

12.07.2017

Counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney alongwith Mr. Muhammad Saddique, Administrative Officer for present. Arguments heard. To come up for order on 24.07.2017 before D.B.



(Ahmad Hassan)  
Member

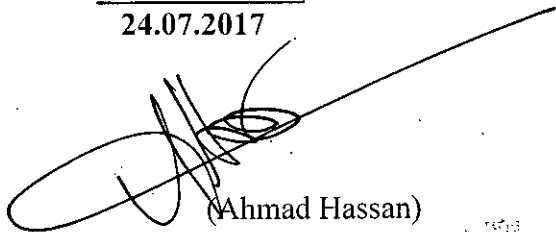


(Muhammad Hamid Mughal)  
Member

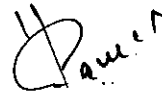
12. 24.07.2017

Learned counsel for the appellant present. Learned Deputy District attorney on behalf of respondents present. Vide our separate judgment of today placed on file bearing appeal No. 289/2016 titled Amir Muqtada Qureshi Ex-Sub Engineer Versus The Secretary, Public Health Engineering Department Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others, the present appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.

**ANNOUNCED**  
24.07.2017



(Ahmad Hassan)  
Member



(Muhammad Hamid Mughal)  
Member

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

8.05.2017

Clerk of counsel for the appellant and Addl. AG for the respondents present. Due to strike of the bar counsel for the appellant is not available. To come up for final hearing for 24.05.2017 before D.B.


  
Member

  
Chairman

24.05.2017

Counsel for the appellant Mr. Muhammad Siddique, Admin. Officer alongwith Mr. Muhammad Adeel Butt, Additional AG for the respondent present. Counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 12.07.2017 before D.B.

  
(Gul Zeb Khan)  
Member

  
(Muhammad Amin Khan Kundi)  
Member

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. 323/2016

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. Waqas Ali presented today by Mr. Muhammad Asif Yousafzai 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. 323 /2016

Waqas Ali

V/S


PHE Department, KPK.

**INDEX**

S.No.	Documents	Annexure	Page No.
1.	Memo of Appeal	-----	01-05
2.	Copy of Appointment Order	- A -	06
3.	Copy of Medical Fitness Certificate.	- B -	07
4.	Copy of Arrival Report.	- C -	08
5.	Copy of Service Book	- D -	09-14
6.	Copy of Judgment	- E -	15-16
7.	Copy of Show Cause Notice	- F -	17-18
8.	Copy of Reply	-G-	19-20
9.	Copy of Termination order	H	21
10.	Copy of Appeal	I	22
11.	Copy of High Court	J	23-26
12.	Copy of Supreme Court Judgment	K	27
14	Copy of Tribunal judgment dated	L	28-35
15	Copy of order dated: 3.3.2016	M	36-37
16	Vakalat Nama	---	38

**APPELLANT**

THROUGH:

  
(M. ASIF YOUSAFZAI),

  
(TAIMUR ALI KHAN),

 &  
(SYED NOMAN ALI BUKHARI)  
ADVOCATES, PESHAWAR.

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

Appeal No. 323 /2016

Waqas Ali, Ex-Sub-Engineer,  
Public Health Engineering Division,  
Haripur Division, Haripur.

**N.W.F. Province  
Service Tribunal**  
Diary No. 311  
Dated 31-3-2016

**APPELLANT**

VERSUS

1. The Secretary, Public Health Engineering Department,  
Government of Khyber Pakhtunkhwa, Civil Secretariat,  
Peshawar.
2. The Chief Engineer (South), Public Health Engineering,  
Khyber Pakhtunkhwa, Peshawar.
3. The Deputy District Officer, Water Supply and Sanitation,  
Haripur.

**RESPONDENTS**

.....

APPEAL UNDER SECTION-4 OF THE KHYBER  
PAKHTUNKHWA, SERVICE TRIBUNAL ACT, 1974  
AGAINST THE ORDER DATED 3.3.2016 RECEIVED  
BY APPELLANT ON 10.03.2016 PASSED BY  
RESPONDENT DEPARTMENT IN PURSUANT TO THE  
DIRECTION OF THIS AUGUST TRIBUNAL DATED.  
30.12.2015 WHICH WAS PASSED IN APPEAL NO.  
790/2014.

.....

**PRAYER:**

~~Filed to file~~  
*Waqas Ali*  
Registered  
31/3/16

THAT ON ACCEPTANCE OF THIS APPEAL, THE  
ORDER DATED 3.3.2016 MAY BE SET ASIDE AND  
THE APPELLANT MAY BE REINSTATED WITH ALL  
BACK AND CONSEQUENTIAL BENEFITS. ANY  
OTHER REMEDY, WHICH THIS TRIBUNAL DEEMS  
FIT AND APPROPRIATE THAT MAY ALSO BE  
AWARDED IN FAVOUR OF APPELLANT.

**RESPECTFULLY SHEWETH:**

1. That the appellant was appointed as Sub Engineer on the recommendation of Departmental Selection Committee by the competent authority vide order dated 13.1.2010. The appellant got his medical fitness certificate and reported his arrival on 14.1.2010. **(Copy of Appointment Order, Medical Fitness Certificate and Arrival Report are attached as Annexure-A, B and C).**
2. That it is also worth to mention here that the proper service book of the appellant was also maintained by the respondent department in which all relevant entries are record. **(Copy of Service Bok is attached as Annexure-D).**
3. That in other cases of a different nature, the Supreme Court passed an order on 15.1.2014, wherein the Chief Engineer Mr. Sikandar Khan gave statement that although many other illegal appointees in the department have been removed from service but again many other such action is in progress at various stages and they are still in service. Therefore, the Honorable Supreme Court directed the Chief Engineer to complete the process within one month against the illegal pending cases against the illegal appointees. **(Copy of Judgment is attached as Annexure-E).**
4. That the Chief Engineer to save his skin issued as Omni bus show-cause notice and adopted a slipshod manner for removing the appellant from service. **(Copy of the Show cause notice is attached as Annexure-F).**
5. That the appellant submitted a reply to the show cause notice in which the appellant has explained the details and rebutted the objections/allegations leveled against him with full reasons and justification which were not taken in consideration at all. **(Copy of Reply and Show Cause Notice are attached as Annexure-G).**



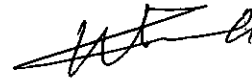
6. That on 14.2.2014 the appellant was terminated from service without following proper procedures and codal formalities. The appellant also filed an appeal against the termination order on 27.2.2014 and waited for statutory period but no reply has been received. **(Copy of Order and Appeal are attached as Annexure-H and I).**
7. That the appellant and other colleagues also went a Writ Petition before the Peshawar High Court Peshawar in Writ Petition No.615-P/2014 which was decided on 26.2.2014 and the Writ Petition of the petitioner was dismissed for having no jurisdiction as they were civil servants. Then the appellant went an appeal before the august Supreme Court of Pakistan, which was heard on 28.4.2014 and while dismissing the appeal of the petitioner, the Honorable Supreme Court observed that the Service Tribunal shall decide the appeal as mandatory in law. **(Copy of High Court and Supreme Court Judgment are attached as Annexure-J and K).**
8. That the appellant filed an Appeal bearing No.790/2014 against termination from service. That the said appeal was finally heard by the Honorable Tribunal on 30.12.2015 and the Honorable Tribunal was kind enough to accept the appeal and remitted the case to respondent department to proceed against the appellant strictly in accordance with law after giving him opportunity of personal hearing and gave direction to the appellate authority to decide the departmental appeals of the appellant strictly accordance with law rules/rules and considering each of the appeal on its merit. **(Copy of judgment is attached as Annexure-L).**
9. That after the judgment of the august tribunal, the appellate authority rejected the departmental appeal in summary manner by violating the directions of the Tribunal given in its judgment and passed the impugned order dated: 3.3.2016 which was recived by appellant opn 16.03.2016 **(Copy of the order is attached as Annexure-M).**
10. That now, the appellant comes to this august Honorable Tribunal on the following grounds amongst the others:

## **GROUND:**

- A) That the impugned order dated 3.3.2016 is against the law, facts, norms of justice and principle of fair play and material on record.
- B) That the impugned order and attitude of respondent department is in sheer violation of Article 4, 25 and 38 of the constitution.
- C) That the respondents not deal the appellant as per law and rules and not considering the appeal on its merit and rejected the departmental appeal of the appellant for no good grounds which is clearly violation of the judgment of Hon'ble Tribunal.
- D) That the appellant has been condemned unheard and treated according to law and rules because being a civil servant of the province, the appellant has not been dealt with E&D Rules 2011 and removed from service in a slipshod manner.
- E) That neither the appellant was served with charge sheet and statement of allegation nor regular enquiry was conducted in the matter so much so the respondents also violated the rules-5 (1) (a) of E&D Rules 2011. Whereby it was mandatory under the law to pass the speaking order for dispensing with the enquiry. Thus, the lacking such procedure the impugned order is liable to be set aside.
- F) That even the termination order has not in existence because there is no word "Termination" is provided in the relevant law and rules.
- G) That according to the Government Notification dated 8.4.2006 all posts from BPS-1 to BPS-15 in PHE department were declared as Distt: Cadre post which was not within purview of Public Service Commission that is why the allegations of being non recommendee of the PSC is not a good ground.
- H) That the appellant possesses the prescribed qualification and got his appointment as per law and rules.

- I) That as far as the NOC from the PSC is concerned that is also not correct keeping in view the Department Notification dated 30.4.2008 wherein the Chief Engineer were authorized for making appointment form BPS-1 to BPS-15 through Departmental Selection Committee.
- J) That the appellant cannot be held responsible for the lapse/irregularities committed by the department and in such cases the Hon'ble Supreme Court of Pakistan has held the department responsible and reinstated the poor employees.
- K) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

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



**APPELLANT**  
Waqas ALI

**THROUGH:**



**(M. ASIF YOUSAFZAI),**



**(TAIMUR ALI KHAN),**



**(SYED NOMAN ALI BUKHARI)**  
**ADVOCATES, PESHAWAR.**

6      A

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

No. 7 / E-4/PHE

Dated Peshawar 13 / 01 / 2010.

OFFICE ORDER.

On the recommendation of the Department Selection Committee as per its meeting held on 02/12/2009, the competent authority is pleased to offer a post of Sub Engineer (BPS-11) to Mr. Waqas Ali S/O Farzand Ali R/O Village Aman Kot Tehsil & District Nowshera on the following terms and conditions :-

- 1) He will get pay at the minimum of BPS-11 (Rs.4115 - 275 - 12365) including usual allowances as admissible under the rule. He will also be entitled to annual increment as per existing policy.
- 2) He shall be governed by the NWFP Civil Servants Act 1973 and all the laws applicable to the Civil Servants and Rules made there under.
- 3) He shall, for all intents and purposes, be Civil servant except for purpose of pension or gratuity. In lieu of pension and gratuity, he shall be entitled to receive such amount contributed by him towards Contributory Provident Funds (C.P.F) alongwith the contributions made by Government to his account in the said fund, in the prescribed manner.
- 4) His employment in the PHE Department is purely temporary and his services are liable to be terminated without assigning any reason at fourteen (14) days notice or on the payment of 14 days salary in lieu of the notice. In case he wishes to resign at any time, 14 days notice will be necessary or in lieu thereof 14 days pay will be forfeited.
- 5) He shall, initially, be on probation for a period of two years extendable upto 3 years.
- 6) He shall produce a medical certificate of fitness from Medical Superintendent, Haripur before reporting himself for duty to the O/O Deputy District Officer Water Supply & Sanitation Haripur, as required under the rules.
- 7) He has to join duty at his own expenses.
- 8) If he accepts the post of these conditions, he should report for duty to the Deputy District Officer Water Supply & Sanitation Haripur within 14 days of the receipt of this offer and produce original certificates in connection with his qualifications, domicile and age.

CHIEF ENGINEER

Copy to the :-

- 1) Deputy District Officer WS&S Haripur.
- 2) District Accounts Officer Haripur.
- 3) Mr. Waqas Ali S/O Farzand Ali R/O Village Aman Kot Tehsil & District Nowshera

ATTESTED

CHIEF ENGINEER

11

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B

**OFFICE OF THE MEDICAL SUPERINTENDENT DHQ HOSPITAL**



Name of Official: Naqas Ali  
 Cast of Race Garmalyani Father Name Fazand Ali  
 Residence Hayatabad F-6 Street # 13, H.N 284 No. Peshawar  
 Birth was Born 22-10-1989 NWFP, Pakistan Exact High 5.7" Pe  
 mark of Identification NIL Signat  
 Officials Ali Signat  
 Head of Department \_\_\_\_\_ I do  
 certify that I have examined Mr M/s/M/As Naqas Ali A candic  
 Employment in the Office of the Work & sources (Public Health) and Can't d  
 that he had any disease communicable or other constitutional.  
 Affection or bodily infirmity except NIL  
 not consider this as disqualification for employment in the Office of the W&S  
(Public Health Tharpara).  
 His age according to his own statement (21) year  
 appearance about (21) years.

**LEFT HAND THUMB AND FINGER IMPRESSIONS:**



Dated: 11/10/2010

MEDICAL SUPERINTENDENT  
DHQ HOSPITAL HARI

**ATTESTED**

ATTACHED

Arrival given on 19/1/2010

FRANZ AND ALLI  
(Smt Engineer)

19/1/2010  
HIC

s/o  
(All rights ALL)

Yours Sincerely  
[Signature]

Friday 14/1/2010 to your own assignment.

to be submitted my arrival report for city

No. 17/E-4/PHE. DTS: 13-1-2010.

Health Engineering Department, North, Bangalore office

to comply with Chief Engineer's order

Arrival Report

Subj: -

(with 5) 31/1/2010

With Sd/- Smt. [Name]

8  
[Signature]

9 D 8 2

# SERVICE BOOK

OF

Mr. Muhammad Ali

100  
9.9

S/o Fazlul Ali

Designation Sub. Engineer

Department D.H.E.D.

TESTED  
[Signature]

Price : Rs. 30/-

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

1. Name: Waqar Ali S/o. FARZAN ALI

2. Race: \_\_\_\_\_

3. Residence: Village Aman Kot Tehsil & Distt. Nawshera

4. Father's name and residence: FARZAN ALI, VILLAGE AMAN KOT TEHSIL & DISTT: NAWSHERA

5. Date of birth by Christian era as nearly as can be ascertained: 22-10-1989

6. Exact height by measurement: \_\_\_\_\_

7. Personal marks for identification: \_\_\_\_\_

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

Little Finger

Ring Finger

Middle Finger

Fore Finger

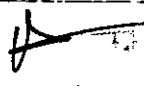
Thumb

9. Signature of Government Servant: 

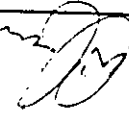
10. Signature and designation of the Head of the Office, or other Attesting Officer.

DEPUTY DISTRICT OFFICER  
Water Supply & Sanitation  
(W&S Dept.) HARIPUR

**ATTESTED**





1	2	3	4	5	6	7	8
Name of post	Whether substantive or officiating and whether permanent or temporary	If officiating, rate of appointment, or whether for pension under Act 271 CSR	Pay in substantive post	Additional Pay for officiating	Other emolument falling under the term -	Date of appointment	Signature of Government Servant
Sub Engineer (BPS-11)			4570/-			14/01/2016	
Sub Engineer (BPS-11)			7060/-			17/12/2011	

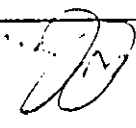
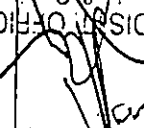
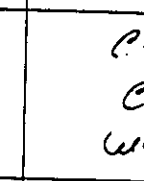
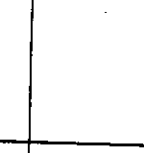
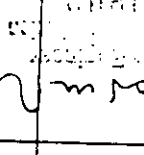
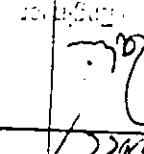
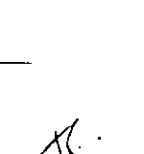
Sub Engineer (BPS-11)  
 (4115-225-12385) form  
 Mr. Nagesh A. K.

Public Works  
 District Council  
 Government of Karnataka  
 Mysore  
 Fresh

11

(16)

**ANNEXURE**

8	9	10	11	12	13	14	15
Signature of Government Servant.	Signature and Designation of the head of the office or other attesting officer (columns 1 to 8)	Date of termination or appointment.	Reason of termination such as promotion, transfer, dismissal, etc.	Signature of the head of the office or other attesting officer.	Nature and duration of leave taken. Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government. Allocation of period of leave which debitable to Government.	Signature of the head of the office or other attesting officer.	Reference to any record of punishment or censure of the Government Servant.
					Appointed as Sub Engineer with effect from 13-01-2010.	 DEPUTY DISTRICT OFFICER Water Supply & Sanitation (W&S Deptt.) HANIPUR.	
					5.10.2010 14/12/2010 14/12/2010	 DEPUTY DISTRICT OFFICER Water Supply & Sanitation (W&S Deptt.) HANIPUR.	
						 DEPUTY DISTRICT OFFICER Water Supply & Sanitation (W&S Deptt.) HANIPUR.	
						 DEPUTY DISTRICT OFFICER Water Supply & Sanitation (W&S Deptt.) HANIPUR.	
						 DEPUTY DISTRICT OFFICER Water Supply & Sanitation (W&S Deptt.) HANIPUR.	
						 DEPUTY DISTRICT OFFICER Water Supply & Sanitation (W&S Deptt.) HANIPUR.	

12

72

13

6

1	2	3	4	5	6	7	8	9	10
Name of post	Whether substantive or officiating and whether permanent or temporary	If officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C.S.R.	Pay in substantive post	Additional Pay for officiating	Other emolument falling under the term "P"	Date of appointment	Signature of Government Servant.	Signature and Designation of the head of the office or other attesting officer in attestation of columns 1 to 8	ter ap
<u>Sub Engineers BPS-11</u> <u>6600-460-20400</u>			7520/-			1-12-2011			30
<u>PL</u>			7980/-	P-nn		1-12-2012			30

ALLEGED

7 Date of appointment	8 Signature of Government Servant.	9 Signature and Designation of the head of the office or other attesting officer in attestation of columns 1 to 8	10 Date of termination or appointment.	11 Reason of termination such as promotion, transfer, dismissal, etc.)	12 Signature of the head of the office or other attesting officer.	13 Leave		14 Signature of the head of the office or other attesting officer	15 Reference to recorded pu ment or cen or praise of Governm Servant	
						Nature and duration of leave taken.	Allocation of period of leave on average pay upto four months for which leave salary is debitale to another Government			
							Period			Government to which debitale
<u>12</u> 2011			30 <u>11</u> 2011	Annual Increment Granted					Services for the per: ; from 1-12-2010 to 30-11-2011 Verified form the Office copies of the pay bills	
<u>12</u> 2012			30 <u>11</u> 2012	Annual Increment Granted.					Services Verified from 1-2-2011 to 30-11-2012 from the Office of Pay bills.	

ATTESTED

FROM : CHIEF OFF

FAX NO. : 0919210323

22 Jan. 2014 1:11PM P1

15

E

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 Saïdar Hussain, AOR.

For the respondents:  
(on court notice)

Sikandar Khan, Chief Engineer, PHEK, KPK.

Date of hearing:

15.01.2014.

ORDER

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

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

**ATTESTED**

**ATTESTED**

Superintendent  
Supreme Court of Pakistan  
Islamabad

C.E.P.H.E. Dept. (South)
Slary No. 480
Date 25-01-014
Case No.
C.E.P.H.E. (2)
SEMA
Director
Designation

C.P. 2026/13 & 2029/13

- 2 -

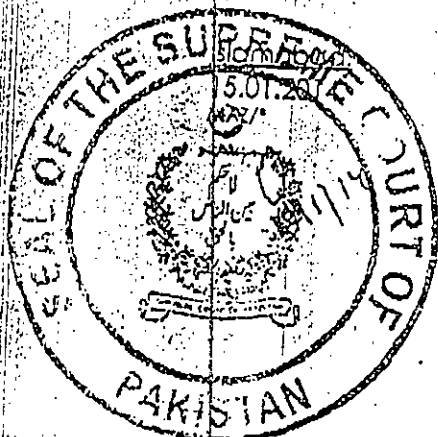
although many other illegal appointees in his department have been removed from service, but against many others such action is in process at various stages and they are still in service.

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

*[Signature]*  
Superintendent  
Supreme Court of Pakistan  
Islamabad



GR No: 640/14 Civil/Criminal  
Date of Presentation: 15-1-14  
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Received by: [Signature]

ATTESTED

*[Signature]*



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

No. 30 / E-4 / THE

Dated Peshawar, the 21 / 01 / 2014

To

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

ALLOTTED

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:

- 17-2/13  
03-02-14  
E-2
- In light of S&GD letter No.SOR-I(S&GAD)/I-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.
  - Your appointment orders have been made in contravention of Govt led down policy vide circulated notification No. SOR-VI/EXAD/I-10.2005/VI dated 17.11.2007



18

Page -2

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

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

Copy forwarded to:

Chief Engineer (South)

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

*FATA 12/5/83*  
  
Chief Engineer (South)

**ALLEGED**



To,

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

19 9

Subject: -

**SHOW CAUSE NOTICE.**

Ref: -

date.

Your No.32/E-4/PHE dated 21.01.2014 received by me on 10/2/2014 which shows that the same has un-lawfully and malafidel/ been issued by you in the back

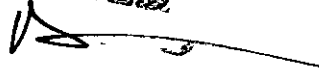
It is submitted that I am working in PHE Division Haripoor as Sub Engineer and is only under the controlling authority of the worthy Chief Engineer (North) PHED as competent authority. Therefore, the Show Casuse Notice issued to me under your signature on that reason too as un-authorized and un-lawful.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

1. In this connection your attention is invited to E.AD letter No.SOS-Pool(E&AD)/1-10/2002 dated 08/04/2006 declaring the posts in B-1 to B-15 in W&S Department (i.e C&W and PHE) as District Cadre posts and outside the purview of P.S.C. Therefore W&S Department as directed neither to place any such requisition before the P.S.C nor the P.S.C was required to advertise such pos:s (Annexure-I). The E&A Department, vide letter No.SOR-V(E&AD)/1-368/2005/(SE) dated 02/05/2007 addressed to P.S.C and copy there of endorsed to Secretary W&S Department, further stated that the requisition made by the W&S Department, for the filling in the vacant posts may be considered as withdrawn (Annexure-II). In the circumstances, the recommendation of P.S.C for appointment against such posts, were uncalled for.
2. My appointment against the post was made by the Competent Authority as I having the prescribed qualifications for the same. Hence there involve no contravention to Govt: Policy.
3. As explained in the above Para's, it was not be purview of P.S.C to make recommendation against their Posts, therefore there was no need of N.O.C etc: from them. From the above letters it reveals that requisition for the vacant posts was made, but the same was withdrawn by the E&A Department. Therefore, the Secretary W&S Department vide his Notification No.E&A/W&S/11-23/2001 cated 30.04.2008 assigned assignec all the Establishment matters of officials from BPS-1 to BPS-15 to the respective Chief Engineer of the C&W and PHE Wings of W&S Department (Annexure-III). Therefore, his approval/sanction for appointment against such posts was not required. Moreover my appointment was made by the competent authority through DSC.
4. As a candidate and junior employee of the Department, I do no know about any violation of codal formalities in the process of appointment. However, if there is some lapse in procedure, that is supposed to be tackled by the concerned hands with the competent forum for rectification/regularization, rather to proceed against me without any fault of mine at this belated stage/time where I have spent the useful part of my life of about years and have since crossed/near to cross the upper age limit of 30 year and have been overaged. It is added that I am not party in the case of Mashtaq Ahmad & Other C.P No.2026/13 & Muhammad Nisar Ali & other CP No.2029/13, therefore the decision of the Honourable Supreme Court of Pakistan dated 15.01.2014 is not applicable upon me. In view of above explanation, it is very hu nbly prayed that the charges may be dropped.
5. The Govt: of Khyber Pakhtunkhwa Finance Department (Regulation wing) vide notification No.SOSR-III/FD/12-1/2005 dated 27/02/2013 that the under said act all civil servant appointed to a service are post on or a ter 1<sup>st</sup> july 2001 shall be deemed to have been appointed on regular basis and will be eligible for pension (Copy attached).

Thanking you.

Yours: Obediently,

**MAILED**




Dated 10/2/2014.

WAQAS ALI  
Sub Engineer  
PHE Division Haripoor

Copy to the:-

1. Registrar, Supreme Court of Pakistan Islamabad with reference to C.Ps No.2026 & 2029 of 2013.
2. Registrar Peshawar High Court Peshawar w/r to W.Ps No.271-P & 663-P of 2013 w/r to above. They are requested to direct the Chief Engineer (South) PHE Peshawar to avoid from taking such drastic & one side action i.e without proper enquiry & opportunity of hearing etc: as required under the law/ natural justice.
- ✓ 3. PS to Secretary PHE Department Peshawar.

Dated 12/02/2014.

  
WAQAS ALI  
Sub Engineer  
PHE Division Haripoor

ALIESTED  
↓

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

No. 21 / E-4 / PHE. H  
Dated Peshawar, the 11 / 02 / 2014

Mr. Waqas Ali s/o Farzand Ali  
Sub Engineer P.H. Engg Division  
Kuripur

Subject: TERMINATION FROM SERVICE

Your recruitment in PHED made vide this office letter No.17/E-4 /PHE dated 13.01.2010 was illegal and unlawful due to non-fulfillment of codal formalities.

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

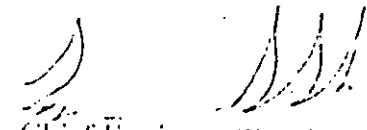
1. Vacancies/posts of Sub Engineers were not advertized through news paper.
2. Initial recruitment of Sub Engineers will continue to be made through recommendation of the Public Service Commission in light of S&GAD letter No.SOR-I (S&GAD)1-117 /91(c) dated 12.10.1993. in this case NOC was not obtained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

  
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.

APPROVED

  
Chief Engineer (South)

To,

The Secretary,  
Govt: of Khyber Pakhtunkhwa,  
PHE Department Peshawar.

22 I

Subject: APPEAL AGAINST THE TERMINATION ORDER NO.20/E-4/PHE DATED 14/02/2014.

R/Sir,

Most respectfully I beg to say that the Chief Engineer (South) has issued termination order vide letter under subject for which my submission are as under: -

1. I was appointed by the Chief Engineer vide office order No.17/E-4/PHE dated 13/01/2010 with the condition No.1 to 8 my appointment was made on the recommendation of DPC dated 02/12/2009 as mentioned in the said office order. As per Para-5 of the said office order I successfully completed upto 3 years probation period my appoint made on regular basis and not Adhoc nor Contract, therefore my status not equal to that case for which APPEX Court given decision.
2. Before issuing any Govt: letter/order the competent authority satisfied himself that this order/letter will be prove in the Court of Law, hence this was the responsibility of the competent authority to before issuing of any order he is responsible for issuing my unlawful order not me
3. I already have given reply of my show cause notice within stipulated time.
4. Obtaining of N.O.C from P.S.C is the responsibility of PHE Department not by me.
5. It is further pointed out that the Govt: of Khyber Pakhtunkhwa Finance Department (Regulation wing) No.SOR-III/FD/12-1/2005 dated 27/02/2013 the Provincial Assembly passed the act, 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 will be eligible for pension/deduction of G.P Fund.
6. Furthermore the Chief Engineer (South) has given full statement APPEX Court and not base on fact.

In light of above it is requested that my appeal my please be admitted and the Chief Engineer (South) be directed to withdrawn my termination order otherwise I will be knocking the Door of Law.

Your Obediently

**ALISTED**

*(Handwritten mark)*

WAQAS ALI  
Sub Engineer  
PHE Department Division Haripur.

Copy to the:-

1. Chief Engineer (South) PHE Department Peshawar
2. Chief Engineer (North) PHE Department Peshawar.
3. Registrar Supreme Court Peshawar.
4. Registrar Peshawar High Court Peshawar.
5. Registrar Service Tribunal Peshawar.

WAQAS ALI  
Sub Engineer  
PHE Department Division Haripur.

*(Handwritten signature and date)*  
25/2/14

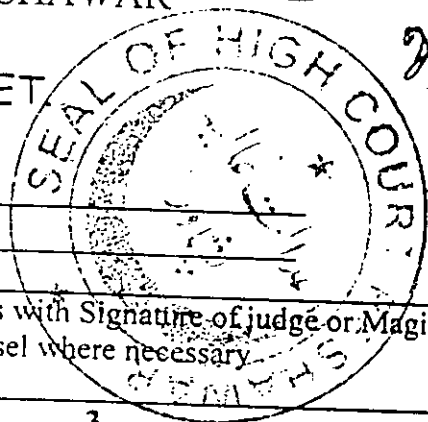
1

23

2/18

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

Court of \_\_\_\_\_  
Case No \_\_\_\_\_



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

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

**ATTESTED**

24

211

*natural justice.*

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

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

AT  
 EX-111111  
 Peshawar High Court.  
 3  
 15/01/2014

ATTESTED

(25)

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

ATTESTED  
★

(26) 217

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

JUDGE

JUDGE

*Justice Yashua Akbari*  
*Spl. Malik Mangoo Hussain*

CERTIFIED TO BE TRUE COPY

Examiner  
Peshawar High Court, Peshawar  
Authorized Under Article 87 of  
The Constitution of Pakistan Order 1982  
31 MAY 2014

**ATTESTED**

No. 14933  
Date of Presentation of Application 31-5-14  
No of Pages 12  
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IN THE SUPREME COURT OF PAKISTAN  
(APPELLATE JURISDICTION)

K  
27

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

CIVIL PETITION NO. 551 OF 2014  
(On appeal from the judgment dated 26.2.2014 passed by the Peshawar High Court, Peshawar in WP No. 515-7/2014)

Tariq Nawaz Khan and others  
... Petitioners

VERSUS

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

For the Petitioners: Mir Aurangzeb, ASC

For the Respondents: N.R.

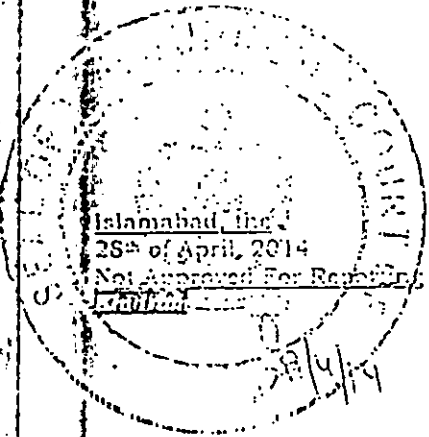
Date of Hearing: 25.04.2014

ORDER

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

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

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

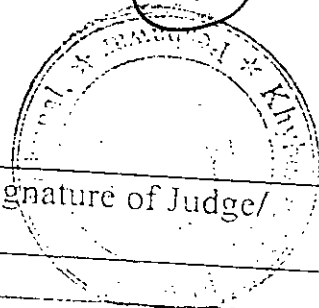


Certified to be True Copy

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

ATTACHED

*[Handwritten mark]*



Sr. No.	Date of order/ proceedings	Order or other proceedings with signature of Judge/ Magistrate
---------	----------------------------	----------------------------------------------------------------

**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 Iflikhar, (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.

30.12.2015

**ATTESTED**

Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

**ATTESTED**

**ATTESTED**

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

ACCEPTED

Khyber Pakhtunkhwa  
Peshawar

ACCEPTED

(30)

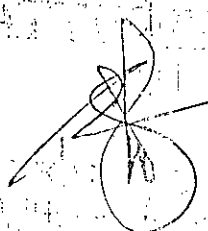
(51)


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

ATTACHED  
  
 Khyber Pakhtunkhwa  
 Service Commission  
 Peshawar

ATTACHED  


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 and 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

SECRETARY  
Peshawar  
Service Tribunal,  
Peshawar

ATTESTED

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Adv)

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unsel

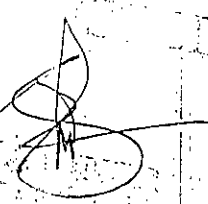
Mr. U


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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.

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

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 Khyber Pakhtunkhwa  
 Service Tribunal,  
 Peshawar

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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

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Signature  
 Member  
 Service Tribunal,  
 Peshawar

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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

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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

*Sd/- Piy Bakht Shah,*  
Member

*Sd/- Abdul Latif,*  
Member

Certified true copy  
Khyber Pakhtunkhwa  
Services Tribunal,  
Peshawar

Date of ..... 01-01-2016  
 Number ..... 3200  
 Copy of ..... 18  
 Copy of ..... 18  
 Date of ..... 06-01-2016  
 Date of ..... 06-01-2016

ATTESTED

*[Signature]*



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. Waqas Ali  
S/o Farzand Ali  
Village Aman Kot,  
Tehsil & District Nowshera

Subject: **DEPARTMENTAL APPEAL AGAINST CHIEF ENGINEER (SOUTH) PHE  
ORDER No. 20/E-4/PHE DATED 14-02-2014.**

WHEREAS, you managed to get yourself appointed as Sub Engineer (BPS-11) in PHED vide Chief Engineer PHE Office Order No.17/E-4/PHE dated 13-01-2010.

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.

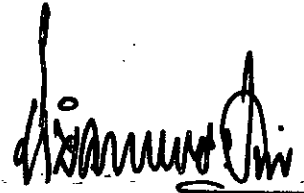
4. AND WHEREAS, you also filed Service Appeal No.790/2014 before the Khyber Pakhtunkhwa Service Tribunal Peshawar which was also disposed off vide its judgment dated 30-12-2015, with the direction to decide the departmental appeals of the appellants strictly in accordance with law/rules considering each 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 Sub Engineer 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 provisions contained in the K.P Civil Servants Act, 1973 and the rules made there-under.

ATE 5/16  
/s/

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 Sub Engineer PHE stands 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) 02/03  
 SECRETARY TO  
 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 02/03  
 GOVERNMENT OF KHYBER  
 PAKHTUNKHWA PHED  
 (APPELLATE AUTHORITY)

APPELLED

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

Service Appeal No

323/2016

Mr. Waqas Ali S/O Farzand Ali  
Ex-Sub Engineer PHE Divn, Haripur.

..... (Appellant)

**Versus**

1. Secretary to Govt: of Khyber Pakhtunkhwa Public Health Engg: Department Peshawar.
2. Chief Engineer (South) Public Health Engg: Department Khyber Pakhtunkhwa Peshawar.
3. Executive Engineer PHE Division, Haripur. ....Respondent

**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.

# VAKALAT NAMA

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

IN THE COURT OF K.P.K Service Tribunal Peshawar

Waqas Ali

(Appellant)  
(Petitioner)  
(Plaintiff)

VERSUS

P.H.E Department

(Respondent)  
(Defendant)

I/We

Waqas Ali

Do hereby appoint and constitute **M.Asif Yousafzai, Advocate, Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.


I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated \_\_\_\_\_/20

  
( CLIENT )

ACCEPTED

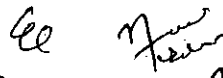
  
**M. ASIF YOUSAFZAI**  
Advocate

  
**TAIMUR ALI KHAN**  
Advocate

**M. ASIF YOUSAFZAI**  
Advocate High Court,  
Peshawar.

**OFFICE:**

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

  
**Syed Noman Ali Bukhara**

## **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.**

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

6). Incorrect. The appellant failed to produce recommendation letter issue by Public Service Commission regarding his selection for the post of Sub Engineer and also failed to produce sanction accorded by the competent authority regarding condonation of violation of codal formalities in his appointment. Therefore his reply was not considered.

- 7) Incorrect. The Apex court directed for finalizing action against all such illegal appointees on 15.1.2014. As the appellant was illegally appointed therefore he was terminated from service. There was no weight-age in his appeal.
- 8). Pertains to court record, hence needs no comments.
- 9). Correct.
- 10). Incorrect. The appellant was given an opportunity to submit departmental appeal and personal hearing. Accordingly the appellant has submitted departmental appeal and heard personally by appellant authority. The appellant was illegally appointed contrary to all relevant rules without fulfillment of codal formalities i.e. without recommendation of Public Service Commission and advertisement, test and interview. Hence there was no weight-age in his department appeal and therefore the appellant authority dismissed his departmental appeal.

#### **GROUNDS**

- A). Incorrect. The appellant was illegally appointed without fulfillment of requisite codal formalities. There was no weight-age in his departmental appeal. Hence his departmental was liable to dismiss.
- B). Incorrect. The appellant was treated accordingly to law. In light of judgment of Service Tribunal dated 30.12.2015 the appellant was given opportunity of department appeal and personal hearing. The appellant failed to produce any legal documents in his defense, as he was appointed illegally without recommendation of Public Service Commission, advertisement contrary to Public Service Commission ordinance, ESTA Code and recruitment policy. Thus his name was not included in the seniority list of Sub Engineers and does not fall in the category of civil servant. Therefore E&D rules are not applicable in this case, being illegally has no legal right and one wrong cannot be justified through another wrong.
- C). Incorrect. The appellant was given full opportunity according to judgment of service tribunal dated 30.12.2015 but the appellant failed to produce documentary proof regarding the legality of his appointment. As the appellant was illegal appointed violating all codal formalities, hence his department appeal was rejected by the appellant authority having no weight-age.

- (D) Incorrect. The appellant was given full opportunity of Departmental appeal and personal hearing in the light of Service Tribunal Judgment dated 30.12.2015. The appellant failed to produce any legal documents in his defense. As the appellant was not appointed on the recommendation of the Public Service Commission and all requisite codal formalities has been violated in his appointment. Therefore his name was not included in the seniority list of Sub Engineer and does not fall in the category of civil servant. Therefore E&D rules are not applicable in this case of illegal appointment.
- (E) Incorrect. The case illegal appointment of Sub Engineers and others was submitted to Establishment Department for advice. The Establishment Department extended advice and declared these appointments as illegal. The appellant appointed violating of codal formalities i.e. Public Service Commission ordinance, ESTA Code and recruitment policy. The action against illegal appointees was required to finalize within one month period as per direction of Apex Court Judgment 15.1.2014 and subsequent reminder dated 7.02.2014. The E&D rules are not applicable in this case of illegal appointment.
- (F) Incorrect. The appellant was appointed without fulfillment of requisite codal formalities and without recommendation of Public Service Commission. Therefore the appellant was terminated in order to appoint nominee of Public Service Commission according to rules.
- (G) Incorrect. The posts in BPS-1 to 15 were declared as district cadre posts, the then Chief Engineer, the provincial head of Public Health Engg: Department had wrongly exercised his powers to make recruitment of appellant against District cadre posts. Recruitment of District cadre posts fall in the purview of District Coordination Officer. According to ESTA Code and Public Service Commission Ordinance the post of Sub Engineer shall be filled on the recommendation of Public Service Commission.
- (H) Incorrect. Nomination of Public Service Commission is prerequisite for appointment as Sub Engineer in Public Health Engg: Department. The appellant was appointed without recommendation of Public Service Commission which is against standing recruitment policy of Khyber Pakhtunkhwa.



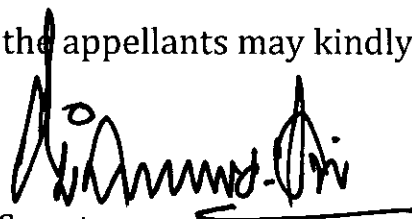
(I) Incorrect. The Notification issued by Secretary Works & Service Department dated 30.4.2008 as referred by the appellant is related only for posting/transfer of officials from BPS-1 to 16 and not for recruitment (Annexure-X).

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

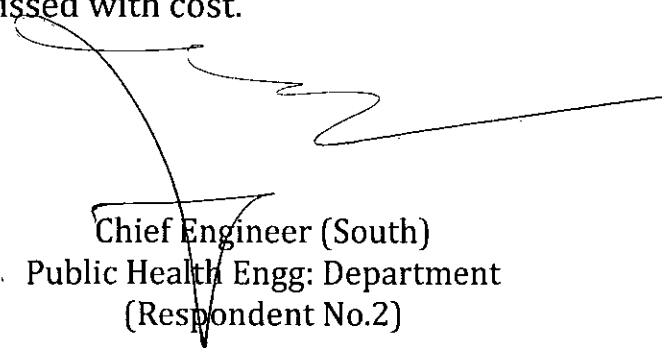
The termination Order of the appellant is consistent with the Judgment of Supreme Court of Pakistan dated 17.3.2014 in constitution petition No 6 of 2011 CMA 5216 of 2012 Syed Mubashir Raza Jaffari versus EOBI.

(K) 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 appellants may kindly be dismissed with cost.



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



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

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

Service Appeal No

323/2016

Mr. Waqas Ali S/O Farzand Ali  
Ex-Sub Engineer PHE Divn, Haripur.

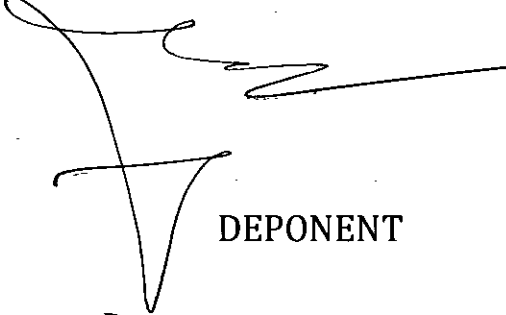
..... (Appellant)

**Versus**

1. Secretary to Govt: of Khyber Pakhtunkhwa Public Health Engg: Department Peshawar.
2. Chief Engineer (South) Public Health Engg: Department Khyber Pakhtunkhwa Peshawar.
3. Executive Engineer PHE Division, Haripur. ....Respondent

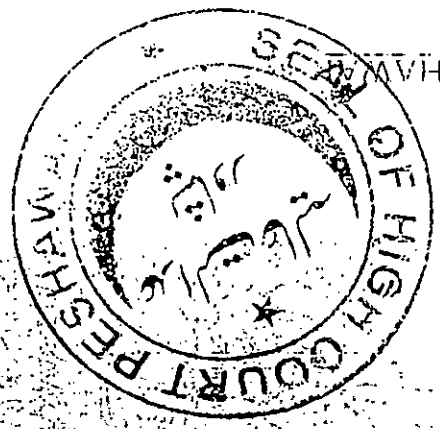
**AFFIDAVIT**

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

ATTESTED  
EXAMINER  
Peshawar  
20 FEB 2014

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JUDGMENT SHEET

IN THE PESHAWAR HIGH COURT, PESHAWAR  
JUDICIAL DEPARTMENT

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

JUDGMENT

Date of hearing: 2.10.2013.

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

Respondent/  
*(Signature)*

MUSARRAT BHALIA, 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. XXVI of 2009 vide which services of all

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EXAMINER  
Peshawar High Court  
ESTD  
- 08/2014

2014 FEB 20  
COURT

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

the filing of instant constitutional petition  
whereas their tenure is going to expire, hence necessitated

did not receive any financial grant from the respondents  
According to the petitioners, they waited for some time but

the petitioners can be accommodated on regular basis.  
were lying in the department and as a gesture of good will,

Nevertheless, handsome share of posts of Sub-Engineers  
Government for the reasons beyond their control.

employment in any institution of the Provincial/Federal  
39 years old, respectively and were debarred from future

namely, Sher Hayat and Musataf Ahmad, who were 38 and  
the respondents, wherein, it was stated that Sub-Engineers,

dated 21.12.2013 was addressed to Human Rights Cell by  
the Human Rights Cell of this court. In this respect, a letter

application/appeal to the competent authority as well as to  
the petitioners. The petitioners preferred an

Sub-Engineers have been regularized after appointment of  
the petitioners. Moreover, services of some six

regularized, however, the same benefit was not extended to  
the adhoc/contract employees of the Province were

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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 adhoc 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. I 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 overage 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

RECORDED

... of recommendees of Public Service Commission. ...  
 question would be for one year and on adhoc basis or till the  
 mentioned for the term of appointment against the post in  
 for appointment against the said posts, however, it was  
 wherein applications were asked from deserving candidates  
 Daily Mashqir Fezhan 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 AAO for respondents and gone through the record  
 We have heard learned counsel for petitioners and

above grounds.  
 the case hence prayer 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  
 in other one year and the recommendees of the Public Service  
 which is followed by re-appointment of the petitioners for

CONFIDENTIAL

CERTIFIED TO BE TRUE COPY

Examined  
Eschwert High Court  
Luhorog  
The Ombudsman  
20 FEB 2014

70-02-1

501, Mrs. Margaret H. Kelly - J  
SPL, Miss & Hession Wilson - J  
SPL, Miss & Hession Wilson - J

which is not the case in hand, therefore, the plea taken is  
 of those adhoc employees, who were holding the posts on  
 11<sup>th</sup> December, 2008 or till the commencement of the Act,  
 Act No XVI of 2009 and can be pressed into service in case  
 6. The petitioners are taking the shelter behind  
 Sub-Engineers as a stop-gap arrangement.  
 28.2.2012, the petitioners were re-appointed as  
 process, they were appointed on 3<sup>rd</sup> January, 2010. On  
 participated in the test/interview. However, after due  
 whichever is earlier. The petitioners amongst others also

of no hold to them. Moreover, the learned AAG produced  
 a copy of the letter dated 17.2.2013, showing that  
 those employees, who were retained by the  
 responder/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.



56

ANNEXURE - ~~10/10~~

(24)

PE: 9082235  
Fax: 9220406

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

Islamabad, dated 16/11 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

26

**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. (in CP. 2026/13)  
Muhammad Nasir Ali and others. (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.

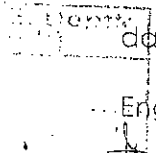
For the respondents: Sikandar Khan, Chief Engineer, PHEK, KPK.  
(on court notice)

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



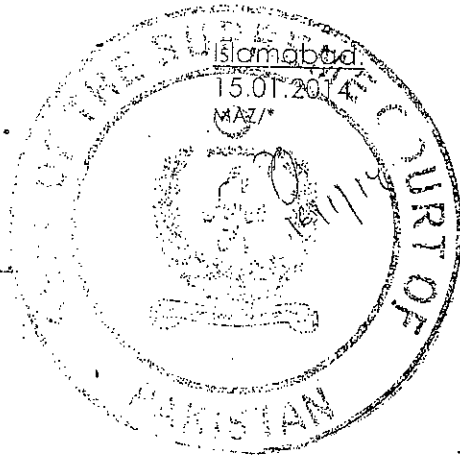
**ATTESTED**

*[Handwritten Signature]*  
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 Pages: 6

Registration Fee Rs: 5.00

Copy Fee in: 3.22

Court Fee stamps: 80.22

Date of Completion of Copy: 18-1-14

Date of Delivery of Copy: 18-1-14

Compared by: [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. Dikandar 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

Kaami/\*\*\*\*

119

132

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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

Yours faithfully,

V to  
referring earlier  
letter

(NAZAR ABBAS)  
ASSISTANT REGISTRAR (IMP)  
FOR REGISTRAR

de.

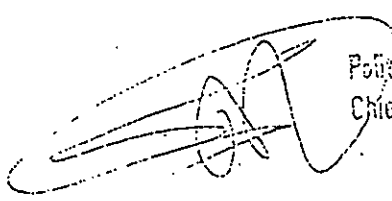
Subject - APPOINTMENTS AGAINST THE VACANT POSTS OF SUB ENGINEER / STENOYPIST & DEO.

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 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 personnels for their appointments against the vacant posts by the Departmental Authority to bridge the gap of the staff & to ensure smooth working of the newly separated / established PHE Department. Necessary sanction to the condonation of the requisite codal formalities if any will be accorded by the competent authority at due course of time separately:-

<u>S.No</u>	<u>Name of Applicant</u>	<u>Name of Post</u>
1.	Mr. Tariq Nawaz Khan S/O Amir Nawaz Khan District Bannu.	Sub Engineer
2.	Mr. Muhammad Sajjad S/O Banut Khan District D.I.Khan.	-do-
3.	Mr. S.M. Ihsan Shah S/O S.M.Hassan Shah District D.I.Khan	-do-
4.	Mr. S.M Ali Sajjad S/O S.Abid Hussain Shah District D.I.Khan.	-do-
5.	Mr. Abdul Samad S/O Abdul Mueed District Malakand.	-do-
6.	Mr. Sheukat 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 Elani 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 Gui District Mardan.	Stenotypiest
26.	Mr. Noor Muhammad /O Jamroz Khan District Peshawar.	-do-
27.	Mr. Aziz Ullah SD/O Abid Ullah District Bannu.	-do-
28.	Mr. Farhan Ullah S/o Aziz Ullah District Bannu.	-do-
29.	Mr. Murtaz S/O Afsar Ali District Peshawar	D.E.O

 Political Secretary to Chief Minister NWFP

ANNEX - V

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(3)

6. Amendment of section 7 of N.W.F.P. Ord. No. VI 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

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. (Retd.) IFTIKHAR HUSSAIN SHAH,  
Governor of the North-West Frontier Province.

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

Printed by the Controller,  
Pig. & Staty. Dept., NWFP, Pesh.

114  
Annex-1X

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

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

Dated Peshawar, the 27 /02/2014

TH)  
T  
R

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

Subject: ENQUIRY INTO ILLEGAL APPOINTMENT

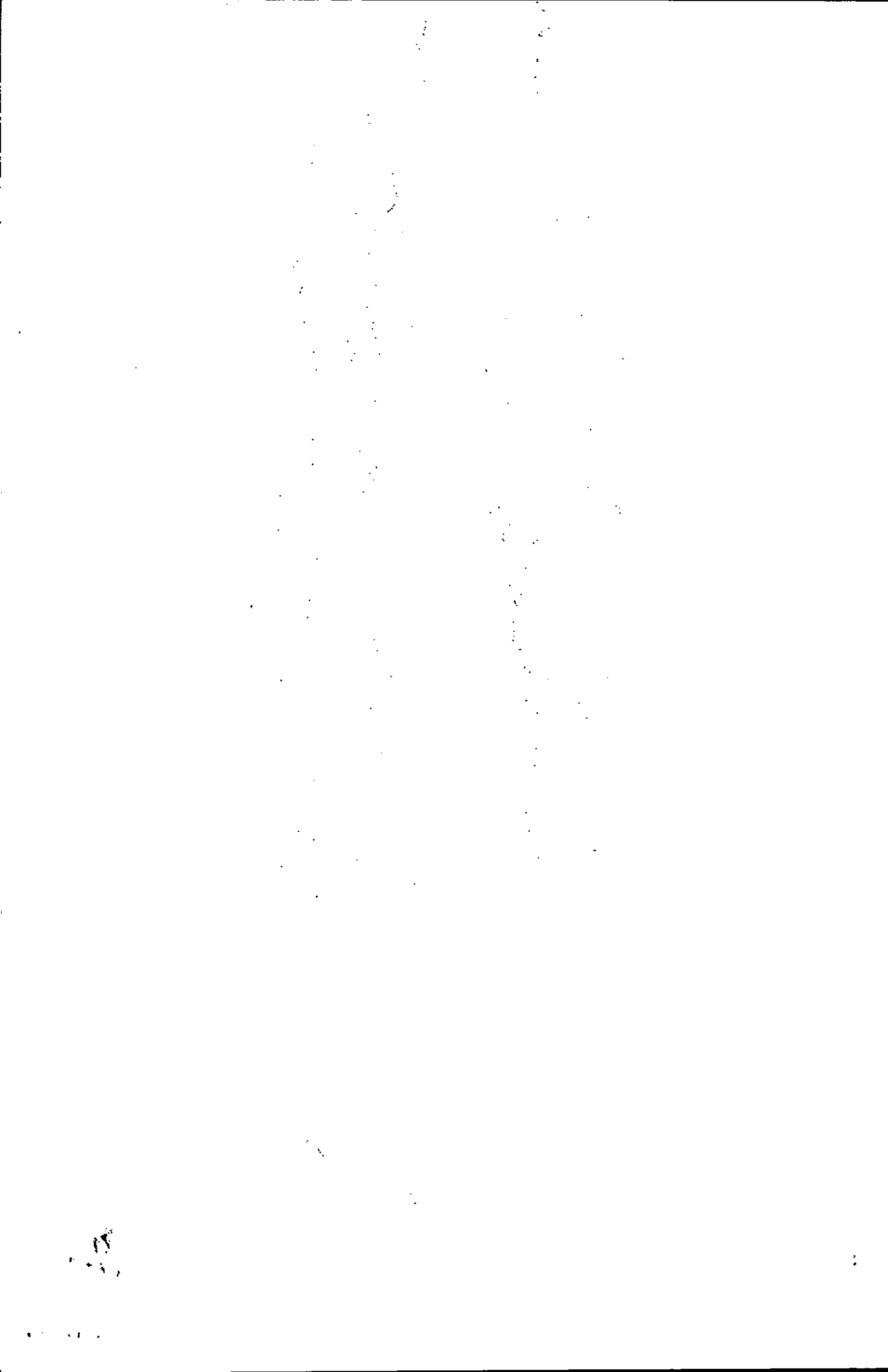
Reference: Your letter No. SO(E)/PHE/8-27/2013/242-2

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. Afşar 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.

*AK*  
Chief Engineer (South)  
*AK*





115  
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OFFICE OF THE CHIEF ENGINEER (SOUTH)  
PUBLIC HEALTH ENGG: DEPARTMENT  
KHYBER PAKHTUNKHWA, PESHAWAR

NOTE FOR MINISTER PHED

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

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

Sl: No	Description of Irregularities	Action Required against	Remarks
1-	Appointments of 32-Nos Illegal Appointment on the Post of Public Service Commission Preview	Mr. Alla-ud-Din CE (Rd) Mr. Abdu 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-	Unlawful promotion of Abdur Rahim Work Superintendent to the Post of Sub Engineer	Mr. Ghulam Mujtaba SE Kohat	Annex-IV
5-	Unlawful 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-	Unlawful 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  
1038  
Entry No.  
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.

*[Signature]*  
Chief Engineer (South)

Secretary PHED

3.

Order is solicited to the proposal contained at Para-2

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

Minister for PHE

*[Signature]*  
Secretary PHED

*[Signature]*  
SHAH FARZAN  
MINISTER FOR INFORMATION, CULTURE  
PHED KHUSHAB PAKISTAN  
10/10/14

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

Clerk and all her service matters.

vii. You have facilitated the illegal appointment of Miss Beena Rani Junior Engineer (North) PHED in capacity of Budget Officer and not put up to you kept in dark, the competent authority i.e. Chief Engineer North.

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 present, also for the period you were not Admn. officer.

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

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

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

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.

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

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

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

Which prove your involvement and malafide intention in all process. re-created the same post of Work Superintendent, without any authority. Superintendent without any justification and without any authority. And then

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 authority. And then

112

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

5. You are involved in standarization 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.

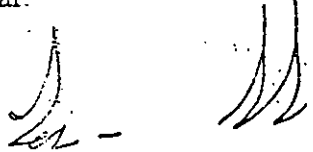
If no reply to this notice is received within fifteen days of its delivery, it shall be presumed that you have no defence to put in and an ex-parte action will be taken against you.

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. 11 /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.



113

100

Annex-5

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

No. 21 / 13/13/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&SE        | 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)

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321

GOVERNMENT OF N.W.F.P  
WORKS & SERVICES DEPARTMENT

Dated Peshawar the April 30, 2008

NOTIFICATION

169/4

No.E&A/W&S/11-23/2001: In continuation to this deptt: Notification of even No. dated 24.01.2002, the competent authority has been pleased to direct that the postings & transfers of 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 be 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/11-23/2001

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:

DSCE-D  
30/4

( MUHAMMAD SIYAR KHAN )  
SECTION OFFICER (GENERAL)

30/4

30-4-08

30/4/08

30/4

30-4-08

30.4.08

## KHYBER PAKHTUNKHWA PUBLIC SERVICE COMMISSION

2- Fort Road Peshawar Cantt:

Website: [www.nwfppsc.gov.pk](http://www.nwfppsc.gov.pk)

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

2/2011

Dated: 07.04.2011

**ADVERTISEMENT No. 02 / 2011.**

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

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

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

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

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

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

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

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

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

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

**C & W DEPARTMENT****THIRTEEN (13) POSTS OF JUNIOR SCALE STENOGRAPHER.**

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

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

2/2011

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

2/20/11

## 75. EIGHT (08) POSTS OF JUNIOR SCALE STENOGRAPHER. ✓

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

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

## 76. EIGHTEEN (18) POSTS OF SUB ENGINEER CIVIL.

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

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

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

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

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

## 78. FOUR (04) POSTS OF DRAFTSMAN.

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

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

**PROVINCIAL PUBLIC SAFETY AND POLICE COMPLAINT  
COMMISSION**

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

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

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

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

## 80. ONE (01) POST OF ADMINISTRATOR

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

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

Detail Marks Certificates for all the examinations shall necessarily be required and these should be attached with the application forms.

Ex-armed Forces Personnel must send copy of Discharge Certificate with their applications. Govt / Semi Govt. / Autonomous / Semi Autonomous Bodies employees may apply direct but their Departmental Permission Certificates should reach within 30 days of the closing date.

- (iv) Applications should be on the prescribed application form obtainable from the listed below branches of the NATIONAL BANK OF PAKISTAN. Application Fee is Rs.285/- (Rupees Two Hundred Eighty Five only) for all the candidates. In addition to the application fee, the candidates will have to pay Rs.15/- (rupees fifteen only) on account of Bank Charges. Separate application form will be required for each advertised category of posts. Application forms obtained other than the specified branches of the National Bank will be considered invalid and such applications will not be entertained. The applications on plain paper or Photostat shall not be accepted. Incomplete and late applications shall also be ignored.
- (v) Applications must be submitted within time as no extra time is allowed for postal transit. The applications if submitted on the last date for receipt of applications must reach the Commission's office by the closing hours.
- (vi) Applicants married to Foreigners are considered only on production of the Govt: Relaxation Orders
- (vii) No applicant shall be considered in absentia on paper qualifications unless, he/she possesses exceptionally higher qualifications than the minimum prescribed qualification for a particular post(s).
- (viii) Govt reserves the right not to fill any or fill more or less than the advertised post(s).
- (ix) Candidates who have already availed three chances by physical appearance before the Commission and have failed for the post(s) having one and the same qualifications and scale of pay shall be ineligible.
- (x) Experience wherever prescribed shall be counted after the minimum qualifications for the post(s), if not specifically provided otherwise against the advertised post(s).
- (xi) In case the number of applications of candidates is disproportionately higher than the number of posts, short listing will be made in anyone of the following manner: -
- Written Test in the Subject.
  - General Knowledge or Psychological General Ability Test.
  - Academic and/or Professional record as the Commission may decide.

### SPECIFIED BRANCHES OF THE NATIONAL BANK OF PAKISTAN.

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

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

(ATTA-UR-REHMAN)  
Secretary  
Khyber Pukhtoonkhwa  
Public Service Commission  
Peshawar

15

CONFIDENTIAL

Phone : 091-9213551  
Fax : 091-9211795  
Website : www.kopsc.gov.pk

**KHYBER PAKHTUNKHWA  
PUBLIC SERVICE COMMISSION**  
2-Fort Road, Peshawar Cantt.



No. PSC/SR-1/ 128939

Dated: 22/10/15

25

To

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

**Subject: - RECRUITMENT TO (33) POSTS OF SUB ENGINEER  
CIVIL (BPS-11) IN PUBLIC HEALTH ENGINEER  
DEPARTMENT (Advertisement No.05/2014, Sr.No.49).**

Dear Sir,

I am directed to refer to your letter No.SO(Estt)/PHED/1-90/2012-13, dated 23.05.2014 on the subject noted above and to state that the Commission recommends the following candidates to the Government for appointment against subject cited posts.

2<sup>nd</sup> Block

Vacancy Rotation	Allocation	Merit Order	Name with Father's Name	Domic Zone
18 <sup>th</sup>	Zone-3	01 ✓	Suliman Khan S/O Amir Laiq Khan	Dir.Uj

3<sup>rd</sup> Block

Vacancy Rotation	Allocation	Merit Order	Name with Father's Name	Domic Zone
1 <sup>st</sup>	Zone-1	15 ✓	Muhammad Riaz S/O Taslim Khan	Khyber
2 <sup>nd</sup>	Zone-2	03 ✓	Alamgir Khan S/O Mazullah Khan	Charsa
3 <sup>rd</sup>	Zone-3	05 ✓	Shaukat Ali S/O Muhammad Amin	Swat/3
4 <sup>th</sup>	Zone-4	02 ✓	Murad Khan S/O Taza Khan	Bannu
5 <sup>th</sup>	Zone-5	11 ✓	Aasim Mumtaz S/O Muhammad Mumtaz	Mansel
6 <sup>th</sup>	Zone-1	17 ✓	Inam Khan S/O Muhammad Aziz	Bajaur
7 <sup>th</sup>	Zone-2	07 ✓	Jahangir Khan S/O Inayat Ullah Khan	Mardan
8 <sup>th</sup>	Zone-3	09 ✓	Fayyaz Ullah S/O Gul	Swat/3
9 <sup>th</sup>	Zone-4	04 ✓	Mateen Ullah S/O Sami Ullah	D.I.Kh.
10 <sup>th</sup>	Zone-5	12 ✓	Husnain Zeb S/O Jahan Zeb	Mansel
11 <sup>th</sup>	Zone-1	20 ✓	Aziz Ur Rehman S/O Ali Hussain	N.W A
12 <sup>th</sup>	Zone-2	08 ✓	Saif Ul Islam S/O Wadood Shah	Charsa
13 <sup>th</sup>	Zone-3	10 ✓	Qaisar Rahim khan S/O Rahim Dad	Malaka
14 <sup>th</sup>	Zone-4	06 ✓	Rizwan Ullah S/O Gul Zaman	Lakki Marwat
15 <sup>th</sup>	Zone-5	16 ✓	Aamir Shafique S/O Shafique Ahmed	Haripur
16 <sup>th</sup>	Zone-1	21 ✓	Muhammad Nisar S/O Shamrooz Khan	Moh:A
17 <sup>th</sup>	Zone-2	18 ✓	Zuaid Ur Rahman S/O Mehboob Ur Rahman	Charsa
18 <sup>th</sup>	Zone-3	13 ✓	Zahid Ali S/O Fazli Raziq	Malaka

SO (Estt) PHED

Diary No. 347

Date: 26/10/15

D.S (Admin) PHED

Diary No: 1162

Date: 26-10-15

Secretary P.H.E. Deptt  
Diary No. 235-  
Date: 26-10-15

*[Handwritten signature]*

22/x

*[Handwritten signature]*

22/x

26/x/15  
SSE

*[Handwritten signature]*



Vacancy Rotation	Allocation	Merit Order	Name with Father's Name	Domicile/ Zone
1 <sup>st</sup>	Zone-1	24 ✓	Usman Ullah S/O Kobal Khan	F.R Bannu/1
2 <sup>nd</sup>	Zone-2	22 ✓	Imran Khan S/O Mumtaz Khan	Charsadda/2
3 <sup>rd</sup>	Zone-3	28 ✓	Rahmat Zeb S/O Bin Yamin	Dir.Upper/3
4 <sup>th</sup>	Zone-4	14 ✓	Muhammad Adnan Javaid S/O Muhammad Javaid Iqbal	D.I.Khan/4
5 <sup>th</sup>	Zone-5	40 ✓	Syed Iltaja Hussain Shah S/O Syed Tufail Ahmad Shah	Abbottabad/1
6 <sup>th</sup>	Zone-1	32 ✓	Arshad Ali S/O Hakeem Said	Moh:Agy/1
7 <sup>th</sup>	Zone-2	25 ✓	Imad Khan S/O Tahir Shah	Charsadda/2
8 <sup>th</sup>	Zone-3	29 ✓	Yasar Ali S/O Muqarab Khan	Dir.Upper/3
9 <sup>th</sup>	Zone-4	19 ✓	Muhammad Asim khan S/O Muhammad Habib Khan	Kohat/4
10 <sup>th</sup>	Zone-5	57 ✓	Ahsan Aslam S/O Muhammad Aslam	Abbottabad/1
11 <sup>th</sup>	Zone-1	38 ✓	Fazal Ur Rehman S/O Badshah Khel	Khyber Agy
12 <sup>th</sup>	Zone-2	26 ✓	Nasr Ullah Khan S/O Karim Ullah	Mardan/2
13 <sup>th</sup>	Zone-3	31 ✓	Zakir Ullah S/O Noor Hani Gul	Malakand/3
14 <sup>th</sup>	Zone-4	23 ✓	Muhammad Imran S/O Abbas Khan	D.I.Khan/4

2. Recommendation in favour of the recommendee is provisional subject to their medical fitness and verification of all the documents / testimonials by your department.

3. Upto date zonal state will be as under:

	Zone-1	Zone-2	Zone-3	Zone-4	Zone-5	Total
Share	15	15	15	12	11	68
Adjusted	15	15	15	12	11	68
Balance	--	--	--	--	--	--

4. Inter-se-merit of the above recommendees is as under:-

Merit Order	Name with Father's Name	Domicile/ Zone
1.	Suliman Khan S/O Amir Laiq Khan	Dir.Upper/3 ✓
2.	Murad Khan S/O Taza Khan	Bannu/4
3.	Alamgir Khan S/O Mazullah Khan	Charsadda/2
4.	Mateen Ullah S/O Sami Ullah	D.I.Khan/4
5.	Shaukat Ali S/O Muhammad Amin	Swat/3
6.	Rizwan Ullah S/O Gul Zaman	Lakki Marwat/4
7.	Jahangir Khan S/O Inayat Ullah Khan	Mardan/2
8.	Saif Ul Islam S/O Wadood Shah	Charsadda/2
9.	Fayyaz Ullah S/O Gul	Swat/3
10.	Qaisar Rahim khan S/O Rahim Dad	Malakand/3
11.	Aasim Mumtaz S/O Muhammad Mumtaz	Mansehra/5
12.	Husnain Zeb S/O Jahan Zeb	Mansehra/5
13.	Zahid Ali S/O Fazli Raziq	Malakand/3
14.	Muhammad Adnan Javaid S/O Muhammad Javaid Iqbal	D.I.Khan/4
15.	Muhammad Riaz S/O Taslim Khan	Khyber Agy/1
16.	Aamir Shafique S/O Shafique Ahmed	Haripur/5
17.	Inam Khan S/O Muhammad Aziz	Bajaur Agy/1

73 +

18.	Zuaid Ur Rahman S/O Mehboob Ur Rahman	Charsadda/2
19.	Muhammad Asim khan S/O Muhammad Habib Khan	Kohat/4
20.	Aziz Ur Rehman S/O Ali Hussain	N.W Agy/1
21.	Muhammad Nisar S/O Shamrooz Khan	Moh:Agy/1
22.	Imran Khan S/O Mumtaz Khan	Charsadda/2
23.	Muhammad Imran S/O Abbas Khan	D.I.Khan/4
24.	Usman Ullah S/O Kobal Khan	F.R Bannu/1
25.	Imad Khan S/O Tahir Shah	Charsadda/2
26.	Nasr Ullah Khan S/O Karim Ullah	Mardan/2
27.	Rahmat Zeb S/O Bin Yamin	Dir.Upper/3
28.	Yasar Ali S/O Muqarab Khan	Dir.Upper/3
29.	Zakir Ullah S/O Noor Hani Gul	Malakand/3
30.	Arshad Ali S/O Hakeem Said	Moh:Agy/1
31.	Fazal Ur Rehman S/O Badshah Khel	Khyber Agy/1
32.	Syed Iltaja Hussain Shah S/O Syed Tufail Ahmad Shah	Abbottabad/5
33.	Ahsan Aslam S/O Muhammad Aslam	Abbottabad/5

5. Original applications (*with enclosures*) of the above thirty three (33) recommendees are enclosed herewith for your record.

6. Kindly acknowledge receipt the same.

Yours faithfully,

(GHULAM DASTAGIR AHMAD)  
Director Recruitment

Encl: As above.

**BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR.**

Service Appeal No. 323/2016

Waqas Ali

VS

PHE Deptt:

.....  
**REJOINDER ON BEHALF OF APPELLANT**  
.....

**RESPECTFULLY SHEWETH:**

**Preliminary Objections:**

- (1-9) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

**FACTS:**

- 1-5) Incorrect. The appellant was appointed as Sub Engineer on the recommendation of Departmental Selection Committee by the competent authority after fulfilling all codal formalities vide order dated 13.1.2010, got his medical fitness certificate and his submitted his arrival report and proper service book of the appellant was also maintained by the respondents, however the Chief Engineer Mr. Sikandar Khan gave statement in the Supreme Court in other cases of a different nature that although many other illegal appointees in the department have been removed from service but again many other such action is in progress at various stages and they are still in service. Therefore, the Honorable Supreme Court directed the Chief Engineer to complete the process within one month against the illegal pending cases against the illegal appointees and on the basis of which in order to save his skin the Chief Engineer issued show-cause notice and adopted a slipshod manner for removing the appellant from service which was duly replied by the appellant in which explained the details and rebutted the objections/allegations leveled against him with full reasons and justification which were not taken in consideration at all.
- 6). Incorrect. The appellant was appointed as Sub Engineer on the recommendation of Departmental Selection Committee by the competent authority after fulfilling all codal formalities vide order dated 13.1.2010, who was terminated from

service without following proper procedures and codal formalities. Therefore appellant filed an appeal against the termination order and waited for statutory period but was not responded. Moreover under the Superior Courts judgment it is necessary that the department should responded to the departmental appeal.

- 7). Incorrect. The appellant was appointed after the proper recommendation of Departmental Selection Committee by the competent authority after fulfilling all codal formalities vide order dated 13.1.2010 and the appellant was made a scapegoat by his high ups in order to save his skin by terminating the appellant from his service.
- 8). Admitted correct by the respondents as all the relevant record of the appellant is present with the department.
- 9). Admitted correct. Hence no comments.
- 10). Not replied according to para 10 of the appeal. Moreover para 10 of the appeal is correct.

**GROUNDS:**


- A. Incorrect. The appellant was appointed after the proper recommendation of Departmental Selection Committee by the competent authority after fulfilling all codal formalities vide order dated 13.1.2010, as the appellant has good cause of action therefore he filed departmental appeal - against order dated 13.1.2010 which was also rejected on 3.3.2016 for no good ground. Therefore the order dated 3.3.2016 is not according to the law, rules, facts, norms of justice and material on record therefore liable to be set aside.
- B. Incorrect. While para B of the appeal is correct.
- C. Incorrect. The appellant was not given opportunity of defence according the judgment of august Service Tribunal dated 30.12.2015 as the appointment of the appellant was legal as he was appointed after the proper recommendation of Departmental Selection Committee by the competent authority after fulfilling all codal formalities vide order dated 13.1.2010.
- D. Incorrect. While para D of the appeal is correct.

- E. Incorrect. The appellant was appointed after the proper recommendation of Departmental Selection Committee by the competent authority after fulfilling all codal formalities, got his medical fitness certificate and his submitted his arrival report and proper service book was also maintained by the respondent department and the department also paid regularly salaries to the appellant which means that the appellant was a civil servant in all aspects and there is a proper procedure for taking any action against a civil servant but in the case of the appellant the department did not adopt proper procedure and the high ups terminated the appellant in slipshod manner in order to save his skin which is not permissible under the law and rules.
- F. Not replied according to para F of the appeal. Moreover para F of the appeal is correct.
- G. Incorrect. While para G of the appeal is correct.
- H. Incorrect. As per notification 30.4.2008 herein the Chief Engineer were authorized for making appointment from BPS-1 to BPS-15 through DPC and as the appellant possess the prescribed qualification therefore he got appointment as per law and rules.
- I. Incorrect. While para I of the appeal is correct.
- J. Incorrect. While para I of the appeal is correct.
- K. Legal.

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

**APPELLANT**

**Through:**

  
**( M. ASIF YOUSAFZAI )**  
**ADVOCATE SUPREME COURT,**  
**&**  
**( TAIMUR ALI KHAN )**  
**ADVOCATE HIGH COURT.**

**AFFIDAVIT**

It is affirmed and declared that the contents of rejoinder & *appeal* are true and correct to the best of my knowledge and belief.

*[Signature]*  
DEPONENT

**ATTESTED**  
Oath Commissioner  
Zahoor Khan Advocate  
Distt: Court Peshawar

14/11/2016