

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Execution Petition No:- 963/2023
In
Appeal No 137-P/2022

MST: SHAMSHAD BIBI V/S GOVT. OF KP & OTHERS

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Respondent No. 8

Through

NOOR MOHAMMAD KHATTAK
ADVOCATES SUPREME COURT

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Execution Petition No:- 963/2023

In

Appeal No 137-P/2022

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 10989

Dated 02-02-24

MST: SHAMSHAD BIBI SDEO (F)

V/S

GOVT. OF KP & OTHERS

REPLY ON BEHALF OF THE RESPONDENTS NO. 8 (SONIA NAZ SDEO (F)
TANK) IN MAIN APPEAL

R/SHEWETH:

ON FACTS:

The respondent No. 8 in main appeal submits as under:-

Preliminary Objections:

- i. That appellant has no cause of action to file the instant execution petition.
- ii. That the appellant has no locus standi to file the instant execution petition.
- iii. That the appellant is estopped by his own conduct to file the instant execution petition.
- iv. That the appellant has concealed material facts from this Honorable Tribunal while filing the instant execution petition.
- v. That the instant execution petition is not maintainable in its present form.
- vi. That the petitioner has got no right to file the instant execution petition as she has already completed her normal tenure of two years at Pharpur, D I Khan, so the execution petition is not maintainable in the eye of law.
- vii. That the instant execution petition is false and frivolous, therefore, the answering respondent is entitled for special compensatory cost.

ON FACTS:

- 1- Incorrect and misconceived. That as per record of the E&SE Department the petitioner was lastly transferred to the post of SDEO (F) Paharpur, D. I Khan vide dated 7.10.2021 and she remain on the bid post till issuance of the order dated 6.12.2023, therefore in light of clause-IV of the Transfer/posting policy of the Provincial Government the petitioner has completed her normal tenure of two years at paharpur, therefore the petitioner has no right to retain on the ibid station for unlimited period/tenure. Copies of the order dated

(2)

7.10.2021 and order dated 5.12.2023 are attached as annexure
..... **R and R1.**

- 2- Incorrect and misconceived. That as stated above in para No.1 regarding tenure of the petitioner, therefore the instant petition is not maintainable and liable to be dismissed.
- 3- That Para No. 3 of the instant execution petition needs no comments, as it is not concern to the answering respondent.
- 4- That Para No. 4 of the instant execution petition is pertaining to record.
- 5- That Para No. 5 of the instant execution petition is pertaining to record.
- 6- That Para No. 6 of the instant execution petition needs no comments.
- 7- That Para No. 7 of the instant execution petition is pertaining to record.
- 8- That Para No. 8 of the instant execution petition needs no comments, as it is not concern to the answering respondent.
- 9- That Para No. 9 of the instant execution petition needs no comments, as it is not concern to the answering respondent.
- 10- That Para No. 10 of the instant execution petition needs no comments, as it is not concern to the answering respondent.
- 11- That Para No. 11 of the instant execution petition needs no comments, as it is not concern to the answering respondent.
- 12- That Para No. 12 of the instant execution petition is totally incorrect, hence denied. The appellant has got no right to file the instant execution petition before this Honourable Tribunal. It is pertinent to mention here that, the order passed by the competent authority is separate order and the same is ought to be challenged u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 and before that it is necessary to file a departmental appeal before the appellate authority as per rule 3 of the Government Servant appeal Rules, 1986 and for the same it is mandatory to wait for 90 days for the order of the appellate authority. It is also worthy to mention here that the appellant has completed her normal tenure of two years at Tehsil Pharpur District DI Khan, and the execution petition is not maintainable. On this score alone the execution petition is liable to be set aside/dismissed with special compensatory cost to the answering respondent. Copy of Posting & Transfer policy is attached.

ON GROUNDS:

- A** Para A of the ground is correct to extent of the order of this Honourable Tribunal, while rest of the Para is incorrect, hence denied.
- B** Para B of the ground is incorrect, hence denied.
- C** Para C of the ground is incorrect, hence denied. The detail reply is already given in the Para No 12 above.
- D** Para D of the ground is incorrect, hence denied. The ratio mentioned in the instant Para is totally different from the present case.
- E** Para E of the ground is incorrect, hence denied.
- F** Para F of the ground is incorrect, hence denied.
- G** Para G of the ground is incorrect, hence denied.
- H** Para H of the ground is incorrect, hence denied.
- I** The answering respondents will also raise additional grounds at the time of arguments.

It is therefore, most humbly prayed that on acceptance of this reply on behalf of the respondent No. 8 the execution petition of the appellant may very graciously be dismissed with cost.

Respondent No. 8

Through

NOOR MOHAMMAD KHATTAK
Advocate Supreme Court

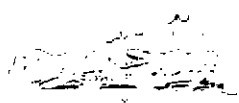
Mehmoed Jan

Muzzammil Khan Mohmand

Umar Farooq Mohmand

Waleed Adnan

& Khanzad Gul
Advocates High Court



AFFIDAVIT

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I, Sonia Naz SDEO (F) Tank, Respondents No. 8, do hereby solemnly affirm that the contents of this **REPLY** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.


DEPONENT





GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar
Phone No. 091-9223388

Dated Peshawar the, October 07th, 2021

NOTIFICATION

No. SO(S/F) E&SED/A-16/2021/POSTING/TRANSFERS/MC: The Competent authority, in compliance with the decision of the Provincial Cabinet, is pleased to order the posting / transfers of the following Sub Divisional Education Officers (SDEOs BS-17) of the Elementary & Education Department, Khyber Pakhtunkhwa, in the public interest, with immediate effect: -

Sr. No	Name & designation	From	To
1.	Mst. Shahida Parveen SDEO (Female BS-17)	Sub Divisional Education Officer (Female) Peshawar Town-IV vice No-15	Sub Divisional Education Officer (Female) Tangi Charsadda
2.	Mst. Zeenat Begum SDEO (Female BS-17)	Sub Divisional Education Officer (Female) Tangi Charsadda	Sub Divisional Education Officer (Female) Town-I Peshawar.
3.	Mst. Maryam Rashid SDEO (Female BS-17)	Sub Divisional Education Officer (Female) Town-I Peshawar.	Sub Divisional Education Officer (Female) Jehangira Nowshera.
4.	Mst. Syeda Nasra Azam SDEO (Female BS-17)	Sub Divisional Education Officer (Female) Jehangira Nowshera.	Sub Divisional Education Officer (Female) Lower Tanawal Abbottabad.
5.	Mst. Naila Naz SDEO (Female BS-17)	Sub Divisional Education Officer (Female) Swabi.	Sub Divisional Education Officer (Female) Chitral Lower.
6.	Mst. Musarat Jamal SDEO (Female BS-17)	Sub Divisional Education Officer (Female) Chitral Lower.	Sub Divisional Education Officer (Female) Torkhow Mulkhow Chitral Upper
7.	Mst. Arifa Bibi SDEO (Female BS-17)	Sub Divisional Education Officer (Female) Torkhow Mulkhow Chitral Upper	Sub Divisional Education Officer (Female) Seo Kohistan Upper AVP.
8.	Mst. Nancy Begum SDEO (Female BS-17)	Sub Divisional Education Officer (Female) Topi Swabi	Sub Divisional Education Officer (Female) Haripur
9.	Mst. Suniya Taj SDEO (Female BS-17)	Sub Divisional Education Officer (Female) Haripur	Sub Divisional Education Officer (Female) Pabbi Nowshera
10.	Mst. Nazia Anjum SDEO (Female BS-17)	Sub Divisional Education Officer (Female) Pabbi Nowshera	Sub Divisional Education Officer (Female) Balakot Manshara.
11.	Mst. Adeela Rani SDEO (Female BS-17)	Sub Divisional Education Officer (Female) Balakot Manshara.	Sub Divisional Education Officer (Female) Ghazi Haripur.
12.	Mst. Saeeda Bano SDEO (Female BS-17)	Sub Divisional Education Officer (Female) Ghazi Haripur.	Sub Divisional Education Officer (Female) Darband Majsohra.
13.	Mst. Sajida Sakhi SDEO (Female BS-17)	Sub Divisional Education Officer (Female) Darband Manshara.	Sub Divisional Education Officer (Female) Paltan Kohistan Lower AVP.
14.	Mst. Fozia Parveen SDEO (Female BS-17)	Sub Divisional Education Officer (Female) Serai Naurang Lakki Marwal.	Sub Divisional Education Officer (Female) Takhti Nusrati Karak

Attended

[Handwritten signature]

ATTENTION

(R1)

(6)



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar
Phone No. 091-922)588

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15.	Mst. Shahnaz Begum SDEO (Female BS-17)	Sub Divisional Education Officer (Female) Takhti Nusrail, Karak	Sub Divisional Education Officer (Female) Serai Naurang Lakki Marwat.
16.	Mst. Bibi Arifa SDEO (Female BS-17)	Sub Divisional Education Officer (Female) Mansehra	Sub Divisional Education Officer (Female) Serai Naurang Lakki Marwat.
17.	Mst. Mehar Sani SDEO (Female BS-17)	Sub Divisional Education Officer (Female) Gaggra Buner.	Sub Divisional Education Officer (Female) Havelian Abbottabad.
18.	Mst. Farhat Yasmeen SDEO (Female BS-17)	Sub Divisional Education Officer (Female) Karak	Sub Divisional Education Officer (Female) Takhti Nusrail Karak.
19.	Mst. Bibi Ayesha Naz SDEO (Female BS-17)	Sub Divisional Education Officer (Female) Lower Tanawal Abbottabad.	Sub Divisional Education Officer (Female) Karak
20.	Mst. Malak Taja SDEO (Female BS-17)	Sub Divisional Education Officer (Female) Mardan.	Sub Divisional Education Officer (Female) Adozai Dir Lower.
21.	Mst. Shebnam Bibi SDEO (Female BS-17)	Sub Divisional Education Officer (Female) Adozai Dir Lower.	Sub Divisional Education Officer (Female) Timergara Dir Lower.
22.	Mst. Shabeen Bibi SDEO (Female BS-17)	Sub Divisional Education Officer (Female) Battagram	Sub Divisional Education Officer (Female) Kalkoi Dir Upper AVP.
23.	Mst. Shamshad Bibi SDEO (Female BS-17)	Sub Divisional Education Officer (Female) Tank	Sub Divisional Education Officer (Female) Pharpur DI Khan
24.	Mst. Sonia Nawaz SDEO (Female BS-17)	Sub Divisional Education Officer (Female) Pharpur DI Khan	Sub Divisional Education Officer (Female) Tank
25.	Mst. Naheed Fazai SDEO (Female BS-17)	Sub Divisional Education Officer (Female) Abbottabad.	Sub Divisional Education Officer (Female) Sheringie Dir Upper AVP.
26.	Mst. Anisa Jamshed SDEO (Female BS-17)	Sub Divisional Education Officer (Female) Lora Abbottabad.	Sub Divisional Education Officer (Female) Kumbhar Dir Lower.
27.	Mst. Nageena Bibi SDEO (Female BS-17)	Sub Divisional Education Officer (Female) Havelian Abbottabad.	Sub Divisional Education Officer (Female) Kundai Kohistan Upper AVP.
28.	Mst. Zahida Khanum SDEO (Female BS-17)	Sub Divisional Education Officer (Female) Lakki Marwat.	Sub Divisional Education Officer (Female) Aial, Battagram AVP.
29.	Mst. Nazma Shaheen SDEO (Female BS-17)	Sub Divisional Education Officer (Female) Khanpur Haripur.	Sub Divisional Education Officer (Female) Barawai Dir Upper AVP.
30.	Mst. Sobia Tabassum (MC BS-17)	Sub Divisional Education Officer (Female) DI Khan	Sub Divisional Education Officer (Female) Domel Bannu.
31.	Mst. Farhat Yasmeen (MC BS-17)	Sub Divisional Education Officer (Female) Domel Bannu.	Sub Divisional Education Officer (Female) DI Khan
32.	Mst. Rizwana Pari (MC BS-17)	Sub Divisional Education Officer (Female) Khadu Kheil Buner	Sub Divisional Education Officer (Female) Karak

ATTESTED



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar
Phone No: 091-9221366

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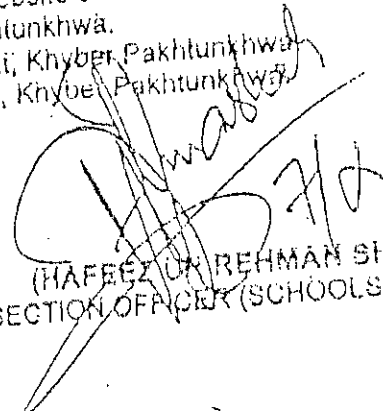
33.	Mst. Shagufta Noreen (MC BS-17)	Assistant Director, Directorate of E&SE KP	Sub Divisional Education Officer (Female) Garhi Kapoora, Mardan AVP.
34.	Mst. Naseem Bukhari (MC BS-17)	Waiting for posting in Directorate of E&SE KP	Sub Divisional Education Officer (Female) Khyber AVP.
35.	Mst. Azra Afridi, ASDO (BS16)	Assistant Sub-Divisional Education Officer (Female) Daggar Buner	Sub Divisional Education Officer (Female) Dagga Buner in OPS.
36.	Mst. Salma ASDEO (BS-16)	Assistant Sub- Divisional Education Officer (Female) Balkhela	Sub Divisional Education Officer (Female) Thana Baizai Malakand in OPS.

SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA
E&SE DEPARTMENT

Endst: of Even No & date

Copy forwarded for information to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director E&SE Khyber Pakhtunkhwa, Peshawar.
3. District Education Officers (Female) concerned.
4. District Accounts Officers concerned.
5. Director EMIS, E&SE Department with the request to upload the posting/transfer notification on the official website of the department.
6. PS to Chief Secretary, Khyber Pakhtunkhwa.
7. PS to Minister for E&SE Department, Khyber Pakhtunkhwa.
8. PS to Secretary, E&SE Department, Khyber Pakhtunkhwa.
9. Officers concerned.
10. Master file.


(HAFEEZ UR REHMAN SHAH)
SECTION OFFICER (SCHOOLS FEMALE)

ATTESTED



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar
Phone No. 091-9210626

A-8 (8)

Dated: 5th December, 2023

NOTIFICATION

NO. SO (MC) E&SED/4-18/2023/PT/ASDEOs In light of Service Tribunal Judgment dated 03.11.2023 in Service Appeal No. 1403/2023, the following posting/ transfer of SDEOs are hereby ordered with immediate effect, in the best public interest.

S#	Name	From	To	Remarks
1	Mst. Nighat Shaheen (MC BS-17)	SDEO (F) Parova D.I.Khan	SDEO (F) Tank	V.S.No.2
2	Mst. Sonia Nawaz (MC BS-17)	SDEO (F) Tank	SDEO (F) Pahaipur D.I.Khan	V.S.No.6
3	Noreen Sabz (MC BS-17)	SDEO (F) Hangu.	SDEO (F) Jandola Tank	V.S.No.5
CONSEQUENTIAL POSTING/ TRANSFER				
4	Mst. Sobia Tabassum (MC BS-17)	SDEO (F) D.I.Khan	SDEO (F) Parova D.I.Khan	V.S.No.1
5	Mst. Samina Shahnaz (MC BS-17)	SDEO (F) Jandola Tank	SDEO (F) D.I.Khan	V.S.No.4
6	Shamshad Bibi (MC BS-17)	SDEO (F) Pahaipur D.I.Khan	SDEO (F) Ghazni Khai Lakki Marwal	AVP

SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA
E&SE DEPARTMENT

Ends of even No. & date:

Copy forwarded for information to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director, E&SE Khyber Pakhtunkhwa, Peshawar.
3. Director EMIS, E&SE Department with the request to upload the same on the official website of the department.
4. District Education Officers (Female) concerned.
5. District Accounts Officer concerned.
6. PS to Secretary, E&SE Department, Khyber Pakhtunkhwa.

ATTESTED

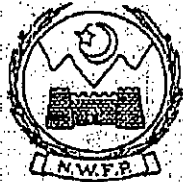
KHALID MEHMOOD
Advocate High Court
Stationed at D.I.Khan

(IMRAN ZAMAN)

SECTION OFFICER (Management Cadre)

111 / 5-12-2023

ATTESTED



(9) (R2)

GOVERNMENT OF NWFP
ESTABLISHMENT & ADMINISTRATION
DEPARTMENT
(Regulation Wing)

POSTING / TRANSFER POLICY OF THE PROVINCIAL GOVERNMENT.

- i) All the posting/transfers shall be strictly in public interest and shall not be abused/misused to victimize the Government servants
- ii) All Government servants are prohibited to exert political, Administrative or any other pressures upon the posting/transfer authorities for seeking posing/transfers of their choice and against the public interest.
- iii) All contract Government employees appointed against specific posts, can not be posted against any other post.
- iv) The normal tenure of posting shall be three years subject to the condition that for the officers/officials posted in unattractive areas the tenure shall be two years and for the hard areas the tenure shall be one year. The unattractive and hard areas will be notified by the Government.
- v) ¹{ }
vi) While making postings/transfer from settled areas to FATA and vice-versa, specific approval of Governor, NWFP, needs to be obtained.
²While making postings/transfers of officers/officials up to BS-17, from settled areas to FATA and vice-versa approval of the Chief Secretary NWFP needs to be obtained. Whereas, in case of posting/transfer of officers in BS-18 and above, from settled areas to FATA and vice versa, specific approval of the Governor NWFP shall be obtained.
- vi (a) All Officers/officials selected against Zone-I/FATA quota in the Provincial Services should compulsorily serve in FATA for atleast eighteen months in each grade. This should start from senior most scales/grades downwards in each scale/grade of each cadre.
- vii) Officers may be posted on executive/administrative posts in the Districts of their domicile except District Coordination Officers (D.C.Os) and DPOs/Superintendent of Police (SP). Similarly Deputy Superintendent of Police (DSP) shall not be posted at a place where the Police Station (Thaana) of his area/residence is situated.
- viii) No posting/transfers of the officer's/officials on detailment basis shall be made.
- ix) Regarding the posting of husband/wife, both in Provincial services, efforts where possible would be made to post such persons at one station subject to the public interest.
- x) All the posting/transferring authorities may facilitate the posting/transfer of the unmarried female government Servants at the station of the residence of their parents.

Para-1(v) regarding months of March and July for posting/transfer and authorities for relaxation of ban deleted vide letter No. SOR-VI (E&AD) 1-4/2008/Vol-VI, dated 3-6-2008. Consequently authorities competent under the NWFP Government Rules of Business, 1985, District Government Rules of Business 2001, Posting/Transfer Policy and other rules for the time being in force, allowed to make posting/transfer subject to observance of the policy and rules. Added vide Urdu circular letter No. SOR-VI(E&AD)1-4/2003, dated 21-09-2004

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- x) Officers/officials except DCOs and DPOs/SPs who are due to retire within one year may be posted on their option on posts in the Districts of their domicile and be allowed to serve there till the retirement
'DCOs and DPOs who are due to retire in the near future may also be posted in the District of their domicile subject to the condition that such posting would be against non-administrative posts of equivalent scales;
- xii) In terms of Rule-17(1) and (2) read with Schedule-III of the NWFP Government Rules of Business 1985, transfer of officers shown in column 1 of the following table shall be made by the authorities shown against each officer in column 2 thereof:

Outside the Secretariat		
1.	Officers of the all Pakistan Unified Group i.e. DMG, PSP including Provincial Police Officers in BPS-18 and above.	Chief Secretary in consultation with Establishment Department and Department concerned with the approval of the Chief Minister.
2.	Other officers in BPS-17 and above to be posted against scheduled posts, or posts normally held by the APUG, PCS(EG) and PCS(SG).	-do-
3.	Heads of Attached Departments and other Officers in B-19 & above in all the Departments.	-do-
In the Secretariat		
1.	Secretaries	Chief Secretary with the approval of the Chief Minister.
2.	Other Officers of and above the rank of Section Officers: a) Within the Same Department b) Within the Secretariat from one Department to another.	Secretary of the Department concerned. Chief secretary/Secretary Establishment.
3.	Officials up to the rank of Superintendent: a) Within the same Department b) To and from an Attached Department c) Within the Secretariat from one Department to another	Secretary of the Department concerned. Secretary of the Dept in consultation with Head of Attached Department concerned. Secretary (Establishment)

- xiii) While considering posting/transfer proposals all the concerned authorities shall keep in mind the following:
- a) To ensure the posting of proper persons on proper posts, the Performance Evaluation Report/annual confidential reports, past and present record of service, performance on post held presently and in the past and general reputation with focus on the integrity of the concerned officers/officials be considered.
- b) Tenure on present post shall also be taken into consideration and the posting/transfers shall be in the best public interest.

Added vide Urdu circular letter No: SOR-VI (E&AD)/1-4/2005, dated 9-9-2005.

xiv) Government servants including District Govt. employees feeling aggrieved due to the orders of posting/transfer authorities may seek remedy from the next higher authority / the appointing authority as the case may be through an appeal to be submitted within seven days of the receipt of such orders. Such appeal shall be disposed of within fifteen days. The option of appeal against posting/ transfer orders could be exercised only in the following cases.

- i) Pre-mature posting/transfer or posting transfer in violation of the provisions of this policy.
- ii) Serious and grave personal (humanitarian) grounds.

2. To streamline the postings/transfers in the District Government and to remove any irritant/confusions in this regard the provision of Rule 25 of the North West Frontier Province District Government Rules of Business 2001 read with schedule - IV thereof is referred. As per schedule-IV, the posting/transferring authorities for the officers/officials shown against each are as under:-

S. No.	Officers	Authority
1.	Posting of District Coordination Officer and Executive District Officer in a District.	Provincial Government.
2.	Posting of District Police Officer.	Provincial Government.
3.	Other Officers in BPS-17 and above posted in the District.	Provincial Government.
4.	Official in BPS-16 and below	Executive District Officer in consultation with District Coordination Officer.

3. As per Rule 25(2) of the Rules mentioned above the District Coordination Department shall consult the Government if it is proposed to:

- a) Transfer the holder of a tenure post before the completion of his tenure or extend the period of his tenure.
- b) Require an officer to hold charge of more than one post for a period exceeding two months.

4. I am further directed to request that the above noted policy may be strictly observed /implemented.

All concerned are requested to ensure that tenures of the concerned officers/officials are invariably mentioned in summaries submitted to the Competent Authorities for Posting/Transfer.
(Authority: Letter No: SOR-VI/E&AD/1-4/2003 dated 24-6-2003).

It has been decided by the Provincial Government that posting/transfer orders of all the officers up to BS-19 except Heads of Attached Departments irrespective of grades will be notified by the concerned Administrative Departments with prior approval of the Competent Authority obtained on the Summary. The Notifications/orders should be issued as per specimen given below for guidance.

All posting/transfer orders of BS-20 and above and Heads of Attached Departments (HAD) shall be issued by the Establishment Department and the Administrative Departments shall send approved Summaries to E&A Department for issuance of Notifications.