asstt.	927402	Mandi Baha-u-din
23	Muhammad Nawaz	Asstt.	927377	Mandi Baha-u-din
24	Muhammad Bux Tahir	Asstt.	926976	Mandi Baha-u-din
25	Muhammad Arshad	Asstt.	927479	Mandi Baha-u-din
26	Mukhtar Ahmad	Asstt.	928018	Mandi Baha-u-din
27	Naeem Abbas	Asstt.	927004	Mandi Baha-u-din
28	Nadeem Akhtar	Asstt.	927162	Mandi Baha-u-din
29	Sumera Yaseen	Asstt.	926987	Mandi Baha-u-din
30	Muhammad Razaq	Asstt.	926692	Mandi Baha-u-din
31	Rizwan Farooq	Asstt.	927275	Mandi Baha-u-din
32	Sajjad Akbar	Asstt.	926307	Mandi Baha-u-din
33	Irfan Ali	Asstt.	926921	Mandi Baha-u-din
34	Qamar Zaman	Asstt.	928041	Mandi Baha-u-din
35	Muhammad Bashir	Asstt.	928030	Mandi Baha-u-din
36	Iqbal Hussain	Asstt.	926829	Mandi Baha-u-din
37	Syed Qasim Raza	Asstt.	926512	Mandi Baha-u-din
38	Shama Mughees	Asstt.	926998	Mandi Baha-u-din
39	Tahira Najaf	Asstt.	928029	Mandi Baha-u-din
40	Aoon Raza	Asstt.	927048	Mandi Baha-u-din
41	Maryam Noreen	Asstt.	926830	Mandi Baha-u-din
42	Umer Draz	Asstt.	927991	Mandi Baha-u-din
43	Nisar Ahmad	Asstt.	927037	Mandi Baha-u-din
44	Muhammad Shoaib	Asstt.	926614	Mandi Baha-u-din
45	Shahwez Ahmad	Driver	926545	Mandi Baha-u-din
46	Malik Ahsan Sajjad	Driver	928074	Mandi Baha-u-din
47	Imran Nazeer	N.Q	926272	Mandi Baha-u-din
48	Naveed Hayder	N.Q	927151	Mandi Baha-u-din
49	Umair Ul Hassan	NQ	926374	Mandi Baha-u-din
50	Safdar	NQ	928198	Mandi Baha-u-din
51	Nasar Abbas	NQ	927140	Mandi Baha-u-din
52	Mohsan Raza	NO.	927071	Mandi Baha-u-din
53	Adnan Raza	NQ	927082	Mandi Baha-u-din
54	Umer Draz	N.Q	927297	Mandi Baha-u-din
55	Kashif Nawaz	N.Q	927300	Mandi Baha-u-din
56	Sajid Naeem	NQ	926750	Mandi Baha-u-din
57	Amjad Farooq	N.O.	927184	Mandi Baha-u-din

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58	Sajid Mehmood	N.Q	927322	Mandi Baha-u-din
59	Nadeem Hayat Gondal	Asstt Director	925939	Sargodha
60	Anees Ul Hassan Naqvi	Asstt Director	926636	Sargodha
61	Rizwan Ajmal Bhatti	Asstt Director	924641	Sargodha
62	Abdul Hafeez	Asstt Director	924607	Sargodha
63	Shoaib Harral	Asstt Director	925597	Sargodha
64	Qaisar Zaman	Asstt Director	925326	Sargodha
65	Muhammd Farman	Executive Officer	926896	Sargodha
66	Imran Faisal	Executive Officer	924709	Sargodha
67	Amjad Umer	Asstt.	927264	Sargodha
68	Muhammad Arshad	Asstt.	926965	Sargodha
69	Aoon Abbas Shah	Asstt.	927253	Sargodha
70	Ejaz	Asstt.	927311	Sargodha
71	Faisal Nadeem	Asstt	926910	Sargodha
72	Abdul Ghaffar	Asstt.	927286	Sargodha
73	Junaid Hassan	Assn,	926681	Sargodha
74	Muhammad Imran	Asstt.	927106	Sargodha
75	Muhammad Saglain	Asstt.	927242	Sargodha
76	Liaquat Ali	N.Q	924141	Sargodha
77	Azhar Abbas	NQ	928187	Sargodha
78	Muhammad Ijaz	NQ	927311	Sargodha
79	Mumtaz Ahmad	NQ	927446	Sargodha
80	Punan Khan	NQ	928085	Sargodha
81	Tauseef Ahmad	NQ	927435	Sargodha
82	Nadeem Akhtar	Asstt.	927162	Sargodha

Thus, to cut the long story short, the respondents and the interveners have nothing with them to defend these palpable illegalities in the process of appointments.

21. A careful examination of the whole record appended with these petitions, in particular the detailed order dated 25.3.2011, thereby taking cognizance of these allegations of corruption in the matter of appointments in EOBI, under Article 184(3) of the Constitution, and various subsequent orders passed in this case, go to show that ample opportunity was allowed to the respondents to defend their misdeeds in

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this regard, but to no avail, rather in the form of the report of the fact finding committee on recruitment/appointment, as reproduced above, eventually the respondents have conceded to the case of the petitioners in this regard, we, therefore, need no further deliberations and reasons to undo such wrongs and illegalities. If any case law is needed to fortify our view, a reference can be made to the following cases:-

- (1) Muhammad Yasin versus Federation of Pakistan (PLD 2012 S.C. 132)
- (2) Muhammad Ashraf Tiwana versus Pakistan (2013 SCMR 1159)
- (3) Tariq Aziz-ud-Din: in re (2010 SCMR 1301)
- (4) Mahmood Akhtar Naqvi versus Federation of Pakistan (PLD 2013 S.C. 195)
- (5) Contempt proceedings against Chief Secretary, Sindh and others (2013 SCMR 1752).

22. In the 1st case of **Muhammad Yasin** (*supra*) the appointment of Chairman Oil and Gas Regulatory Authority (OGRA) was declared illegal. In the 2nd case of **Muhammad Ashraf Tiwana** (*supra*) the appointment of the Chairman Securities and Exchange Commission of Pakistan (SECP) was held to be in contravention to statutory requirements. Both these cases reiterated the principle that appointments made in a statutory body or Corporation under the control of Provincial or Federal Government in an arbitrary and capricious manner cannot be allowed to hold the field. In the 3rd case of **Tariq Aziz-ud-Din** (*supra*) this Court

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underscored the integral link between good governance and a strong and honest bureaucracy. It was stated that this could only come about if appointments made were based on a clear merit criterion, in accordance with the relevant laws and rules as opposed to favouritism and nepotism. In the 4th case of **Syed Mahmood Akthar Naqvi** (*supra*) the Supreme Court, examining the issue of political pressure placed on the civil service by the executive, held that the matter was one of public importance as such undue influence by political powers infringed the fundamental rights under Articles 9, 14, 18 and 25 of the Constitution. In the 5th case, which is a more recent judgment of this Court, relating to **contempt proceedings against the Chief Secretary Sindh and others** (2013 SCMR 1752), wherein, *inter alia*, vires of certain legislative instruments introduced by the Sindh Government regarding regularization and absorption of civil servants (particularly, in the police department) was under scrutiny/challenge, the Court examined all the relevant aspects of the case in detail and expressed its views about the maintainability of petitions, absorption, deputation, out of turn promotions and reemployment in Government service qua their subsequent validation through some legislative instruments; principle of locus poenitentiae and effect of such legislation attempting to nullify the effect of the judgments of the Superior Courts. In this regard, while striking down these pieces of legislation,

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being contrary to the spirit of Articles 240 and 242 of the Constitution and various provisions of Sindh Civil Servants Act 1973, it laid down several guiding principles. The principle of law propounded in this judgment, with reference to many other earlier judgments of the Apex Court, lend full support to the case of the present petitioners, as regards illegal appointments, contract appointments, absorptions and their regularization etc., particularly, when these acts are motivated to frustrate and nullify some earlier judgments/orders of the Superior Court in a dishonest, colourful and *mala-fide* manner, as discussed in the earlier part of this judgment and hereinafter. All the cases discussed above reveal that the jurisprudence of this Court has been clear and consistent with regard to the manner in which appointments to public offices are to be made strictly in accordance with applicable rules and regulations, without any discrimination and in a transparent manner. Thus, it is essential that all appointments to public institutions must be based on a process that is palpably and tangibly fair and within the parameters of its applicable rules, regulations and bye-laws. But conversely, it is a sad fact of our bureaucracy that it can be so susceptible to the whims and wishes of the ruling elite class etc, which results in an obvious weakening of state institutions such as the EOBI, whereby the general public, whose interest such establishments have been

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charged with protecting, are adversely and heavily affected in different ways.

23. Indeed, if we allow these petitions substantial hardship is likely to be caused to many of the respondents/appointees who will lose their appointment/jobs because of the illegalities in their respective appointments committed by EOBI, but the fact remains that such ill-gotten gains cannot be defended/protected under any cannon of law or even on humanitarian considerations, as, such gains availed by the illegal appointees were at the cost of other deserving candidates who had applied for these posts, being citizens of this country, with a legitimate expectation that they would be able to seek appointment on the basis of their eligibility-cum-merit criteria to be observed as per the applicable rules and regulations of the EOBI. From the material available on record, it is crystal clear that even the respondents in EOBI against whom allegations of nepotism, corruption and mala-fide have been levelled have offered no legitimate defence except to say that such exercise may be protected for the benefit of appointees. Similar is the position in the case of appointment of Raja Azeem-ul-Haq Minhas, as evident from the material placed on record, which shows that how after his resignation from a post in BS-18 in the Income Tax Group, he jumped in the EOBI, got appointment and promotions from one step to another to reach BS-21 within a short period of three years.

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We have specifically asked Chaudhry Afrasiab Khan, learned ASC to show us any provision of law, whereby an employee of the institution like EOBI can be appointed on deputation in the Prime Minister Secretariat as Joint Secretary (BS-20) and within no time of his coming back, promoted as Director General (BS-21), but he had no plausible answer to such query. As a matter of fact, looking to the material available on record, the discussion about illegal appointments in the EOBI, made in the preceding paragraphs of this judgment is a drop in the bucket what has exactly happened in this whole process during the year 2009 and thereafter from time to time.

24. Having discussed as above, another important aspect of the case, which needs serious consideration is about the fate of the illegal appointees, which is subject matter of consideration in the present proceedings. If we look at this aspect of the case from the angle of those who have succeeded to get appointments in the manner, as discussed above, some of them may claim that since they met the requisite qualifications for the posts and were thus appointed, they cannot be made to suffer due to illegalities committed by the management of EOBI. However, when we place their cases for appointment in juxtaposition to the other applicants, who had applied for these vacancies and are 23648 in number, we find that these candidates having equal right of opportunity as citizens of this country, in terms of Article 25 of the

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Constitution were thrown out of the competition despite the fact that they also met the requisite qualifications and might have been more meritorious, but could not exert either political pressure or avail the fruits of nepotism and corruption, forming basis for the selection and appointment of other candidates, many of whom had not even applied for the job in terms of the advertisement for these vacancies made in the month of April, 2009, and in this manner they succeeded in getting entry from the backdoor at the cost of many other *bona-fide* candidates, whose applications were literally thrown in the dust bin in an un-ceremonial manner just for the sake of accommodating the blue eyed ones. All these factors, are over and above the violation of rules, regulation and other codal formalities meant for these appointments, *inter alia*, highlighted by the fact finding committee on recruitment/ appointment in its report, which is a serious subject for the reason that it is based on examination of the entire original record of such proceedings of appointments, right from the date of publication of advertisement regarding these vacancies, and till date none has come forward to question the impartiality of the committee or the authenticity and correctness of such report. In these circumstances, in our opinion, if the appointment of any single appointee during this process is protected on one or the other pretext or for any other consideration it will amount to protecting their ill-gotten

gains, acquired through unlawful means, and to perpetuate corruption and discrimination under the disguise of sympathetic consideration for such appointees for the sake of their economic well being.

25. In the same context, we have also considered as to whether the appointees in the EOBI, who may be the ultimate affectees of this judgment's fall out, could be allowed to participate in the fresh process of selection and appointments in terms of this order? Our answer to this question is twofold. Firstly, though the appointments of these persons have been challenged under Article 184(3) of the Constitution within the ambit of public interest litigation and none of other applicants, who were more than 23127 in numbers, has come forward to agitate/assert his own individual grievance before the Court, nevertheless, their legal and Constitutional rights have been widely infringed at the hands of the then management of EOBI. Thus, even in their absence their interest is to be equally safeguarded on the principle of justice and fair play; secondly, it may amount to giving a premium to the appointees coming from the backdoor if we allow their participation in the forthcoming process of appointment in the EOBI as a special case. In these circumstances, we deem it proper to leave it open for the management of EOBI to decide the question of participation of the affectees of this judgment in the fresh/new process of

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selection and appointments in the affirmative or otherwise. But in case decision of the management of EOBI is in the affirmative, it will be implementable only in the situation when the record of other applicants in response to the earlier advertisement of April, 2009 etc., is intact with them and they are also allowed equal opportunity of participation. To put it in other words, in case the management of EOBI decides to allow all those applicants who have submitted their applications in response to the advertisement made in April, 2009 or thereafter, which as per report of the fact finding committee are more than 23,127 in numbers, then the affectees of this judgment will also be entitled for similar treatment. Needless to observe that for the process of selection and appointments as per criteria fixed by the management of EOBI fresh applications will also be invited and processed in a transparent manner without any discrimination, on requisite merit criteria for each post.

26. Another aspect of the case, which needs further examination, is the appointment of 238 employees/officials in the EOBI on contract/daily and contingency basis during the period September, 2011 to May, 2012 and their purported regularization. In this regard, apart from the material placed on record by the petitioners alongwith the contempt application in HRC No.49012-P of 2010, duly accompanied with requisite documents in support thereof,

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there is also the report of the fact finding committee on recruitment/ appointment, reproduced above, which goes to show that these 238 employees in Grade-1 to Grade-9 were initially appointed on contract basis and for this purpose procedure prescribed under the rules and regulations of respondent EOBI was again flagrantly and ruthlessly violated. Not only this, subsequently, in a colourable and *mala-fide* manner, for their regularization some summaries were floated and their illegal approval was obtained from the Cabinet Sub-Committee, which otherwise neither figures anywhere in the hierarchy of EOBI nor has any legal authority to rectify such illegal, wrong and corrupt practice of appointments. It is strange to notice that these appointments were made at a time when there were no available posts for these persons and this whole exercise was, on the face of it, undertaken on the basis of nepotism and political pressure in vogue during that period. The learned ASC for the respondent EOBI and the D.A.G. have not defended this action, while the learned ASCs representing some of these appointees have also not been able to satisfy this Court that how the Cabinet Sub-committee can intervene in the functioning of the EOBI and commit such illegality in violation of its rules and regulations to protect these illegal appointments or to bless them with any form of legitimacy. In addition to it, it is also pertinent to mention that all this exercise was undertaken by the respondents despite specific

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stay order issued by this Court on 21.1.2011, which reads as follows:-

"Mr. Tajammal Hussain son of Khadim Hussain, Senior Assistant, EOBI has moved an application to Honourable Chief Justice of Pakistan alleging serious allegations qua fresh recruitments made by the Chairman, EOBI in flagrant violation of the prevalent rules, regulations and policy.

2. After having gone through the entire record furnished by the complainant as well as press clippings (Daily News & Jang), wherein all the necessary details qua each of the new appointee have been furnished. We are tentatively of the view that prima facie the prescribed procedure was never followed and for the sake of arguments if it is admitted that there is no prescribed procedure, the principles of natural justice have been violated ruthlessly. It is worth mentioning that on 15.5.2009, applications were called against 250 vacant vacancies in EOBI. It is amazing that no short listing could be made, no interview or written test whatsoever was got conducted, but on the contrary the vacant vacancies have been distributed under political pressure and to oblige the people of 'Mandi Bahauddin' which is the constituency of the Chairman.

3. Chairman, EOBI is present and has attempted to justify his actions but failed to point out that under which provision of the law of Employees' Old Age Benefit Act, 1976 (in short EOBI Act) he was competent to make all such appointments, including appointments on contract basis that too from Mandi Bahauddin. It is conceded that no advertisement was made for contract appointments as the nature whereof was ad-hoc and temporary.

4. Be as it may, it appears that every appointment has been made in a reckless, careless and irresponsible manner without adhering to the relevant procedure and provisions of law enumerated in the EOBI Act and rules/regulations made there under. The explanation furnished by the Chairman, EOBI and Secretary, Ministry of Labour and Manpower is

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unsatisfactory. However, in the interest of justice matter is adjourned enabling the Chairman, EOBI and Secretary, Ministry of Labour and Manpower to furnish a concise statement indicating all the details qua appointments made pursuant to the advertisement appeared in various newspapers, whereby applications were invited on 15.5.2009 or otherwise. The details regarding appointments made on contract basis shall also be furnished. Entire record regarding above mentioned appointments shall be produced on the next date of hearing. Chairman, EOBI and Secretary, Ministry Labour and Manpower may also furnish additional documents, if need be, before the next date of hearing. Similarly, the complainant is also at liberty to file additional documents. It is, however, directed that till disposal of this human rights case, no more appointment shall be made by the Chairman EOBI, Secretary Ministry of Labour and Manpower and at the direction of concerned Minister. Matter adjourned and shall be treated as part heard. To come up on 8.2.2011." (underlining given for emphasis)

Obviously, in such circumstances all the appointments made in violation of the directions/order of this Court are nullity in the eyes of law; thus, cannot be blessed with any legitimacy or protection under any canon of law. As a matter of fact, this matter would require further probe into these allegations in the context of violation of the stay order dated 21.1.2011. To sum-up, the 238 appointments, separately referred to and discussed in the report of fact finding committee are also to be struck down, being illegal, void and of no legal consequence, while contempt proceedings against those responsible for this highhandedness and illegality are to be initiated and continued separately, for which the office shall prepare a separate file and issue notices to the concerned officials of EOBI and all others found involved in this scam.

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27. As a sequel of above discussion, both these petitions are allowed and disposed of in the following terms:-

- (a) All the illegal appointments, deputations and absorptions made in the EOBI, as detailed in the report of fact finding committee on recruitment/ appointment, are declared to be without lawful authority and of no legal effect. Accordingly their services stand terminated forthwith;
- (b) All these vacancies and other available vacancies in EOBI shall be advertised and filled afresh strictly in accordance with applicable rules and regulations, subject to prescribed quota, requisite qualifications and merit criteria, for which the Chairman, EOBI shall be personally responsible to ensure transparency;
- (c) The matter regarding all the illegal appointments, including the appointment of Raja Azeemul Haq Minhas in the World Bank, shall be investigated by the NAB authorities; the respondents No.3 to 7 and all others directly or indirectly involved in the process of such illegal appointments on the basis of corruption, nepotism and political exigencies shall be proceeded against in accordance with law with intimation regarding compliance of these directions to this Court within two months.

(d) Office shall prepare and maintain a separate file for initiating contempt proceedings, under Article 204 of the Constitution and other enabling provisions of contempt laws, against all those who are, *prima-facie*, found guilty of violation of order dated 21.1.2011 in H.R.C. No.48012 of 2010, particularly in the process of appointment of 238 employees/officials during the period September 2011 to May 2012.

In view of the above, other miscellaneous applications filed in the Constitutional Petition No.6 of 2011 and H.R.C. No.49012-P of 2010 also stand disposed of.

Judge

Judge

Judge

Announced at Islamabad
on 17th March, 2014

Judge

Approved for reporting
Riaz