

Sr. No	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	19.09.2017	<p style="text-align: center;"><b><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u></b></p> <p style="text-align: center;"><b>Service Appeal No. 330/2016</b></p> <p style="text-align: center;">Date of Institution ... 31.03.2016 Date of Decision ... 19.09.2017</p> <p>Murtaza Qureshi, (Assistant, Public Health Engineering Department), Peshawar. R/O H.NO. 175, Street No. 10, Sector F-1, Phase-6, Hayatabad Peshawar.</p> <p style="text-align: right;"><b>Appellant</b></p> <ol style="list-style-type: none"> <li>1. The Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.</li> <li>2. The Secretary, Public Health Engineering Department, Government of Khyber Pakhtunkhwa Civil Secretariat, Peshawar.</li> <li>3. The Chief Engineer (South), Public Health Engineering, Khyber Pakhtunkhwa, Peshawar.....<b>Respondents</b></li> </ol> <p style="text-align: center;"><b><u>JUDGMENT</u></b></p> <p style="text-align: center;"><b><u>MUHAMMAD HAMID MUGHAL, MEMBER:</u></b> - Appellant alongwith Special Attorney present. Mr. Muhammad Jan, Deputy District Attorney on behalf of the official respondents present.</p> <p>2. The appellant has filed present appeal u/s 4 of Khyber Pakhtunkhwa Service Tribunal Act-1974 against the respondents and challenged therein order dated 14.02:2014 whereby the appellant was terminated from service on the ground that he was</p>

D. Qureshi

illegally appointed and there is no justification to retain him in the service of PHED.

3. Brief facts of the case are that the appellant was offered a post of Data Entry Operator (BPS-11) vide order dated 20.08.2008 of the Chief Engineer Public Health Engineering Department Khyber Pakhtunkhwa Peshawar. Subsequently vide order dated 12.02.2009 of the Chief Engineer Public Health Engineering Department Khyber Pakhtunkhwa, Peshawar the appellant was appointed as Assistant (BPS-14).

4. On 15.01.2014 during the hearing of C.Ps No. 2026 & 2029 of 2013, the august Supreme Court of Pakistan directed Chief Engineering Public Health Engineering Department Khyber Pakhtunkhwa to finalize the action against illegal appointees in his department within one month and submit his report through registrar of the august Supreme Court.

5. On 21.01.2014 Show Cause Notice was issued to 25 Sub-Engineers, 01 Senior Scale Stenographer, 06 Steno-typists and 02 Data Entry Operators, including the appellant regarding their illegal appointments and vide order dated 14.02.2014 the appellant was terminated from service with immediate effect on the ground that he was illegally appointed. The appellant preferred departmental appeal against his termination order but received no response.

6. The appellant filed appeal before this Tribunal and this Tribunal vide common judgment dated 30.12.2015 passed in appeals 31 in number, remit the case of the appellant to the appellate authority of the Department, without interfering in the impugned

2013

order dated 14.02.2014 and issued directions for the decision of departmental appeal strictly in accordance with law/rules considering merits and fulfilling the requirement of opportunity of personal hearing. Resultantly opportunity of hearing was given to the appellant and order dated 03.03.2016 by the appellate authority was issued whereby the departmental appeal of the appellant was dismissed also on the ground that his appointment was affected as a consequence of production of politically motivated list by the then Political Secretary to Chief Minister and that too, in sheer violation of the provisions contained in the K.P Civil Servants Act, 1974 and the rules made there-under. And that his appointment as Data Entry Operator and the subsequent induction/conversion as Assistant in PHED stand void ab-initio and ultra-vires of the provisions contained in the law/rules/policy. Resultantly the appellant filed the present service appeal.

7. Attorney for the appellant contended that the termination order dated 14.02.2014 as well as the order of the appellate authority dated 03.03.2016 are against the law, facts, and norms of justice. Further argued that the appellant possesses the required qualification and was appointed by the competent authority after the fulfillment of all the codal formalities. Further argued that after appointment the appellant has accrued vested right and therefore cannot be terminated. Further argued that the impugned orders of the respondent is against the spirit of natural justice and malafide and as such liable to be set aside.

Q. 1.1.1.1.1

8. Learned Deputy District Attorney while opposing the present appeal defended the impugned orders on the grounds mentioned therein and maintained that the appellant was appointed illegally on political considerations. Further contented that the post earlier occupied by the appellant was to be filled, upon the recommendation of Public Service Commission on merits. Further argued that some other affectees/illegal appointees also took part in the examination held by Public Service Commission and few of them also succeeded to re-occupy their posts. Further argued that the father of the appellant being Chief Officer in the respondent department also maneuvered the appointment of the appellant in the respondent department.

9. Arguments heard. File perused.

10. The vacancies/posts against which the appellant was appointed, were not advertised at all in the newspapers rather the then Chief Minister of Khyber Pakhtunkhwa provided a list of applicants through his political secretary for appointments against such posts by the departmental authority and in the said list the name of the appellant is also mentioned and the appellant has also not gone through any test. Hence the appointment was not made on the basis of eligibility cum merit criteria but otherwise due to political pressure etc.

11. It may also be mentioned that neither the appointment was made in accordance with recruitment procedure applicable to the district cadre post, nor through the recommendation of Public Service Commission.

12. It is by now settled that all the appointments to the Government Institutions must be based on a transparent/fair process within the parameter of its applicable rules, regulation etc, however

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the appellant remained unable to demonstrate that his appointment as Date Entry Operator and subsequent appointment as Assistant was made in the prescribed manner.


13. The argument on behalf of appellant that he met the requisite qualification for the post and as such rightly appointed has no force in it as other persons having requisite qualification and might have been more meritorious were kept out of the whole process of the recruitment.

14. It may also be mentioned that twenty two (22) identical nature appeals of other illegal appointees in the Public Health Engineering Department have already been dismissed by this Tribunal.

15. In the light of above the present appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room after its completion.

ANNOUNCED  
19.09.2017

(GUL ZEB KHAN)  
MEMBER  


(MUHAMMAD HAMID MUGHAL)  
MEMBER  


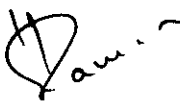
19.09.2017

Appellant alongwith Special Attorney present. Mr. Muhammad Jan, Deputy District Attorney on behalf of the official respondents present. Vide separate judgment of today of this Tribunal placed on file, the present appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.

**ANNOUNCED**

19.09.2017

(Gul Zeb Khan)  
Member

  
(Muhammad Hamid Mughal)  
Member

0-9  
11.04.2017

Counsel for the appellant present. Mr. Muhammad Yasin, Superintendent alongwith Mr. Muhammad Adeel Butt, Additional AG for respondents also present. The present appeal was partially heard by D.B comprising of Chairman and Mr. Muhammad Amin Khan Kundi Learned Member (Judicial) but today the said D.B is not available. The office is directed to put up the instant appeal before a D.B in which both the above mentioned officers are sitting. To come up for arguments on 08.05.2017 before D.B.

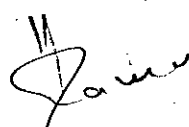
  
(AHMAD HASSAN)  
MEMBER

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

10. 09.08.2017

Appeal bearing No. 379/2016 was fixed for final hearing before this D.B for today. Reader of this court produced the file of instant appeal today being connected one and stated that the file was misplaced earlier. Learned counsel for the appellant present. Seeks adjournment. Adjourned. To come up for arguments alongwith connected appeal on 18.08.2017 before D.B.

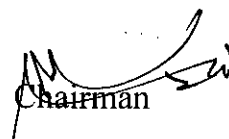
  
(Muhammad Amin Khan Kundi)  
Member

  
(Muhammad Hamid Mughal)  
Member

18.08.2017


Counsel for the appellant and Mr. Muhammad Jan, DDA alongwith Mr. Muhammad Siddique, Admn. Officer for the respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 19.09.2017 before the D.B.

  
Member

  
Chairman

14.11.2016

Counsel for the appellant and Addl: AG alongwith Mr. M. Yaseen, Supdt for respondents present. Rejoinder submitted. To come up for arguments on 28.03.2017.



(ABDUL LATIF)  
MEMBER



(PIR BAKHSH SHAH)  
MEMBER

28.03.2017

Counsel for the appellant, Additional AG and Senior Government Pleader alongwith M/S Aftab Ahmed, A.O & Muhammad Yasin, Superintendent for the respondents present. Arguments partially heard. To come up for remaining arguments on 29.03.2017 before this D.B.



Member



Chairman

29.03.2017

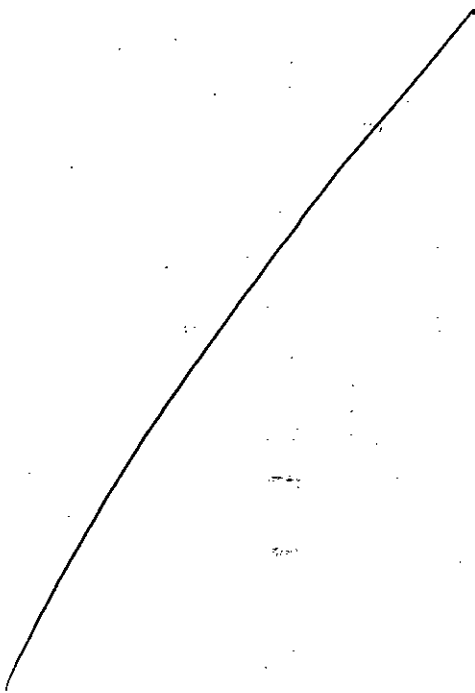
Counsel for appellant, Additional AG & Senior Government Pleader alongwith Mr. Aftab Ahmed, A.O & Mr. Muhammad Yasin, Superintendent for respondents present. Learned Additional AG requested for adjournment. Adjourned for remaining arguments to 11.04.2017 before D.B.



Member



Chairman





13.4.2016

Counsel for the appellant present. Learned counsel for the appellant argued that Identical appeals No. 290, 291 , 292 of 2016 have already been admitted to regular hearing and requested that this appeal may also be admitted to regular hearing.

Appellant Deposited  
Security & Process Fee

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 01.06.2016 before S.B.

  
Chairman

01.06.2016

Counsel for the appellant, M/S Muhammad Yaseen, Supdt. Muhammad Ali Supdt and Kamran Shahid, Asstt. alongwith Addl. AG for the respondents present. Requested for adjournment. To come up for written reply/comments on 10.08.2016 before S.B.

  
Chairman

10.08.2016

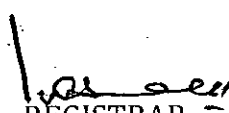

Clerk to counsel for the appellant and Mr. Muhammad Yaseen, Supdt alongwith Addl: AG for respondents present. Written reply submitted on behalf of respondents No.2 and 3. The learned Addl: AG relied on the same on behalf of respondent No.1. The appeal is assigned to D.B for rejoinder and final hearing on 14.11.2016.

  
Member

Form- A  
FORM OF ORDER SHEET

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

Case No. 330/2016

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	31.03.2016	<p>The appeal of Mr. Murtaza Qureshi presented today by Mr. Ijaz Anwar Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2	01-04-2016	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>13-04-2016</u></p> <p style="text-align: right;"> CHAIRMAN</p>

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

Appeal No. 330 /2016

**Murtaza Qureshi**

..... **Appellant**

*Versus*

**Government of Khyber Pakhtunkhwa etc**

..... **Respondents**

**INDEX**

S.No	Particular	Annexure	Page No
1	Memo Appeal		1-06
2	Affidavit		<del>7-8</del>
3	Copy of the order of appointment	"A"	9
4	Copy of order dated 12-02-2009	"B"	10-12
5	Copies of the verdict of the Apex court dated 15.01.2014	"C"	13-14
6	Copy of E&A Department, advice dated 30-01-2014	"D"	15
7	Copy of order dated 14-02-2014 and departmental Appeal	"E"	16-21
8	Copy of act of 2009	"F"	21-22
9	Copy of writ and order dated 26-02-2014	"G"	23-29
10	Copy of the order in C.P No. 551/2014 dated 28-04-2014	"H"	30
11	Copy of appeal and order of dated 30-12-2015	"I"	31-38
12	Copy of order No. SO(ESTT)/PHED/1-90/2013-14, Vol-II dated 03-03-2016	"J"	39
13	Other documents	"K"	40-42
14	Wakalat Nama		

Through

  
Appellant

Ijaz Anwar

Advocate, Supreme Court of  
Pakistan

  
Sajid Amin

&

Yousaf Khan

Advocate High Court, Peshawar

*Dated 31-3-2016*

①

BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL, PESHAWAR

Appeal No. 330 /2016

K.W.P. PROVINCES  
Service Tribunal  
Diary No 317  
Dated 31-3-2016

Murtaza Qureshi S/O Afsar Ali Qureshi,

(Assistant, Public Health Engineering Department, Peshawar)

R/O H.No. 175, Street No.10, Sector F-1, Phase-6, Hayatabad Peshawar.

..... Appellant

**VERSUS**

1. **Government of Khyber Pakhtunkhwa** through Chief Secretary,  
Civil Secretariat, Peshawar
2. **Secretary**  
Public Health Engineering Department,  
Government of Khyber Pakhtunkhwa, Peshawar
3. **Chief Engineer (South)**  
Public Health Engineering Department,  
Government of Khyber Pakhtunkhwa, Peshawar

..... Respondents

APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974  
AGAINST THE ORDER NO. 35/E-4/PHE DATED 14-02-2014 VIDE WHICH THE  
SERVICES OF THE APPELLANT HAVE BEEN TERMINATED.

PRAYER IN APPEAL

Filed to Mr  
w/ob - at  
Registrar  
31/3/16

ON ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDER DATED 14-02-2014 OF  
THE RESPONDENTS MAY KINDLY BE DECLARED AS ILLEGAL, UNLAWFUL,  
ARBITRARY AND VOID AB INITIO AND THE APPELLANT MAY KINDLY BE  
REINSTATED INTO HIS SERVICE WITH ALL BACK BENEFITS.

Respectfully Sheweth,

The Appellant humbly submits as under:-

1. That the appellant, being duly qualified, after going through the required procedure, was appointed as Data Entry Operator (B-11) vide appointment order dated 20-08-2008 on the terms and conditions mentioned therein.  
(Copy of the Educational documents & order is annexed as Annexure-A).
  
2. That subsequently, being a law graduate, the appellant was issued with an order No. 06/E-9/PHE dated 12-02-2009 whereby his services were converted & he was appointed as Assistant (B-14) to follow & defend the court cases filed in different court against the Department..  
(Copy of order dated 12-02-2009 is annexed as Annexure-B).
  
3. That the appellant was serving the department to the best of his abilities and to the satisfaction of his superiors when all of a sudden he was issued with a back dated joint show cause notice by the Respondent No. 3. The plea raised in the show cause notice was that some adhoc employees approached the August Supreme Court of Pakistan for the reinstatement/regularization of their service and their petition having no weight was dismissed. Afterwards they filed appeal in the August Supreme Court of Pakistan against the decision of Peshawar High Court. During the pendency of the said petition, the Counsel for those petitioners maintained that his clients were removed from service while others were left, to which the then Chief Engineer(Respondent No.3) had replied falsely that the cases of those appointees are underway, but in fact no case against any appointee was underway by that time. The Hon'ble Apex Court directed to finalize action and submit a report to that effect.  
(Copies of the verdict of the Apex court dated 15.01.2014 is annexed as Annexure-C).
  
4. On arrival of the aforesaid judgment of the Apex court, the respondents sought guidance from the E & A department for further course of action vide

letter No. SO (Estt) PHED/1-9/2012-13 dated 22-01-2014. In response, the E&A department vide letter No. SOR-V(E&AD)/15-3/09 dated 30-01-2014 advised that necessary action be initiated against the officers who were involved in the appointment after conducting proper inquiry into the case. It was binding upon the respondents to act upon the advice of the E&A department, where they instead of acting upon the advice, terminated the appellant without fulfillment of legal requirements of inquiry etc to establish the charges against the appellant which is not only a formality but a mandatory requirement of law. (Copy of letter No. SOR-V (E&AD)/15-3/09 dated 30-01-2014 is annexed as annexure-D).

5. That in the garb and misleading statement and verdict before the Apex court, the appellants were issued the alleged back dated show cause notice, although the same was never mandated. In reply to show cause notice, the respondent No.3 was requested to extend time for him to file a reply, but the respondent No. 3, was determined with all malafide to terminate the appellant among others unlawfully, terminated the appellant vide order No. 35/E-4/PHE dated 14-02-2014.

(Copy of order dated 14-02-2014 and application for time extension to show cause is annexed as Annexure-E).

6. That in this connection, reference is made to the act, passed by the provincial Assembly on 24<sup>th</sup> October, 2009 vide No. PA/NWFP/FP/Bills/2009/38472 vide which services of all contract and adhoc employees appointed up-to 31-12-2008 were regularized. Since the services of the appellant stand regularized under the said act, therefore, his services cannot be terminated in such a harsh and unlawful manner i.e. without proper inquiry, charge sheet/ statement of allegations and opportunity of personal hearing. (Copy of the act is annexed as Annexure-F).
7. That as regards, the directions of the August Supreme court of Pakistan, the then Chief Engineer (South) PHED himself made a statement before the Supreme Court and then made direction of the Supreme Court basis for the impugned action against the appellant while incorrectly interpreting and

applying the general order of the Apex court with regard to illegal appointments in the department upon the appellant. In this connection a reference is made to the order passed by the Hon'ble Supreme Court of Pakistan dated 28-04-2014 in CP No. 551/2004 wherein the Apex court itself has clarified/ interpreted its direction in the following words "Apprehension of the petitioner is misconceived. In the event of filing appeals, the service tribunal shall decide the appeal as mandated in law".

8. That the appellant submitted his departmental appeal, however, it was not responded, hence the appellant approached the Hon'ble Peshawar High Court Peshawar in W.P. No. 615-P/2014 who vide its order dated 26-02-2014 observed that the instant petition relates to the terms and condition of service, therefore, the appellant should seek his remedy before proper forum, the W.P. was dismissed accordingly. (Copy of W.P. order dated 26.02.2014 is annexed as Annexure-G)

9. That feeling aggrieved, the appellant moved the August Supreme Court through a civil petition, but the August Supreme Court directed the appellant to approach this Hon'ble Tribunal which shall decide the appeal as mandated in law.

(Copy of the order in C.P No. 551/2014 dated 28-04-2014 is annexed as Annexure-H).

10. That the appellant approached this Hon'ble tribunal through a service appeal No. 750/2014 which appeal was remanded through order dated 30-12-2015 with the observations that the departmental appeal be decided within two months.

(Copy of appeal and order dated 30-12-2015 is annexed as Annexure-I).

11. That while dealing with the departmental appeal, all the 31 appellants including the present appellant were got assembled in a hall and they were told by the respondent No.2 that all his sympathies lie in favour of the appellants and he is going to restore them, but despite all stated above, their appeals were dismissed vide order dated 03-03-2016. It is worth to

mention here that the respondent No. 2 disclosed during the interview that there is huge pressure upon him by the Minister for PHE not to restore the appellants even if they deserve re-instatement.

(Copy of order No. SO (Estt)/PHED/1-90/2013-14, Vol-II dated 03-03-2016 is annexed as Annexure-J).

12. That Appellant feeling aggrieved of the order dated 14-02-2014 and 03-03-2016 prefers this Appeal, *inter alia*, on the following:

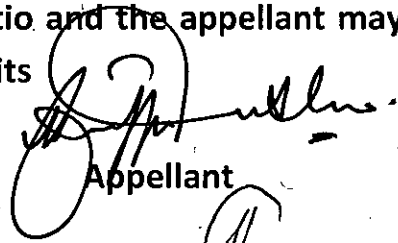



**GROUND OF APPEAL**

- A. That the impugned orders of the respondents are against the law on the subject, illegal, void ab initio and arbitrary, hence liable to be struck down.
- B. That the impugned termination(s) is the result of discrimination and against the fundamental rights guaranteed under the constitution of the Islamic Republic of Pakistan, 1973, hence liable to be set aside.
- C. That the impugned orders of the respondents is the sheer violation of article, 25 of the Constitution of the Islamic Republic of Pakistan, 1973, hence liable to be set aside.
- D. That the impugned orders of the respondents are against the spirits of the natural justice, hence untenable.
- E. That there is great malafide on the part of the respondents in terminating the appellant, hence the same needs setting aside.
- F. That the termination of the appellant is based on the misconceived judgment of the August Supreme Court, of Pakistan and the said judgment never mandated the termination of the appellants, hence termination of the appellant is nullity in the eyes of law.



- G. That the August Apex court was misled by the department, hence all the proceedings against the appellant are in violation of the order of the Apex court, law of the land and natural justice, hence liable to be set aside.
- H. That the appellant has served the department for almost five years with zeal and dedication and has got vested rights and the termination of services at the one stroke of pen is unjust, unfair, arbitrary, unlawful, hence liable to be set aside.
- I. That the impugned termination order(s) is against the principles of locus poenitentiae, hence liable to be struck down.
- J. That any other ground not specifically raised herein may be allowed at the time of arguments.

It is therefore, most humbly prayed that on acceptance of this appeal, the impugned order dated 14-02-2014 of the respondents may kindly be declared as illegal, unlawful, arbitrary and void ab initio and the appellant may kindly be reinstated into his service with all back benefits

Through   
Appellant  
  
Ijaz Anwar  
Advocate, Supreme Court of  
Pakistan  
  
Sajid Amin  
&  
  
Yousaf Khan  
Advocate High Court, Peshawar

Dated 31.03.2016

7

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

Appeal No. \_\_\_\_\_/2016

**Murtaza Qureshi**

..... **Appellant**

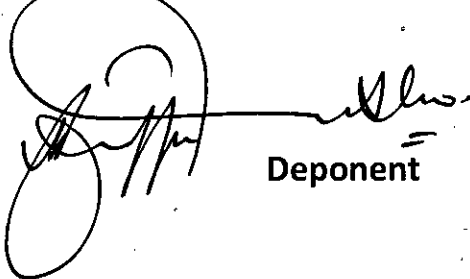
*Versus*

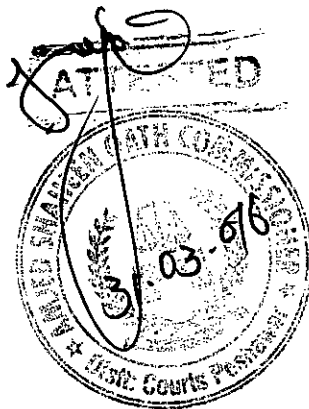
**Government of Khyber Pakhtunkhwa etc**

..... **Respondents**

**AFFIDAVIT**

I, Murtaza Qureshi S/O Afsar Ali Qureshi, (Assistant, Public Health Engineering Department, Peshawar) R/O H.No. 175, Street No.10, Sector F-1, Phase-6, Hayatabad Peshawar do solemnly affirm and declare on oath that the contents of the accompanying appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

  
Deponent



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

Appeal No. \_\_\_\_\_/2016

**Murtaza Qureshi**

..... **Appellant**

*Versus*

**Government of Khyber Pakhtunkhwa etc**

..... **Respondents**

**Addresses of the parties**

**Addresses of the Appellant**

**Murtaza Qureshi S/O Afsar Ali Qureshi,**

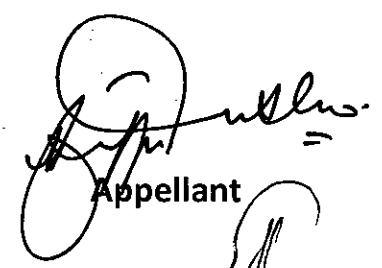
(Assistant, Public Health Engineering Department, Peshawar)

R/O H.No. 175, Street No.10, Sector F-1, Phase-6, Hayatabad Peshawar.

**Addresses of the Respondents**

1. **Government of Khyber Pakhtunkhwa** through Chief Secretary, Civil Secretariat, Peshawar
2. **Secretary**  
Public Health Engineering Department,  
Government of Khyber Pakhtunkhwa, Peshawar
3. **Chief Engineer (South)**  
Public Health Engineering Department,  
Government of Khyber Pakhtunkhwa, Peshawar

Through



**Appellant**

**Ijaz Anwar**

**Advocate, Supreme Court of Pakistan**

**Sajid Amin**

**&**

**Yousaf Khan**

**Advocate High Court, Peshawar**

Annexure "A"

(2)  
9

OFFICE OF THE CHIEF ENGINEER  
PUBLIC HEALTH ENGG. DEPARTMENT

No. 14 / E - 4 / PHE

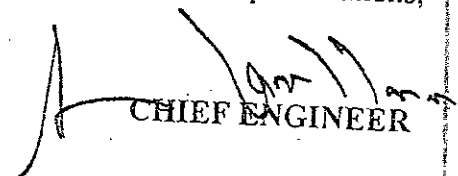
Dated Pesh: the 20 / 08 / 2008.

OFFICE ORDER.

No. Contract  
Temporary  
adh

On the recommendation of the Department Selection Committee as per its meeting held on 13/08/2008, the competent authority is pleased to offer a post of Date Entry Operator (BPS-11) to Mr. Murtaza Qureshi S/O Afsar Ali Qureshi R/O House No.175, F-1 Phase-VI, Hayat Abad Peshawar on the following terms and conditions :-

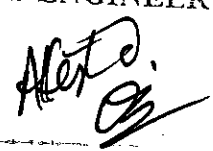
- 1) He will get pay at the minimum of BPS-11 (Rs.4115 - 275 - 12365) including usual allowances as admissible under the rule. He will also be entitled to annual increment as per existing policy.
- 2) He shall be governed by the NWFP Civil Servants Act 1973 and the laws applicable to the Civil Servants 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, Peshawar before reporting himself for duty to the Administrative Officer PHE Department Peshawar, 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 Administrative Officer PHE Department Peshawar 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) Accountant General NWFP, Peshawar.
- 2) Section Officer (E-II) W&S Department Peshawar.
- 3) Pay Clerk (Local).
- 4) Mr. Murtaza Qureshi S/O Afsar Ali Qureshi R/O House No.175, F-1 Phase-VI, Hayat Abad Peshawar

  
CHIEF ENGINEER



~~Annexure X~~ (24)

OFFICE OF THE CHIEF ENGINEER  
PUBLIC HEALTH ENGG. DEPARTMENT

No. 06 / E-9 / PHE

Dated Pesh: the 12 / 02 / 2009.

Ann. 'B' (10)

OFFICE ORDER.

Being Law Graduate, Mr. Murtaza Qureshi working as Data Entry Operator (DEO) in this office is hereby appointed as Assistant (BPS-14) through conversion of his services into the said post, so as to peruse the Court Cases filed against this Department in various Courts, in addition to his normal duties.

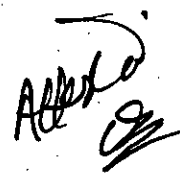
Consequent upon above, the official is posted against the vacant post of Assistant in this office, in the public interest, with immediate effect.

  
CHIEF ENGINEER

Copy to the :-

- 1) Accountant General NWFP, Peshawar.
- 2) Pay Clerk (Local).
- 3) Official concerned.

  
CHIEF ENGINEER



11

الجامعة الإسلامية

# University of Peshawar (Pakistan)

Session ANNUAL 2007

*Handwritten signature*

MURTAZA QURESHI

Son/Daughter of

AFSAR ALI QURESHI

and a student/ private candidate of DISTRICT PESHAWAR

having passed the prescribed examination held in AUGUST, 2007

is this day admitted by the University of Peshawar to the Degree of  
**Master of Arts**

In

POLITICAL SCIENCE

In SECOND Division

The Examination was taken as a whole/ in parts

Serial No. 0058675

*Handwritten signature*  
Registrar

Annexure-V

Registration No. 99-SP-9332

Roll No. 40776

Result Declared on 10TH MARCH, 2008



Countersigned  
*Handwritten signature*  
Vice-Chancellor

(19)

12

بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ

# University of Peshawar

(Pakistan)

Session SUPPLEMENTARY 2005

MURTAZA QURESHI

Son/Daughter of

AFSAR ALI QURESHI

and a student of

FRONTIER LAW COLLEGE PESHAWAR

having passed the prescribed examination held in DECEMBER 2005, is this day admitted by the University of Peshawar to the Degree of

## Bachelor of Laws

in SECOND Division

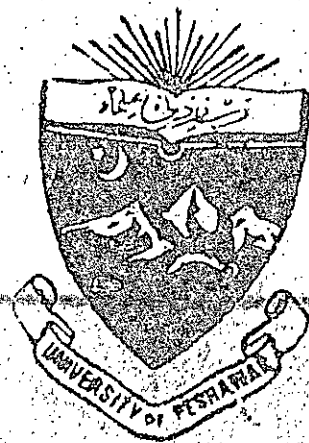
The Examination was taken as a whole/ in parts

Serial No. 0005252

Registration No. 99-P-9862

Roll No. 3079

Result declared on MARCH 14, 2007



*[Signature]*  
Registrar

Countersigned

*[Signature]*

Vice-Chancellor

*[Handwritten signature]*

Annexure - VI (20)

IN THE SUPREME COURT OF PAKISTAN  
(APPELLATE JURISDICTION)

~~Annexure XIV 35~~

Ann: "C" (13)

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

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

Mushtaq Ahmed and another.  
Muhammad Nasir Ali and others.

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

Versus  
Government of KPK through Chief Secretary,  
Peshawar and others.

(in both cases)  
...Respondents

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

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

Date of hearing: 15.01.2014.

ORDER

ANWAR ZAHEER JAMALI, J. - After hearing the arguments

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

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

C.E.P.H.E. Deptt. (South)
Diary No. 480
Date 25-01-2014
Case No.
C.E.P.H.E. (3)
S.E.H.O.
Director
Design
A.O.
P.S.O.
C.T.

ATTESTED

Superintendent  
Supreme Court of Pakistan  
Islamabad

*Attested*



36

14

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

3. In view of the above statement, he is directed to finalise 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  
*[Signature]*  
17/1/14  
Superintendent  
Supreme Court of Pakistan  
Islamabad

GR No: 640/14 Civil/Criminal  
Date of Presentation: 15-1-14  
No. of Words: 600  
No. of Follies: 6  
Requisition Fee Rs: 61.00  
Copy Fee in: 3.22  
Court Fee stamps: 9.22  
Date of Completion of Copy: 17/1/14  
Date of delivery of Copy: 18-1-2014  
Compared by/Prepared by: [Signature]  
Received by: Zadmir Tan

*[Handwritten signature]*

Ann: "D" (15)

Annexure - I

Immediate Govt. case



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

No. SOR-V(E&AD)/15-3/09  
Dated 30<sup>th</sup> January, 2014

(10)

To

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

Subject: APPOINTMENT OF SUB ENGINEERS

Dear Sir,

I am directed to refer to your letter No. SO (Estt)PHED/1-90/2012-13 dated 22-1-2014 on the subject noted above and to state that the appointment, promotion and transfer rules 1989 and recruitment policy of the Provincial Government is quite clear and the Department may look/examine the appointment of Sub Engineer in the light of the rules and policy of the Provincial Government and firm up their views for final decision and take necessary action if the appointment proved illegal and apprise the Supreme Court of Pakistan accordingly. Moreover the Department should also initiate disciplinary action against the officers who was/were involved in appointment of illegal Sub Engineer and brought him/them to the justice.

SO (E)  
SO (P)

Yours faithfully,

(SHABBIR AHMAD)  
SECTION OFFICER (REG-V)

For W/A  
3/12

3/12  
2014  
[Signature]

16



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

No. 35 / E-4 / PHE,  
Dated Peshawar, the 11 / 02 / 2014

No provision of Termination was passed  
law under which order of Termination was passed

To

Mr. Murtaza Qureshi s/o Afsar Ali Qureshi  
Data Entry Operator o/o Chief Engineer (S)  
P.H.Engg: Department Peshawar

Subject: TERMINATION FROM SERVICE

Your recruitment in PHED made vide this office letter No.14/E-4 /PHE dated 20.08.2008 was illegal and unlawful due to non-fulfillment of codal formalities.

2. Your appointment as a Data Entry Operator 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 Data Entry Operator and other staff has been checked and found the following irregularities committed by the appointing authority in your appointment.

1. Vacancies/posts of Data Entry Operators were not advertized through news paper.
2. Initial recruitment of Data Entry Operators 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 Data Entry Operator with immediate effect.

Since 1998 no ad ver  
vide N&A chah  
No dt 22.05.2005  
declined  
distret cash  
Post -  
Ad in  
PSC

Confidential

Submitted

Heeded by  
Chief Engineer  
on this  
ground only  
signature

ATTESTEL

Chief Engineer (South)

Copy forwarded to:

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

Alfred  
CB



~~Annexure XII (32)~~

17

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, 0300-95352603            |
| 3. Mr. S. Muhammad Ihsan Shah | Sub Engineer, 03455518060              |
| 4. Mr. S. Muhammad Ali Sajjad | Sub Engineer,                          |
| 5. Mr. Abdul Samad            | Sub Engineer, 03449847092              |
| 6. Mr. Shaukat Ali            | Sub Engineer, 0300-9099910. (0322)     |
| 7. Mr. M. Ali Noor            | Sub Engineer, 03159643498              |
| 8. Mr. Irshad Elahi           | Sub Engineer, 03467845606              |
| 9. Mr. Hussain Zaman          | Sub Engineer,                          |
| 10. Mr. Salim Nawaz           | Sub Engineer, 0349998066               |
| 11. Mr. S. Ashfaq Ahmad       | Sub Engineer,                          |
| 12. Mr. Murtaza Ali           | Sub Engineer,                          |
| 13. Mr. Sahar Gul             | Sub Engineer, 0342-9408270             |
| 14. Mr. Ishfaq                | Sub Engineer, 03339331389              |
| 15. Mr. Abdul Shahid          | Sub Engineer, 03459526307              |
| 16. Mr. Kashif Raza           | Sub Engineer, 03347238980              |
| 17. Mr. Waqar Ali             | Sub Engineer, 03455349334              |
| 18. Mr. Muslim Shah           | Sub Engineer, 0345-9501616             |
| 19. Mr. Ishtiaq Ahmad         | Sub Engineer, 03339156613              |
| 20. Mr. Zuljib Khan           | Sub Engineer, 0314-9398029             |
| 21. Mr. S. Hassan Ali         | Sub Engineer, 03339059020              |
| 22. Mr. Mohsin Ali            | Sub Engineer,                          |
| 23. Mr. Muqtada Qureshi       | Sub Engineer, 0345-9177123             |
| 24. Mr. Ishtiaq Ahmad         | Sub Engineer, 03469474856              |
| 25. Mr. M. Qaiser Khan        | Sub Engineer, 0333-9883738             |
| 26. Mr. Nomanullah            | Senior Scale Stenographer, 03149899305 |
| 27. Mr. M. Imran              | Steno Typist,                          |
| 28. Mr. M. Jamil              | Steno Typist,                          |
| 29. Mr. Iftikhar              | Steno Typist,                          |
| 30. Mr. Shah Khalid           | Steno Typist, 0334-9282095             |
| 31. Mr. Aziz Ullah            | Steno Typist, 0345-811343              |
| 32. Mr. Farhan Ullah          | Steno Typist,                          |
| 33. Mr. Farman Ali            | Data E/Operator,                       |
| 34. Mr. Murtaza Qureshi       | Data E/Operator, 0345-9088522          |

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.

*Aliet*



33

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-parte action will be taken against you under the E&D rules which will entail your termination from service.

Chief Engineer (South)

Copy forwarded to:

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

Chief Engineer (South)

خدمت صاحب صفی الحسن بیگم ایجوکیشنل سٹاؤر  
Amexure XIII

صاحب عالی (34)

گزارش کی جاتی ہے کہ مجھے آپ کے

انٹرن آفسر کی جانب سے ایک سٹوڈنٹ ٹو ٹوٹس بورڈ 04/02/2014  
کو طلبہ میں سٹوڈنٹ ٹوٹس فوٹو کٹ وقت تاریخ کا تعین نہیں کیا  
سٹوڈنٹ ٹوٹس No. 32/E-4 PHE, dt. 01/01/2014.  
میں جواب داخل کرنے کے لیے گائیڈ کی ضابطہ دی ہے اور  
ٹوٹس اسٹوڈنٹ ٹوٹس اور فوٹو کٹ بلکہ مجھے فوٹو کٹ 04 فروری کو  
دیئے گئے۔

لہذا آپ سے گزارش ہے کہ جواب داخل کرنے کے لیے ٹوٹس  
میں ذرا گائیڈ کی ضابطہ 04 فروری سے شہر کے جانے میں آئے ہیں  
عمون و ستور، بیونگا

ATTESTED



بیان حقیقی:

میں اقرار کرتا ہوں کہ مندرجہ بالا معلومات اور تحریر میرے علم اور  
معلومات سے بالکل ٹھیک اور سچ ہے۔ اور یہ کہ میرے  
غلط معلومات کا میں ذمہ دار نہیں ہوں گا۔

صاحب عالی  
6/2/2014

dt. 06/02/2014.

Attested

To

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

Annexure ~~XV~~ (31)

(19)

Subject: - APPEAL FOR REINSTATEMENT INTO GOVT: SERVICE

R/Sir,

With great respect & reverence, it is submitted that I was appointed as DEO/A3886 by the Chief Engineer PHE on 8/2008 <sup>2/2009</sup>. After serving for about 06 years a Show Case Notice was issued to me in the back date by the Chief Engineer (South) PHE vide his No. 32/E-4/PHE dated 21.1.14. No sooner the Show Case Notice received to me, the period of 15 days given therein for reply were passed. I, therefore, requested for extension of the period for reply, which was not listened & my Termination Order was issued vide C.E. (South) PHE No. 01/E-4 dated 14.2.14. Sir, all this process was completed in a speedy manner with utter dis regard to observe the codal formalities of enquiry & personal hearing etc. Necessary reply to the Show Cause Notice was submitted by me within the stipulated period. However I beg to submit the following ~~the~~ few lines for your sympathetic consideration and favourable action:-

- i) ~~iii~~ The Termination Order was ~~been~~ issued in a hurry without making any enquiry and giving me an opportunity of hearing, as required under the Rules.
- ii) ~~ix~~ My appointment order was issued on regular basis on the recommendation of D.S.C as mentioned in the Appointment Order. I have also completed the prescribed probation period, satisfactorily.
- iii) ~~ii~~ Under the Notification issued by the Finance Department Bearing No. SOR-III/FD/12-1/2005 dated 27-2-2013, the Provincial Assembly has passed an Act, that all Civil Servants appointed to a Service or post on or after 1<sup>st</sup> July 2001 shall be deemed to have been appointed on regular basis and shall be eligible for Pension/ G.P. Fund.
- iv) ~~ix~~ Without prejudice, the allegation that my appointment was made against the prescribed procedure i.e. without recommendation of PSC etc. is also misconceived as evident from the Establishment & Administration Department Notification No. SOR-1/(E&AD) 1-99/73 (Vol-IV) dated 2-11-2002 where an official of BPS-11 to 15 of only 14 Department, to the exclusion of PHE Departments, were subject to P.S.C. Reference is also made to the Notification issued by the W&S Department vide No. SO (E) W&S/13-1/77 dated 22-3-2005 & E&A Department letter No. SOS. Pool (E&AD) 1-10/2002 dated 8-4-2006, whereby after Devolution the appointments in District cadre posts were declared outside the scope & purview of the P.S.C.

Attched  
[Signature]

v) ~~xii)~~

The direction of the apex Supreme Court dated 15-1-2014 is not applicable in my case as it relates to the Adhoc / Contract Employees appointed on year to year basis. Moreover, neither I was a party in the case nor I have been heard by any authority or Court in this regard. The statement given by the Chief Engineer in the Court is not based on fact and the officer has also not appreciated the contents of the Court decision, in its true letter and spirit. In fact in such legal matters, opinion of the Law Department should have been sought for, instead of resorting to such drastic and unlawful action by the Chief Engineer at his own sweet will, putting about 35 individuals and their families into hardships for no apparent fault on their part.

vi) ~~xiii)~~

I was appointed by the Competent Authority and have rendered long and unblemished service of about 06 years to the entire satisfaction of my senior and superior officers. The authority during my services neither informed me that my services are subjected to arrival of PSC recommendees nor any such notice has been issued to me in this respect. The termination order at this belated stage, have no lawful justification where I have since overaged / ~~near to the attainment of super age limit~~, for no fault on my part, I and my family are to suffer economically & professionally, especially in these hard days of un-employment and dearness. Also due to such Termination Order my legal and lawful rights have been accrued/ infringed.

vii) ~~xiv)~~

I have completed the prescribed probation period and at present under the law I may be treated as regular, confirmed and permanent Civil Servant.

viii)

The procedural lapse, if any, in the Order of my appointment should have been raised during probation periods where at this belated stage, raising of such points, manifestly smack malafide on the part of the officer concerned.

xi)

The Law, Justice and equity do not allow the action taken against me and demands withdrawal of the said Termination Order.

x) ~~xv)~~

Code formalities of enquiry and opportunity of personal hearing etc have not been observed while terminating services of the applicant which are mandatory requirement of law as laid down in 2000 SCMR 1743 that the appellant is not to be punished for the lapses of the Department as the initial objection was that the post against which the appellant was recruited was not advertised, (1996 SCMR 1350). In this judgment of Supreme Court it has been held that the employees should not be punished for the lapses of the Department.

Attest  

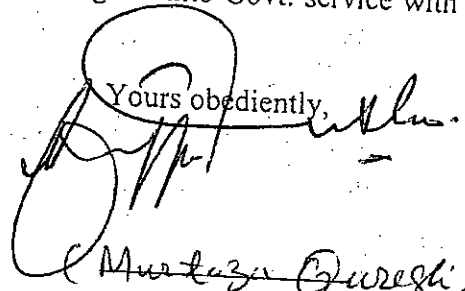



39

21

In view of the above it is prayed that the impugned Termination Orders being violative of Law may kindly be set aside thereby re-instating me into Govt: service with all back benefits.

Yours obediently,

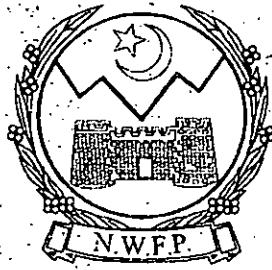


(Murtaza Qureshi)  
Ex-Asst. PHE Dept.  
Peshawar

Dated 28 /02/2014.

Alleged  


EXTRAORDINARY  
GOVERNMENT



Ann: "F" (21)  
REGISTERED NO. P.N.

GAZETTE

## North-West Frontier Province

Published by Authority

PESHAWAR, SATURDAY, 24TH OCTOBER, 2009.

PROVINCIAL ASSEMBLY SECRETARIAT  
THE NORTH-WEST FRONTIER PROVINCE

### NOTIFICATION

Dated Peshawar, the 24th October, 2009.

No. PA/NWFP/Bills/2009/38472.—The North-West Frontier Province Employees Regularization of Services) Bill, 2009 having been passed by the Provincial Assembly of North-West Frontier Province on 15<sup>th</sup> October, 2009 and assented to by the Governor of the North-West Frontier Province on 20<sup>th</sup> October, 2009 is hereby published as an Act of the Provincial Legislature of the North-West Frontier Province.

### THE NORTH-WEST FRONTIER PROVINCE EMPLOYEES (REGULARIZATION OF SERVICES) ACT, 2009.

(N.-W.F.P. ACT NO. XVI OF 2009)

*(First published after having received the assent of the Governor of the North-West Frontier Province in the Gazette of the N.-W.F.P. (Extraordinary), Dated the 24<sup>th</sup> October, 2009).*

AN  
ACT

*to provide for the regularization of the services of certain employees appointed on adhoc or contract basis.*

**Preamble**---WHEREAS it is expedient to provide for the regularization of the services of certain employees appointed on adhoc or contract basis, in the public interest, for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. **Short title and commencement.**---(1) This Act may be called the North- West Frontier Province Employees (Regularization of Services) Act, 2009.

(2) It shall come into force at once and shall be deemed to have been taken effect at the promulgation of the Ordinance.

2. **Definitions.**---(1) In this Act, unless the context otherwise requires,-

- (a) "Commission" means the North-West Frontier Province Public Service Commission;
- (aa) "contract appointment" means appointment of a duly qualified person made otherwise than in accordance with the prescribed method of recruitment;
- (b) "employee" means an adhoc or a contract employee appointed by Government on adhoc or contract basis or second shift/night shift but does not include the employees for project post or appointed on work charge basis or who are paid out of contingencies;
- (c) "Government" means the Government of the North-West Frontier Province;
- (d) "Government Department" means any department constituted under rule 3 of the North-West Frontier Province Government Rules of Business, 1985;
- (e) "law or rule" means the law or rule for the time being in force governing the selection and appointment of civil servants; and
- (f) "post" means a post under Government or in connection with the affairs of Government to be filled in on the recommendation of the Commission.

(2) The expressions "adhoc appointment" and "civil servant" shall have the same meanings as respectively assigned to them in the North-West Frontier Province Civil Servants Act, 1973 (N.-W.F.P. Act No. XVIII of 1973).

3. **Regularization of services of certain employees.**--- All employees including recommendees of the High Court appointed on contract or adhoc basis and holding that post on 31<sup>st</sup> December, 2008 or till the commencement of this Act shall be deemed to have been validly appointed on regular basis having the same qualification and experience for a regular post:

Provided that the service promotion quota of all service cadres shall not be affected.

4. **Determination of seniority.**--- (1) The employees whose services are regularized under this Act or in the process of attaining service at the commencement of this Act shall rank junior to all civil servants belonging to the same service or cadre, as the case may be, who are in service on regular basis on the commencement of this Act, and shall also rank junior to such other persons, if any, who, in pursuance of the recommendation of the Commission made before the commencement of this Act, are to be appointed to the respective service or cadre, irrespective of their actual date of appointment.

(2) The seniority *interse* of the employees, whose services are regularized under this Act within the same service or cadre, shall be determined on the basis of their continuous officiation in such service or cadre:

Provided that if the date of continuous officiation in the case of two or more employees is the same, the employee older in age shall rank senior to the younger one.


4A. **Overriding effect** --- Notwithstanding any thing to the contrary contained in any other law or rule for the time being in force, the provisions of this Act shall have an overriding effect and the provisions of any such law or rule to the extent of inconsistency to this Act shall cease to have effect.

5. **Repeal** --- The North-West Frontier Province Employees (Regularization of Services) Ordinance, 2009 (N.-W.F.P. Ordinance No. VII of 2009) is hereby repealed.

BY ORDER OF MR. SPEAKER,  
PROVINCIAL ASSEMBLY OF  
NORTH-WEST FRONTIER PROVINCE

AMANULLAH  
Secretary,  
Provincial Assembly of NWFP

Printed and published by the Manager,  
Staty. & Ptg. Deptt., NWFP, Pesh.

*Alien*  


~~Annexure XVI~~

10  
23

IN THE PESHAWAR HIGH COURT PESHAWAR

Ann: "G"

WRIT PETITION No. 615-P/2014



1. Tariq Nawaz Khan S/o Ameer Nawaz Khan,  
Sub Engineer, Office of  
Public Health Engineering Division, Karak
2. Muhammad Sajad Khan S/o Banat Khan,  
Sub Engineer, PHE Division Kohat.
3. Syed Muhammad Ihsan Shah S/o  
Syed Muhammad Hasan Shah,  
Sub Engineer, PHE Division Haripur.
4. Syed Muhammad Ali Sajjad  
S/o Syed Abid Hussain Shah,  
Sub Engineer, Office of the Chief Engineer  
PHE, Peshawar
5. Abd-ul-samad S/o Abd-ul-Mueed,  
Sub Engineer PHE Division, But Khela.
6. Shaukat Ali S/o Ghulam Qadar,  
Sub Engineer PHE Division, Karak.
7. Muhammad Ali Noor S/o Syed Noor Muhammad,  
Sub Engineer, Office of the Chief Engineer  
PHE, Peshawar.
8. Irshad Elahi S/o Shah Nawaz,  
Sub Engineer, Office of the Chief Engineer  
PHE, Peshawar
9. Saleem Nawaz,  
Sub Engineer, PHE Division, DI Khan.
10. Syed Ishfaq Ahmad S/o Syed Jamil-ud-Din,  
Sub Engineer, PHE Division, Mingora, Swat
11. Murtaza Ali S/o Abdul Haq,  
Sub Engineer, Office of the Chief Engineer  
PHE, Peshawar.
12. Kashif Raza S/o Abid Hussain,  
Sub Engineer, PHE Division, DI Khan.
13. Waqas Ali S/o Farzand Ali,  
Sub Engineer, PHE Division, Haripur.
14. Muslim Shah S/o Mahmood Shah,  
Sub Engineer, PHE Division, Mardan.

FILED TODAY

Deputy Registrar

ATTESTED  
BY  
EXAMINER  
Peshawar High Court

19 MAR 2014

*(Handwritten signature)*

15. Zohaib Khan S/o Jahanzeb Khan,  
Sub Engineer, PHE Division, Mansehra.
16. Syed Hassan Ali S/o Syed Ajmal Shah,  
Sub Engineer, PHE Division, Buner.
17. Mohsin Ali S/o Muhammad Parvez,  
Sub Engineer, Office of the Chief Engineer  
PHE, Peshawar.
18. Muhammad Qaisar Khan S/o Babu Jan,  
Sub Engineer, PHE Division, Upper Dir.
19. Ishtiaq Ahmad S/o Tamhedullah,  
Sub Engineer, PHE Division, Charsadda.
20. Hassan Zaman S/o Syed Zaman,  
Sub Engineer, PHE Division, Temargara.
21. Abd-ul-Shahid S/o Abd-ul-Azeem,  
Sub Engineer, PHE Division, Upper Dir.
22. Sameullah S/o Khuda Bakhsh,  
Sub Engineer, PHE Division, DI Khan.
23. Ishfaq Ahmad S/o Muhammad Shoaib,  
Sub Engineer, PHE Division, Charsadda.
24. Muqtada Qureshi S/o Afsar Ali Qureshi,  
Sub Engineer, PHE Division, Sawabi.
25. Naumanullah S/o Amanullah,  
Stenographer, Office of the Chief Engineer  
PHE, Peshawar.
26. Shah Khalid S/o Wafadar Khan,  
Stenographer/Stenotypist, Office of the  
Chief Engineer PHE, Peshawar
27. Farman Ali S/o Juma Gul,  
Data Entry Operator, Office of the  
Chief Engineer PHE, Peshawar
28. Muhammad Iftikhar S/o Chinar Gul,  
Stenotypist, Office of the Chief Engineer  
PHE, Peshawar
29. Murtaza Qureshi,  
Assistant, Office of the Chief Engineer  
PHE, Peshawar.
30. Farhan Ullah S/o Aziz Ullah,  
Stenotypist, Office of the  
Executive Engineer  
PHE Division, Bannu.....Petitioners

FILED TODAY  
Deputy Registrar  
25 FEB 2014

Versus

ATTESTED  
EXAMINER  
Peshawar High C  
MAR 2014.

*Handwritten signature*

42

25

1. Government of Khyber Pakhtunkhwa,  
through Chief Secretary,  
Civil Secretariat, Peshawar.
2. Secretary,  
Govt. of Khyber Pakhtunkhwa,  
Public Health Engineering  
Department, Peshawar.
3. Chief Engineer (South)  
Public Health Engineering Department,  
Khyber Pakhtunkhwa, Peshawar.
4. Chief Engineer (North)  
Public Health Engineering Department,  
Khyber Pakhtunkhwa, Peshawar ..... Respondents

---

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

---

Respectfully Sheweth,

The brief facts giving rise to the present  
petition are as under:-

1. That petitioners had applied against the vacant posts of **Sub Engineers, Stenotypists and Data Entry Operators** in the office of respondent No.3. The petitioners were in possession of higher qualification in addition to prescribe qualification for their opted posts. After observing the codal formalities, on the recommendation of **Departmental Selection Committee** they were appointed against their opted posts on regular basis on different dates. Copy of the appointment orders are attached as *Annex: A1-A21*.
2. That after completing the requisite formalities including medical fitness certificate, the petitioners joined duties at their respective places of postings. The respondent department also maintained the service books of each petitioner and necessary entries have been made therein from time to time. The extracts of service book are attached as *Annex: B*.
3. That the petitioners are regular employees of the respondent department working against the permanent posts since their respective appointments having more than five years service at their credit with excellent service

ATTEST!

EXAMINE  
Peshawar High Court

11 MAR 2011

*Attested -*  
*Attested -*

(26) (43)

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>

TESTED  
EXAMINER  
Peshawar High Court.  
1 MAR 2014

*Attest*



(27) (44)

*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.*

TESTED  
 J. AMMER  
 Asst. Secy High Court.

1 MAR 2014

Asst. Secy  
 High Court

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

Q

TESTED

EXAMINER

ASSISTANT REGISTRAR

MAR 2014

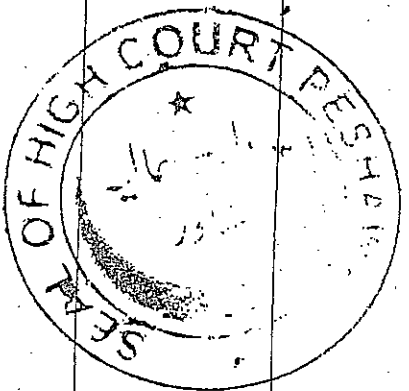
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[Signature]

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



*Edt Yahya Alzidi J*  
*Edt Malik Mangood Hussain J*

**JUDGE**

**JUDGE**

CERTIFIED TO BE TRUE COPY

Examiners  
Peshawar High Court Peshawar  
in accordance with Article 31  
of the Constitution and Order 19

11-03-14

*Attested*

14026 *office*

Date of Presentation of Application *11-03-14*

No of Pages *12P*

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Urgent Fee

Total *24.00*

Date of Preparation of Copy *11-03-14*

Time Given For Delivery *11-03-14*

Time of Delivery of Copy *11-03-14*

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(58)

(20)

Ann: "H"

IN THE SUPREME COURT OF PAKISTAN  
APPELLATE JURISDICTION

PRESENT:  
MR. JUSTICE TASSADUQ HUSSAIN JILLANI, H.C.J.  
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.

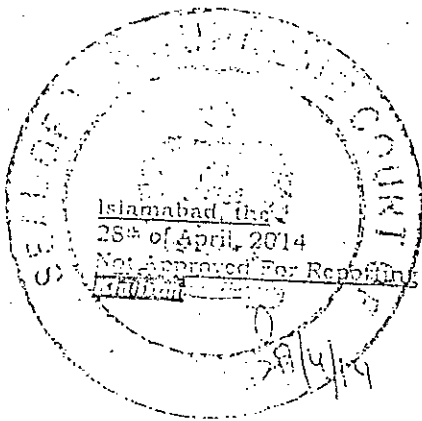
Date of Hearing: 28.04.2014

ORDER

TASSADUQ HUSSAIN JILLANI, C.J.- 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.

*Sh. Tassaduq Hussain Jillani, CJ*  
*Sh. Sh. Azmat Saeed, J*



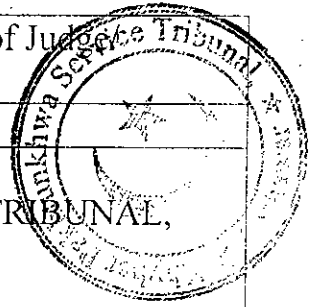
Certified to be True Copy

*[Signature]*  
28/4/14  
Superintendent  
Supreme Court of Pakistan  
(Islamabad)

*Attor*  
*[Signature]*

Ann: 'I' (31)

Sr. No.	Date of order/ proceedings	Order or other proceedings with signature of Judge/ Magistrate
1	2	3



**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.**

1. 665/2014, Farhanullah (Khalid Rahman, Adv)
2. 723/2014, S. M. Ahsan Shah (Rustam Khan Kundi)
3. 724/2014, Saleem Nawaz, -do-
4. 725/2014, Mohsin Ai, -do-
5. 726/2014, Kashif Raza, -do-
6. 727/2014, Syed Muhammad Ali Sajjad, -do-
7. 728/2014, Muhammad Ali Noor, -do-
8. 729/2014, Irshad Elahi, -do-
9. 750/2014, Murtaza Qureshi, (Isaac Ali Qazi, Adv:)
10. 783/2014, Syed Ishfaq Ahmad, (M. Asif Yousafzai)
11. 784/2014, Ishfaq Ahmad, -do-
12. 785/2014, Murtaza Ali, -do-
13. 786/2014, Amir Muqtada Qureshi, -do-
14. 787/2014, Abdus Samad, -do-
15. 788/2014, Hussain Zaman, -do-
16. 789/2014, Abdul Shahid, -do-
17. 790/2014, Waqas Ali, -do-
18. 791/2014, Muhammad Iftikhar, (Isaac Ali Qazi, Adv.)
19. 792/2014, Ishtiaq Ahmad, -do-
20. 793/2014, Shaukat Ali, -do-
21. 794/2014, Muhammad Sajjad, -do-
22. 795/2014, Tariq Nawaz, -do-
23. 796/2014, Ishfaq Ahmad, -do-
24. 797/2014, Noman Ullah, -do-
25. 803/2014, Aziz Ullah, (Aslam Khan Adv.)
26. 810/2014, Muslim Shah, (M. Asif Yousfzai, Adv)
27. 811/2014, Syed Hassan Ali -do-
28. 812/2014, Zohaib Khan, -do-
29. 829/2014, Qaiser Khan, -do-
30. 867/2014, Farman Ali, -do-
31. 868/2014, Shah Khalid, (Isaac Ali Qazi, Adv)

Versus

Govt. of KPK Province through Secretary, Public Health Engineering Department, Peshawar & Others.

JUDGMENT

PIR BAKHSH SHAH, MEMBER:- Counsels for

the appellants and Sr. Government Pleader (Mr. Usman Ghani) with Muhammad Siddique Admn. Officer for the respondents present.

*Attested*  
*[Signature]*

**ATTESTED**

*[Signature]*

**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

30.12.2015

2. The above appellants, employees of the PHE Department, were terminated from service by way of impugned order dated 14.02.2014 and their departmental appeal was not decided, hence this appeal under Section 4 of the KPK Service Tribunal Act, 1974. In view of the common question of facts and law, we propose to dispose of all the above appeals by this single judgment.

3. Relevant facts, in brief, as revealed from record are that the Hon'ble Peshawar High Court Peshawar vide its judgment dated 02.10.2013 dismissed Writ Petitions No. 271-P and 363-P both of 2013 of some of the appellants which judgment came up before the august Supreme Court of Pakistan in Civil Petitions No. 2026/13 and 2029/13. The august Supreme Court of Pakistan vide its order dated 15.01.2014 was pleased to direct as follow:-

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

3. In view of the above statement, he is directed to finalize the action against such illegal appointees within one month from to-day and submit his report

**ATTESTED**

*[Signature]*

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

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 the wake of the said order of the august Supreme Court of Pakistan, a joint show cause notice was prepared and issued to the appellants followed by the impugned termination order.

4. The charges against these appellants are reproduced as follow from the show cause notice issued to them:-

1. In light of S&GAD letter No.SOR-I(S&GAD)1-117/91© 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. laid down policy vide circulated notification No.SOR-VO/EXAD/1-10/2005/Vol-VI dated 15.11.2007.

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

**ATTESTED**

*[Signature]*

**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

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 Servants (Appointment, Promotion and Transfer) Rules, 1989. Codal formalities have not been fulfilled in your appointment.

4. Necessary sanction to condonation of the violation of codal formalities have not been accorded by the competent authority."


The appellants replied to the show cause notice and after their termination, filed their departmental appeals, copies of which are available on file.

5. Arguments heard ad record perused.

6. The record revealed that on receipt of a list comprising of the appellants, from the office of the then Chief Minister, to appoint appellants in the department of PHE, they were accordingly appointed.

7. In support of the appellants, it was submitted that the appellants were terminated from service without observing codal formalities of the charge sheet, enquiry; that no opportunity of defence and personal hearing was provided to them. It was further submitted that the

**ATTESTED**


  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar



35

appellants were duly qualified, and they were duly recommended for appointment by DSC where after they were appointed by the competent authority. It was further submitted that being the district cadre posts, its recruitment did not fall in the purview of Public Service Commission. It was also submitted that the appellants had rendered sufficient service and with the passage of time, their rights were protected under the principle of locus poenitentiae. It was also argued that the respondent-department have misconceived and misapplied order of the august Supreme Court of Pakistan dated 15.01.2014. That this Tribunal is competent and has jurisdiction to decide these appeals. Finally it was submitted that the appeals may be allowed and appellants may be reinstated in service with all back benefits.

**ATTESTED**

  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

8. These appeals were resisted by the learned Sr. Govt. Pleader on the grounds that the Public Service Commission was the competent forum for the process of recruitment of the posts of the appellants. That no formalities of advertisement, constitution of DSC, conduct of test/interview, preparation of merit list etc. had been observed in those appointments, therefore, the appointments were illegal. That the appointments were the result of political pressure and interference, hence the appellants were rightly terminated. That the respondent department in compliance with the order of the august

Supreme Court of Pakistan dated 15.01.2014 terminated the appellants therefore, this Tribunal has no jurisdiction to reinstate the appellants. Finally it was submitted that these appeals may be dismissed.

9. Order dated 15.1.2014 of the august Supreme Court of Pakistan is explicit according to which the respondent department was directed to take action against the illegal appointees. Contention advanced by the learned counsel for the appellants during the course of arguments was that appointments of the appellants were in accordance with the prescribed procedure as the posts did not fall in the purview of the Public Service Commission. Further that the appellants were not given opportunity of defence as evident from the facts that even prior to the lapse of the terminal date for reply to the show cause notice, the appellants were terminated. It was also contended for appellant Farhanullah (Data Entry Operator BPS-12), that prior to this post he was a valve-man in the department, therefore, instead of termination, he should have been reverted to his previous position.

9. On the point as to whether the Tribunal would be competent to adjudicate on these appeals, the learned counsel for the appellants submitted copy of a subsequent order dated 28.04.2014 in CP NO. 551 of 2014 according to which the Service Tribunal shall decide the appeals as

**ATTESTED**



EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

37

mandated in law. Evidently no charge sheet has been issued to the appellants nor opportunity of personal hearing has been provided to them and instead show cause notice was served on them. It is apparent from record that the impugned order has been passed quite in haste. After the impugned order, the respondent department vide letter No. 03/G-4-A/HC/PHE dated 17.2.2014 intimated to the Registrar Supreme Court of Pakistan that in pursuance of order dated 15.1.2014, a total of 24 Sub Engineers, 6 stenotypist/Stenographers and 2 Data Entry Operators had been terminated. This being so, we are afraid that due care and caution had not been exercised by sorting out individual case of each of the appellants. In the above scenario, while not interfering with the <sup>impugned</sup> order dated 14.2.2014 at this stage, the Tribunal in the interest of justice would remit cases of the appellants to the appellate authority of the department with direction to decide the departmental appeals of the appellants strictly in accordance with law/rules considering each of the appeal on its merits and fulfilling the requirements of opportunity of personal hearing. This process of disposal of departmental appeals of the appellants be completed within a period of 2 months after receipt of this judgment. In case the appellate authority finds that any of the appellant had been unlawfully terminated or terminated by mis-conceiving order of the august Supreme Court of Pakistan dated 15.1.2014 and

**ATTESTED**



**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

28

facts of a particular case and it leads the authority to accept such an appeal, the said decision would require to be taken with full justification and shall have to be intimated to the Registrar of the august Supreme Court of Pakistan in continuation of respondent department letter dated 17.2.2014. All the appeals are disposed off accordingly. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
30.12.2015.

**Certified to be true copy**  
JUDGE  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

sd

Pir Bakhtshah  
member

sd

Adullatif  
member

Date of Presentation of Application	5-1-2016
Number of Words	3200
Copying Fee	18-0
Ur. cost	
Total	18-0
Name of Copyist	sd
Date of Completion of Copy	7-2-2016
Date of Delivery of Copy	7-2-2016



GOVERNMENT OF KHYBER PAKHTUNKHWA  
PUBLIC HEALTH ENGG: DEPARTMENT

No.SO(Estt)/PHED/1-90/2013-14.VOI-II  
Dated Peshawar the, March 03, 2016

To,

Mr. Murtaza Qureshi  
S/o Afsar Ali Qureshi  
R/o H. No. 175 Street 10, Sector F-I  
Phase -6, Hayatabad Peshawar

Subject: **DEPARTMENTAL APPEAL AGAINST CHIEF ENGINEER (SOUTH) PHE  
ORDER No. 35/E-4/PHE DATED 14-02-2014.**

WHEREAS, you managed to get yourself appointed as Data Entry Operator (BPS-11) and further managed to induct as Assistant (BPS-14) in PHED vide Chief Engineer PHE Office Orders No.14/E-4/PHE dated 20-08-2008 and No.06/E-9/PHE, dated 12.02.2009, respectively.

2. AND WHEREAS, you were served with a Show Cause Notice by the Chief Engineer (South) PHE vide No.32/E-4/PHE dated 02-01-2014, and subsequently your services were dispensed with by the said authority vide his Office Order No.21/E-4/PHE dated 14-02-2014 as a sequel to the apex Court Order dated 15-01-2014 in C.P No.2026 and 2029/2013 and the same was also intimated/confirmed to the said august Court vide letter dated 17-02-2014.

3. AND WHEREAS, you filed a Writ Petition bearing No.615-P/2014 before the Peshawar High Court Peshawar against your termination order which was dismissed by the Hon'ble Court vide its judgment dated 26-02-2014, being not entertainable. Subsequently, you challenged the said judgment before the Supreme Court of Pakistan vide C.P No.551 of 2014 and the apex court vide Order dated 28-04-2014 disposed off the said Civil Petition in terms that in the event of filing the appeal, the Service Tribunal shall decide the appeal as mandated in law.

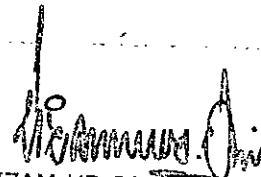
4. AND WHEREAS, you also filed Service Appeal No.750/2014 before the Khyber Pakhtunkhwa Service Tribunal Peshawar which was also disposed off vide its judgment dated 30-12-2015, with the direction to decide the departmental appeals of the appellants strictly in accordance with law/rules considering each of the appeal on its merits and fulfilling the requirements of opportunity of personal hearing.

5. AND WHEREAS, you were given the opportunity of being heard on 08-02-2016 and material on record perused. It revealed that your appointment as Data Entry Operator was effected as a consequence of production of a politically motivated list by the then Political Secretary to Chief Minister and that too, in sheer violation of the

Am: "J" 39  
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provisions contained in the K.P Civil Servants Act, 1973 and the rules made there-under. The then Chief Engineer (South) PHE abused his powers while grabbing the authority vested in the K.P.Public Service Commission. Even C.E (South) PHE was not competent to make your appointment on adhoc basis for want of NOC from the K.P Public Service Commission, advertising the post as per prescribed procedure, observing merit, zonal allocation and mandatory recommendations of the Departmental Selection Committee. As such, your appointment as Data Entry Operator and the subsequent induction/conversion as Assistant in PHED stand void ab-initio and ultra-vires of the provisions contained in the law/rules/policy ibid. Hence, your termination order dated 14-02-2014 by the competent authority is quite legal, lawful, valid and does not require any review, modification or setting aside whatsoever by the appellate authority.

6. NOW THEREFORE, after having considered the material on record & your explanation during personal hearing held on 08-02-2016, your facts appealed against the C.E (South) PHE Office Order dated 14-02-2014 have not been established and in exercise of the powers as Appellate Authority, conferred under the K.P Civil Servants (Appeal) Rules, 1986 and all other such powers in this behalf, your departmental appeal is hereby dismissed for the reasons mentioned in Para-5 supra.




(NIZAM-UD-DIN)  
SECRETARY TO 03/03

GOVERNMENT OF KHYBER  
PAKHTUNKHWA PHED  
(APPELLATE AUTHORITY)

**ENDST: NO & DATE AS ABOVE:**

Copy forwarded to the:-

1. Registrar, Khyber Pakhtunkhwa Service Tribunal Peshawar w/r to his No.29/ST, dated 05.01.2016 for information.
2. Senior Govt Pleader, Khyber Pakhtunkhwa Service Tribunal Peshawar w/r to his No.(SR.GP)E&AD/1-5/Lit/Appeal/2013/492-95, dated 06.01.2016.
3. Chief Engineer (South) PHE Khyber Pakhtunkhwa Peshawar.



SECRETARY TO 03/03  
GOVERNMENT OF KHYBER  
PAKHTUNKHWA PHED  
(APPELLATE AUTHORITY)

Ann: "K" (up)

~~Annexure XIX~~

GOVERNMENT OF NWFP  
WORKS & SERVICES DEPARTMENT

Dated Peshawar, the November 05, 2001.

ORDER

NO. SO(E)W&S(C&W)13-2/2000: Consequent upon the merger of defunct Public Health Engineering, Physical Planning and Housing and Communication & Works Departments into Works & Services Department vide Notification No. SO(O&M) E&AD/8-16/2000, Dated 01-08-2001, the Governor NWFP is pleased to approve the formation of its two establishments of Frontier Highways Authority and Chief Engineer Works & Services, and accordingly the offices of Chief Engineers North and South (C&W Department) and Chief Engineer PHRD stand abolished with immediate effect.

*S. Hussain*

BRIGADIER (RRTD)  
SAFDAR HUSSAIN AWAN  
SECRETARY

ENDST: NO. SO(E)W&S(C&W)13-2/2000 Dated Peshawar, the Nov 05, 2001.

Copy forwarded to the:-

- 1) All Administrative Secretaries in NWFP, Peshawar.
- 2) Secretary, NWFP, Public Service Commission, Peshawar.
- 3) Secretary to Governor, NWFP, Peshawar.
- 4) HQ PMCS C/O HQs Engineers 11 Corps Peshawar Cantt.
- 5) Accountant General, NWFP, Peshawar.
- 6) All Additional Secretaries/Deputy Secretaries and S.Os in Works & Services Department.
- 7) All DCOs in NWFP.
- 8) All heads of Attached Departments in NWFP.
- 9) All heads of Autonomous/Semi Autonomous Bodies in NWFP.
- 10) The Registrar, Peshawar High Court, Peshawar.
- 11) Director Information NWFP, Peshawar.
- 12) Manager, Government Printing Press, Peshawar.
- 13) All P.Ss to Provincial Ministers, NWFP, Peshawar.
- 14) P.S. to Secretary W&S Department.

(15) A.G.P.R. Peshawar

P.F.

*S 08/11/01*

*Syed Hidayat Jan*  
(SYED HIDAYAT JAN)  
SECTION OFFICER (ESTABLISHMENT)

*Attd*

Dated Peshawar, the March 22, 2005

NOTIFICATION

No. EO(E)W&S/13-1/77: The competent authority is pleased to order the declaration of provincial cadre posts of BPS-1 to BPS-15 of the Works & Services Department as district cadre posts with immediate effect on the following terms and conditions:-

- 1) Permanent transfer to the districts will be made on domicile and seniority basis.
- 2) In case the personnel of that particular district being more than the sanctioned strength, the deployment will be on the basis of seniority and the junior most over-flow will be posted temporarily to the other districts of the province till such time vacancies occur in the districts of their domicile.
- 3) All such employees of the above status working in FATA but belonging to settled districts will be adjusted as per their seniority in the relevant cadre and the over-flow will continue working in FATA till such time vacancies occur in their districts of domicile.
- 4) The domicile of the female officials will be counted under the wedlock policy and such employees will be given one time, irreversible choice to opt for the districts of their spouse or their own. In case of spouse being a government employee and his transfer to another district, inter-district transfer of the female officials will be allowed subject to availability of vacancy in the desired district.
- ✓ 5) Subsequent to the permanent transfer of all RPS-15 and below staff to the districts, further transfers and service matters including appointments, within the districts, shall be made by the District Government in light of the District Government Rules of Business, 2001.
- 6) All cases of transfers from one district to another will be decided and ordered upon by the Secretary W&S Department as per rules / policy.
- 7) Seniority for the purpose of promotion to the posts of provincial cadre will be maintained at Secretariat level.

It is further to mention here that the district governments will deal with the cases of these employees as per clause 6(B) of District Government Rules of Business. They (the District Govt.) will also adopt a mechanism in such a manner that their inter-se-seniority is not affected.

S E C R E T A R Y

Attest  
[Signature]



copy form  
their inter-  
District Govt. will  
clause (B) of Dis  
Governments will  
It is

*25/13*  
*[Signature]*

SECTION OFFICER (SST-11)  
(GHAFOR SHAI)

*Phogor Shai*

- 1) Accountant General MWFP Peshawar.
- 2) Secretary to Chief Minister MWFP, for information.
- 3) Chief Engineer, Works & Services Peshawar.
- 4) All District Coordination Officers in MWFP.
- 5) Chief Engineer (PATA), W&S Peshawar.
- 6) All Executive District Officers W&S in MWFP.
- 7) PS to Secretary W&S Department.
- 8) O/O File.

Copy forwarded to the:-

No. SO(R)W&S/13-1/77:

Dated

No. SOR-II(E&AD)1(20)98-V-III  
Provincial Cadre Posts in ES-15 and below  
District Cadres with imm

*(57)*  
*A*

NWFP

Annexure - XXI (58)

No.SOR-V(E&AD)1-368/2005(SE)  
Dated Pesh: the 2<sup>nd</sup> May, 2007.

Annex-II

CA

To

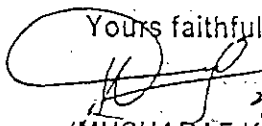
✓ The Secretary,  
NWFP Public Service Commission,  
Peshawar.

NWFP Public Service Commission  
03 MAY 2007  
DIARY NO. 2543

**SUBJECT:- REQUISITION FOR FILLING IN THE 20 VACANT POSTS OF SUB-ENGINEERS (B-11) IN THE WORKS & SERVICES DEPARTMENT.**

Dear Sir,

I am directed to refer to the letter of Works & Services Deptt: bearing No.SO/W&S/11-268/2005 dated 26-09-2005 (copy enclosed) on the above cited subject and to state that the requisition made by the Works & Services Department for filling in the above captioned 20 posts of Sub-Engineers (BS-11) may kindly be considered as withdrawn.

Yours faithfully,  
  
(MUSHARAF KHAN)  
SECTION OFFICER (Reg-V).

Encls: (As-above).

Endst: of even No & Date.

Copy for information is forwarded to:

1. Secretary to Govt. of NWFP Works & Services Department, Peshawar.
2. Addl: Secretary (Estt), Establishment Deptt: Government of NWFP.

*D/R. pl. put up the requisition*  
*4/5*  
*D/S*  
*DS-11*

SECTION OFFICER (Reg-V).

*Attd*  
*OS*

Muzey  
Gim

سید محمد  
مقام

2016  
31  
روز

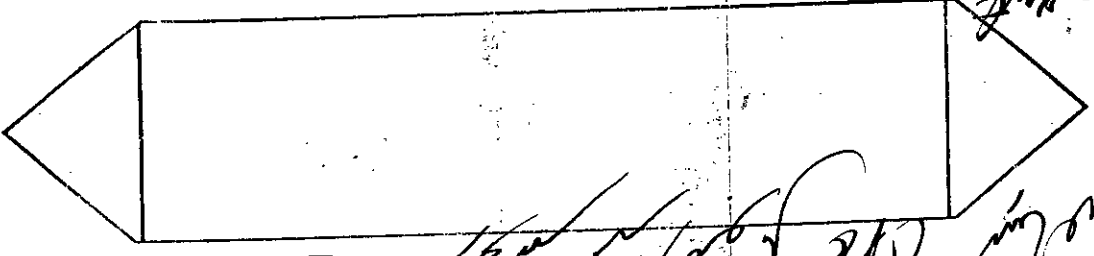
مقدمہ مندرجہ ذیل پر مشتمل ہے۔ اس میں مذکورہ تمام امور کو مدنظر رکھ کر  
مقررہ طریقہ کار کے مطابق عمل کرنا اور اس کے تحت درج ذیل امور کو مدنظر رکھ کر  
مقررہ طریقہ کار کے مطابق عمل کرنا اور اس کے تحت درج ذیل امور کو مدنظر رکھ کر  
مقررہ طریقہ کار کے مطابق عمل کرنا اور اس کے تحت درج ذیل امور کو مدنظر رکھ کر  
مقررہ طریقہ کار کے مطابق عمل کرنا اور اس کے تحت درج ذیل امور کو مدنظر رکھ کر  
مقررہ طریقہ کار کے مطابق عمل کرنا اور اس کے تحت درج ذیل امور کو مدنظر رکھ کر  
مقررہ طریقہ کار کے مطابق عمل کرنا اور اس کے تحت درج ذیل امور کو مدنظر رکھ کر  
مقررہ طریقہ کار کے مطابق عمل کرنا اور اس کے تحت درج ذیل امور کو مدنظر رکھ کر

سید محمد

مقررہ طریقہ کار

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BEFORE THE HON. BLE SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No

330/2016

Murtaza Qureshi S/O Afsar Ali qureshi  
Ex-Assistant PHE Department.

..... (Appellant)

**Versus**

1. Chief Secretary to Govt: of Khyber Pakhtunkhwa Civil Sectt: Peshawar.
2. Secretary to Govt: of Khyber Pakhtunkhwa Public Health Engg:  
Department Peshawar.
3. Chief Engineer Khyber Pakhtunkhwa Public Health Engg: Department  
Peshawar.

...Respondents

**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 shape.
- 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 unnecessary 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-I**). 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, vide judgment dated 15.1.2014 (**Annexure-II**) and subsequent reminder dated 07.02.2014 (**Annexure-III**). The appellant was appointed from a list submitted by Political Secretary to then Chief Minister Khyber Pakhtunkhwa (**Annexure-IV**). 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) Incorrect. The appellant was illegally appointed through a list received from Political Secretary to the then Chief Minister Khyber Pakhtunkhwa without recommendation of Public Service Commission, test/interview and advertisement. The appointment of Data Entry Operator (DEO) is in purview of Public service Commission. The Chief Engineer was not in power to appoint the appellant.

(2-3). Denied as drafted as one wrong or any number of wrongs cannot be made base to justify an illegal action. The post of DEO BPS-11 comes in the purview of Public Service Commission according to the Public Service Commission Ordinance, ESTA Code, and recruitment policy (Copy of the Public Service Commission Ordinance and the concerned rules of the ESTA code and recruitment policy is attached as **ANNEXURE V, VI & VII**), therefore, the then Chief Engineer was not competent to appoint the Appellant. Similar case of Sub Engineer vide Service Appeal No.1331/2013 was dismissed by honourable court vide judgement dated 30/05/2016 **Annexure-VIII**.

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-IX**).

- (4) Incorrect. In the advice of the Establishment Department it has clearly been mentioned that appointment is in the purview of Public Service Commission (ANNEXURE-X). In light of advice of the Establishment Department, Public Service Commission Ordinance, ESTA Code, recruitment policy and after giving opportunity of show cause notice the appellant was terminated being illegally appointed. Further to above in light of advice of Establishment Department proceeding against the than Chief Engineer and other DPC members has been initiated .
- (5) Incorrect. On the direction of apex court order dated 15.1.2014 and subsequent reminder dated 07.2.2014 proper show cause notice issued to all illegally appointees including the appellant. The appellant was illegally appointed contrary to all prevailing rules/procedure i.e. recommendation of Public Service Commission, test interview and advertisement, there was no weight age in his reply of show cause notice hence terminated.
- (6) Incorrect. The appellant was illegally appointed without adopting proper/legal procedure. The appointment of DEO was in purview of Public Service Commission and Chief Engineer was not competent authority to appoint the appellant. The appointment of appellant was made from the list received from the then Political Secretary to the then Chief Minister Khyber Pakhtunkhwa. The act mentioned by the appellant not meant for illegal appointees but those who were legally appointed on adhoc and on contract basis. The appellant was given opportunity of show cause notice and no inquiry required in the case of illegally appointees as the appellant was not civil servant. The referred ordinance by the appellant is only meant for contract and adhoc employees but the appellant was appointed on regular basis illegally contrary to rules/procedure which was also claimed/excepted by the appellant in his service appeal No.750/2014 in para-6 of the grounds of his appeal. Hence the above mentioned acts do not apply on the appellant.
- (7) Incorrect. The appellant misconceived the orders of Apex court the then Chief Engineer PHED has taken action against all illegal appointees in the light of direction of Apex Court dated 15.1.2014 and subsequent reminder dated 7.2.2014 after issuing of show cause notice to the appellant.

- (8) Denied as drafted. A show cause notice was issued to the appellant but the same was never replied in stipulated time, hence the termination order was validly issued, as the appellant was not come in the category of civil servant. The appellant was illegally appointed and the department was in the obligation to take action, on the direction of the August Supreme Court, against such illegal appointees, in letter and spirit.
- (9) Pertain to record hence no comments.
- (10) Correct to the extent that the case was remanded by the Service Tribunal to the department for giving opportunity to the appellant for departmental appeal and personal hearing which was accordingly given to the appellant in the stipulated period.
- (11) Denied as drafted. The appellant including the other 31-Nos illegally appointed from the list provided by the Political Secretary to then Chief Minister, contrary to all prevailing rules without recommendation of Public Service Commission, test interview and advertisement. There was no merit/weight age in reply of the appellant, hence departmental appeal was rejected by the appellant authority on merit and according to rules.

### **GRUNDS**

- (A) Incorrect. The impugned order has been issued on the direction of Supreme Court of Pakistan for finalizing action against all such illegal appointees. Fact is that the appellant was illegally appointed without Advertisement, test, interview and merit and without recommendation of Public Service Commission.
- (B) Incorrect. No discriminatory treatment has been meted out with the appellant. Since promulgation of Public Service Commission Ordinance all the posts of Data Entry Operators have been filled through the recommendation of Public Service Commission. One wrong if made in the past cannot be referred as precedent for doing another wrong. According to ESTA Code Advertisement for any vacancy is compulsory, statement of the appellant is totally false and may be considered as confessional statement of wrong doing in case of his recruitment.

- (C) Incorrect. The appellant was not a regular civil servant appointed through back door. As such the appellant service cannot be protected.
- (D) Incorrect. The appellant was illegally appointed by unlawful authority contrary to all prevailing rules/procedures and was not come in category of civil servant. As such the appellant service cannot be protected.
- (E) Incorrect. There is no malafied of the respondent. The respondent take action correctly in the light of direction of the Apex Court against the appellant who was illegally appointed, contrary to all prevailing rules/procedures.
- (F) Incorrect. The appellant misconceived the judgment of Apex Court. The appellant was illegally appointed without the recommendation of Public Service Commission, test/interview and advertisement. In light of direction of Apex Court dated 15.1.2014 and subsequent reminder dated 7.2.2014 to take action against illegally appointees the appellant being illegally appointees was terminated.
- (G) As above.
- (H) Incorrect. Illegally appointees has create no legal right to retain in service. As one wrong cannot be justified for another wrong. The appellant was given opportunity of show cause notice, but the appellant failed to produce legal documents regarding his legality of his appointment.
- (I) Incorrect. The appellant was illegally appointed contrary to rules and procedures without recommendation of Public Service Commission as the appointment of DEO come in purview of Public Service Commission Ordinance, ESTA code and recruitment policy. The illegal appointees has no legal rights to retain in service.



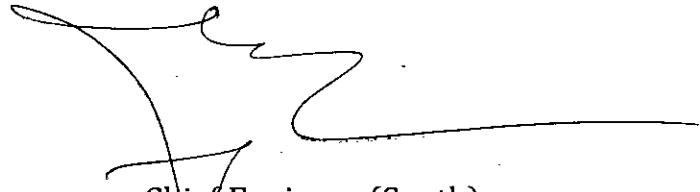
- (J) The respondent seeks leave of this Honourable Tribunal to raise additional grounds and proof at the time of arguments.

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 appellant may kindly be dismissed with cost.



Secretary

to Govt of Khyber Pakhtunkhwa  
Public Health Engg: Department  
(Respondent No.2)



Chief Engineer (South)  
Public Health Engg: Department  
(Respondent No.3)

BEFORE THE HON.BLE SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No

330/2016

Murtaza Qureshi S/O Afsar Ali qureshi  
Ex-Assistant PHE Department.

..... (Appellant)

Versus

1. Chief Secretary to Govt: of Khyber Pakhtunkhwa Civil Sectt: Peshawar.
2. Secretary to Govt: of Khyber Pakhtunkhwa Public Health Engg:  
Department Peshawar.
3. Chief Engineer Khyber Pakhtunkhwa Public Health Engg: Department  
Peshawar.

...Respondents

AFFIDAVIT

I, Sanobar 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 tribunal.

  
DEPONENT

# Public Health Engineering Department

*Max-D*

Seniority List of Assistants (B-14) / Stenographers (B-15) 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 Previous	Date of Appointment to Present Post	Remarks
1	Nizam ud Din	Qabul Din	Khyber	Matric	20.11.1955	20.12.1973	20.01.1982	21.11.1988	
2	<del>Syed Hazrat Yousaf</del>	<del>S. Muhammad Ismail</del>	<del>Malakand</del>	<del>Matric</del>	<del>05.08.1952</del>	<del>09.05.1974</del>	<del>19.01.1984</del>	<del>02.12.1989</del>	<i>promoted to Tm k</i>
3	<del>Shadi Khan</del>	<del>Mir Kalam Khan</del>	<del>FR-Bannu</del>	<del>Matric</del>	<del>28.06.1955</del>	<del>17.08.1974</del>	<del>18.10.1986</del>	<del>23.08.1993</del>	<i>SA Post B-15</i>
4	Muhammad Jan	Abdullah Jan	D.I.Khan	Matric	09.10.1953	25.11.1974	18.10.1986	23.08.1993	
5	Abdul Wakil	Haji Gul Ahmad	Mardan	B.A	01.01.1954	27.11.1974	18.10.1986	23.08.1993	
6	Mir Nawaz	Nawab Khan	Lakki	Matric	02.01.1956	02.12.1974	14.11.1986	05.12.1993	
7	Hamayun Khan	Bahramand	Malakand	B.A	14.04.1954	18.12.1973	18.10.1986	15.08.1994	
8	Zafar Ali Shah	Mehrab Shah	Chitral	Matric	01.03.1955	16.05.1974	27.03.1990	19.06.1994	
9	Gul Roshan	Abbas Khan	FR Bannu	Matric	28.07.1956	11.01.1975	11.04.1987	07.05.1995	
10	Liaqat Ali	Ghulam Hussain	D.I.Khan	D.Com	28.11.1954	18.02.1975	11.04.1987	17.12.1995	
11	Zala Mir	Awal Khan	FR Bannu	Matric	02.02.1956	04.03.1975	11.04.1987	01.08.1996	
12	Muhammad Ibrahim	Mir Ali Khan	Karak	Matric	03.03.1957	01.06.1975	11.04.1987	29.10.2010	
13	Khurshid Iqbal		Dir	Matric	23.03.1952	16.12.1974	01.10.1987	29.10.2010	
14	Sherin Muhammad	Didar Muhammad	Mardan	Matric	29.07.1956	01.10.1975	01.10.1987	29.10.2010	
15	<del>Qayum Nawaz</del>	<del>Ahmad Nawaz</del>	<del>D.I.Khan</del>	<del>Matric</del>	<del>25.01.1952</del>	<del>02.03.1977</del>	<del>05.09.1989</del>	<del>29.10.2010</del>	<i>Retired</i>
16	Saddiq Shoukat	Atta Muhammad	Abbotabad	M.A	04.01.1955	12.03.1977	05.09.1989	29.10.2010	
17	Asfand Yar	Roidar Khan	Peshawar	M.A	02.04.1955	01.03.1977	05.09.1989	29.10.2010	
18	Khurshid Ali Shah	Shahid Ullah Jan	Lakki	Matric	09.03.1957	16.02.1977	05.09.1989	29.10.2010	
19	Amir Hussain	Muhammad Nawaz	D.I.Khan	D.Com	01.01.1958	11.03.1977	30.04.1991	29.10.2010	
20	Pervez Ahmad	Shamroz Khan	Mardan	Matric	24.01.1959	16.03.1977	23.04.1991	29.10.2010	
21	<del>Fazal Qadeem</del>	<del>H.Mian Shamsul Qamar</del>	<del>Charsadda</del>	<del>Matric</del>	<del>02.09.1951</del>	<del>22.03.1977</del>	<del>23.04.1991</del>	<del>29.10.2010</del>	<i>Retired</i>
22	Fazli Wahid	Abdul Malik	Charsadda	Matric	15.01.1954	13.06.1978	23.04.1991	29.10.2010	
23	Mushtaq Ahmad	Ghulam Mohiud Din	Abbotabad	Matric	11.05.1953	12.09.1978	23.04.1991	29.10.2010	
24	Mehmood Shah	Sher Afzal	Khyber	Matric	14.06.1955	07.10.1978	01.05.1991	29.10.2010	
25	Hassan Gul	Zafir Gul	Mardan	Matric	25.08.1958	30.09.1978	12.01.1995	29.10.2010	
26	Mohammad Irshad	Muhammad Zaman	Haripur	Matric	16.11.1957	01.10.1978	16.10.1993	29.10.2010	
27	Dil Nawab Khan	Muhammad Akbar	Karak	B.A	22.09.1958	19.10.1978	16.10.1993	29.10.2010	
28	Ihsan Ullah	Aman Ullah	Peshawar	Matric	04.12.1958	30.09.1978	16.10.1993	29.10.2010	
29	Asghar Ali		Bannu	Matric	04.12.1958	04.10.1978	16.10.1993	29.10.2010	
30	Muhammad Younas	Hassan Ali	Abbotabad	F.A	01.01.1958	27.09.1978	16.10.1993	29.10.2010	

*promoted to Supt. C-35-16*

*Retired*

*Retired*

*ADCM*

Seniority List of Assistants (B-14) / Stenographers (B-15) 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 Previous	Date of Appointment to Present Post	Remarks
31	Kalim Khan	Rais Khan	Karak	Matric	06.04.1960	05.10.1978	16.10.1993	29.10.2010	
32	Waris Khan	Faqir Khan	Peshawar	Matric	21.04.1958	15.02.1979	16.10.1993	29.10.2010	
33	Asadullah	Maghfoor Khan	Charsadda	B.A	30.11.1951	02.04.1978	16.10.1993	29.10.2010	Retired from 1-3-2013
34	Umar Nawaz Shah (SR)	Muhammad Shah	Bannu	D.Com	01.03.1953	25.05.1981	25.05.1981	29.10.2010	
35	Jehan Shah (SR)	Mir Jehan Shah	Bannu	D.Com	24.08.1961	11.06.1985	11.06.1985	29.10.2010	
36	Muhammad Bakhsh (SR)	Fateh Muhammad	D.I.Khan	Matric	01.12.1958	01.07.1985	01.07.1985	29.10.2010	
37	Mukaram Khan (SR)	Zigrawar Khan	Mardan	M.A	07.05.1959	11.02.1986	18.02.1986	29.10.2010	
38	Said Ghani (SR)	Gul Sahib	Mardan	B.A	08.04.1966	15.09.1987	15.09.1987	29.10.2010	
39	Shahab ud Din (SR)	Abdul Matin	Lower Dir	B.A	02.01.1966	01.10.1987	29.09.1987	29.10.2010	
40	Saleem ur Rehman (SR)	Gulistan Khan	Karak	M.A	07.05.1966	04.02.1985	01.04.1990	29.10.2010	
41	Abid ur Rehman (SR)	Mir Sadat Shah	Bannu	D.Com	01.05.1968	27.03.1990	27.03.1990	29.10.2010	

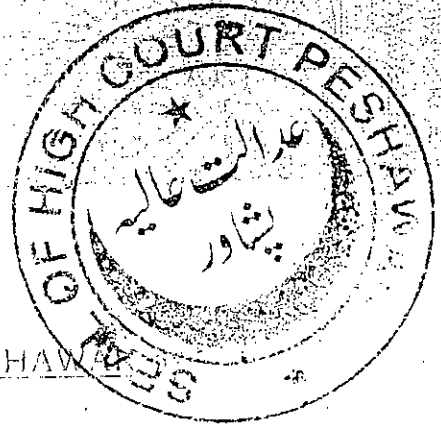
Chief Engineer (South)  
Public Health Engg: Department  
Khyber Pakhtunkhwa Peshawar

Endstt: No. 06/E-16/PHE. Dated Peshawar the 28/3/2011

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



IN THE PESHAWAR HIGH COURT, PESHAWAR

And Petition No. 27 of 2014

Abdul Wahid Khan vs. State of Punjab

and Mr. Iqbal Khan vs. State of Punjab

Mr. Iqbal Khan, B.L. Engineer, in Public Health Engineering Department  
District, Pakhtunkhwa, Peshawar Division, Peshawar

Mr. Iqbal Khan, District Engineer, District, Pakhtunkhwa

Mr. Iqbal Khan, District Engineer, District, Pakhtunkhwa

Mr. Iqbal Khan, District Engineer, District, Pakhtunkhwa

Mr. Iqbal Khan, District Engineer, District, Pakhtunkhwa

Mr. Iqbal Khan, District Engineer, District, Pakhtunkhwa

Mr. Iqbal Khan, District Engineer, District, Pakhtunkhwa

Mr. Iqbal Khan, District Engineer, District, Pakhtunkhwa

Mr. Iqbal Khan, District Engineer, District, Pakhtunkhwa

ATTESTED

EXAMINED  
Peshawar High Court

20 FEB 2014

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/*Ms. Musarrat Hilal*

MUSARRAT HILAL, 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  
FEB 2014

2014  
12/12/2014  
12/12/2014

the adhoc/contract employees of the Province were regularized, however, the same benefit was not extended to the petitioners. Moreover, services of some six Sub-Engineers have been regularized after appointment of the petitioners. The petitioners preferred an application/appeal to the competent authority as well as to the Human Rights Cell of this court. In this respect, a letter dated 21/12/2013 was addressed to Human Rights Cell by the respondents, wherein, it was stated that Sub-Engineers, namely, Sher Hayat and Mushtaq Ahmad, who were 38 and 39 years old, respectively and were debarred from future employment in any institution of the Provincial/Federal Government for the reasons beyond their control. Nevertheless, handsome share of posts of Sub-Engineers were lying in the department and as a gesture of good will, the petitioners can be accommodated on regular basis. According to the petitioners, they waited for some time but did not receive any fruitful result from the respondents whereas their tenure is going to expire, hence necessitated the filing of instant constitutional petition.

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

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

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



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...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 Fehmawer in its issue dated 23<sup>rd</sup> April, 2010.  
 vacant posts of Sub-Engineers located advertisement in  
 5. Admittedly, the respondents in order to fill up the

available before us.  
 learned AAG for respondents and gone through the record  
 We have heard learned counsel for petitioners and

above grounds.  
 the case, defence 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

5  
whichever is earlier. The petitioners amongst others also participated in the test/interview. However, after due process, they were appointed on 3<sup>rd</sup> January, 2010. On 28.2.2012, the petitioners were re-appointed as Sub-Engineers as a stop-gap arrangement.

6. The petitioners are taking the shelter behind Act No XVI of 2009 and can be pressed into service in case of those adhoc employees, who were holding the posts on 31<sup>st</sup> December, 2008 or till the commencement of the Act, which is not the case in hand, therefore, the plea taken is of no help to them. Moreover, the learned AAG produced a copy of the letter dated 1.7.2013 showing that those employees, who were retained by the respondent/department have also been terminated after the arrival of candidates from Public Service Commission.

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 substance is hereby dismissed.

Sd/- Nisar Hussain Khan - J  
Sd/- Ms. Misarat H. Qureshi - J

CERTIFIED TO BE TRUE COPY  
Examiner  
Peshawar High Court  
Authorized Signatory  
The Qanun-e-Shahadaat  
20 FEB 2014  
20-02-14

PE: 9082235  
Fax: 9220406

56  
REGISTERED  
Nos. C.P. 2026 & 2029 of 2013 - SCJ  
SUPREME COURT OF PAKISTAN.

Islamabad, dated 16/1/2014.

The Registrar,  
Supreme Court of Pakistan,  
Islamabad.

The Registrar,  
Peshawar High Court,  
Peshawar.

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

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

Dear Sir,

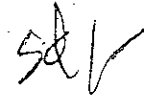
I am directed to enclose herewith a certified copy of the Order of this Court dated 15.01.2014 **dismissing** the above cited civil petitions with directions for information and further necessary action.

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

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

Encl: Order

Yours faithfully,



(NAZAR ABBAS)  
ASSISTANT REGISTRAR (IMP)  
FOR REGISTRAR

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

Encl: Order



ASSISTANT REGISTRAR (IMP)  
FOR REGISTRAR

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IN THE SUPREME COURT OF PAKISTAN  
(APPELLATE JURISDICTION)

**PRESENT:**

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

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

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

Mushtaq Ahmed and another.  
Muhammad Nasir Ali and others.

(in CP. 2026/13)

(in CP. 2029/13)

...Petitioners

Versus

Government of KPK through Chief Secretary,  
Peshawar and others.

(in both cases)

...Respondents

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

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

Date of hearing: 15.01.2014.

**ORDER**

**ANWAR ZAHEER JAMALI, J.** - After hearing the arguments

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

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

**ATTESTED**

Superintendent  
Supreme Court of Pakistan  
Islamabad

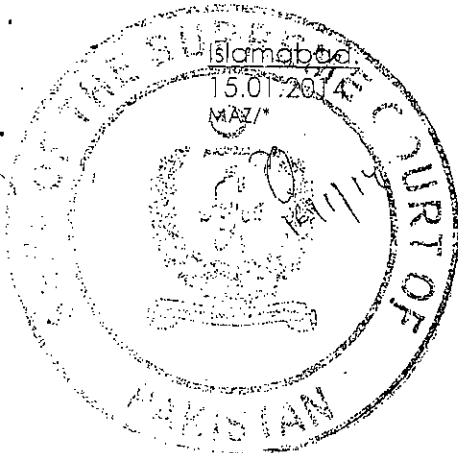
although many other illegal appointees in his department have been removed from service, but against many others such action is in process at various stages and they are still in service.

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

Sd/- 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: 6

Requisition Fee Rs: 5.00

Copy Fee in: 3.22

Court Fee stamps: 8.22

Date of completion of Copy: 18-1-14

Date of delivery of Copy: 18-1-14

Compared by/P. [Signature]

Received by: [Signature]

Islamabad, dated 7/1/2014.

The Registrar,  
Supreme Court of Pakistan,  
Islamabad.

To

The Chief Engineer,  
Public Health Engineering Department,  
Khyber Pakhtunkhwa,  
Peshawar.

Subject:

CIVIL PETITION NOS. 2026 & 2029 OF 2013.

Mushtaq Ahmed & another ...in C.P. 2026/2013

Muhammad Nasir Ali & others ...in C.P. 2029/2013

VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary,  
Peshawar & others ...in both cases

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

Dear Sir,

In continuation of this Court's letter of even number dated 16.01.2014, I am directed to say that while dismissing as time barred the above cited civil petition on 15.01.2014, this Hon'ble Court was pleased to direct as under:-

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

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

Accordingly, a certified copy of the Order was sent to you vide letter referred above for immediate necessary action and report compliance but no compliance report in this regard has been received so far from your end.

Contd: P/2

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You are, therefore, required to submit requisite compliance report enabling this office to place the same before Hon'ble Court.

dt. 16.01.2014

✓ to  
Referring earlier  
letter

Yours faithfully,



(NAZAR ABBAS)  
ASSISTANT REGISTRAR (IMP)  
FOR REGISTRAR

de.



(23)

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

No. 03 G-4-A/Hc/PHE

Dated Peshawar, the 17 /02/2014

To

The Registrar,  
Supreme Court of Pakistan,  
Islamabad

Subject: Civil Petition Nos. 2026 & 2029 of 2013.

Mushtaq Ahmed & another in C.P. 2026/2013

Muhammad Nasir Ali & Others in C.P. 2029/2013

Versus

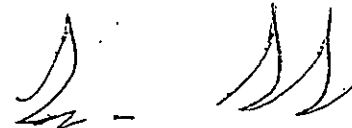
Govt of Khyber Pakhtunkhwa through Chief Secretary Peshawar & others

Reference: No. C.P. 2026 & 2029 of 2013 - SCJ dated 16.1.2014

In light of direction of honourable Supreme Court of Pakistan order dated 15.1.2014 action against illegally appointees in Public Health Engg: Department Khyber Pakhtunkhwa has been finalized. Services of the 24-Nos Sub Engineers, 6-Nos Seno typist/Stenographer and 2-Nos Data Entry Operator who were appointed without advertisement and recommendation of Public Service Commission have been terminated. List attached for your good self perusal please.

DA/As above

ok

  
Chief Engineer (South)



**LIST OF ILLEGAL APPOINTEES IN PUBLIC HEALTH ENGG:**  
**DEPARTMENT KHYBER PAKHTUNKHWA PESHAWAR**

**A. 24-Nos SUB ENGINEERS**


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. Ishfaq Sub Engineer,
14. Mr. Abdul Shahid Sub Engineer,
15. Mr. Kashif Raza Sub Engineer,
16. Mr. Waqas Ali Sub Engineer,
17. Mr. Muslim Shah Sub Engineer,
18. Mr. Ishtiaq Ahmad Sub Engineer,
19. Mr. Zuhib Khan Sub Engineer,
20. Mr. S. Hassan Ali Sub Engineer,
21. Mr. Mohsin Ali Sub Engineer,
22. Mr. Muqtada Qureshi Sub Engineer,
23. Mr. Ishfaq Ahmad Sub Engineer,
24. Mr. M. Qaiser Khan Sub Engineer,

**B. 6-Nos STENO TYPIST/STENOGRAPHERS**

1. Mr. Nomanullah Senior Scale Stenographer,
2. Mr. M. Jamil Steno Typist,
3. Mr. Iftikhar Steno Typist,
4. Mr. Shah Khalid Steno Typist,
5. Mr. Aziz Ullah Steno Typist,
6. Mr. Farhan Ullah Steno Typist,

**C. 2-Nos DATA ENTRY OPERATOR**

1. Mr. Farman Ali Data E/Operator,
2. Mr. Murtaza Qureshi Data E/Operator,

  
Chief Engineer (South)

Subject:-

APPOINTMENTS AGAINST THE VACANT POSTS OF SUB ENGINEER / STENOYPIST & DEO.

24

It has come in to the notice of Honourble Chief Minister, NWFP, that a number of posts of Sub Engineer / Stenotypists & DEO are lying vacant in PHE. While discussing the matter of appointments against these posts with Chief Engineer PHE, on more than one occasions, it was told that the posts of BPS-10 and above are to be filled-in through PSC. Where on the other hand due to implementation of Devolution 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 personnols 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 Aoplicant</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 Tahmeed 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.	-do-
26.	Mr. Noor Muhammad /O Jamroz Khan District Peshawar.	Stenotypiest
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

2/2007

Merit  
70  
23

**NWFP PUBLIC SERVICE COMMISSION**  
**Scouts Building, Sector P-I, Phase-IV,**  
**Hayatabad, Peshawar**  
**Website: [www.nwfppsc.gov.pk](http://www.nwfppsc.gov.pk)**

Dated: 06-01-2

**ADVERTISEMENT NO. 02/2007.**

Applications are invited for the following posts from Pakistani citizens of N.W.F.P./F.A. domicile by 10-02-2007 (24-02-2007 for candidates from abroad).

**AGRICULTURE LIVESTOCK & CO-OPERATIVE DEPTT:**

**1. One Senior Research Officer Economic Botanist**

**QUALIFICATION:** (a) Ph. D in any of the subject relating to the subject Groups.  
(b) Publication of at least two Research papers on problems encountered in or relevant to the conditions in NWFP. and of such a quality which have been used as reference by other research scientists. National and international repute.

**AGE LIMIT:** 25 to 35 years. **PAY SCALE:** BPS-18. **ELIGIBILITY:** Male. **ALLOCATION:** Merit.

**2. Two Agriculture Officers .**

**QUALIFICATION:** M.Sc Agriculture or equivalent qualification from a recognized University  
**AGE LIMIT:** 21 to 35 years. **PAY SCALE:** BPS-17. **ALLOCATION:** One each to Zone-2 & 5.  
**ELIGIBILITY:** Male.

**3. Two Research Officers Horticulture**

**QUALIFICATION:** (i) M.Sc Agriculture or B.Sc (Hons) Agriculture (Obtained after "4" Years instructions after F.Sc) from a recognized University Under Research programme in the subject relating to the subject group.

**AGE LIMIT:** 21 to 32 years. **PAY SCALE:** BPS-17. **ELIGIBILITY:** Both Sexes.

**ALLOCATION:** One each to Zone-2 and -3

**4. Ten Research Officers in Agriculture Chemistry**

**QUALIFICATION:** (i) M.Sc Agriculture or B.Sc (Hons) Agriculture (Obtained after "4" Years instructions after F.Sc) from a recognized University Under Research programme in the subject relating to the subject group.

**AGE LIMIT:** 21 to 32 years. **PAY SCALE:** BPS-17. **ELIGIBILITY:** Both Sexes.

**ALLOCATION:** Three to Merit. Two each to Zone-3, 4 and One each to Zone-1, 2 and -5

**5. Four Research Officers Plant Physiology**

**QUALIFICATION:** (i) M.Sc Agriculture or B.Sc (Hons) Agriculture (Obtained after "4" Years instructions after F.Sc) from a recognized University Under Research programme in the subject relating to the subject group.

**AGE LIMIT:** 21 to 32 years. **PAY SCALE:** BPS-17. **ELIGIBILITY:** Both Sexes.

**ALLOCATION:** One each to Merit, Zone-1, 2 and 3

**6. Nine Research Officers (Five in Entomology & Four in Plant Pathology) in Agriculture Research System .**

**QUALIFICATION:** M.Sc. Agriculture or B.Sc. (Hons) Agriculture obtained 4 years instructions after FSc from a recognized University under Research Programme in the subject relating to the subject groups as specified in Schedule-II attached with Service Rules to which the Vacancies occurred.

**AGE LIMIT:** 21 to 32 years. **PAY SCALE:** BPS-17. **ELIGIBILITY:** Both Sexes.

**ENTOMOLOGY.**

**ALLOCATION:** One each to Merit, Zone-1, 2, 4 & 5.

**PLANT PATHOLOGY.**

**ALLOCATION:** One each to 2, 3, 4 & 5.

2/2007

**One Junior Scale Stenographer.**

**QUALIFICATION:** (i) Intermediate or equivalent qualification from a recognized Board and (ii) A speed of 60 words per minute in English Shorthand and 35 words per minute in English Typewriting and knowledge of Computer in using MS Word and MS Excel.  
**AGE LIMIT:** 18 to 30 years. **PAY SCALE:** BPS-12. **ELIGIBILITY:** Both Sexes.  
**ALLOCATION:** Zone-1,

**PLANNING & DEVELOPMENT DEPARTMENT.**

**46. Chief of Section.**

**QUALIFICATION:** (a) Master Degree from a recognized University or equivalent qualification in any of the fields namely Economics, Development, Agriculture Sciences, Health, Industrial Economics, Educational Planning and Management, Geography, Sociology, Social Work, Public Administration, Physical Planning Statistics, Business Administration, Geology, Commerce, Computer Science, Political Science, Environmental management, Environmental Engineering, Forestry, Fisheries, Wildlife, Range Science, Watershed Management, Ecology, Chemistry, Physics, Botany, Zoology, Mathematics, International Relations, Development Studies, or  
(b) B.Sc, B.E Degree from a recognized University in Civil Engineering or Electrical Engineering or Architecture or Urban and Regional Planning or City and Regional Planning or Town Planning, or  
(c) MBBS from a recognized Medical Institute/ University, with 12 Years experience of work and / or research relating to Development Economics Public Finance, Project Management or other Fields of Planning and Development or Engineering, Environmental Management, Environmental Engineering, Forestry, Fisheries, Agriculture Sciences, Wildlife, Range Science, Watershed Management, Ecology, Agriculture, Chemistry, Bio-Chemistry, Physics, Botany, Zoology, or  
(II) M. Phil or equivalent qualification from a recognized University in any of the subjects mentioned at I (a) above with seven years experience in the relevant field/ subject mentioned at I (b) above, or  
(III) Ph. D from recognized University in any of the subject mentioned at I (a) with one year's experience in the relevant field / subjects mentioned at I (b) above.  
**AGE LIMIT:** 30 to 45 years. **PAY SCALE:** BPS-19. **ELIGIBILITY:** Both Sexes.  
**ALLOCATION:** Merit.

**PRISON DEPARTMENT.**

**47. One Junior Scale Stenographer.**

**QUALIFICATION:** Intermediate or equivalent qualification from a recognized Board and (ii) A speed of 60 words per minute in English Shorthand and 35 words per minute in English Typewriting and knowledge of Computer in using MS Word and MS Excel.  
**AGE LIMIT:** 18 to 30 years. **PAY SCALE:** BPS-12. **ELIGIBILITY:** Male.  
**ALLOCATION:** Zone-1

**48. Two Office Assistants.**

**QUALIFICATION:** Bachelor Degree from a recognized University.  
**AGE LIMIT:** 18 to 30 years. **PAY SCALE:** BPS-11. **ELIGIBILITY:** Male.  
**ALLOCATION:** One each to Zone-2 and Zone-3.

**PUBLIC HEALTH ENGENNING DEPARTMENT.** ✓

**49. Five Data Entry Operator / Key Punch Operator**

**QUALIFICATION:** (i) F.A /F.Sc With Statistics / Economics / Maths / Physics as one of the subject and (ii) A minimum speed of ten thousand key depression per hour for punching data entry/ verification.  
**AGE LIMIT:** 18 to 30 years. **PAY SCALE:** BPS-12. **ELIGIBILITY:** Both Sexes.  
**ALLOCATION:** One each to Zone -1,2,3,4 and Zone-5.

## NWFP PUBLIC SERVICE COMMISSION.

### 50. Two Junior Scale Stenographer.

**QUALIFICATION:** (i) Intermediate or equivalent qualification from a recognized Board and (ii) A speed of 60 words per minute in English Shorthand and 35 words per minute in English Typewriting and knowledge of Computer in using MS Word and MS Excel.  
**AGE LIMIT:** 18 to 30 years. **PAY SCALE:** BPS-12. **ELIGIBILITY:** Both Sexes.  
**ALLOCATION:** Zone -1 and Zone-4.

### 51. One Office Assistant.

**QUALIFICATION:** Bachelor Degree from a recognized University.  
**AGE LIMIT:** 18 to 30 years. **PAY SCALE:** BPS-11. **ELIGIBILITY:** Male.  
**ALLOCATION:** Zone -2.

### 52. Three Data Entry Operators & Three Key Punch Operators.

**QUALIFICATION:** (i) F.A / F.Sc with Statistics / Economics / mathematics / Physics as one of the subject.  
(ii) A Minimum speed of ten thousand Key depression per hour for punching data entry verification  
(iii) Diploma in Computer Science & Information Technology from a recognized institution affiliated with the NWFP Board of Technical Education.  
**AGE LIMIT:** 18 to 30 years. **PAY SCALE:** BPS-10. **ELIGIBILITY:** Both Sexes  
**ALLOCATION:** Two to Zone -1 and one each to Zone-2, 3, 4 and 5.

## POPULATION WELFARE DEPARTMENT.

### 53. Three Junior Scale Stenographer.

**QUALIFICATION:** (i) Intermediate or equivalent qualification from a recognized Board and (ii) A speed of 60 words per minute in English Shorthand and 35 words per minute in English Typewriting and knowledge of Computer in using MS Word and MS Excel.  
**AGE LIMIT:** 18 to 30 years. **PAY SCALE:** BPS-12. **ELIGIBILITY:** Both Sexes.  
**ALLOCATION:** Zone.-1,3, & 5.

## SPORTS, TOURISM, ARCHAEOLOGY AND MUSEUMS DEPARTMENT.

### 54. One District Sports Officer.

**QUALIFICATION:** Bachelor's degree from a recognized University with at least second position in any individual sports event as a player or participation in any National level sports competition provided that preference will be given to International sports men or if no suitable candidate with the above qualification is available then second Class Master Degree in Physical Education from a recognized University.  
**AGE LIMIT:** 21 to 30 years. **PAY SCALE:** BPS-17. **ELIGIBILITY:** Male.  
**ALLOCATION:** Merit.

### 55. One Assistant Director.

**QUALIFICATION:** Bachelor's degree from a recognized University with at least second position in any individual sports event as a player or participation in any National level sports competition provided that preference will be given to International sports men or if no suitable candidate with the above qualification is available then second Class Master Degree in Physical Education from a recognized University.  
**AGE LIMIT:** 21 to 35 years. **PAY SCALE:** BPS-17. **ELIGIBILITY:** Male.  
**ALLOCATION:** Merit.

### 56. One Post of Football Coach.

**QUALIFICATION:** Bachelor's Degree from a recognized University.  
(i) Five (5) Years experience as Coach in the relevant Sports/Game before or after graduation.  
(ii) First or second position in the relevant individual sports event as a player at the National level organized by Pakistan Olympic Association/Pakistan Sports Federation concerned/ Pakistan

75  
②

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

No. 03 /E-4 /PHE  
Dated Peshawar, the 19 / 04/2012.

OFFER OF APPOINTMENT

1 On the recommendation of the Khyber Pakhtunkhwa Public Service Commission and in pursuance of provision contained in Sub Section (2) of Section-19 of the NWFP Civil Servants Act, 1973 as amended by the NWFP Civil Servants (Amendment) Act, 2005 the Competent Authority is pleased to offer the post of Computer Operator, in the offices noted against each to the following candidates in BPS-12 (Rs.7000-500-22000) subject to the Terms & Conditions mentioned below

S.NO	Merit No	Name with Fathers Name	Domicile/Zone	Place of posting
1	04	Mr.Abdul Salam S/O Feroz Khan	F.R Peshawar/1	Office of S.E. PHE Circle Kohat.
2	01	Mr.Waqas Ahmad S/O Riaz Ahmad	Peshawar/2	Office of CE (S) PHE D Peshawar.
3	06	Mr.Fazal Karam S/O Dil Bar	Swat/3	Placed at the disposal of CE (N) PHE D Peshawar for further posting
4	09	Mr. Saif Ullah S/O Ghani-Ur-Rehman	Lakki Marwar/4	Office of XEN PHE Division Hangu
5	05	Mr. Zia Khurshid S/O Khurshid Ahmed Khan	Abbottabad/5	Placed at the disposal of CE (N) PHE D Peshawar for further posting.

TERMS & CONDITIONS

- (a) They shall, for all intents and purposes, be civil servant except for purpose of pension or gratuity. In lieu of pension and gratuity, they shall be entitled to receive such amount contributed by them towards contributory provident fund (C.P.F) alongwith the contributions made by Government to their account in the said fund, in the prescribed manner.
- (b) They shall be governed by the NWFP Civil Servant Act 1973 and all the laws applicable to the civil servants and rules made there under.
- (c) They shall initially, be on probation for a period of one year extendable upto two years.
- (d) Their employment in the Public Health Engg: Department is purely temporary and their services are liable to be terminated without assigning any reason at fourteen (14) days notices or on the payment of 14 days salary in lieu of the notice. In case they wish to resign at any time, 14 days notice will be necessary or in lieu thereof 14 days pay will be forfeited.

(Contd; on page-2)

(e) They shall produce a Medical certificate of fitness from Medical Superintendent before reporting for duty as required under the rules, if they are not already in Govt Service.

(f) They have to join duty at their own expenses.

(g) Their inter-see-seniority will be reckoned as per merit assigned by the Khyber Pakhtunkhwa Public Services Commission.

2. In case the above terms & conditions are acceptable, an UNDERTAKING to this effect on Bond worth Rs.30/- signed and duly attested by the Oath Commissioner should be produced to this Department within a fortnight's period on joining the services without fail.

3. If they accept the post on the aforesaid conditions, they should report to relevant above offices of PHE Department within a month of the receipt of offer & produce original certificate for scrutiny & record.

(ENGR:GHULAM MUJTABA)  
CHIEF ENGINEER (S)

Copy forwarded to the:-

- 1 Secretary to Govt Khyber Pakhtunkhwa Public Health Engg: Deptt: Peshawar w/r to his office No.SO(Estt)/PHE D/MISC/2009 dated 14-4-2012.
- 2 Secretary Khyber Pakhtunkhwa Public Services Commission. Fort Road, The Mall Peshawar with reference to his memo No.KPK/PSC/SR-VI/018846 dated 10-04-2012
- 3 The Accountant General Khyber Pakhtunkhwa Peshawar.
- 4 The Chief Engineer,(N) Public Health Engg: Deptt: Peshawar.
- 5 The Superintending Engineer, Public Health Engg: Circle Kohat.
- 6 The Executive Engineer, Public Health Engg: Hangu.
- 7 The District Accounts Officer Kohat/Hangu.
- 8 Principal Govt: High School Rajoya Abbottabad. If the official accepts the terms and conditions as stated above, then re-lieve the official and submit the Service Book P/file LPC etc of Mr.Zia Khurshid S/O Khurshid Ahmad Khan for this office record.
- 9 Mr. Abdul Salam S/O Feroz Khan Village Kwal Gul, Ali Khel P/O Sher Kera Tehsil & Distt: Peshawar.
- 10 Mr. Waqas Ahmad S/O Riaz Ahmad H.No.2094, Near, Govt High School No.4 Kakshal Peshawar.
- 11 Mr. Fazal Karam S/O Dil Bar P.O & Village Fatehpur Mohallah Saleem Abad Tehsil Khwazakheal, Distt: Swat.
- 12 Mr. Saif Ullah S/O Ghani-Ur-Rehman Mohallah Haqdadabad C/O Gul Muhammad Shop District Lakki Marwat.
- 13 Mr. Zia Khurshid S/O Khurshid Ahmad Khan Mohallah Salmonzai Village & P.O Rajoya Abbottabad.
- 14 Personal file of the official.

CHIEF ENGINEER (S)



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

No.SO(Estt)/PHED/4-1/2007

Dated Peshawar, the August 28, 2014

To

The Chief Engineer (South),  
PHE Khyber Pakhtunkhwa Peshawar

Subject:

**Recruitment to the Five (05) Leftover posts of Junior Scale Stenographers (BPS-14) in Public Health Engineering Department (ADVT: No.01/2013 S.No.81).**

I am directed to refer to the subject noted above and to forward herewith a copy of the Director Recruitment, Khyber Pakhtunkhwa Public Service Commission Peshawar letter No.K.P.K-PSC-SR-I/70299 dated 20.08.2014 alongwith original application forms & other relevant documents in respect of the following four recommendees of the Public Service Commission for appointment against the subject cited posts, for favour of further necessary action, under intimation to this department and all concerned:-

S.No	Name with Father's Name	Domicile/Zone
1.	Amar Ullah S/o Sher Zaman	FR:Bañnu/1
2.	Aamir Shahzad S/o Shair Mohammad Tanoli	Mānsēhāra/5
3.	Burhan Hassan S/o Jabir Hussain	Kūrrām Agency/1
4.	Asad Ullah S/o Muhammad Ullah	Dir/3

  
**SECTION OFFICER (ESTT)**

ENDST: NO & DATE AS ABOVE:

Copy is forwarded for information to the:-

1. Director Recruitment, Khyber Pakhtunkhwa Public Service Commission Peshawar w/r to his letter quoted above.
2. PS to Secretary PHE Department Khyber Pakhtunkhwa Peshawar.

  
**SECTION OFFICER (ESTT)**

RECEIVED Deptt: (South)
23/8/14
29/8/14
2014
C.E.P.H.E. (3)
H.O.

*A.O  
offer of appointment  
be referred to them immediately*





Dated: \_\_\_/\_\_\_/\_\_\_ 20/8/14

To

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

Subject:

**RECRUITMENT TO THE FIVE (05) LEFTOVER POSTS OF JUNIOR SCALE STENOGRAPHER (BPS-14) IN PUBLIC HEALTH ENGINEERING DEPARTMENT. (ADVT: NO.01/2013.S.NO.81).**

Dear Sir,

I am directed to refer to your letter No: SO(Estt)/PHED/4-1/2007/ Stenographers dated 20.12.2010 on the subject noted above and to state that the Commission recommends the following four (04) candidates to Government for appointment against the subject cited posts:-

S.No.	Name with Father's Name	Domicile/Zone
01	Amar Ulah S/O Sher Zaman	F.R Bannu/1
02	Aamir Shahzad S/O Shair Muhammad Tanoli	Mansehra/5
03	Burhan Hassan S/O Jabir Hussain	Kurram Agency/1
04	Asad Ullah S/O Muhammad Ullah	Dir/3

2) Recommendation in favour of the recommendees is provisional subject to their medical fitness and verification of domicile/ testimonials by the Department.

The inter-se-merit of the selectees will be communicated later on.

Upto date zonal state will be as under:-

	Zone-1	Zone-2	Zone-3	Zone-4	Zone-5	Total
Share:	02	02	02	01	01	08
Adjusted:	02	02	01	01	01	07
Balance:	-	-	01	-	-	01

5) Recommendation of one (01) candidate hailing from Zone-3, is being kept pending for want of vital deficient documents.

6) Original applications (with enclosures) of the above four (04) recommendees are enclosed herewith for your record. Please acknowledge receipt.

These these re posted?

INK.

~~Discussed~~  
 Discussed.

Discussed 22/08  
 DS(Astt) 25/8

Yours faithfully,

(GHULAM DASTAGIR AHMAD)  
 DIRECTOR RECRUITMENT

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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 of Rs 20 or above” shall be added after the words “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. No. 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. No. XI of 1978.—In the said Ordinance, for section 5 omitted by N.W.F.P. Act No. XX of 1957, 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.”

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) to advise the Governor—

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

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

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

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

(3) transfer from one service to another, and

(W)

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

**Recruitment.**—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) posts 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, approval shall be obtained from the Commission;

(iii) posts to be filled by re-employing as notified; provided that re-employment is made for a specified period not exceeding two years in a post not higher than that in which the person was employed on regular basis before re-employment.

7. **Insertion of Section 10A of Ordinance XI of 1978.**—After section 10, the following new section shall be inserted, to read:

**10A. Power of the Commission to make regulations.**—Subject to the provisions of this Ordinance and the rules made hereunder, 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, to read:

**SCHEDULE**  
(Section 4A)

I, \_\_\_\_\_ do solemnly swear that I will be true to the 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 welfare 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.

114

Annex-IX

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

108

No. 04/E-13/Soc/16 /PHE

Dated Peshawar, the 27/02/2014

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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

In this regard it is 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.

- |   |            |
|---|------------|
| 1. Mr. Allaudin Khan (Retired) Chief Engineer | Chairman   |
| 2. Mr. Syed Bakar Shah S.O (E=II) W&SD        | Member.    |
| 3. Mr. Abdul Bashir ADO (SE HQ)               | Member.    |
| 4. Mr. Afsar Ali Qureshi Admn: officer        | Secretary. |

B. Five No. Sub Engineers were illegally appointed by Mr. Chulam 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.

*[Signature]*  
Chief Engineer (South)





115  
102

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

NOTE FOR MINISTER PHE

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

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

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

Secretary PHE  
Entry No. 1038  
Dated: 03-10-2014



116

103

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-I

9- Creation of post against fake WSS in District Lakki

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


Annex-II

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 name 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)

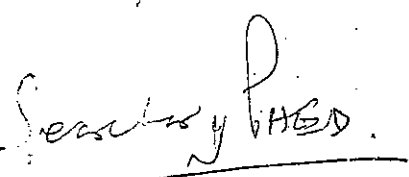
Secretary PHED


3.

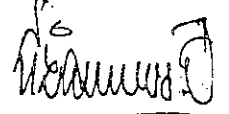
Order is solicited to the proposal contained at Para-2

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

Minister for PHE

  
Secretary PHED

  
SHAH FAROOQ  
MINISTER FOR INFORMATION, CULTURE  
PHEB KHUZDAD PAKISTAN  
10/10/14

  
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113

2. Abolishing the post of Work Superintendent and adjustment of Malik Ayaz Work Superintendent to the post of Accounts Clerk on wrong cadre post

i. You have unlawfully managed/facilitated abolishing of post of Work Superintendent without any justification and without any authority. And then re-created the same post of Work Superintendent, without any authority. Which prove your involvement and malafide intention in all process.

ii. You have unlawfully facilitated/managed adjustment of Work Superintendent BPS-9 to the post of Accounts Clerk on wrong cadre post.

3. Unlawfully facilitated/managed appointment of Miss Beena Rani Junior Clerk

i. You have managed unlawful appointment of Miss Beena Rani as Junior Clerk, as admitted by you that no meeting of DSC was held and the minutes of DSC were got signed from the DSC members without holding the DSC meeting.

ii. The DSC members have disowned the minutes of the meeting and their signatures giving statement/certificate that no meeting of the DSC was held and they never signed the minutes.

iii. You have also managed/facilitated appointment of Miss Beena Rani being over age.

iv. The above appointment was made without any interview as admitted by her.

v. You were fully involved in her absence from duty in entire service period as you have made all entries in the service book of Miss Beena Rani Junior Clerk without verification/knowing that the official was absent or present, also for the period you were not Admn. officer.

vi. You have marked her arrival report and LPC in the office of Chief Engineer (North) PHED in capacity of Budget Officer and not put up to Chief Engineer (North), while the job is entrusted to Admn Officer, thus you kept in dark, the competent authority i.e. Chief Engineer North.

vii. You have facilitated the illegal appointment of Miss Beena Rani Junior Clerk and all her service matters.

4. You have recruited your three sons, one as Data Entry Operator BPS-11 and two as Sub Engineers BPS-11 through back door. You have gone to the extreme end of nepotism. What would be the future of deserving persons and where the deserving

persons will go if all the post are distributed by the Govt among their favorites and relatives.

5. You are involved in standardization of KB and Bismillah fake firms for supply of voltage stabilizer in 2009. At that time the firms did not exist. You have not checked their documents properly. These firms were pre-qualified/standardized just to fulfill the minimum criteria of three Nos firms. In this way the whole Department has been misguided by pre-qualified/standardizing these two dummy/fake firms which is a serious irregularity on your part.
6. You are involved in illegal promotion of Mr. Zahid Ullah Junior Clerk to the post of Sub Engineer. There is no share for Junior Clerk in the service rules for promotion to the post of Sub Engineer. Working paper and minutes of the DPC meeting could not be produced by you.
7. You are involved in illegal promotion of Mr. Zaid Ullah Draftsman to the post of Sub Engineer having no DAE and required length of service. Working paper and minutes of the DPC meeting could not be produced by you.

That as a result thereof, I as the authority in the exercise of powers conferred on me under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) rules, 2011, have tentatively decided to impose upon you the major penalty of compulsory retirement.

You are therefore, required to show cause as to why the aforesaid penalty/penalties should not be imposed upon you, and intimate whether you desire to be heard in person.

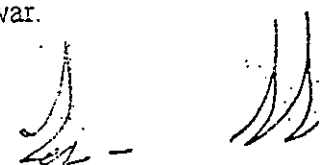
If no reply to this notice is received within fifteen days of its delivery, it shall be presumed that you have no defence to put in and an ex-parte action will be taken against you.

Copies of the 3-Nos inquiry reports are enclosed.

Chief Engineer (South)

Copy forwarded to:

1. The Secretary to Govt of Khyber Pakhtunkhwa PHED Peshawar.
2. The Chief Engineer (North) PHED Peshawar.

  
Chief Engineer (South)



117

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

No. // /E-13(S)/PHE,  
Dated Peshawar, the 01 / 09 /2014.

To,

Mr. Afsar Ali Qureshi,  
Budget & Accounts Officer (North)  
Public Health Engg: Department  
Peshawar

Subject: SHOW CAUSE NOTICE

In the light of recommendation of the 3-Nos inquiry officer/committee you are hereby served with this show cause notice regarding your involvement in illegal practices/acts in the capacity as the then Administrative Officer.

That on going through the inquiry reports of the Inquiry Officer/committee, material on record and other connected documents, I am satisfied that the following charges leveled against you have been proved as under:

1. Appointment of Murtaza Qureshi as Data Entry Operator BPS-11 and appointment/conversion as Assistant BPS-14.
  - i. You have unlawfully facilitated/managed appointment of his son Mr. Murtaza Qureshi to the post of Data Entry Operator BPS-11 and Assistant BPS-14 which falls under the purview of Public Service Commission. The Public Service Commission was not consulted for approval/NOC and recruitment was unlawfully made through Departmental Selection Committee (DSC) without any proper notification. One of the member of the said DSC, Mr. Abdul Bashir the then ADO, has also denied his involvement in the DSC proceedings and his signature.
  - ii. You remain involved in the recruitment of your son Murtaza Qureshi Data Entry Operator thus did not fulfilled moral responsibility neither expose his integrity. Furthermore you have also involved in the appointment of your another son, Mr. Muqtada Qureshi as Sub Engineer, this all happened on your behest being Admn Officer and father of the appointees.
  - iii. The signature of Mr. Allaudin Khan the then Chief Engineer PHED on the office order No. 06/E-9/PHE, dated 12.2.2009 for appointment as Assistant BPS-14 through conversion of services of Murtaza Qureshi, seems to be dubious/fake.
  - iv. Conversion of DEO to the cadre of Assistant through Administrative order issued under your initial is illegal and unlawful and against the PHE service rules.



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 proceeding against the above officer may kindly be initiated in the interest of Govt please.

Chief Engineer (South)

Annex - X

23



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.

2-112/c


Dear Sir,

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

DS/A

18/3/14  
Put up on relevant file  
Supdt  


**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**  
In Re: Service Appeal No. 330/2016

Murtaza Qureshi

*Versus*

Government of KPK & 2 Others

**INDEX**

S.NO.	DESCRIPTION OF DOCUMENTS	ANNEXURE	PAGE NUMBER
	<i>Rejoinder</i>		<i>1-10</i>
1	Establishment and Administration Department <i>vide</i> letter No. SOR-V(E&AD)/15-3/09 dated 30-1-2014	I	<i>11-</i>
2	Works & Services Department order NO. SO(E) W&S(C&W)13-2/2000 dated 05-11-2001	II	<i>12</i>
3	Works & Services Notification No. SO(E)W&S/13-1/77 dated 22-03-2005	III	<i>13</i>
4	Establishment Department Notification dated 02-11-2002	IV	<i>14</i>
4	Section 6(b) District Government Rules of Business 2001	V	<i>15-16</i>
5	ESTABLISHMENT DEPARTMENT LETTER DATED 02.05.2007	VI	<i>17</i>
	Works & Services Deptt. Notification dated 30-04-2008	VII	<i>18</i>
6	REINSTATEMENT ORDER OF Mr. Muhammad Jamil, Steno (B-12) PHE, Tank <i>vide</i> his Order No. SO(Estt)PHED/1-90/2013-14/Volume-II dated 09.05.2016	VIII	<i>19</i>
7	REINSTATEMENT ORDER OF Suleman Draftsman B-11, <i>vide</i> his Order No. SO(Estt)PHED/1-90/2013-14/Volume-II dated 10-08-2016	IX	<i>20</i>
8	SECOND ADVICE OF E&A DEPARTMENT DATED 17-03-2014	X	<i>21</i>
9	DUAL CHARGE ORDER DATED 25-09-2009	XI	<i>22</i>

**Appellant**

Through

Ijaz Anwar

&

Yousaf Khan,

Advocates, Peshawar

Mob.03339272588

In Re: Service Appeal No. 330/2016

**Murtaza Qureshi**

.....Appellant

*Versus*

**Government of Khyber Pakhtunkhwa & 2 Others**

.....Respondents

**REJOINDER TO PARAWISE COMMENTS FILED BY RESPONDENTS-1 TO 3**

Respectfully Sheweth,

The Appellant humbly submits as under:

**Reply to the preliminary Objections:**

1. Misconceived, frivolous, thus, denied. The Appellant has got very strong cause of action.
2. Denied. Instead it is the Respondents who have been estopped by their own conduct as the Appellant has been appointed and kept remained in service for more than five years.
3. Denied. Appeal is in proper form, thus, has been admitted for full hearing.
4. Denied for being misconceived. The Appellant *locus standi* infatal.
5. Frivolous, thus, denied. As the allegations in the Show Cause Notice with all due respect pointing towards the short comings of the Respondents.
6. Denied. In fact it is the respondents who are dragging the appellant in the courts of law.
7. All necessary parties have been arrayed as necessary party.
8. The Appeal is in accordance with law and within time, hence, the objection is not maintainable.
9. Misconceived, thus, denied. Under the law and the orders of the Hon'ble High Court and Apex Supreme Court of Pakistan per se suggest that no Court or Forum other than this Hon'ble Service Tribunal is to entertain this Appeal.

**Brief History:**

Infact some of the *ad hoc* employees of Public Health Engineering Department had challenged their termination *vide* W.P No. 271/2013 which was dismissed. Their C.Ps Nos. 2026, 2029 of 2013 against the Hon'ble Peshawar High Court were also dismissed. However, at the time of losing legs before the apex Court, the Petitioners Counsel tried to persuade purportedly of discrimination by stating in general terms that there were certain other illegal appointments made by the department against which no action had been taken yet. On which the Supreme Court, obviously, as a matter of principle observed that, if that be a case, then action was ought to be taken by the department against such appointments.



On arrival of the aforesaid judgment of the Supreme Court, the learned Secretary PHE Department sought the guidance, for further course of action, from the Secretary Establishment and Administration Department *vide* letter No. SO (Estt) PHED/1-90/2012-13 dated 22-1-2014. In response, the E&A Department *vide* letter No. SOR-V(E&AD)/15-3/09 dated 30.01.2014 (**Annexure-I**) advised that necessary action be taken and in case the appointments proved illegal the Hon'ble Supreme Court of Pakistan may be apprised accordingly. Moreover, the Department should also initiate disciplinary action against the officers who were involved in the illegal appointments and brought them to the justice. That instead of acting upon the advice of the E&A Deptt, to take action against the officers who have allegedly made illegal appointments, if there be any, the Respondents under fear of being proceeded for their misdeed, they out of panic have with great haste & against the advice of E&A Department issued Show Cause Notice in back date to the appellant and without any enquiry and issuance of charge sheet / statement of allegation and mandatory opportunity of hearing the Appellant was terminated. Here it is worth to add that the said observation of the Apex Court in case of aforesaid "ad hoc employees" have been subsided by the August Supreme Court of Pakistan dated 28.04.2014 in C.P No. 551/2014 by the Bench headed by the then Honourable Chief Justice Tassaduq Hussian Jilani where-in it was observed that:

**"Tassaduq Hussain Jilani, CJ:-** *Petitioner are civil servants and they challenged the order terminating their service 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' service 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 mandate in law. Disposed of in terms noted above".*

To put the record straight, the following fatal irregularities have been committed by the Respondents which has made the impugned Order *void ab initio*, without lawful authority and of no legal effect.

- a) It was binding upon the Respondents to act upon the advice of the E&A Department, where he did not act in accordance with the said advice and for *malafidely* reasons to escape or save either themselves or an officer of their rank and file, terminated the Appellant with undue haste and no pre-requisite

enquiry and other pre-requisites The Appellant was terminated in a very harsh, abrupt and unlawful manner. (3)

- b) The Respondent-3 while terminating the Appellant on 14.02.2014, not even waited for completion of the period of 15 days for reply which was to be over by 20.02.2014.
- c) The Respondent-3 without observing legal requirements of conducting proper enquiry into the case and to establish the charges, if any, against the Appellant and giving him opportunity of personal hearing etc. to the Appellant terminated him.
- d) In spite of the fact that the Appellant was appointed by the Competent Authority on recommendation of the Departmental Selection Committee and he was having a continuous service of five and a half years at his credit, terminating his Services in such a slip- shod manner is unjust.
- e) As conducting of inquiry & giving fair and proper opportunity of hearing is not only a formality but a mandatory requirement of law as laid down in 2000 SCMR 1743.
- f) In this way the terms and conditions set with the Applicant at the time of his appointment were utterly disregarded.
- g) The order of termination was illegal as it was not specified therein that under what Law/ Rules the Authority could resort to the penalty of 'termination' as there is no provision of termination in the disciplinary Laws where the Appellant could be made to suffer for fault / irregularity, if any, on the part of the Respondent Department.
- h) As regards the direction of the August Supreme Court of Pakistan, the Respondent-3 himself made a statement before the August Supreme Court of Pakistan and then made direction of the August Supreme Court of Pakistan a pedestal for the impugned action against the Appellant while incorrectly interpreting & applying the general order of the Apex Court with regard to illegal appointments in the Respondent Department upon the Appellant.
- i) In this connection a reference is made to the order passed by the Hon'ble Supreme Court of Pakistan dated 28.04.2014 in C.P No. 551/2014 where in the Apex Court itself has clarified / interpreted its direction in the following words "apprehension of the Petitioners is misconceived. In the event of filing the Appeal, the Service Tribunal shall decide the appeal as mandated in law".
- j) No action has been taken against the purported, alleged and illegal appointments if any, as advised by the Establishment and Administration Department.

**On The Facts:**

Para-1. Not Correct while para 1 of the appeal is correct. The Appellant was highly skilled and qualified appointed against the regular vacant post of DEO by

the competent authority after fulfillment of all the requisite formalities of test / Interview etc. The Appellant had no access either to any politician or to the Chief Minister Secretariat to involve them for his recruitment. Therefore, the Appellant denies his relevancy to the list and believes that the list is not genuine and has been fabricated by the department to prove the appointments as politically motivated. The list therefore, needs to be verified from the concerned authority / office as it is an unattested Photostat copy, hence, cannot be accepted in its present shape. Moreover, after abolition of C&W & PHE Departments and their merger into a single organization of W&S Department vide W&S Department order NO. SO(E) W&S(C&W)13-2/2000 dated 05-11-2001(Annexure-II) and Notification No. SOEW&S/13-1/77 dated 22-03-2005(Annexure-III) and Establishment Department Notification dated 02-11-2002(Annexure-IV) as well as under section 6(b) District Government Rules of Business 2001 (Annexure-V), the posts in the department from BPS-1 to BPS 15 were declared as District Cadre Posts. Hence it remained no longer in the preview of Public Service Commission to fill in such post through them.

Para-2-3. Not correct. In fact, the Appellant in his appeal has not pinpointed any wrongs on the part of officers rather he has simply stated that way and procedure adopted by the Deptt in the appointment of the others, was incidentally adopted in appointment of the appellant. Moreover, after devolution it remained no more the responsibility of the PSC to make appointment for District Govts. In this connection reference is made to the W&S Notification Dated 22.03.2005 attached as (Annexure-III above) whereby the competent authority has declared the provincial cadre post from BPS-1 to BPS-15 of the Department as district cadre posts. Therefore, the E&A Deptt, vide letter No. SOR- V (E&AD) 1-368/2005 (SE) Dated 02.05.2007 (Annexure-VI) with drawn the requisition made by the Deptt for filling in the 20 vacant post of Sub Engineers.

From the aforementioned notification Dated 22.03.2005 it is clear that the post of Sub Engineers stenos, DEOs etc of District Government Rules of Business 2001 were declared as district cadre post and under section 6(b) of the District Government Rules of Business 2001, DCOs were competent to appoint and regulate their post, appointment, management and other affairs. However, by the time when these instructions become operative, the district / local Governments have consumed their tenure and fresh elections were not held. Since, the provincial Government has already devolved the posts to the District Governments which were not in existence and also the provincial Govt. has not revoked the above notification dated 22.03.2005. Moreover, being newly born, the District Governments having no capacity/

(5)

strength could not be able to handle the establishment matters entrusted to them. In the circumstances and being a parent organization, the officers of respective Chief Engineers have made the subject appointments, after authorization by the competent authority *vide* Notification dated 30.04.2008 (**Annexure-VII**) so as to avoid breakage in their functions as they were responsible to perform these functions. Moreover, the Secretary PHE (Respondent No.2), while reinstating two of the terminated employees i.e. Mr. Muhammad Jamil, Steno (B-12) PHE, Tank and Suleman Draftsman B-11, *vide* his Order No. SO(Estt)PHED/1-90/2013-14/Volume-II dated 09.05.2016 and even No. dated 10-08-2016 (**Annexure-VIII & IX**) respectively has mentioned that they were appointed by the then DCO, Tank by virtue that he had the powers of appointing authority in respect of officials in BPS-1 to BPS-15 u/s 6(b) of the District Government Rules of Business, 2001 from which it appears that the worthy Secretary is convinced that these posts belong to District cadre. However, it is strange that the Secretary PHE is considering the post of the Appellant i.e. DEO as provincial cadre Post. Moreover, the case of the Sub-engineers Service Appeal No. 1331/2013 dismissed by this Hon'ble Tribunal *vide* its Judgment dated 30.05.2016, being a case of promotion has no relevancy to the case of the Appellant as the case of the Appellant pertains to appointment.

As stated in the brief history, the Supreme Court has never directed to terminate the Appellant. It is also wrong that legal formalities have been completed in the case of termination of the Appellant. As the termination affected without fulfillment of the legal formalities of inquiry, issuance of charge sheet and providing the opportunity of personal hearing etc. Instead of completion of legal formalities only a Show Cause Notice was issued and that too in a back date and the Appellant was terminated unlawfully and unfairly in utter disregard to the instructions of E & A Department to the PHE Department *vide* their advice letter dated 30-01-2014 (**Annexure-I above**). As regards, the initiation of departmental proceedings against the officers, it is not correct. As without a simple letter by the Chief Engineer Respondent No.3 to the Secretary PHE no further efforts on the part of Respondents towards the logical end of the case exist/ available on record. In fact it was binding upon the department to conduct detail inquiry, to establish the charges & to take disciplinary action against the culprits, if any, but all in vain.

Para-4. Not correct. Advice of E&A Department sought for earlier in the matter was conveyed to respondents *vide* letter dated 30-01-2014 (**Annexure-I above**) which was not acted upon in its letter and spirit. The second advice

(6)

of the E&A Department bearing No. SOR-V(E&AD)15-3/2009 dated 17.03.2014 (Annexure-X) pertains to the case of Sub-Engineers and not to the post of DEO possessed by the Appellant. Also in the second advice the E&A Department has not given any direction with regard to the termination of the Appellant. Rather, in the advice, the department has been directed to initiate disciplinary action against the responsible officers. Moreover, the second advice is contradictory to the earlier advice issued by the E&A Department on 30.01.2014(Annexure-I above) to the Notifications dated 22-03-2005 (Annexure-III above). Besides the second advice of E&A department, also over rules the section 6(b) of the District Govt. Rules of Business 2001 which provides that DCOs were the appointing authorities for the district cadre posts which fact has also been admitted by the Secretary PHE Respondent No. 2 in his reinstatement orders mentioned above. Also no disciplinary proceedings can be initiated against the responsible officers if any. The Respondent No.3 wrote only a letter to the secretary of the department to take disciplinary actions against the officers. The Secretary Office moved a summary to the Minister PHE proposing therein action against officers through NAB who made preliminary investigation into the matter with no further action by the NAB or by the department against the officers which shows that there was no illegality whatsoever in the process of appointment of the appellant. In the enquiries conducted by the Anti-Corruption establishment are also silent in this regard no irregularity/ illegality in the process of the appointment could be proved, hence filed.

Para-5. Not correct and denied. The Apex Court in their remarks on 15.01.2014 had not passed any order with regard to termination of the Appellant. Also the Appellant was not a party in the case nor he was heard by any court / authority. Moreover, in its second verdict the Hon'ble Apex has cleared the point by giving remarks that the apprehension of the petitioners has been misconceived, therefore, the Service Tribunal shall decide the Appeal as mandate in law. The Appellant being highly skilled and qualified was appointed on merit by the competent authority after going through the requisite procedure i.e. test, interview etc. Also the post of DEO, after devolution was no more under the purview of Public Service Commission and termination of the Appellant, thus, is illegal and unlawful as it was affected in a very harsh abrupt and illegal manner.

Para-6. Need no rejoinder as already explained above except that the Appellant was appointed after fulfillment of required formalities of test and interviews etc. neither the department nor NAB and Anti-Corruption Establishment could be able to prove the appointments as illegal. Respondents have incorrectly

and *malafidely* presumed the appointment as illegal at their own. They have acted as a complainant, counsel and a judge in the case which is wrong and cannot be considered legal attitude. The Respondents have terminated the Appellant through a Show Cause Notice which course is normally adopted in termination of adhoc / contract employees. If the Appellant was not a civil servant then the Act was applicable to him. Moreover, as per the terms and condition of his appointment letter and after successful completion of two years probation period, the Appellant, in fact, was a regular employee of the department which he has rightly claimed in Para-6 of the Service Appeal No. 750/2014. (7)

Para-7. Not correct. In fact it is the Respondents who have misconceived the same as the said observations of the apex Court have been subsided by the Apex Court dated 28.04.2014 in C.P. No. 551/2014 by the Bench headed by the then Hon'ble Chief Justice Tassaduq Hussain Jilani. Moreover, a regular civil employee cannot be terminated simply on issuance of Show Cause Notice and that too in a back date.

Para-8. Not correct, hence, denied. The Show Cause Notice was issued in a back date as on receipt of the notice, the given time for reply was expired even then the Appellant submitted his Reply to the Show Cause Notice but his services were terminated on 14.02.2014 in a hurry, harsh and illegal manner. If the Appellant was not a regular employee then the Act of 2009 was applicable to him. Also no inquiry, whatsoever, could be held by the department to prove the appointment of the Appellant as illegal, therefore, it is not justified to say that his appointment was illegal. The apex Court has not given any direction for termination of the Appellant.

Para-9. The Respondents have offered no comments.

Para-10. The Hon'ble Tribunal had remanded the case to the Appellate Authority of the department (Respondent-2) vide its direction on 30.12.2015 with direction to decide the departmental appeal of the Appellants strictly in accordance with law / rules within two months. In case the Appellate authority found that any of the Appellants had been unlawfully terminated or terminated by mis-conceiving order of the August Supreme Court of Pakistan dated 15.01.2014 and facts of particular case and leads the authority to accept such an appeal, the said decision is required to be taken with full justification and shall have to be intimated to the Registrar of August Supreme Court of Pakistan. The Respondent No.2, therefore, called for all the 32 terminated employees on 08-02-2016 for personal hearing just to complete the formality as it is not possible to hear the stance of all the Appellants at a time by the authority. The Respondent No. 2 thus, just to fulfill the formality, rejected the Appeals through a non-speaking order.

Para-11. Misconceived, thus, denied, as stated in the earlier paras, the Appellant has not approached to any political figure for his appointment. The list shown to have been provided by the then Political Secretary is fake and has been fabricated by the department to prove the appointment as politically motivated whereas after devolution, Public Service Commission has to play no rule in the appointments against the posts borne on District Cadre. The Appellant was duly qualified and appointed on merit against the regular vacant post of DEO after completing all the requisite procedure of test, interview etc. as and when asked by the department. It is not correct that there was no weightage in reply of the Appellant. Infact no time for reply was given, therefore, not only the prevailing rules but the natural justice and fundamental rights protected under the Article 25 of the Constitution were violated.

**Grounds:**

- (A) Not correct. The Supreme Court of Pakistan has never given the direction to terminate the Appellant as the Appellant duly qualified and after necessary test / interview etc. he was appointed as DEO by the competent authority. There has been conducted no inquiry to prove the appointment as illegal. After devolution it remained no more purview of the Public Service Commission to make recommendations to the District Governments for appointments which fact has been admitted by the Secretary PHE (Respondent No. 2) in the reinstatement orders of two of the terminated employees.(Annexure- VIII & IX).
- (B) Not correct. As all such post were borne on the district cadre. This fact has also been admitted by the Secretary PHE (Respondent No.2) in his orders of reinstatement mentioned above. Hence, it there are clear contradictions in Respondents reinstatement orders and dismissal/ termination orders. Moreover, the Appellant has not pinpointed the wrong doings in the department rather he has mentioned that, as a matter of practice, the department for the last 15 years are so, has been making appointments through the same procedure as incidentally has been adopted in the appointment of the Appellant.
- (C) The Appellant being duly qualified was appointed against the vacant post of DEO on merit by the competent authority. After completing the prescribed probation period of two years he became a regular civil servant and his services were liable to be protected under the Civil Servant Act, 1973.
- (D) Not correct. The Appellant was legally appointed on merit by the competent authority as he was duly qualified for the post and cleared / gone through all the formalities of test / interview etc. As per the terms and conditions of the appointment letter and successful completion of the probation period of two

years, the Appellant became a regular Civil Servant of the department as per the prevailing rules, therefore, his services were protected under the Civil Servant Act, 1973. Besides, no departmental inquiry could be conducted to prove the appointment as illegal. Through enquiries conducted by the NAB & Anti-Corruption establishment, appointments could not be proved as illegal.

(E) Not correct. As the action of the Respondent No.3 is based on mala fide, as the mandatory requirements of law, detailed in below were not completed while terminating, the Appellant:-

- (i) No Charge Sheet / Statement of allegations were issued.
- (ii) No inquiry was conducted.
- (iii) A Show Cause Notice was issued in the back date meaning thereby that no time for reply could be provided.
- (iv) Opportunity of personal hearing was not given.
- (v) Termination order was issued in a hurry, harsh, abrupt and unlawful manner/.
- (vi) The remarks of august Court were misconceived.
- (vii) The Respondent No.3 made a complaint to the Supreme Court himself and then made the general remarks of the Court as basis for termination of the Appellant, thus, acted as a complainant, counsel and judge in the same case which is an utter violation of the norms, law of the land and natural justice.
- (viii) The Respondents have attached a fake, false and fabricated letter along with their comments just to show that the letter was received from the then Political Secretary to Chief Minister Khyber Pakhtunkhwa to prove the appointments as illegal.
- (ix) The Show Cause Notice and termination orders of about 50% employees issued by the Chief Engineer (South) (Respondent-3) for which he was not competent as these employees were not working under him but were under the jurisdiction of Chief Engineer (North).

(F) Not Correct as the Judgment of the august Court has not been misconceived by the Appellant rather it has been misconceived by the Respondents as cleared by the August Court in the second verdict on 28.04.2016. The Appellant duly qualified and after going through the requisite requirements of the department such as test, interview, etc. was appointed on merit against the regular vacant post of DEO. After an unblemished and continued service of 5<sup>1/2</sup> years, the Appellant was illegally terminated on 14.04.2014.

(G) No comments have been offered by the Respondents.

(H) Needs no rejoinder as explained above except that the Appellant has earned annual increments, his proper service book, ACR. & personal file were maintained. After six months of his services as DEO being law graduate, his



services were converted and he was appointed as Assistant to follow and pursue the Court cases filed in various Courts against the Department. He was entrusted a dual charge through an administrative order No. 01/E-p/PHE dated 25-09-2009 (Annexure-XI) to work as Head Clerk PHE Mardan as well as Assistant in the Headquarters Office on account of his efficient performance.

(I) Needs no rejoinder as already explained above except that if the appointment of the Appellant was illegal then necessary action against the responsible officers should have been initiated / taken by the competent authority. Since, no such action has been taken which shows that appointment was legal. The Department, through enquiries conducted by the NAB & Anti-Corruption establishment could not find any irregularity or illegality in the appointment of the appellant.

(J) Needs no rejoinder.

No violation of the Article 25 of the Constitution is involved in the case as not only the Appellant but he along with 32 others belonging to different Districts, Zones and FATA were appointed on merit against the regular vacant posts by the competent authority after conducting necessary test and interview etc. The Respondents while terminating the Appellant unheard and without inquiry / charge sheet etc. have violated Article 10 of the Constitution under which fundamental rights of all citizens are protected.

**Prayer: Considering the above submissions, it is, therefore, most respectfully prayed that by way of acceptance of this Appeal, this Hon'ble Tribunal may please set aside the impugned Order of the termination and reinstate the Appellant with all back benefits. Or any other relief deemed appropriate by this Hon'ble Tribunal under the circumstances may also be granted.**

**Appellant**

Through

Ijaz Anwar

&

Yousaf Khan,

**Advocates, Peshawar**

**AFFIDAVIT**

As per instructions of my client, it is declared on oath that the contents of this *Rejoinder* are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

*[Signature]*  
**Advocate**

Annexure - I

11

Immediate/Court Case



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

No. SOR-V(E&AD)/15-3/09  
Dated 30<sup>th</sup> January, 2014

To

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

Subject: APPOINTMENT OF SUB ENGINEERS

Dear Sir,

I am directed to refer to your letter No.SO (Estt)PHED/1-90/2012-13 dated 22-1-2014 on the subject noted above and to state that the appointment, promotion and transfer rules 1989 and recruitment policy of the Provincial Government is quite clear and the Department may look/examine the appointment of Sub Engineer in the light of the rules and policy of the Provincial Government and firm up their views for final decision and take necessary action if the appointment proved illegal and apprise the Supreme Court of Pakistan accordingly. Moreover the Department should also initiate disciplinary action against the officers who was/were involved in appointment of illegal Sub Engineer and brought him/them to the justice.

DSC  
SO (F)

Yours faithfully,

(SHABBIR AHMAD)  
SECTION OFFICER (REG-V)

for W/A

30/12

Attested  
Govt  
JAW

312  
30/12

Attested  
Govt

GOVERNMENT OF NWFP  
WORKS & SERVICES DEPARTMENT

Dated Peshawar, the November 05, 2001.

O R D E R

~~NO. SO(E)W&S(C&W)13-2/2000~~ Consequent upon the merger of defunct Public Health Engineering, Physical Planning and Housing and Communication & Works Departments into Works & Services Department vide Notification No. SO(O&M) E&AD/8-16/2000, Dated 04-08-2001, the Governor NWFP is pleased to approve the formation of its two establishments of Frontier Highways Authority and Chief Engineer Works & Services, and accordingly the offices of Chief Engineers North and South (C&W Department) and Chief Engineer PHED stand abolished with immediate effect.

*[Signature]*  
BRIGADIER (RRTD)  
SAFDAR HUSSAIN AWAN  
SECRETARY

~~ENDST. NO. SO(E)W&S(C&W)13-2/2000~~ Dated Peshawar, the Nov 05, 2001.

Copy forwarded to the:-

- 1) All Administrative Secretaries in NWFP, Peshawar.
- 2) Secretary, NWFP, Public Service Commission, Peshawar.
- 3) Secretary to Governor, NWFP, Peshawar.
- 4) HQ PMCS C/O HQrs Engineers 11 Corps Peshawar Cantt.
- 5) Accountant General, NWFP, Peshawar.
- 6) All Additional Secretaries/Deputy Secretaries and S.Os in Works & Services Department.
- 7) All DCOs in NWFP.
- 8) All heads of Attached Departments in NWFP.
- 9) All heads of Autonomous/Semi Autonomous Bodies in NWFP.
- 10) The Registrar, Peshawar High Court, Peshawar.
- 11) Director Information NWFP, Peshawar.
- 12) Manager, Government Printing Press, Peshawar.
- 13) All P.Ss to Provincial Ministers, NWFP, Peshawar.
- 14) P.S. to Secretary W&S Department.

(15) A.G.P.R. Peshawar

*[Signature]*  
(SYED HIDAYAT JAN)  
SECTION OFFICER (ESTABLISHMENT)

P.F.  
*[Signature]*  
08/11/01

*[Signature]*  
Attested  
*[Signature]*  
JAW

Dated Peshawar, the March 22, 2005

NOTIFICATION

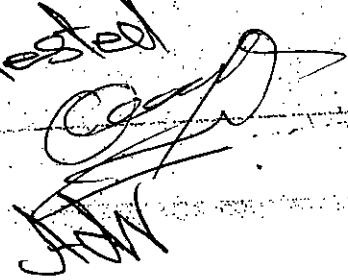
Ann: III

No. HQ(F)W&S/13-1/77: The competent authority is pleased to order the declaration of provincial cadre posts of BPS-1 to BPS-15 of the Works & Services Department as district cadre posts with immediate effect on the following terms and conditions:-

- 1) Permanent transfer to the districts will be made on domicile and seniority basis.
- 2) In case the personnel of that particular district being more than the sanctioned strength, the deployment will be on the basis of seniority and the junior most over-flow will be posted temporarily to the other districts of the province till such time vacancies occur in the districts of their domicile.
- 3) All such employees of the above status working in FATA but belonging to settled districts will be adjusted as per their seniority in the relevant cadre and the over-flow will continue working in FATA till such time vacancies occur in their districts of domicile.
- 4) The domicile of the female officials will be counted under the wedlock policy and such employees will be given one time, irreversible choice to opt for the districts of their spouse or their own. In case of spouse being a government employee and his transfer to another district, inter-district transfer of the female officials will be allowed subject to availability of vacancy in the desired district.
- ✓ 5) Subsequent to the permanent transfer of all BPS-15 and below staff to the districts, further transfers and service matters including appointments, within the districts, shall be made by the District Government in light of the District Government Rules of Business, 2001.
- 6) All cases of transfers from one district to another will be decided and ordered upon by the Secretary W&S Department as per rules / policy.
- 7) Seniority for the purpose of promotion to the posts of provincial cadre will be maintained at Secretariat level.

It is further to mention here that the district governments will deal with the cases of these employees as per clause 6(B) of District Government Rules of Business. They (the District Govt.) will also adopt a mechanism in such a manner that their inter-se-seniority is not affected.

SECRETARY

Attested  
  
JAW

(57) A

No. SO(E)W&S/13-1/77:

Dated Feb

Copy forwarded to the:-

- 1) Accountant General NWFP Peshawar.
- 2) Secretary to Chief Minister NWFP, for information.
- 3) Chief Engineer, Works & Services Peshawar.
- 4) All District Coordination Officers in NWFP.
- 5) Chief Engineer (FATA), W&S Peshawar.
- 6) All Executive District Officers W&S in NWFP.
- 7) PS to Secretary W&S Department.
- 8) O/O File.

*Chafoor Shah*

( CHAFOOR SHAH )  
SECTION OFFICER (ISTT-II)

*23/3*

*pc*

It is  
governments will  
clause 6(B) of Dis  
District Govt.) will  
their inter-governor

Copy for

Annex IV

14

GOVERNMENT OF N.W.F.P.  
ESTABLISHMENT DEPTT.  
NO.SOS.POOL(E&AD)1-10.2002  
Dated 08.4.2006

To  
The Secretary to Govt. of NWFP,  
W & S Department.

Subject: ADJUSTMENT OF SUB ENGINEERS IN W&S DEPTT. NWFP PESH.

Dear Sir,

*P-392/c*  
I am directed to refer to Local Govt. Deptt letter No.SO(LG-I)4-116/S.Pool/05 dated 16.02.2006 on the subject noted above and to state that posts in B-1 to I-15, in W&S Deptt have been declared as district cadre posts vide Notification No.11(Estt)W&S/13-1/77 dated 22.3.05. The district cadre posts are outside the purview of Public Service Commission vide Estt Deptt Notification dated 02.11.2002 (copy enclosed). Neither W&S Deptt was required to place requisite before the Public Service Commission nor the Public Service Commission was required to advertise these posts.

Keeping in view the above mentioned position, I am directed to request you to kindly withdraw your requisition from the Public Service Commission and intimate the district where these posts are lying vacant so as to adjust the surplus Sub-Engineers available in the Surplus pool against these vacant posts as per section-11A of the NWFP Civil Servant Act, 1973 and Surplus Pool Policy.

Yours faithfully,

*P/S/v*

(AKHTAR SAEED TURK)  
Section Officer (S.Pool)

Enc. as above

Copy to the:-

1. Secretary, NWFP Public Service Commission, Peshawar w.r.t. his advertisement dated 27.10.2005 for similar action, please.
2. Section Officer (E), Local Govt. Deptt. NWFP for information.

*P/S/v*  
Section Officer (S.Pool)

*3/1/06*  
*P/S/v*  
*8/4/06*

*Attended*  
*Ch*  
*How*

V

Ann: V (18)

## District's Rules of Business

### General

#### 1. Short title and commencement.

- (1) These rules may be called the North West Frontier Province District Government Rules of Business, 2001.
- (2) It shall come into force at once.

#### 2. Definitions.

- (1) In these rules unless the context other-wise requires.
  1. "body corporate" means a body having perpetual succession and a common seal with power to sue and be sued:
  2. "budget" means an official statement of income and expenditure for a financial year:
  3. "business" includes all work done by a local government:
  4. "component" means the officers mentioned in column 2 of schedule 1 to the Ordinance:
  5. "convenor" means the convenor of the Council concerned.
  6. "Federal Government" means the Government of Islamic Republic of Pakistan.
  7. "financial year" means the year beginning from the 1st day of July and ending on the 30th day of June next following.
  8. "Government " means the Government of the North West Frontier Province:
  9. "Governor" means the North West Frontier Province:
  10. "Ordinance" means the North West Frontier Province Local Government Ordinance, 2001 (NWFP Ord, XIV of 2001)
  11. "Schedule" means a Schedule to these rules:
  12. "Secretariat" means the Secretariat of Council: and
  13. "Section" means a section of the Ordinance.
- (2) Words and expressions used in these rules but not defined shall have the same meanings assigned to them in the Ordinance the North West Frontier Province Government Rules of Business, 1985 or any other Provincial law for the time being in force.

#### 3. Composition of Departments and allocation of Business.

1. The composition of the offices and groups of officers shall be the same as provided in section 14 of the Ordinance read with the First Schedule thereof, and may be varied in accordance with the provisions of the aforesaid section.
2. The business of the offices shall be distributed amongst the Departments in accordance with Schedule-1:  
Provided that any particular subject or matter of an office may be transferred from, or reallocated to an office, in accordance with the section 14.
3. A Zilla Nazim shall be assisted by the District Coordination Officer.

#### 4. Organization of Officers.

1. The Organization of various offices shall be the same as provided in the Ordinance or, where the Ordinance has not so provided as determined by Government.
2. The Executive District Officer shall by means of standing orders distribute the work of the officers subordinate to him.

#### 5. Secretariat of District Government.

*Attested*  
*[Signature]*  
ADN

1. There shall be a secretariat of the District Government headed by the District Coordination Officer and comprising of the decentralized departments or groups of departments as shown in the First Schedules to the Ordinance .

2. Each decentralized group of departments shall be headed by an Executive District Officer appointed or nominated by Government for the purpose.

3. Each Executive Officer shall be responsible to Zilla Nazim through the District Coordination officer and shall channelize his correspondence through him.

**6. Deputation of civil servants and power of District Coordination Officers.**

1. The civil servants posted in the decentralized departments shall continue to be civil servants for all intents and purposes of the relevant civil servants laws and the rules framed there under with the modification that.

(a) all civil servants in BPS-16 to BPS-20 shall be appointed by Government or the Federal Government as the case may be and posted decentralized Department from time to time.

(b) the District Coordinating Officer shall have the powers of the appointing authority in respect of the officers/officials in BPS-1 TO BPS-15:

Provided that no vacancies are to be filled in by way of direct recruitment or transfers and the officers/officials of the surplus pool are to be absorbed /adjusted against the vacancies.

2. No civil servant shall be transferred from his post in a district except under the orders of the Government.

Provided that the District Coordination Officer, or as the case may be, the Executive District Officer, may suo moto or on the initiation of the Nazim initiate disciplinary proceedings against a civil servant for his inefficiency or malpractices and submit the outcome of the proceedings to competent authority for decision.

3. In disciplinary matters, the Zilla Nazim, in case of officers in BPS-19 and District Coordination Officer, in the case of officers in BPS-16 to BPS-18, shall refer the cases to the competent authority for decision under the North West Frontier Province Removal from Service (special Powers Ordinance 2000(N.W.F.P Ord.No.V of 2000), through the administrative Secretary concerned.

**7. General procedure for disposal of business.**

1. The channel for obtaining or transmitting the orders of the Zilla Nazim is the Executive District Officer or an officer specifically authorizes in this behalf by the District Coordination Officer.

2. All orders shall be passed in writing where a verbal order is given .it should be reduced to writing at the earliest opportunity by the officer receiving it.

3. If any doubt or dispute arises as to the Department to which a case properly pertains, the matter shall be referred to the District Coordination Officer for decision.

4. Detailed instructions for the disposal of business in the District administration shall be issued by the District Coordination Officer.

5. If any order happens to contravene a law, rule or policy, it shall be the duty of the next below officer to point out this to the authority passing the order.

6 While submitting a case for the orders of the Zilla Nazim ,it shall be the duty of the Executive District Officer/District Coordination Officer to suggest a definite line of action.

**8. Office administration and record .**

The manual of instructions for Provincial Civil Secretariat issued by the Chief Secretary of Government from time to time shall , mutates mutandis , be applicable to the secretariat of the District Government and the District Coordination Officer shall have the powers to issue instructions in addition there to and not in derogator of the instructions already issued.

**9. Official language.**

Attested  
[Signature]  
ADN





No.SOR-V(E&AD)1-368/2005(SE)  
Dated Pesh: the 2<sup>nd</sup> May, 2007.

(17)

Annex V-1

To

NWFP Public Service Commission  
03 MAY 2007  
DIARY NO. 2543

✓ The Secretary,  
NWFP Public Service Commission,  
Peshawar.

**SUBJECT:- REQUISITION FOR FILLING IN THE 20 VACANT POSTS OF SUB-ENGINEERS (B-11) IN THE WORKS & SERVICES DEPARTMENT.**

Dear Sir,

I am directed to refer to the letter of Works & Services Deptt: bearing No.SO/W&S/11-268/2005 dated 26-09-2005 (copy enclosed) on the above cited subject and to state that the requisition made by the Works & Services Department for filling in the above captioned 20 posts of Sub-Engineers (BS-11) may kindly be considered as withdrawn.

Yours faithfully,  
  
(MUSHARAF KHAN)  
SECTION OFFICER (Reg-V).

Encls: (As-above).

Endst: of even No & Date.

Copy for information is forwarded to:

1. Secretary to Govt. of NWFP Works & Services Department, Peshawar.
2. Addl: Secretary (Estt), Establishment Deptt: Government of NWFP.

*D/O. pl. put up the requisition.*  
*4/5*  
*DS-1*  
*DS-1X*

SECTION OFFICER (Reg-V).

*Withstated*  
  
*Adm*

GOVERNMENT OF NWFP  
WORKS & SERVICES DEPARTMENT

Dated Peshawar the April 30, 2008.

NOTIFICATION

No. E&A/W&S/II-23/2001 In continuation to this deptt. Notification of even No. dat 24.11.2002, the competent authority has been pleased to direct that the postings & transfers personnel from BPS-1 to BPS-16 henceforth will be carried out by the Chief Engineer W&S & Chief Engineer PHE W&S in the respective cadres of W&S & PHE W&S as the case may in line with the Govt. policy and completing all codal formalities. However the postings/transfers of officers in BPS-17 & above shall rest with the W&S Sectt.

SECRETARY TO GOVT. OF NWFP  
WORKS & SERVICES DEPARTMENT

Endst: No. E&A/W&S/II-23/2001

Dated: 30.04.2008.

Copy forwarded to the:-

1. Chief Engineer Works & Services Peshawar.
2. Chief Engineer PHE W&S Peshawar.
3. All Deputy Secretaries, Works & Services Department, Peshawar.
4. Section Officers (Estab-I & II) Works & Services Deptt.
5. P.S. to Secretary, Works & Services Deptt.
6. P.A. to Additional Secretary Works & Services Deptt.

(MUSLIMAD SIYAR KUNN)  
SECTION OFFICER (GENERAL)

*Attested*  
*[Signature]*  
*[Signature]*



Peshawar the May 09, 2016

Ann: VIII

**ORDER**

No.SO(Estt)/PHED/1-90/2013-14/Vol-II: WHEREAS, Mr. Muhammad Jamil was appointed as Steno Typist (BPS-12) in PHE Division Tank vide District Coordination Officer Tank Order No.1484/GB dated 13-09-2007.

2. AND WHEREAS, he was served with a Show Cause Notice by the then Chief Engineer (South) PHE vide No.32/E-4/PHE dated 21-01-2014, and subsequently his services were dispensed with by the said authority vide his Office Order No.47/E-4/PHE dated 14-02-2014.

3. AND WHEREAS, he filed a Service Appeal No.615/2014 before the Khyber Pakhtunkhwa Service Tribunal D.I. Khan against his termination order, which was disposed off vide its Judgment, dated 15-01-2016, with the direction to decide the departmental appeal of the appellant as per Hon'ble Tribunal Judgment dated 30-12-2015.

4. AND WHEREAS, he was given the opportunity of being heard on 31-03-2016 and material on record perused. It revealed that his appointment as Steno Typist was neither politically motivated nor deviated from the prescribed manner. The then DCO Tank had appointed the above-named Steno by virtue that he had the powers of appointing authority in respect of officials in BPS-1 to BPS-15, under Section 6 (b) of the District Government Rules of Business, 2001, followed by the laid down procedure i.e. Advertisement of the post in the newspaper, constitution of District Selection Committee, Test/Interview of the candidates, minutes of the DSC & appointment order etc.

5. AND WHEREAS, the Deputy Commissioner Tank verified all the documents involved in the appointment of the appellant vide his letter No.2492/BC dated 11-04-2016.

6. NOW THEREFORE, after having considered the material on record & explanation of the appellant during personal hearing held on 31-03-2016, his facts/grounds appealed against the Chief Engineer (South) PHE Office Order dated 14-02-2014 have been established and in exercise of the powers as Appellate Authority, conferred under the Khyber Pakhtunkhwa Civil Servants (Appeal) Rules, 1985, and all other such powers in this behalf, the departmental appeal of Mr. Muhammad Jamil S/o Aslam Khan is hereby accepted by reinstating him in service with all back benefits and appointing him as Steno Typist (BPS-14) at PHE Division Tank against the vacant post in the public interest.

**SECRETARY**

ENDST: NO & DATE AS ABOVE:

- Copy forwarded for information & necessary action to the:-
1. Accountant General, Khyber Pakhtunkhwa Peshawar.
  2. Chief Engineer (South) PHE Peshawar.
  3. Registrar, Khyber Pakhtunkhwa Service Tribunal D.I. Khan
  4. Superintending Engineer PHE Circle D.I. Khan
  5. Deputy Commissioner Tank.
  6. Executive Engineer PHE Division Tank.
  7. District Accounts Officer Tank.
  8. Office Order/Personal File.

**SECTION OFFICER (ESTT)**

*Attested Copy*  
*JAW*



Ann. X 20  
GOVERNMENT OF KHYBER PAKHTUNKHWA  
PUBLIC HEALTH ENGG: DEPARTMENT

Dated Peshawar the, August 10, 2016

ORDER

No.SO(Estt)/PHED/1-90/2013-14/Vol-II: WHEREAS, Mr. Suleman Shah was appointed as Draftsman (BPS-11) in PHE Division Tank vide District Coordination Officer Tank letter No.1851/DCO/Order dated 16-04-2008.

2. AND WHEREAS, he was served with a Show Cause Notice by the then Chief Engineer (South) PHE vide No.08/E-4/PHE dated 15-07-2014, and subsequently his services were dispensed with by the said authority vide his office letter No.07/E-4/PHE dated 07-08-2014.

3. AND WHEREAS, he filed a Service Appeal No.17/2015 before the Khyber Pakhtunkhwa Service Tribunal Peshawar against his termination order, which was disposed off vide its judgment dated 23-06-2016, with the direction that the appellant be also treated at par with Muhammad Jamil, Steno Typist PHE Division Tank as this case is identical with his case.

4. AND WHEREAS, he was given the opportunity of being heard on 10-08-2016 and material on record perused. It revealed that his appointment as Draftsman was neither politically motivated nor deviated from the prescribed manner. The then DCO Tank had appointed the above-named Draftsman by virtue that he had the powers of appointing authority in respect of officials in BPS-1 to BPS-15, under Section 6 (b) of the District Government Rules of Business, 2001, followed by the laid down procedure i.e. Advertisement of the post in the newspaper, constitution of District Selection Committee, Test/Interview of the candidates, minutes of the DSC & appointment order etc.

5. AND WHEREAS, the Deputy Commissioner Tank verified all the documents involved in the appointment of the appellant vide his letter No.4736/BC dated 25-07-2016.

6. NOW THEREFORE, after having considered the material on record & explanation of the appellant during personal hearing held on 10-08-2016, his facts/grounds appealed against the Chief Engineer (South) PHE office letter dated 07-08-2014 have been established and in exercise of the powers as Appellate Authority, conferred under the Khyber Pakhtunkhwa Civil Servants (Appeal) Rules, 1986, and all other such powers in this behalf, the departmental appeal of Mr. Suleman Shah S/o Gul Bad Shah (Late) is hereby accepted by reinstating him in service with all back benefits, in the public interest.

ENDST: NO & DATE AS ABOVE:

Copy forwarded for information & necessary action to the:-

1. Accountant General, Khyber Pakhtunkhwa Peshawar.
2. Chief Engineer (South) PHE Peshawar. He is requested to post/adjust the official concerned accordingly.
3. Registrar, Khyber Pakhtunkhwa Service Tribunal Peshawar.
4. Superintending Engineer PHE Circle D.I. Khan.
5. Deputy Commissioner Tank.
6. Executive Engineer PHE Division Tank.
7. District Accounts Officer Tank.
8. Office Order/Personal File.

SECRETARY

SECTION OFFICER (ESTT)

Attested  
AOW

Annexure X

21



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.

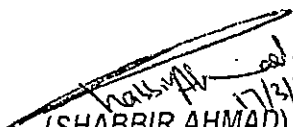
Subject: ADVICE REGARDING STATUS OF APPOINTMENT.

P-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)

PS/AU

18/3/14  
Put up on  
Suppl

Ann: XI

22

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

NO. 01-A /E-9/PHE

Dated Peshawar the 25 /09/2009.

OFFICE ORDER.

In continuation of this office No.07/E-9/PHE, dated 11.09.2009, Mr. Murtaza Qureshi Assistant of this office transferred & posted as Head Clerk O/O Deputy District Officer Water Supply & Sanitation Mardan, being Law knowing person, shall work in this office on preparation of comments, look after and follow the Court Cases in different Courts on behalf of this office, in addition to his own duties.

Moreover, the above named official shall continue to draw his salary from this office, as usual, till further orders, in the interest of public service.

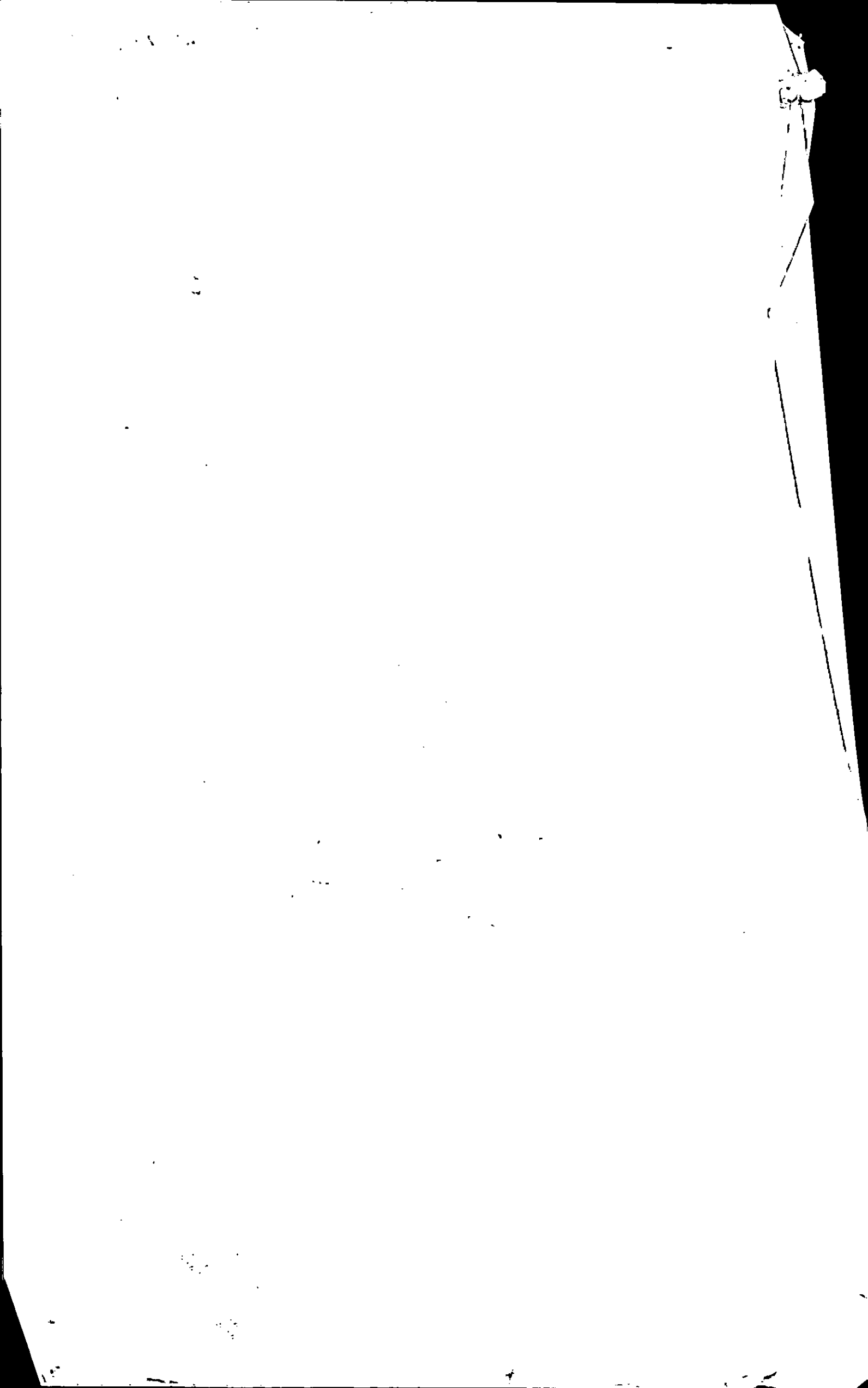
CHIEF ENGINEER

Copy to the:-

1. Accountant General NWFP, Peshawar.
2. Deputy District Officer WS&S Mardan.
3. District Accounts Officer Mardan.
4. Official concerned.

CHIEF ENGINEER

*Attested*  
*ADW*



Before the Hon'ble Chairman KPK Service Tribunal

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 664

Dated 9-8-17

Mustaza Gureshi etc VS PHE  
(330/16)

Sum up to the court  
with appeal. Application for fixation of the above appeals  
(Appeals No. 330/16, 333/16, 366/16, 332/16, 331/16.)

Respectfully Sheweth.

1. That the connected appeal No. 290/16, 291/16, 289/2016 etc were pending disposal before this Hon'ble tribunal and the same were decided on 24-7-17
2. That some appeals are pending for re-arguments on 18-8-2017.  
~~Attorney Ahmad Farhan Khan. Agizullah is fixed for re-arguments on 18.8.17~~
3. That the subject mentioned appeals No. 330/16, 333/16, 366/16, 332/16, 331/16 no date is fixed as yet.

It is therefore most humbly requested that the subject appeals be fixed for 18-8-17.

Dated 9-8-17.

through

Appellant  
Yousaf Ali  
Advocate