

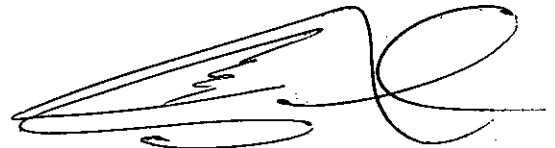
30.12.2015

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. Usman 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

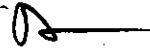
Since 24.12.2015 has been declared as public holiday therefore, the case is adjourned to for the same 30.12.2015.

  
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. 829/2014.  
Mr. Muhammad Qaiser Khan

3. 08.08.2014

Counsel for the appellant 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.


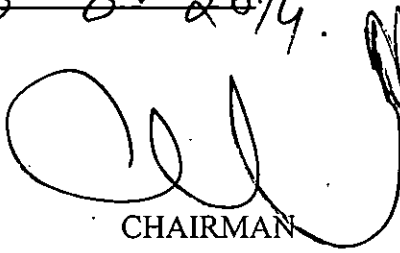
MU

Chairman

Form - A  
Form of Order Sheet

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

Case No. 830/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	10/06/2014	<p>The appeal of Mr. Muhammad Qaiser Khan presented 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	12-6-2014	<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>

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

Appeal No. 829 /2014

Qaiser Khan

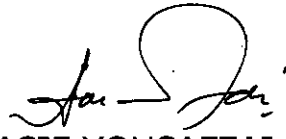
V/S PHE Department, KPK.

**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 -	09-16
6.	Copy of Judgment	- E -	17-18
7.	Copy of Show Cause Notice	- F -	19-20
8.	Copy of Reply	-G-	21-22
9.	Copy of Termination order	H	23
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11.	Copy of High Court	J	29-32
12.	Copy of Supreme Court Judgment	K	33
13.	Vakalat Nama	---	34

APPELLANT  
Qaiser Khan

THROUGH:

  
( M. ASIF YOUSAFZAI )  
ADVOCATE, PESHAWAR.

  
(TAIMUR ALI KHAN)  
ADVOCATE PESHAWAR.

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

Appeal No. 829 /2014

Mr. Muhammad Qaiser Khan, Ex-Sub-Engineer,  
Public Health Engineering Division,  
Dir Upper.

~~859~~  
10-6-2014

**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 Deputy District Officer, Water Supply and Sanitation, Haripur.

**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.

~~14/6/14~~  
14/6/14



**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 15.1.2010. The appellant got his medical fitness certificate and reported his arrival on 28.1.2010. 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 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 again 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.
4. That the Chief Engineer to save his skin issued as Omni bus show-cause notice and adapted a slipshod manner for removing the appellant from service. Copy of the Show cause notice is attached as Annexure-F.
5. That the appellant submitted reply to the show cause notice in which the appellant has explained the details and rebutted the objections/allegations 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.

6. That on 14.2.2014 the appellant was terminated from service without following proper procedures 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.
7. That the appellant and other colleagues also went 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 petitioner was dismissed for having no jurisdiction as they were civil servant. Then the appellant went an appeal before the august Supreme Court of Pakistan which was heard on 28.4.2014 and while dismissing the appeal of the petitioner, the Honorable Supreme Court observed that the Service Tribunal shall decide the appeal as mandatory in law. Copy of High Court and Supreme Court Judgment are attached as Annexure-J and K.
8. 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 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 slip short 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 has 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 posts 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 Engineer 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  
Qaiser Khan



THROUGH:



( M. ASIF YOUSAFZAI )  
ADVOCATE, PESHAWAR.



(TAIMUR ALI KHAN)  
ADVOCATE PESHAWAR.

A  
A-17  
P-30  
6

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

No. 28 / E-4/PHE

Dated Pesh: the 15 / 01 / 2010.

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. Muhammad Qaisar Khan S/O Babu Jan R/O By Pass Road Ghaznavi Colony District Mardan on the following terms and conditions :-

- 1) He will get pay at the minimum of BPS-11 (Rs. 4115 -- 275 -- 12365) 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, Dir Upper before reporting himself for duty to the O/O Deputy District Officer Water Supply & Sanitation Dir Upper 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 Dir Upper within 14 days of the receipt of this offer and produce original certificates in connection with his qualifications, domicile and age.

CHIEF ENGINEER

Copy to the :-

- 1) Deputy District Officer WS&S Dir Upper.
- 2) District Accounts Officer Dir Upper.
- 3) ✓ Mr. Muhammad Qaisar Khan S/O Babu Jan R/O By Pass Road Ghaznavi Colony District Mardan

**ATTESTED**

CHIEF ENGINEER

*Attested*  
A

B  
②

MEDICAL CERTIFICATE

Name of Official ..... *Mohammad Qaisar Khan*  
 Cast or race ..... *Muslim Pakistan*  
 Father's Name ..... *Baba Jan*  
 Residence ..... *Village Lihaznani Colony*  
 ..... *By pass Road Mardan Dist. Mardan*  
 Date of Birth ..... *02-11-1985*  
 Exact height by measurement ..... *5-4-8*  
 Personal mark of identification ..... *Small Scar on head*  
 Signature of the official ..... *Qaisar*  
 Signature of head of office .....

Seal of Officer.....

I do hereby certify that I have examined Mr. *Mohd. Qaisar Khan's*  
 candidate for employment in the office of the *Public Health Dept* and  
 cannot discover that he had any disease communicable of other constitutional  
 affection or bodily infirmity except. *Nil*

I do not consider this as disqualification for employment in the office of the  
*Public Health Dept* His age according to own statement *25* years  
 and by appearance about *25* year.



LEFT HAND THUMB AND FINGER IMPRESSION.....

*Attested As*

*[Signature]*

Medical Superintendent  
Civil Hospital .....  
*Medical Superintendent*  
*BHQ Hospital Dir Upper*

To

The deputy district officer  
WS & S Dir upper

8

Subject: ARRIVAL REPORT.

Respected Sir,

Subject to the orders of the chief engineer public health Engg: Department NWFP Peshawar vide his office order no. 28/E-4/PHE dated 15/01/2010, I beg to report my arrival with effect from 28/01/2010 after-noon as sub engineer PBS-11.

Report is submitted for record in your office please.

CC  
B  
Executive Engineer  
Public Health Engg: Division  
Dir Upper

Yours obediently  
MUHAMMAD QAISAR KHAN  
S/O Babu Jan  
By Pass Road Ghaznavi Colony  
District Mardan

Qaisar  
28/1/10

Attested  
A

The entries on this page should be renewed or re-attested at least every five years and the Signature to lines 9 and 10 should be dated.

D  
11  
9

Name: Mr. Mohammad Paisar Khan

Race: Muslim

Residence: Lhaznavi colony by Pass Road Market

Father's name and residence:

Babu Jan

Date of birth by Christian era as nearly as can be ascertained:

02-11-1985 (According NIC)


Exact height by measurement:


4'-8"


Personal marks for identification:


Nil


Left hand thumb and Finger impression of (Non-Gazetted) officer:

Little Finger: 

Ring Finger: 

Middle Finger: 

Fore Finger: 

Thumb: 

Signature of Government Servant:

Paisar

Signature and designation of the Head of the office, or other Attesting Officer:

B...  
Executive Engineer  
Public Health Engg. Division  
The Officer

Attested  
...



10

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 "pay"

Date of Appointment

Signature of Government servant

Signature and name of head of office in attestation column

Sub-Engineer

(4115-275-12365) Temp  
BPS-11

yes

41157

28 <sup>1</sup>/<sub>2011</sub>

(4115-275-1235) Contd

R4398

1 <sup>12</sup>/<sub>2010</sub>

Executive Engineer  
Public Health Engg. Division

Sub Engineer 20-11  
600-460-20450

7060/

1 <sup>7</sup>/<sub>2011</sub> (F.N.)

11

7520/

1 <sup>17</sup>/<sub>2011</sub> (F.N.)

Handwritten notes and signatures at the bottom of the page.

11

Signature and Designation of the head of the office or other attesting officer in attestation of columns 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 reward 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 debitable to another Government			
					Period			Government to Which debitable
	15.1 2013							
<i>[Signature]</i> Executive Engineer Public Health Engg. Division Dir Upper							Appointed as sub Engineer & Rs-4115/- PM in NPS No-11 (4115-275-12365) vide Chief Engineer Public Health Engineering Deptt N.W.F.P	
							Authorised to carry out Peshawar o/o No 28/E-4/PH/15-1 & Reported arrival for duty on 28-01-06 duty in PH Division Mardan vide CE PH/ECs) o/o No. 02/E-9/PH/15 dated 7/2/2011 and reported departure on 9/2/2011 After noon	
<i>[Signature]</i> Executive Engineer Public Health Engg. Division Dir Upper								
	30.11		<i>[Signature]</i> Executive Engineer Public Health Engg. Division Dir Upper				2010 Annual increment granted, Service verified from 28/1/2010 to 30/11/2010 from the record of this office Pay b/dt / Acquittance sales	
<i>[Signature]</i> Executive Engineer Public Health Engg. Division Dir Upper								
							2010/- Vice Govt: P.M. In P.S. II of Khyber Pakhtunkhwa Finance Deptt: No. F.11/2010 Dated 10/7/2011	
<i>[Signature]</i> Executive Engineer Public Health Engg. Division Dir Upper								
							Annual increment granted	
<i>[Signature]</i> Executive Engineer Public Health Engg. Division Dir Upper								
							Service verified for The period from 1-12-2010 to 30-11-2011 from the office copies of pay b/dt AC/141 Finance's Bill	
<i>[Signature]</i> Executive Engineer Public Health Engg. Division Dir Upper								
<i>[Signature]</i> Executive Engineer Public Health Engg. Division Dir Upper								

the head of  
our attest  
signature  
in attest  
Government  
columns

	1	2	3	4	5	6	7
Subj name	6600-460-20401 sub Jimmy M.A. 12/19/12						
Post	6600-460-20401						
Whether substantive or officiating appointment or whether permanent or temporary.	11						
(i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C.S.R.	Subj Jimmy M.A. 12/19/12						
If officiating, state whether substantive post.	84401/PT						
Pay in substantive post.	2013						
Additional pay for officiating.							
Amount of appointment.							
Other amount falling under the term "pay."							
Date of appointment.							

13

Signature and Designation of the head of the office or other attesting officer in attestation of columns 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 reward 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 debitale to another Government		

	30 <sup>11</sup> / <sub>2012</sub>	Annual increment granted.			Service rendered upto 30 <sup>11</sup> / <sub>2012</sub> from the computer pay roll Register of this office.		
			<i>Said M. M.</i> Executive Engineer Public Health Engg. Division Dir. Upper			<i>Said M. M.</i> Executive Engineer Public Health Engg. Division Dir. Upper	

performing of  
The detailed duty in PHE Division  
Mardan cancelled under Chief Engineer (North)  
Public Health Engg. Deptt. by Ben Parkhankhania  
Peshawar office order no. O/P/E-2/PHECN  
dated 16/04/2013 and reported arrival on 30/4/2013 (E-N)

	30 <sup>11</sup> / <sub>2013</sub>	Annual increment granted			Service rendered upto 30 <sup>11</sup> / <sub>2013</sub> from the office copy of pay roll Register of this office.		
			<i>Said M. M.</i> Executive Engineer Public Health Engg. Division Dir. Upper			<i>Said M. M.</i> Executive Engineer Public Health Engg. Division Dir. Upper	

14 8

1	2	3	4	5	6	7	8	
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 "pay"	Date of Appointment	Signature of Government servant and Deputy Head of the office attesting columns 1 to 7.	
<i>6600-460-24400 Constn.</i>		<i>N.A. No. 8900/2A.</i>						

5  
1  
7  
8

15

9 Signature and Designation of head of the office or other attesting officer for attestation of columns 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 reward 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 debitable to another Government			
					Period			Government to which debitable
		Terminated from the post of Sub Engineer (Civil) Chief Engineer (South) Public Health Engg. Deptt. Hyderabad. P.K. Lakshminarayana						
		Reshwar letter no 39/E-4/PHE dated 14/2/2014 with immediate effect.						

Executive Engineer  
Public Health Engg Division  
Hyderabad

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 Saifdar 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*

**ATTESTED**

Superintendent  
Supreme Court of Pakistan  
Islamabad

C.E.P.H.E. Dept. (South)
Diary No. 480
Date 25-01-014
Case No.
REMARKS (S)
REMARKS
Director
Designation
A.O.
...

*(Handwritten mark)*

E  
*(Handwritten marks)*

18

FAX NO. : 0919210228

22 Jan. 2014 1:41PM P2

C.P. 2026/13 & 2529/13

- 2 -

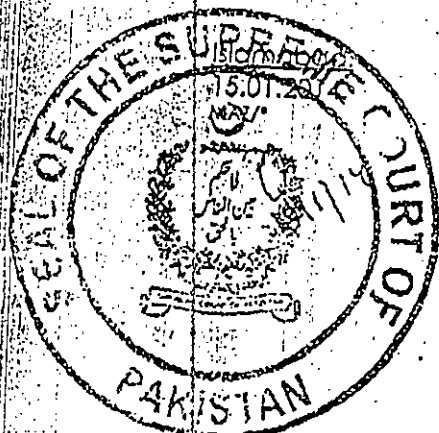
16

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.

18

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/- 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  
No. of Words: 600  
No. of Follies: 60  
Requisition Fee Rs: 22  
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Date of delivery of Copy: 18-1-14  
Compared by/Prepared by: [Signature]  
Received by: [Signature]





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19

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

No. 32 / E - 4 / PHE

Dated Peshawar, the 21 /01/2014

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. Ishtiaq Ahmad         | Sub Engineer,              |
| 25. Mr. M. Qaiser Khan        | Sub Engineer,              |
| 26. Mr. Nomanullah            | Senior Scale Stenographer, |
| 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          | Steno Typist,              |
| 33. Mr. Farman Ali            | Data E/Operator,           |
| 34. Mr. Murtaza Qureshi       | Data E/Operator,           |

ATTESTED

*Attested*  
A

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.

17913

03-02-14

E-2



25 (20)

Page -2

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.

Copy forwarded to:

Chief Engineer (South)

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 Public Health Engg: Department. They are directed to serve the show cause noticed to the above named officials working in your office.

*FATA W/S*  
  
Chief Engineer (South)

ATTESTED

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

Subject: - SHOW CAUSE NOTICE.

Reference: - Your No.32/E-4/PHE dated 21-01-2014 received by me on 11/02/2014 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 Dir Upper Sub. Engg and is only under the controlling authority of the worthy Chief Engineer (North) PHED as competent authority. Therefore, the Show Casuse Notice issued to me under your signature on that reason too is un-authorized and un-lawful. However, para wise explanation is submitted as under:-

1. In this connection your attenditon is invited to E.A.D letter No.SOS-Pool(E&AD)/1-10/2002 dated 08/4/2006 declaring the posts in B-1 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(SI) 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 agasint the post was made by the Competent Authority as I having the prescribed qualifictions 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-III). Therefore, his approval/sanction for appointment against such posts was not required. Moreover, my appiontment 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 ~~has 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,

(M. Qaisar Khan)  
Sub Engg

PHE Department

Dir Upper

Dated 14 /02/2014.

17/2/14

Copy to the:-

22

Registrar, Supreme Court of Pakistan, Islamabad with reference to C.Ps N.2026 & 2029 of 2013.

2. Registrar, Peshwar 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

PHE Department

M. Qaisan Khan  
Sub. Emjg

DHED Din upper



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

No. 39 / E-4 / PHE,  
Dated Peshawar, the 14 /02/2014

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H

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To

Mr. M.Qaiser Khan s/o Bahu Jan  
Sub Engineer P.H.Engg Division  
Dir Upper

Subject: TERMINATION FROM SERVICE

Your recruitment in PHED made vide this office letter No.28/E-4 /PHE dated 15.01.2010 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-I (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  
All District Accounts Officer in Khyber Pakhtunkhwa.

*[Handwritten signatures and initials]*

To

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

24

I

**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

Attested  
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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.

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



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.

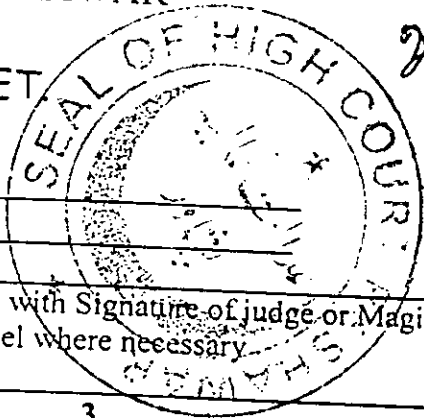
- E. That clause 2 of appointment orders of appellant provides that he will be governed by the Khyber Pakhtunkhwa Civil Servants Act, 1973 and all the laws applicable to the Civil Servants and Rules made thereunder and similarly in the impugned show cause notice mentioned that action would be taken under 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.

- 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

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><b><u>MALIK MANZOOR HUSSAIN, J:-</u></b> Through instant petition, the petitioners are invoking Constitutional jurisdiction of this Court and prays as follows:-</p> <ol style="list-style-type: none"> <li>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></li> <li>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></li> <li>3. <i>Set aside the impugned order of termination issued on 14.02.2014 being malafide, unlawful, unjustified and violative of principle of</i></li> </ol>

**ATTESTED**  
EXAMINER  
Peshawar High Court  
31 MAY 2014

*Attested*  
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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.*

AT PESHAWAR  
 EXAMINER  
 Peshawar High Court.  
 3 MAY 2014

(31) ~~56~~

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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

*J*

ARTICLE  
K. M. S. R.  
Registrar  
3. MAY 2014

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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 Yousaf Ali*  
*Spl. Malik Mansoor Hussain*

*(Signature)*  
JUDGE

*(Signature)*  
JUDGE

CERTIFIED TO BE TRUE COPY

Examiner  
Peshawar High Court, Peshawar  
Authorized Under Article 87 of  
The Qanun-e-Shariat Order 1984  
51 MAY 2014

No. 19933  
Date of Presentation of Application 31-5-14  
No of Pages 12  
Copying fee  
Urgent Fee  
Total 2400  
Date of Presentation of Application 31-5-14  
Date Given For Delivery 31-5-14  
Date of Delivery of Copy 31-5-14

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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. 615-  
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: 28.04.2014

ORDER

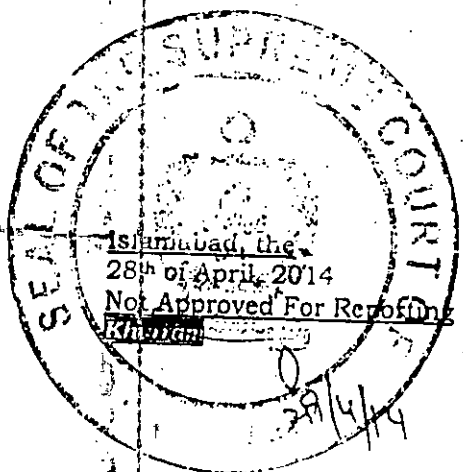
TASSADUQ HUSSAIN JILLANI, CJ.- Petitioners are civil servants and they challenged the order terminating their services in a Constitution petition which stands dismissed vide the impugned order mainly on the ground that the said petition was not maintainable in view of Article 212 of the Constitution 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.

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

Attested  
A.S.

Certified to be True Copy



Superintendent  
Supreme Court of Pakistan  
Islamabad

# VAKALAT NAMA

34

NO. \_\_\_\_\_/20

IN THE COURT OF Service Tribunal, Peshawar

Muhammad Raisar Khan

(Appellant)  
(Petitioner)  
(Plaintiff)

VERSUS

PHE Deptt:

(Respondent)  
(Defendant)

I/We Muhammad Raisar Khan

& Taimur Ali Khan

Do hereby appoint and constitute M. Asif Yousafzai, Advocate, Peshawar, (adv) 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 \_\_\_\_\_/20

[Signature]

( CLIENT )

ACCEPTED

[Signature]

M. ASIF YOUSAFZAI  
Advocate

[Signature]

TAIMUR ALI KHAN

Advocate

**M. ASIF YOUSAFZAI**

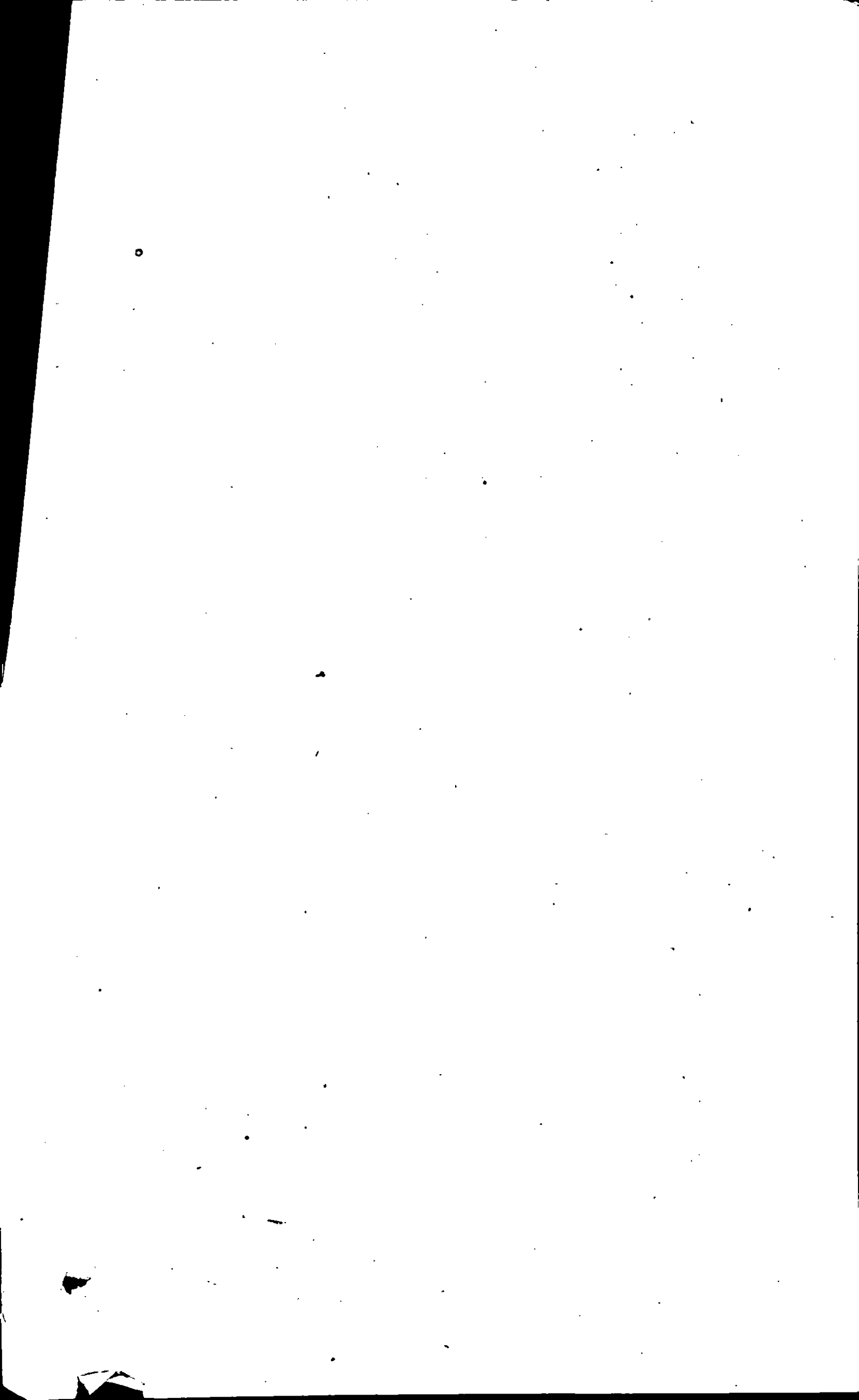
Advocate High Court,  
Peshawar.

**OFFICE:**

Room No.1, Upper Floor,  
Islamia Club Building,  
Khyber Bazar Peshawar.

Ph.091-2211391-  
0333-9103240





**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.**

APPEAL NO. \_\_\_\_\_/2014.

*Notice to the opposite  
side for the date  
fixed.*

MR. Qaiser Khan

VS

PHE Deptt:

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

*17/10/14.*

**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.

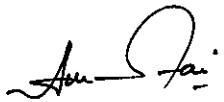
5- That to meet the ends of justice it would be appropriate to restrain the respondents from filling the post from which the appellant has been terminated to avoid legal complications.

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.

QAISER KHAN

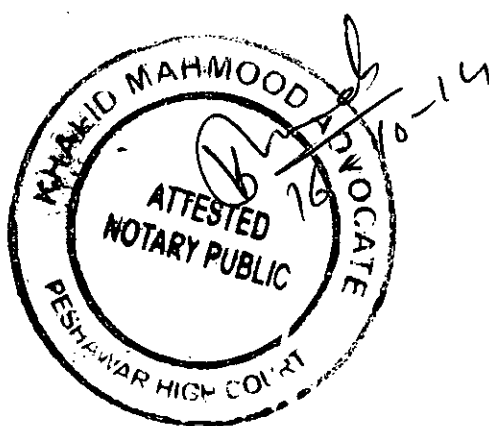
THROUGH;

  
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 2<sup>nd</sup> 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 829/2014*

Mr. Muhammad Qaiser Khan Ex-Sub Engineer  
PHE: Divn: Dir Upper.

..... (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: Division Haripur*

**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.*
- 6). *That the appellant has not come to the Tribunal with clean hands.*
- 7). *That the appeal is bad for non-joinder and misjoinder of necessary parties.*
- 8). *That the appeal is barred by Law & limitation*
- 9). *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.**

1-4). 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).

5). 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.

- 6) 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.
- 7). Pertains to court record, hence needs no comments.
- 8). The appellatant has got not cause of action to file instant appeal and his appeal is liable to be dismissed.

### **G R O U N D S**

- 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*

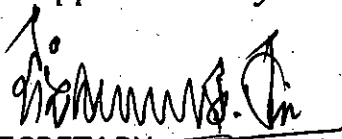
only for posting/transference of officials from BPS-1 to 16 and not for recruitment (Annexure-H)

- 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 Apeal No            | 829/2014   |
| 2). Mr. Mohammad Qaiser Khan    |            |
| Ex-Sub Engineer PHED. Dir Upper | Appellant. |

***Versus.***

- |                                                                                            |             |
|--------------------------------------------------------------------------------------------|-------------|
| A). Secretary to Govt: of Khyber Pakhtunkhwa<br>Public Health Engg: Department Peshawar.   | Respondent. |
| B). Chief Engineer Public Health Engg: Department<br>Govt: of Khyber Pakhtunkhwa Peshawar. | Respondent  |
| C). The Deputy District Officer<br>Water Supply & Sanitation Haripur.                      | 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. 829/2014  
Kaiser Khan

VERSUS

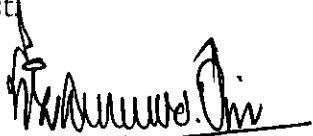
Govt of Khyber Pakhtunkhwa

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)

ATTESTED

EXAMINER  
Peshawar High Court

20 FEB 2014

Government of Khyber Pakhtunkhwa, Peshawar  
The Director, Public Health Engineering  
Department of Khyber Pakhtunkhwa, Peshawar  
Public Health Engineering, Secretary  
through the Secretary, Civil Secretariat Peshawar  
Government of Khyber Pakhtunkhwa

VERSUS

Muhammad Arif son of Ilyas Khan  
Sub Engineer, Public Health Engineering Department  
Khyber Pakhtunkhwa, Peshawar Division, Peshawar

Writ Petition No. 231-1 of 2013

IN THE PESHAWAR HIGH COURT, PESHAWAR



100 RS. (1) A-2013-1

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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 Khan B.A.C.*  
-----

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

appointed after the petitioners but the same benefit has been

services of other employees similarly placed, who were

respondents have acted mala fide by regularizing the

3. Learned counsel for petitioners contends that the

the filing of instant constitutional petitions.

whereas their tenure is going to expire, hence necessitated

did not receive any fruitful result from the respondents

According to the petitioners, they waited for some time but

the petitioners can be accommodated on regular basis.

were lying in the department and as a gesture of good will,

Nevertheless, handsome share of posts of Sub-Engineers

Government for the reasons beyond their control.

employment in any institution of the Provincial/Federal

39 years old, respectively and were debarred from future

namely, Sher Hayat and Mushtaq Ahmad, who were 38 and

the respondents, wherein, it was stated that Sub-Engineers,

dated 21.12.2013 was addressed to Human Rights Cell by

the Human Rights Cell of this court. In this respect, a letter

application/appeal to the competent authority as well as to

the petitioners. The petitioners preferred an

Sub-Engineers have been regularized after appointment of

the petitioners. Moreover, services of some six

regularized, however, the same benefit was not extended to

the adhoc/contract employees of the Province were



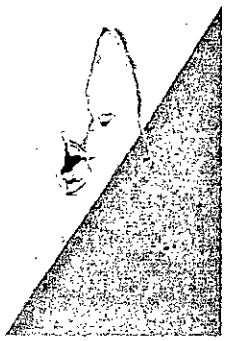
denied to the petitioners, thus, the treatment meted out to them is discriminatory, which is not tenable in law. He was of the view that the petitioners and their families will stand in long line of jobless people and would face hardship, if not regularized. He maintained that the act of respondents 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 23<sup>rd</sup> 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  
20 FEB 2017  
PROSECUTOR GENERAL



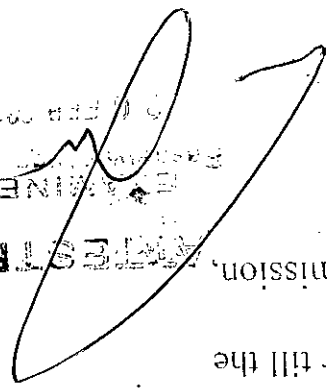
80

arrival of recommendees of Public Service Commission, question would be for one year and on adhoc basis or till the mentioned that the term of appointment against the post in for appointment against the said posts, however, it was wherein, applications were asked from desiring candidates Daily Mashriq Feshawar in its issue dated 23<sup>rd</sup> April, 2010, vacant posts of Sub-Engineers floated advertisement in 5. Admittedly, the respondents in order to fill up the available before us.

We have heard learned counsel for petitioners and learned AAG for respondents and gone through the record available before us. above grounds. the case, hence prayed for dismissal of the same on the maintainable keeping in view the facts and circumstances of Lastly, he contended that the instant petition is not against which the petitioners can be adjusted/regularized. there is no vacant post available in the concerned department discrimination does not arise. He maintained that presently their services have been dispensed with, hence question of no similarly placed persons have been regularized rather petitioners were rightly not regularized. He maintained that have come and appointed, therefore, the services of the further one year and the recommendees of the Public Service which is followed by re-appointment of the petitioners for

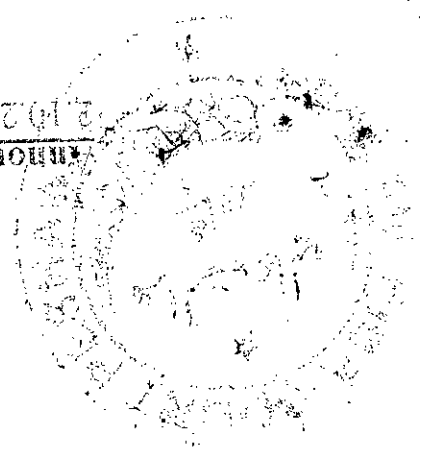
REGISTERED

EXAMINER



20 FEB 2014  
Peshawar High Court  
Authorized Signatory  
The Gannu-e-Shahdadi  
Examiner  
CERTIFIED TO BE TRUE COPY

Announced: 2.10.2013



SI. Nisar Hussain Khan  
SI. Ms. Musarrat H. Khan

substance is hereby dismissed.

Keeping in view the above discussion, we are of the considered opinion that the petitioners have failed to make out a case for interference in the constitutional jurisdiction of this court, hence this petition being without any legal

arrival of candidates from Public Service Commission. responder/department, have also been terminated after the those employees, who were retained by the

a copy of the letter dated 17.2013 showing that of no help to them. Moreover, the learned AAG produced which is not the case in hand, therefore, the plea taken is 31<sup>st</sup> December, 2008 or till the commencement of the Act, of those adhoc employees, who were holding the posts on Act No. XVI of 2009 and can be pressed into service in case

6. The petitioners are taking the shelter behind Sub-Engineers as a stop-gap arrangement. 28.2.2012, the petitioners were re-appointed as process, they were appointed on 3<sup>rd</sup> January, 2010. On participated in the test/interview. However, after due whichever is earlier. The petitioners amongst others also

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NOW, THEREFORE, in pursuance of the Proclamation of Emergency of the fourteenth day of October, 1999, as amended, updated, 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:

AND WHEREAS the Governor of the North West Frontier Province is satisfied that circumstances exist which render it necessary to take immediate action; 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 hereinafter appearing; and WHEREAS the Governor of the North West Frontier Province is further to amend the North West Frontier Province Public Service Commission Ordinance, 2002.

ORDINANCE

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

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

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

9th August, 2002.  
NOTIFICATION

GOVERNMENT OF THE NORTH WEST FRONTIER PROVINCE  
LAW DEPARTMENT

PESHAWAR, FRIDAY, 9TH AUGUST, 2002.

Published by Authority

North-West Frontier Province



GOVERNMENT

GAZETTE

EXTRAORDINARY

REGISTERED NO. P. 111

ANNEXURE B

(2)

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.”

3

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

12

(4)

(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 ad hoc 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 a 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".  
*reference*

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. & Staty. Dept., NWFP, Pesh.*



ANNEXURE - 4 C

# ESTA CODE

*(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, Filled 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)



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

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

To

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


Subject: ADVICE REGARDING STATUS OF APPOINTMENT.

f-112/c

Dear Sir,

I am directed to refer to your letter No.SO(Estt)/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)

Copy to: 4035  
Date: 18-3-14

Copy to: 4035  
Date: 18-3-14

DS/AU

9  
18/3/14

S/E  
Put up on

relevant file  
Suppl

# 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	Mansehra	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

AD (W) B. T. ...

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	
<del>71</del>	<del>Muhammad Yaqoob</del>	<del>Amir Saib Rehman</del>	<del>Bannu</del>	<del>DAE (C)</del>	<del>10.04.1963</del>	<del>27.03.1990</del>	<del>26.03.1990</del>	<del>B.Tech</del>
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	
<del>80</del>	<del>S.Zahid Hussain Kazmi</del>	<del>S.Manzoor Hussain Kazmi</del>	<del>Abbottabad</del>	<del>B.Tech Hons</del>	<del>11.10.1971</del>	<del>25.03.1996</del>	<del>26.02.1996</del>	<del>B.Tech</del>
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	
<del>84</del>	<del>Zahid Hussain Shah</del>	<del>Syed Muzaffar Shah</del>	<del>Mansehra</del>	<del>B.Tech (C)</del>	<del>01.02.1972</del>	<del>27.02.1996</del>	<del>26.02.1996</del>	<del>B.Tech</del>
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
<del>88</del>	<del>Malik Muhammad Irfan</del>		<del>D.I.Khan</del>	<del>DAE (C)</del>	<del>16.06.1959</del>	<del>22.11.1988</del>	<del>19.05.2008</del>	<del>joined PHE in 2008</del>
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

*Handwritten signature/initials*

## 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 IE-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	Qualification	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)	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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Access  
Date



## Public Health Engineering Department

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

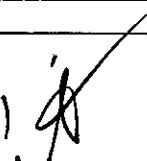
S.No	Name	Father Name	Home District	Qualification	Date of Birth	Date of Commencement of Service	Date of Appointment to Present Post	Remarks
23	Muhammad Ali	Muhammad Zaman	Swat	DAE (C)	21.04.1964	26.12.1985	18.12.1985	
24	Muhammad Riaz	Muhammad Khan	Malakand	DAE (C)	01.01.1965	30.12.1985	18.12.1985	
25	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	Khubz 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	Ifikhar 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	

C.E. (S)   
Date

## 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	

C.E. (S)  
Qayum

## 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	

*sd*  
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

*A.R. Qureshi*  
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.

*[Signature]*  
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	<u>Description of Irregularities</u>	<u>Action Required against</u>	<u>Remarks</u>
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 Deptt:  
Dairy No. 1038  
Dated: 23-10-2014

8- Involvement in standardization of fake Firms M/S KB and Bismillah for supply of Voltage stabilizer to facilitate M/S Itehad & 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

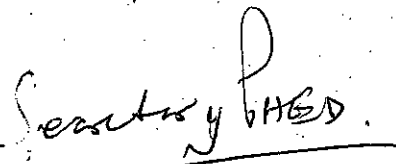
3.


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

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

Minister for PHE

  
31/1/14



  
**(SHAH FARMAN)**  
MINISTER FOR INFORMATION, CULTURE  
& PUBLIC RELATIONS  
PHED KANUN 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 /**  
**STENO TYPISTS & 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<br>Chief Engineer PHE            | Chairman  |
| 2) | Syed Baqir Shah<br>Section Officer (E-II)<br>W&S Department. | Member    |
| 3) | Mr. Bashir Ahmad<br>ADO PHE Peshawar                         | Member    |
| 4) | Mr. Afsar Ali Qureshi<br>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>Name of Applicant</u>	<u>Name of Posts</u>
Mr. S.M Ali Sajjad S/O S.Abid Hussain Shah District D.I.Khan.	-do-
Mr. Abdul Samad S/O Abdul Mueed District Malakand.	-do-
Mr. Shaukat Ali S/O Ghulam Qadir District Karak.	-do-
Mr. Muhammad Ali Noor S/O Noor Muhammad District D.I.Khan	-do-
Mr. Irshad Elahi S/O Shah Nawaz District D.I.Khan	-do-
Mr. Hussain Zaman S/O Syed Zaman District Malakand.	-do-
Mr. Saleem Nawaz S/O Karim Nawaz District D.I.Khan.	-do-
Mr. S.Ashfaq Ahmad S/O S.Jamil ud Din District Malakand.	-do-
Mr. Murtaz Ali S/O Abdul Haq District Malakand.	-do-
Mr. Sahar Gul S/O Abdul Jalil District Lakki Marwat.	-do-
Mr. Samiullah S/O Khuda Baksh District D.I.Khan.	-do-
Mr. Abdul Shahid Sadiqui S/O Abdul Azim District Dir Upper.	-do-
Mr. Asfaq Ahmad S/O Muhammad Shuiab District Malakand.	-do-
Mr. Kashif Raza S/o S.Abid Hussain District D.I.KI.han.	Sub Engineer
Mr. Waqas Ali S/O Farznad Ali District Nowshera.	-do-
Mr. Muslim Shah S/O Mehmood Shah District Mardan.	-do-
Mr. Ishtiaq Ahmad S/O Tahmeed Ullah District Charsadda.	-do-
Mr. Zohaib Khan S/O Jehanzeb Khan District Mardan.	-do-
Mr. S. Hassan Ali S/O S.Ajmal Shah District Charsadda.	-do-
Mr. Mohsin Ali S/O Muhammad Pervez District D.I.Khan.	-do-
Mr. Muqtada S/O Afsar Ali District Peshawar.	-do-
Mr. Iftikhar S/O Chainar Gul District Mardan.	Stenotypiest
Mr. Noor Muhammad /O Jamroz Khan District Peshawar.	-do-
Mr. Aziz Ullah SD/O Abid Ullah District Bannu.	-do-
Mr. Farhan Ullah S/o Aziz Ullah District Bannu.	-do-
Mr. Murtaza S/O Afsar Ali District Peshawar.	D.E.O

(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)

APPOINTMENTS AGAINST THE VACANT POSTS OF SUB  
ENGINEER / STENOYPIST & 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. In 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 can be filled-in through PSC. Where on the other hand due to implementation of Education 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:-

<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<br>Chief Engineer PHE            | Chairman  |
| 2) | Syed Baqir Shah<br>Section Officer (E-II)<br>W&S Department. | Member    |
| 3) | Mr. Bashir Ahmad<br>ADO PHE Peshawar                         | Member    |
| 4) | Mr. Afsar Ali Qureshi<br>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 Honourble Chief Minister NWFP, in toto.

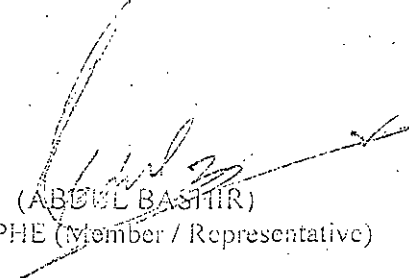
The Committee, therefore, once again examined the case and recommended the applicants for their appointments on the posts noted against each, as under:-

S#	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. Murraza Ali S/O Abdul Haq District Malakand	-do-
4	Mr. Sefar 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 Shujab 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. Muslims Shah S/O Mehmood Shah District Mardan	-do-
11	Mr. Ishfaq 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 Ifikhar 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 BILAL SHAH)  
Section Officer (E-II)  
W&S Deptt. (Member)

  
(ALLAUDDIN KHAN GANDAPUR)  
Chief Engineer PHE (Chairman)

  
(AFSAR ALI QURESHI)  
Administrative Officer PHE  
(Secretary)

  
(ABDUL BASITIR)  
ADO PHE (Member / Representative)