


19.01.2017

Petitioner with counsel and Mr. Muhammad Siddique, Sr.GP for the respondents present. Learned Sr.GP requested for adjournment. To come up for reply/implementation report on 20.04.2017 before S.B at camp court, Abbottabad.


Chairman
Camp Court, A/Abad

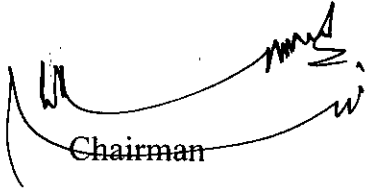
20.04.2017

Clerk of counsel for the appellant and Mr. Sultan Shah, Assistant alongwith Mr. Muhammad Siddique, Sr.GP for the respondents present. Judgment of the Tribunal has not been implemented. Requested for further adjournment. Last opportunity granted. To come up for implementation report on 21.07.2017 before S.B at camp court, Abbottabad.


Chairman
Camp Court, Abbottabad.

21.07.2017




Counsel for the petitioner and Mr. Muhammad Bilal, DDA alongwith Sultan Shah, Assistant for the respondents present. Representative of the respondents submitted a copy of notification dated 07.06.2017 whereby the order of this Tribunal has been implemented. The present execution petition is therefore consigned to the record room duly executed.


Chairman
Camp Court, A/Abad.

ANNOUNCED
21.07.2017

FORM OF ORDER SHEET

Execution Petition No. 223/2016

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	10.11.2016	<p>The Execution Petition of Qazi Atta-ur-Rehman submitted to-day by Muhammad Arshad Khan Tanoli Advocate may be entered in the relevant Register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	14-11-2016	<p>This Execution Petition be put up before Touring S. Bench at A.Abad on <u>24-11-2016</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	<p>24.11.2016</p> <p><i>Received</i></p> <p><i>For. K. H. Ni</i></p> <p><i>Respon No 2</i></p> <p><i>Natach</i></p> <p><i>Sangh</i></p> <p><i>o/will</i></p>	<p>Petitioner with counsel present. Notices be issued to the respondents. To come up for implementation report on 19.01.2017 at camp court, Abbottabad.</p> <p style="text-align: right;"> Chairman Camp Court, A/Abad</p>

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

Execution Petition no. 223/2016
in

Service Appeal No. 798 /2016

Qazi Atta ur Rehman, Additional Assistant Commissioner, son of Qazi Zakir ur Rehman, resident of Bandi Barseen, P.O Bandi Attai Khan, Tehsil Havelian, District Abbottabad.

...APPELLANT

VERSUS

Chief Secretary Establishment, Khyber Pakhtunkhwa, Peshawar & another.

...RESPONDENTS

IMPLEMENTATION PETITION

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S.#	Description	Page No.	Annexure
1.	Application alongwith affidavit	1 to 4	
2.	Copy of amended appeal No.798/2016	5-12	"A"
3.	Copy of order of this Honourable Tribunal	13-15	"B"
4.	Wakalatnama	16	

...APPELLANT

Dated: 7/11 /2016

Through


(Muhammad Arshad Khan Tanoli)
Advocate High Court, Abbottabad

BEFORE THE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1114

Execution petition no. 223/16 ^{Dated} 10/11/16
in

Service Appeal No. 798 /2016

Qazi Atta ur Rehman, Additional Assistant Commissioner, son of Qazi Zakir ur Rehman, resident of Bandi Barseen, P.O Bandi Attai Khan, Tehsil Havelian, District Abbottabad.

...APPELLANT


VERSUS

1. Chief Secretary (Establishment) Khyber Pakhtunkhwa, Peshawar.
2. Senior Member Board of Revenue, Khyber Pakhtunkhwa, Peshawar.

...RESPONDENTS

PETITION FOR IMPLEMENTATION OF
DIRECTION OF THIS HONOURABLE
TRIBUNAL WHEREIN THIS HONOURABLE
TRIBUNAL DIRECTED THE RESPONDENT
TO CONSIDER THE STANCE OF THE
APPELLANT IN ACCORDANCE WITH LAW,
PROMPTLY VIDE ORDER DATED 20/10/2016.

Respectfully Sheweth;-

1. That the applicant/ appellant filed amended appeal No.798/2016 regarding cancellation of impugned transfer orders No. SOE-II(ED)2(608)2008 dated 28/10/2015 and order No. SO(E-I)E&AD/1-1/2016(V) dated 12/04/2016.  Copy of amended appeal No.798/2016 is attached as Annexure "A".
2. That this Honourable Tribunal disposed off the amended appeal No.798/2016 in limine with the direction to the respondents "*to consider the stance of the appellant*" promptly vide order dated 20/10/2016. Copy of order of this Honourable Tribunal is attached as Annexure "B".
3. That it is worth to mention here that the appellant is going to be retired on Superannuation on 20/04/2017. The appellant is permanent resident of District

Abbottabad. As per law the petitioner is to serve at his home station/ district at the verge of his retirement. That the applicant/ appellant forwarded judgment of this Honourable Tribunal dated 20/10/2016 to the respondents vide application dated 20/10/2016 but no action has so far been taken by the respondents.


4. That besides, the applicant/ appellant has not taken over the charge in pursuance of impugned transfer orders mentioned in para No.3 above.

In view of the above, it is prayed that on acceptance of the instant application, respondents may graciously be directed to consider the stance of applicant/ appellant, failing which contempt of court proceedings may also be initiated against the respondents.

INTERIM RELIEF:

That the appellant has not taken over the charge in the light of impugned transfer order No. SO(E-

I)/E&AD/1-1/2016(V) dated 12/04/2016 in the
 meanwhile impugned transfer order dated 12/04/2010
 may graciously be suspended and status quo may also be
 ordered till the final disposal of the instant application.



...APPELLANT

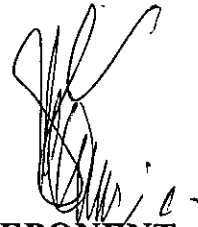
Dated: 7/11 /2016

Through


 (Muhammad Arshad Khan Tanoli)
 Advocate High Court, Abbottabad

AFFIDAVIT:-

I, Qazi Atta ur Rehman, Additional Assistant Commissioner, son of Qazi Zakir ur Rehman, resident of Bandi Barseen, P.O Bandi Attai Khan, Tehsil Havelian, District Abbottabad, do hereby solemnly affirm and declare that the contents of foregoing application are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.



DEPONENT



BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL, PESHAWAR.

P.5

Qazi Atta-ur-Rehman (Additional Assistant Commissioner) S/o Qazi Zakir-ur-Rehman, resident of Bandi Barseen P.O. Bandi Attai Khan, Tehsil Havelian, District Abbottabad.

...APPELLANT

V E R S U S

1. Chief Minister, Khyber Pakhtunkhwa, Peshawar.
2. Chief Secretary Establishment, Khyber Pakhtunkhwa, Peshawar.
3. Secretary Establishment, Khyber Pakhtunkhwa, Peshawar.
4. Commissioner Hazara Division, Abbottabad
5. Tasleem Khan, Deputy Commissioner, Haripur.
6. Naeem Khan, Additional Deputy Commissioner, District Abbottabad.
7. Muhammad Ayaz, Inquiry Officer, Chief Encomiast P&D Department Peshawar.
8. Senior Member Board of Revenue, Khyber Pakhtunkhwa, Peshawar

...RESPONDENTS

AMENDED APPEAL U/S 4 OF THE KPK SERVICE
TRIBUNAL ACT 1974 AGAINST THE TRANSFER
ORDERS DATED ^{P-30} 28.10.2015 AND 12.04.2016
WHEREBY THE APPELLANT WAS FIRSTLY
TRANSFERRED AS OSD FROM ADDITIONAL
ASSISTANT COMMISSIONER (REVENUE) HARIPUR
AND THEREAFTER ON 12.04.2016 POSTED AS
SECTION OFFICER AT CHIEF MINISTER

SECRETARIAT PESHAWAR, WHICH IS ILLEGAL, UNLAWFUL, ARBITRARY, MALAFIDE AND HAVING BEEN PASSED BY VIOLATING THE LAW AND RULES IN THE SUBJECT, AND APPEAL AGAINST THE ORDER OF RESPONDENT NO.1 DATED 29.12.2015 CONDUCTING HIGH LEVEL INQUIRY AGAINST THE APPELLANT HAVING BEEN STARTED WITHOUT LAWFUL AUTHORITY, PERVERSE, ARBITRARY, UNLAWFUL, RESULT OF COLLUSION, NEPOTISM, AGAINST THE RULES, POLICY AND LAW AND AGAINST THE NORMS OF NATURAL JUSTICE AND FAIR PLAY.

PRAYER:-

ON ACCEPTANCE OF INSTANT AMENDED SERVICE APPEAL, THE IMPUGNED TRANSFER ORDERS NO.SOE-II(ED)2(608)2008 DATED 28.10.2015, ORDER NO.SO(E-I)E&AD/1-1/2016(V) DATED 12.04.2016 AND CONDUCTING HIGH LEVEL INQUIRY BY RESPONDENTS AGAINST APPELLANT MAY GRACIOUSLY BE SET ASIDE TO THE EXTENT OF APPELLANT AND APPELLANT MAY GRACIOUSLY BE POSTED AT HIS HOME / DESIRED STATION AS PER RULES OF ESTA CODE, KPK AND THE MONTHLY SALARY OF PETITIONER MAY KINDLY BE RELEASE AND ANY OTHER RELIEF

P-7

WHICH THIS HONOURABLE TRIBUNAL DEEMS FIT AND PROPER IN THE CIRCUMSTANCES OF THE CASE BE GRANTED.

Respectfully Sheweth,

1. That the Appellant was posted as Additional Assistant Commissioner (Revenue) Haripur during upto October 2015.
2. That one Ghalib Khan resident of Haripur submitted an application to respondent No.1 and respondent No.5 which was marked to the appellant for conducting inquiry on 29.06.2016. (*Copies of the applications are annexed as Annexure "A" & "B" respectively*)
3. That appellant after receiving the directions by respondent No.5 the appellant started inquiry and thereby submitted his report on 03.07.2015 vide reference No.129 dated 03-07-2015. (*Copy of inquiry report is annexed as Annexure "C"*)
4. That, thereafter respondent No.5 again order the appellant to re-inquiry the matter by conducting detail inquiry on 30.07.2015. Thus after the directions for re-inquiry appellant again conducted detail inquiry and submitted his report on 03.08.2015 vide reference No.144. (*Copy of report referred above is annexed as Annexure "D"*)
5. That, after the inquiries conducted by the appellant the respondent No.8 got conducted inquiry through ADC Abbottabad. Respondent No.6 who also based

its inquiry with incorrect information which is not supported by any documents and submitted his report No.ADC/639 dated 30.10.2015. *(Copy of inquiry report is annexed as Annexure "E")*

6. That, after the detail inquiry the respondent No.5 reasons best known to him leaving aside the findings, issued a letter to respondent No.4 while basing the same on incorrect information which is not at all supported by any documents. *(Copy of letter is attached as Annexure "F")*
7. That, after the all afore referred inquiries the respondent No.4 demanded high level inquiry on the subject, thereby recommended appellant to be posted out of district Haripur on the demand of respondent No.5 vide letter No.2/1(III)Rev/ACR/CHD/3943-96 dated 12.11.2015. *(Copy of letter dated 12.11.2015 is attached as Annexure "G")*
8. That, respondent No.2 issued the posting order of appellant by posting him as OSD at Peshawar vide his notification No.SOE-II(ED)2(608)2008 dated 28.10.2015. *(Copy of order is attached as Annexure "H")*
9. That, after the all these inquiries and letter annexure "G" the respondent No.1 order to conducting inquiry against the appellant who was the inquiry officer in two inquiries vide annexure "C" & "D" and after posting of appellant as OSD ordered by appointing respondent No.7 as inquiry officer vide letter No.SOE-II(E&D)2(608)2010 dated 29.12.2015. *(Copy of letter dated 29.12.2015 is attached as Annexure "I")*

10. That, after the appointment of inquiry officer the respondent No.1 himself framed charge sheet against the appellant on the basis of report submitted by appellant in his inquiry vide annexure "C" & "D". *(Copy of charge sheet is annexed as Annexure "J")*
11. That, appellant replied the charge sheet alongwith statement of allegation on 15.03.2016 where after relevant questions form was served upon the appellant which was also replied on 17.03.2016. *(Copies of answer sheets are annexed as Annexures "K" & "L" respectively)*
12. That, appellant against posting of OSD and stopping his monthly pay submitted application address to respondent No.3 but that still lying there. *(Copy of application is annexed as Annexure "M")*
13. That, after receiving the above mentioned application appellant's monthly salary were released from December 15 to April 2016 but again the salary has been stopped without any reason till now.
14. That, on 18.08.2016 stenographer Mr.Amir of respondent No.2 telephonically informed the appellant about his posting as section officer, thereafter appellant submitted application to respondents No.2 & 3 for his transfer / posting on 22.08.2016. *(Copy of applications and order dated 12.04.2016 are annexed as Annexure "M-1")*
15. That, by feeling aggrieved from illegal and unlawful transfer orders, stoppage of salary and conducting high level inquiry, the appellant has come to this

Honourable Service Tribunal, inter-alia, amongst many others:-

GROUNDS:-

- a) That, the respondents instead of passing any appropriate order in regard to the said inquiry directly proceeding to issue charge sheet against the appellant whereby he was called upon to explain his conduct as the inquiry officer against the employee is against the law and rules.
- b) That, respondent are not suppose to proceeds against the appellant who is the inquiry officer against the employee but can only proceed to hold denovo inquiry as per rule 14 of Government Servants efficiency and discipline rules 2011. *(Copy of Rules is annexed as Annexure "N")*
- c) That, findings and observations set in inquiry report and the appellant was based on truth which fully evident that one Muhammad Ghalib etc and Sher Afzal and others filed civil suit No.49/1, 177/1 dated 04.05.2016, further support the observations made by appellant in his both inquiry reports. *(Attested copies of the suits and judgments are annexed as Annexures "O" & "P" respectively)*
- d) That, order challenged the subject are based on incorrect observations and findings is apparently tainted with the malafide, thus been issued without having gone through the law and other procedure, therefore, liable to be set aside.
- e) That, as required under the law the appellant is going to retired after 7/8 months from his service.

the appellant has right to be posted at his home station as per rule when an on their option officer who are due to retire within two year may be posted but inspite the law and rules, the respondents are violating the same. **(Copy of Rules are annexed as Annexure "Q")**

- f) That, under the law procedure no penal action can either be taken against the appellant as Inquiry officer.
- g) That, appellant rendered excellent services during his service period thus appreciated by the than superior officer with the certificate of appreciations on different occasions. **(Copies of appreciation certificates are attached as Annexures "R"& "S" respectively)**
- h) That the appellant is suffering from heart, kidney and other problems and is diabetic being age of 59 years.
- i) That, appellant filed a Writ Petition before Peshawar High Court Abbottabad Bench which is still adjudication before the competent Court.

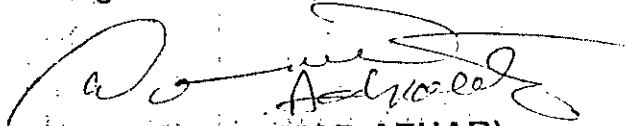
In the circumstances it is therefore, humbly prayed that on acceptance of instant Amended Service appeal, the impugned transfer orders NO.SOE-II(ED)2(608)2008 dated 28.10.2015, order NO.SO(E-I)E&AD/1-1/2016(V) dated 12.04.2016 and conducting high level inquiry by respondents against appellant may graciously be set aside to the extent of appellant and appellant may graciously be posted at his home / desired station as per rules of ESTA Code,

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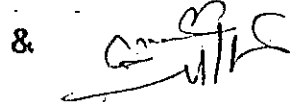
KPK and the monthly salary of petitioner may kindly be release and any other relief which this Honourable Tribunal deems fit and proper in the circumstances of the case be granted.


APPELLANT

Through:


(GAZI MUHAMMAD AZHAR)

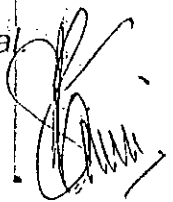
Dated: 07/10/2016

& 

(NAZAKAT ALI TANOLI)
Advocates High Court Abbottabad

VERIFICATION:-

Verified that the contents of the instant Amended Service appeal are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Tribunal



...APPELLANT

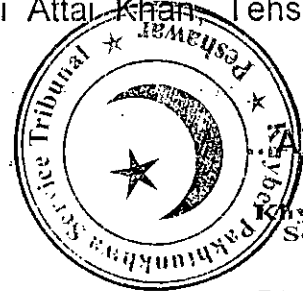
Dated: -07/10/2016

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR.

Appeal No. 798/2016

P-13

Qazi Atta-ur-Rehman (Additional Assistant Commissioner) S/o Qazi Zakir-ur-Rehman, resident of Bandi Barseen P.O Bandi Attai Khan, Tehsil Havelian, District Abbottabad.



VERSUS

APPELLANT

Khyber Pakhtunkhwa Service Tribunal

1. Chief Minister, Khyber Pakhtunkhwa, Peshawar.
2. Chief Secretary Establishment, Khyber Pakhtunkhwa, Peshawar.
3. Secretary Establishment, Khyber Pakhtunkhwa, Peshawar.
4. Commissioner Hazara Division, Abbottabad
5. Tasleem Khan, Deputy Commissioner, Haripur.
6. Naeem Khan, Additional Deputy Commissioner, District Abbottabad.
7. Muhammad Ayaz, Inquiry Officer, Chief Encomiast P&D Department Peshawar.
8. Senior Member Board of Revenue, Khyber Pakhtunkhwa, Peshawar

Diary No. 813

Dated 05/8/2016

...RESPONDENTS

Filed to-day
Registrar
5/8/16

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 FOR ISSUANCE THE FOLLOWING DIRECTIONS:-

ATTESTED
EXAMINER
Khyber Pakhtunkhwa Service Tribunal, Peshawar

- i. TO DECLARE THE INQUIRY INITIATED BY CHIEF MINISTER KPK VIDE HIS OFFICE LETTER NO.SOE-II (ED)2(608)2010 DATED 29.12.2015 PESHAWAR AS NULL AND VOID

Appeal No-798/2016
Qazi Attaur Rahman



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20.10.2016

Appellant with counsel present.

The instant appeal pertains to transfer of the appellant from the post of Additional Assistant Commissioner (Revenue) Haripur where-from he was posted as OSD in the Establishment Department, Khyber Pakhtunkhwa, Peshawar. According to stance of the learned counsel for the appellant the appellant is at the verge of retirement and will attain the age of superannuation on 20.04.2017 and in view of the provisions of S.No. 8 (vii) of ESTA Code the appellant is entitled to serve at his home district for period of last 2 years before retirement. He further argued that since the month of May, 2016 the appellant has not been paid salary despite the fact that he had served as required of him under the rules.

In view of the above learned counsel for the appellant argued that he would not press service appeal if the respondents are directed to consider and redress the grievance of the appellant under provisions of law referred to above.

The appeal is disposed of in limine with the directions to the respondents to consider the stance of the appellant in accordance with law, promptly. File be consigned to the record room.

*Self-Chairman
Camp Court
A/Abad*

Date of Presentation of Application 26-10-2016
Number of Words 6
Copying Fee 2
Urgent 2
Total 2
Name of Copyist Samir
Date of Completion of Copy 26-10-2016
Date of Delivery of Copy 26-10-2016

ANNOUNCED
20.10.2016

Certified to be true copy
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

To,

P-15

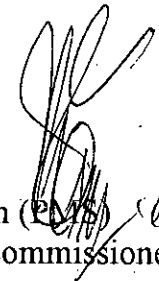
- I. Chief Secretary KPK,
Peshawar.
- II. Secretary Establishment,
Department Peshawar.
- III. Senior Member Board of Revenue,
Peshawar.

Subject: SERVICE APPEAL NO. 798/16 TITLED QAZI ATTA UR
REHMAN ADDITIONAL ASSISTANT COMMISSIONER V/S
GOVT. OF KPK.

1. That, appellant filled service appeal before Honourable service tribunal KPK regarding release of salary w.e.f may 2016 onwards and cancellation of transfer orders No. SEO-II(ED)12(608)2008 dated 28/10/2015 and order No. SO(E-1)/E&AD/1-1/2016(v) dated 12/04/2016.
2. That, Honourable Service Tribunal keeping in view the grievances of the appellant captioned service appeal disposed off in limine with the directions to respondents to consider the stance of appellant in accordance with law promptly dated 20/10/2016. Copy of service appeal and order of Honourable Tribunal are enclosed herewith for your kind perusal and decision thereon promptly repeated decision therein promptly please.

Dated: 28/10/2016

Yours truly,


Qazi Atta-ur-Rehman (PMS)
Ex Additional Assistant Commissioner
Revenue Haripur.

Servia Tribunal PPK Pakistan بعدالت

عنوان: Govt of Sindh vs Dazi Atta Khan بنام Dazi Atta Khan

مخائب: Appellant

نوعیت مقدمہ: Implemented Petition

باعث تحریر آنکہ

مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی و جواب دہی کل کاروائی متعلقہ آں مقام

ATD M. Arshad Khan Tanoli Adv

کو وکیل مقرر کر کے اقرار کرتا ہوں کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا نیز وکیل صاحب موصوف کو کرنے راضی نامہ و تقرر ثالث و فیصلہ برحلف و دینے اقبال دعویٰ اور بصورت دیگر ڈگری کرانے اجراء

وصولی چیک روپیہ و عرضی دعویٰ کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور

کی کل یا کسی جزوی کاروائی کے لئے کسی اور وکیل یا مختار صاحب قانونی کو اپنے ہمراہ اپنی بجائے تقرر کا اختیار

بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا ساختہ پر داختم مجھ کو منظور قبول

ہوگا۔ دوران مقدمہ جو خرچ و ہرجانہ التوائے مقدمہ کے سبب ہوگا اس کے مستحق وکیل صاحب ہوں گے۔

نیز بقایا رقم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب موصوف

پابند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اور اگر مختار مقرر کردہ میں کوئی جزو بقایا ہو تو وکیل صاحب موصوف

مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست بمراء استجارت نالش بصیغہ مفلسی کے دائر کرنے اور اس کی

پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔

لہذا وکالت نامہ تحریر کر دیا تاکہ سند رہے۔

المقوم:

بمقام:

Accepted
M. Arshad Khan Tanoli

M. Arshad Khan Tanoli
Adv etc

21-7-17



**GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT**

Dated Peshawar the June 07, 2017

NOTIFICATION

NO.SO.E-II(ED)2(608)2010:- Provincial Government is pleased to cancel/withdraw this department notification No. SO(E-I)/E&AD/1-1/2016(V) dated 12.04.2016 to the extent of posting of Qazi Atta-ur-Rehman (ex-PMS BS-17) as Section Officer, Chief Minister's Secretariat and is allowed to draw his salary w.e.f. May 2016 till 19.04.2017 against the vacant post of Section Officer (Leave Reserve) Establishment Department.

Secretary Establishment

ENDST: NO & DATE EVEN

A copy is forwarded to the:-

1. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
2. Accountant General, Khyber Pakhtunkhwa
3. SO(Secret)/SO(Admn)/EO E&A Department.
4. Officer concerned.
5. PS to Secretary Establishment.
6. Office order file.


(HIKMAT ULLAH WAZIR)
SECTION OFFICER (E-II)