FORM OF ORDER SHEET

Court of _____

Appeal No. 575/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	17/04/2024	The appeal of Mr. Feroz Shah resubmitted today by Mr. Ali Gohar Durrani Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on Parcha Peshi given to the counsel for the appellant. By the order of Chairman REGISTRAR

The appeal of Mr. Feroz Shah received today i.e on 21 .03.2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

1- According to sub-rule-4 of rule-6 of Khyber Pakhtunkhwa Service Tribunal rules 1974 respondent no. 3 & 4 are un-necessary/improper parties, in light of the rules ibid and on the written direction of the Worthy Chairman the above mentioned respondent number be deleted/struck out from the list of respondent.
2- Check list not attached with the appeal.
3- Appeal has not been flagged/marked with annexures marks.
4- Annexures of the appeal are unattested.
5- Copy of adjustment order of the appellant in the office of Secretary Industries mentioned in para-6 of the memo of appeal is not attached with the appeal be placed on it.
6- Copy of adjustment order dated 26.8.2020 of Shakeel Ahmad mentioned in para-8 of the memo appeal is not attached with the appeal.
7- Three copies/sets of the appeal along with annexures i.e. complete in all respect for Tribunal and one for each respondent may also be submitted with the appeal.

No. 664 /S.T,
Dt. ~~659~~ 25/4- /2024.

22/3/24

REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Ali Gohar Durrani Adv.
High Court Peshawar.

Re Submitted

(1) Respondent No 3 & 4 is also necessary party to this case
(2) Removed
(3) Removed
(4) Removed
(5) Memo of appeal is also placed on file. Page 3&4
6 Removed
7/ I have mention below the copies The available copy is true & correct copy accept the documents
8 Removed

BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR

Appeal No. 575 **/2024**

Mr. Feroz Shah, Computer Operator (BPS-16) Directorate of Food, Khyber Pakhtunkhwa

Versus

Government of Khyber Pakhtunkhwa through Chief Secretary and others

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8.	Copy of notification dated 14-09-2020	F	22
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APPELLANT

Through

ALI GOHAR DURRANI
Advocate High Court(s)
0332-9297427
khaneliegohar@yahoo.com

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,PESHAWAR.

Khyber Pakhtunkhwa Service Tribunal

Diary No. 11866

APPEAL No. 575 /2024 Dated 21-03-2024

Mr. Feroz Shah, Computer Operator (BPS-16) Directorate of Food, Khyber Pakhtunkhwa

..... **Appellant**

Versus

1. **The Government of Khyber Pakhtunkhwa,**
   Through Chief Secretary Government of Khyber Pakhtunkhwa,
   Civil Secretariat Peshawar.

2. **The Establishment& Administration Department,**
   Through Secretary Establishment & Administration Government of Khyber Pakhtunkhwa,
   Civil Secretariat, Peshawar.

3. **The Finance Department,**
   Through Secretary Finance to the Government of Khyber Pakhtunkhwa,
   Civil Secretariat, Peshawar.

4. **The Government of Khyber Pakhtunkhwa**
   Through Additional Chief Secretary Merged Areas,
   Office at Warsak Road, Peshawar.

.....Respondents

Filed to-day

Registrar

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 FOR ADJUSTMENT OF THE APPELLANT IN THE CIVIL SECRETARIAT, KHYBER PAKHTUNKHWA.

RESPECTFULLY SUBMITTED:

The appellant most humbly beg to submit as under:

1. **That** the Appellant is a law-abiding citizen of Pakistan and also hails from a respectable family. **He** was appointed as Computer Operator in FATA Development Authority Administration Department on contract basis vide Notification dated 04-09-2007.
   Copy of the notification dated 04-09-2007 is Annex-A.

2. **That** the services of the Appellant were regularized vide Notification dated 22-11-2011 by the approval of Board of Directors granted in its 22nd minutes held on 25th October, 2011.
   Copy of the notification dated 22-11-2011is Annex-B.

3. That subsequently FATA Secretariat withdrew the regularization orders and the same were challenged before the Hon'ble Peshawar High Court, Peshawar, and the Hon'ble Peshawar High Court set-aside the withdrawal of regularization orders vide its judgment in W.P No. 2303-P/2012 dated 04-09-2014.

Copy of Judgment dated 04-09-2014is Annex-C.

4. That FATA was merged into Khyber Pakhtunkhwa Province post 25th amendment and the appellant was declared to be surplus vide notification dated 05-08-2020 by the Government of Khyber Pakhtunkhwa Establishment and Administration Department (Regulation Wing).

Copy of the notification dated 05-08-2020is Annex-D.

5. That the Appellant was adjusted against the posts in other directorates, while the positions were vacant in Secretariat, still no option was given to the appellant.

Copy of the advertisement is Annex-E.

6. That on 14-09-2020 a notification was issued by the Government of Khyber Pakhtunkhwa Establishment and Administration Department (Establishment Wing) in which the competent authority has been pleased to place the services of the appellant (Surplus Pool of the establishment & Administration Department) at the disposal of Secretary Industries, Commerce and Technical Education Department Khyber Pakhtunkhwa for further adjustment in the office Directorate of industries and Commerce, Khyber Pakhtunkhwa against the vacant posts of Assistant w.e.f. 20-04-2020 under initial recruitment quota.

Copy of notification dated 14-09-2020 is Annex-F.

7. **That** on 21-09-2020 similarly placed employees approached the Khyber Pakhtunkhwa Service Tribunal Peshawar in Service Appeal No. 1227/2020, wherein this Hon'ble Tribunal was pleased to allow the service Appeal vide judgment dated 14-01-2022 with the direction to the adjust the appellants in their respective departments against their respective posts and in case of non availability of the posts, the same shall be created for the appellant on the same manner as were created for other administrative departments. Upon their adjustment they are held entitled to all consequential benefits.

Copy of the judgment dated 14-01-2022 is Annex-G.

8. **That** another example is of one Mr. Shakeel Ahmad Assistant who was adjusted vide notification dated 26-08-2022 issued by Government of Khyber Pakhtunkhwa Establishment and Administration Department (Establishment Wing) upon the approval of the Chief minister Khyber Pakhtunkhwa.

Copy of the notification dated 26-08-2022 is Annex-H.

9. **That** on 24-11-2023 the appellant filed a departmental representation for adjustment in the Civil Secretariat, Khyber Pakhtunkhwa but of no legal effect.

Copy of the departmental appeal dated 24-11-2023 is Annex-I.

10. That the appellant having no alternate remedy but to approach this Honorable Tribunal amongst others on the following grounds:

Grounds:

a. Because the impugned notifications are based in discrimination as is clearly laid out in the facts above.

b. That the judgment dated 14-01-2022 rendered by the Honourable Service Tribunal is also applicable on those civil servants who were not a part of the said appeal, because ***judgments of the Honourable Service should be treated as judgments in rem, and not in personam.*** Reference can be given to the relevant portion of judgment cited **2023 SCMR 8**, produced herein below:

"The learned Additional A.G., KPK argued that, in the order of the KP Service Tribunal passed in Appeals Nos. 1452/2019 and 248/2020, reliance was placed on the order passed by the learned Peshawar High Court in Writ Petition No. 3162-P/2019, which was simply dismissed with the observations that the writ petition was not maintainable under Article 212 of the Constitution, hence the reference was immaterial. In this regard, we are of the firm view that if a learned Tribunal decides any question of law by dint of its judgment, the said judgment is always treated as being in rem, and not in personam. If in two judgments delivered in the service appeals the reference of the Peshawar High Court judgment has been cited, it does not act to washout the effect of the judgments rendered in the other service appeals which have the effect of a judgment in rem. In the case of Hameed Akhtar Niazi v. The Secretary, Establishment Division, Government of Pakistan and others (1996 SCMR 1185), this Court, while remanding the case to the Tribunal clearly observed that if the Tribunal or this Court decides a point of law relating to the terms of service of a civil servant which covers not only the case of the civil servant who litigated, but also of other civil servants, who may have not taken any legal proceedings, in such a case, the dictates of justice and rules of good governance demand that the benefit of the above judgment be extended to other civil servants, who may not be parties to the above litigation, instead of compelling them to approach the Tribunal or any other legal forum."

c. That the applicant is relying upon judgment cited 2023 SCMR 8, whereby, the essence of Article 212 of the Constitution of Pakistan, 1973, was fulfilled, by observing that any question of law decided by the Service Tribunal shall be treated as Judgment in rem, and not in personam. In order, to give force to the judgment of the Supreme Court, the applicant may also be subjected to the judgment rendered by the Honourable Service Tribunal.

d. **Because** the impugned Notification dated 05-08-2020 and 26-08-2022 are illegal, against facts and law on the subject as well as Surplus Policy.

e. **Because** the impugned notifications and orderare the sheer violation of law on the subject and the Constitution as well.

f. **Because** the impugned notifications and orders are illegal. Unlawful, void and ineffective upon the rights of the appellant.

g. **Because** the impugned notification and order is against the principles of natural justice and fundamental rights as guaranteed under the Constitution of Islamic Republic of Pakistan, 1973.

h. **Because** in fact, the appellant's case is not of abolition of posts. Or service or setup to begin with and the concerneddepartments and attached department together with the posts continue to exist and have not been abolished.

i. **Because** neither conscious application of mind has been undertaken or speaking nor reasoned order has been passed and Surplus Pool Policy, 2001 has been senselessly applied to the appellant.

j. **Because** the impugned notifications and orders have been issued/ passed in flagrant violation of the law and the Surplus Pool Policy itself and deserves to be set aside.

k. **Because** the mechanism provided for adjustment and fixation of seniority of the surplus employees in the Surplus Pool Policy, 2001 will deprive the appellant of his seniority and other benefits will render him junior to those who have been appointed much later in time than the appellant.

l. **Because** blatant discrimination has been committed in the adjustment of the appellant as compared to other similarly placed employees of erstwhile FATA Secretariat have been adjusted in different departments of KP Civil Secretariat.

m. **Because** the Appellant has been treated illegally, unlawfully and against the spirit of the law.

n. **Because** the Rights of the Petitioner are secured under Article 8, and the entirety of Part II of the Constitution of the Islamic Republic of Pakistan, and its redress falls solely within the ambit of Article 212 of the Constitution of the Islamic Republic of Pakistan, 1973, and lie with this honorable tribunal.

o. Because the right to due process as per Article 10-A of the Constitution of the Islamic Republic of Pakistan, 1973 is being made redundant in the instant case against the Appellant. The right is absolute and cannot be done away with and it needs to be taken as liberally as possible as per the dictum laid by the Honorable Supreme Court in **PLD 2022 SC 497**.

> "Incorporation of the right to a fair trial and due process by Article 10-A in the Constitution as an independent fundamental right underscores the constitutional significance of fair trial and due process and like other fundamental rights, it is to receive a liberal and progressive interpretation and enforcement."

p. Because the Honorable Supreme Court of Pakistan in the recent judgment in Justice Qazi Faez Isa case has held in unequivocal terms that even the highest of offices are not to be denied the fundamental rights so guaranteed by the Constitution. The judgment is reported as **PLD 2022 SC 119** and lay as under:

> "Right to be dealt with in accordance with law. No one, including a Judge of the highest court in the land, is above the law, At the same time, no one, including a Judge of the highest court in the land, can be denied his right to be dealt with in accordance with law; it matters little if the citizen happens to hold a high public office, he is equally subject to and entitled to the protection of law."

The judgment referred to above further lay clear that the principles of natural justice are to be met in every circumstances in the following terms:

> "After recognition of the right to fair trial and due process as a fundamental right by insertion of Art. 10A in the Constitution, violation of the principles of natural justice, which are the necessary components of the right to fair trial and due process, is now to be taken as a violation of the said fundamental right as well."

These principles are time and again reiterated by the Honorable Supreme Court and have been recently held of immense value in **PLD 2021 SC 600** in the following words:

> "Constitutional guarantee of the right to be dealt with in accordance with law, under Art. 4 of the Constitution, is available not only to every citizen of the country but also to every other person for the time being within Pakistan, Said constitutional guarantee cannot be curtailed or limited in the

case or matter of any person whosoever he may be and whatever the allegations against him may be."

q. **Because** the actions on part of the respondents seriously are in the negation of the Constitution of the Islamic Republic of Pakistan, 1973 and the Civil Servants Act.

r. **Because** the Fundamental Rights of the Appellant have been violated in relation to Article 4, 8, 9, 18 & 25 of the Constitution of the Islamic Republic of Pakistan, 1973. The said rights flow out of the Constitution the terms and conditions of service of the Appellant and this Honorable Court being the custodian of the Fundamental Rights of citizens of Pakistan, as well as the protection afforded by the Constitution of Islamic Republic of Pakistan 1973, is why the Appellant seeks the redress of their grievances and to end the ordeal the Appellant is going through due to the illegal, unlawful and unjust acts and inaction of the Respondents.

s. **Because** the Appellant has got the fundamental right of being treated in accordance with law but the treatment meted out to the Appellant is on consideration other than legal and he has been deprived of his rights duly guaranteed to him by the constitution of Pakistan.

t. **Because** the appellant has not been treated in accordance with law, hence his rights secured and guaranteed under the Law are badly violated.

u. **Because** the Appellant crave for leave to add further grounds at the time of his oral arguments before this Hon'ble Tribunal highlighting further contraventions of the provisions of the Constitution & Laws which adversely affected the Appellant.

PRAYER:

In light of the submissions laid hereinbefore, may it please this Honorable Tribunal to so kindly declare that the Surplus notification dated 05/08/2020 to be illegal, unlawful, discriminatory and without any lawful authority, in light of the judgment of this Honorable Tribunal in Service Appeal No. 1227/2020 decided on 14-01-2022. Furthermore, may it please this honorable tribunal to direct the adjustments of the appellants in their respective department i.e., Establishment & Administration Department Khyber Pakhtunkhwa.

Appellant

Through

ALI GOHAR DURRANI
Advocate High Court(s)
0332-9297427
khaneliegohar@yahoo.com
SHAH | DURRANI | KHATTAK
(A REGISTERED LAW FIRM)
HOUSE NO. 231-A, STREET NO.13, NEW SHAMI ROAD, PESHAWAR.

BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR

Appeal No. _____/2024

Mr Feroz Shah

Versus

Government of Khyber Pakhtunkhwa through Chief Secretary and others

AFFIDAVIT

I, **Mr. Feroz Shah, Computer Operator (BPS-16) Directorate of Food, Khyber Pakhtunkhwa,** do hereby solemnly affirm and declare on oath that the contents of accompanied writ petition are true and correct to the best of my knowledge and belief and nothing has been intentionally concealed from this Honorable Court.

Deponent
CNIC No. 16101-8921486-3

ATTESTED
ZAHOOR KHAN ADVOCATE
OATH COMMISSIONER
District Court Peshawar

21/3/24

Identified By:

Ali Gohar Durrani
Advocate High Court(s)

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

APPEAL No. _____/2024

Mr. Feroz Shah, Computer Operator (BPS-16) Directorate of Food, Khyber Pakhtunkhwa ..... Appellant

Versus

1. **The Government of Khyber Pakhtunkhwa,**
   Through Chief Secretary Government of Khyber Pakhtunkhwa,
   Civil Secretariat Peshawar.

2. **The Establishment& Administration Department,**
   Through Secretary Establishment & Administration Government of Khyber Pakhtunkhwa,
   Civil Secretariat, Peshawar.

3. **The Finance Department,**
   Through Secretary Finance to the Government of Khyber Pakhtunkhwa,
   Civil Secretariat, Peshawar.

4. **The Government of Khyber Pakhtunkhwa**
   Through Additional Chief secretary Merged Areas,
   Office at Warsak Road, Peshawar.

.....**Respondents**

Appellant

Through

ALI GOHAR DURRANI
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HOUSE NO. 231-A, STREET NO.13, NEW SHAMI ROAD, PESHAWAR.

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

APPEAL No. _____/2024

Mr. Feroz Shah Versus Govt. of KP and others

AN APPLICATION FOR THE CONDONATION OF DELAY IN BRINGING THE INSTANT APPEAL BEFORE THIS HONORABLE TRIBUNAL.

RESPECTFULLY SUBMITTED:

The applicant begs to submit as under:

1. That the applicant has moved the enclosed service appeal, in which no date is fixed so far.
2. That the applicant has moved the instant appeal in line with the judgment of this honorable tribunal, in Service Appeal no. 1227/2020 dated 14/01/2022.
3. That the judgment dated 14-01-2022 rendered by the Honourable Service Tribunal is also applicable on those civil servants who were not a part of the said appeal, because ***judgments of the Honourable Service should be treated as judgments in rem, and not in personam.*** Reference can be given to the relevant portion of judgment cited **2023 SCMR 8**, produced herein below:

   'The learned Additional A.G., KPK argued that, in the order of the KP Service Tribunal passed in Appeals Nos. 1452/2019 and 248/2020, reliance was placed on the order passed by the learned Peshawar High Court in Writ Petition No. 3162-P/2019, which was simply dismissed with the observations that the writ petition was not maintainable under Article 212 of the Constitution, hence the reference was immaterial. In this regard, we are of the firm view that if a learned Tribunal decides any question of law by dint of its judgment, the said judgment is always treated as being in rem, and not in personam. If in two judgments delivered in the service appeals the reference of the Peshawar High Court judgment has been cited, it does not act to washout the effect of the judgments rendered in the other service appeals which have the effect of a judgment in rem. In the case of Hameed Akhtar Niazi v. The Secretary, Establishment Division, Government of Pakistan and others (1996 SCMR 1185), this Court, while remanding the case to the Tribunal clearly observed that if the Tribunal or this Court decides a point of law relating to the terms of service of a civil servant which covers not only the case of the civil servant who litigated, but also of other civil servants, who may have not taken any legal proceedings, in such a case, the dictates of justice and rules of good governance demand that the benefit of the above judgment be extended to other civil servants, who may not be parties to the above litigation, instead of compelling them to approach the Tribunal or any other legal forum."
4. That the applicant is relying upon judgment cited 2023 SCMR 8, whereby, the essence of Article 212 of the Constitution of Pakistan, 1973, was fulfilled, by observing that any question of law decided by the Service Tribunal shall be treated as Judgment in rem, and not in personam. In order, to give force to the judgment of the Supreme Court, the applicant may also be subjected to the judgment rendered by the Honourable Service Tribunal.
5. The representation of the applicant has not been responded to. Reference be made to 2007 PLC (CS) 755 SC, 2006 SCMR 1459, 2005 SCMR 335, 2004 SCMR 497.

It is therefore most humbly prayed that on acceptance of this application, may it please this honorable tribunal to so kindly condone the delay in the filing of the instant appeal, based on the above legal submission.

Applicant

Through

Ali Gohar Durrani

Annex (A)

(9)

FATA DEVELOPMENT AUTHORITY
1-2/A, PARK AVENUE, UNIVERSITY TOWN, PESHAWAR

PBX Junctions 091-9216160, 9216238, 9216344

Dated Peshawar the September 4, 2007

OFFICE ORDER

No. Secretary/FDA/3-17/2007 On the recommendations of the Selection Committee, Mr. Feroz Shah is hereby appointed as Computer Operator in Finance Department of FATA Development Authority on fixed salary of Rs.15,000/- (Rupees Fifteen Thousand Only) per month from the date of his arrival subject to the Terms and Conditions accepted by him.

Chief Executive
FATA Development Authority

Endst: No. & Date Even

A copy is forwarded to the: -

1. General Manager (Finance), FDA.
2. Manager (Finance), FDA.
3. Assistant Manager (Pre-Audit), FDA.
4. Mr. Feroz Shah, Computer Operator.
5. P.S. to Chief Executive, FDA.

(Naeem Anjum)
SECRETARY, FDA
Extension-109

FATA Development Authority

Administration Department

1-2/A, Park Avenue, University Town, Peshawar

Phone (091) 9216160 Fax (091) 9218518

Annex B (10)

Dated 22nd November, 2011

Office Order:

No. Secy/FDA/4-17/Vol-II/08. In pursuance of approval of the Board of Directors, FATA-DA granted in its 22nd meeting held on 25th October, 2011 under agenda item No. 02, minutes circulated vide letter No. Secy/FDA/4-17/Vol-22/2011 dated 28th October, 2011 all the sanctioned posts held by contract employees including lump sum / fixed contract employees of FATA-DA headquarters and Agency coordination offices from BS-05 to BS-17 are hereby declared as regular posts and the incumbent employees are declared as regular employees in Govt. pay scales in terms of FATA Development Authority Regulation, 2006 and subject to the following conditions:-

1. The employees who have completed two years continuous satisfactory service as on 25th October, 2011.
2. The seniority of all the employees will be prepared / fixed from the dates of their appointments in FATA-DA.
3. The FATA Development Authority Rules / Standing orders issued from time to time shall be applicable to them.
4. Deduction of monthly CP fund will be made in accordance with para-8 of the FATA-DA Employees CP Fund Standing Order, 2010 @ 8% of the basic pay of the employees.
5. All employees of FATA-DA headquarters and Agency Coordination Offices who shall complete two years continuous satisfactory service from the date of appointment, shall automatically become regular on completion of two years of service.
6. All Regular employees shall be entitled for salaries / allowances commensurate with the Government of Pakistan pay scales as revised from time to time.
7. Annual increments in relevant basic scales shall become due on 1st of December, 2011.
8. All contract Class-IV employees (BS-1 to BS-4) have already been granted regular status with the approval of the Board of Directors, FATA-DA. The posts held by all Class-IV employees of FATA-DA headquarters and Agency coordination officers are also declared regular with effect from 25th October, 2011.
9. In case of any confusion / discrepancy in this behalf with the approval of the Competent Authority, FATA-DA shall be referred to the Board of Directors, FATA-DA for clarification.

Chief Executive,
FATA-DA.

C.C:

1) All General Managers, FATA-DA
2) All Managers, FATA-DA
3) All Project Managers / Directors, FATA-DA
4) All Agency Coordination Officers, FATA-DA
5) P.S to Additional Chief Secretary, FATA Secretariat.
6) P.S to Secretary to Governor, KP
7) P.S to Secretary (Admn & Coord.), FATA Secretariat.
8) P.S to Secretary (Establishment & Admn), Civil Secretariat, KP Peshawar.
9) P.S to Chief Executive, FATA-DA
10) Copy to file No. Secy/FDA/4-17/C-201

Assistant Manager (Admn)
FATA-DA

Annex C

JUDGMENT SHEET
PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT

W.P.No.2303-P/2012

JUDGMENT

Date of hearing.....04-09-2014.....

Petitioner(s).by Mr. Ijaz Anwar, Advocate

Respondent(s).by M/S Ziauddin Siddiqui and Jehanzeb Mohsud, Advocates

YAHYA AFIRDI, J.- Shahid and 89 others, the petitioners, seek the constitutional jurisdiction of this Court praying that

> *"On acceptance of this writ petition an appropriate writ may please be issued:*
> *i. Declaring the petitioners as fit and eligible for the posts mentioned against their names in the heading of this petition, similarly the petitioners having been validly regularized vide order No.Secy/FDA/4-17/vol-II/08 dated 22.11.2011 issued pursuant to the decision of the Board of Directors of the FATA, Development Authority passed in its 22nd meeting held on 25.10.2011, office order No.Sec/FDA/5-104/2011/38 dated 12.6.2012 whereby the order of regularization of the petitioners has been cancelled is illegal, unlawful, without lawful authority and of no legal effect, thus ineffective upon the rights of the petitioners and the same is liable to be strike down.*
> *ii. The order of regularization of the petitioners having issued by the competent authority, thus any order / direction to the contrary issued from the office of the respondent No.1 & 4 are also illegal and of no legal effect and may also be strike down. The respondents are bound to follow the law and to restore the order of the regularization of services of the petitioners or any other remedy*

(12

deemed proper and not specifically asked for may also be allowed."

2. In essence, the grievance of the petitioners is that once the Board of Directors of the Federally Administered Tribal Area Development Authority ("Authority") has regularized their services, then the same could not be withdrawn by the Secretary, vide impugned order, dated 12.6.2012.

3. The respondents were put to notice and they have contended that regularization of the petitioner's services could only be carried out on the directions of the "*Steering Committee*" of the Authority; that the approval of the worthy Governor was conditional precedents for regularizing the services of the petitioners.

4. Valuable arguments of learned counsel for the parties were heard and the record perused with their able assistance.

5. It is an admitted position that is a body incorporated through SRO 1011(I)/2006 notified on 26.9.2006 ("Regulation"). It is also an admitted

9

ATTES

position that the "*Steering Committee*" has been duly constituted under Article-4 of the Regulation, consisting of members headed by the worthy Governor, Khyber Pakhtunkhwa, which is, "*inter alia*", responsible for determining the overall directions and general policy of the Authority. The "*Board of Directors*" of the Authority ("Board") has been constituted under Article-5 of the Regulation, consisting of members having Chief Executive of the Authority, who is the "*ex-officio*" Chairman of the Board. The Board of Directors, "*inter-alia*", is authorized to appoint officers of the Authority including officers in BPS-17, as has been claimed by the present petitioners.

6. The most crucial point to note is that the Board, while discharging its function, is subject to the direction rendered by the Steering Committee. This is clearly provided in sub-Article 2 & 3 of Article-5 of the Regulation, which provides:

> "*2. Subject to the direction of the Steering Committee, the Board may exercise all powers and do all acts and*

ATTESTED

things which may be exercised or done by the Authority in accordance with the provisions of this Regulation.

(3) The Board, in discharging its functions, shall act on sound principles of development and economic planning and shall be guided on the following matters and other matters of policy by such directions as the Steering Committee may from time to time give, namely:-

(a)...(b).....(c).....(d)...(e).....

(f) appointment of officers of the Authority;

The appointing authority of the Board is further confirmed by Rule-4 of the Federally Administered Tribal Area Development Authority Employees (Appointment, Promotion and Transfer) Rules, 2008, ("**Rules**") which reads as under:-

.....

"Appointing Authority: The authority specified in column 3 of the Schedule shall be the appointing authority in respect of the post specified against each such authority in column 2 of the Schedule."

7. The Secretary of the Authority, vide impugned order dated 12.6.2012, withdrew the orders of regularization of services in the Authority granted to the petitioners, in terms that;

"Secy/FDA/5-104/2011. In compliance of FATA Secretariat letter No.FS/E/C-25/2272-75, dated 3.4.2012, the competent authority is pleased to cancel the FATA-

(15

DA Office Order No.Secy/FDA/4-17/Vol-II/08 ab-initio."

8. When the learned counsel for the respondent-Authority was asked to provide the decision of the *"competent authority"*, which had withdrawn the said regularization duly approved by the Board, it was simply stated that the Governor and the Steering Committee have not approved the said decision of the Board.

9. This Court is not in consonance with the interpretation of Article-5 of the Regulation rendered by the worthy counsel for the respondents. The Regulation clearly provides that the Board is competent to appoint officers of the Authority. However, the authority of the Board, and its power of appointment would be subject to the general policy laid down by the "*Steering Committee*" headed by the worthy Governor, Khyber Pakhtunkhwa.

10. When the learned counsel for the respondents were asked as to whether there was any decision of the Steering Committee regarding the regularization of

services of the employees of the Authority, their response was in the negative. When further probed, it was noted that neither was there any decision of the Steering Committee at the time of their regularization granted by the Board nor has there been any such decision till date.

11. In view of the clear factual and legal position, the impugned order of the Secretary, dated 12.6.2012, was devoid of any legal force. The power of withdrawing the regularization of services of the petitioners, is vested in the Board of the Authority and in case their rights, so accrued are to be affected, it is but the Board, which is competent to pass an order regarding the issue.

12. Accordingly, for the reasons stated above, we allow the instant writ petition in terms that

(i) The impugned order dated 12.6.2012 is set aside being without lawful authority,

(ii) In case the respondents want to revisit their decision of regularizing the services of petitioners in the Authority, the same to be placed before the Board of Directors, and the Board shall consider all the points raised by the respondents before the Court.

Dt.4.9.2014.

Sd/- Yahya Afridi. J

Sd/- Ghulam Ullah Khan. J

JUDGE

JUDGE

CERTIFIED TO BE TRUE COPY

Annex
D
17

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

Dated Peshawar, the August 05th, 2020

NOTIFICATION

No. SO(O&M)/E&AD/3-18/2020: In terms of Section-4 of the "The Federally Administered Tribal Areas Development Authority Regulation (Repeal) Ordinance, 2020", the Competent Authority is pleased to declare the following 94 employees of defunct FATA Development Authority as "Surplus" and place them in the Surplus Pool of Establishment Department for their further adjustment/placement as per policy in vogue w.e.f. 20.04.2020:-

S.No.	Name	Designation	BPS
1.	Arshad Khan Afridi	Manager (IT)	18
2.	Muhammad Jamil Khan	ACO SWA	17
3.	Muhammad Tariq khan	ACO Mohmand	17
4.	Abdul Ghaffar	ACO Bajaur	17
5.	Niaz Bahadar	ACO Kurram	17
6.	M. Haris Shah	ACO Orakzai	17
7.	Tufail Khan Khalil	ACO Khyber	17
8.	Muhammad Hamayun Khan	ACO NWA	17
9.	Mr. Muhammad Saud	AM (M&E)	17
10.	Nihar Ali	Assistant	16
11.	Shahid	Assistant	16
12.	Mazhar Ali Shah	Assistant	16
13.	Farman Ali Afridi	Assistant	16
14.	Mrs. Sadia Jehangir	Assistant	16
15.	Muhammad Akif Khan	Assistant	16
16.	Usman Tariq	Assistant	16
17.	Faheem Ullah	Assistant	16
18.	Luqman Hakeem	Assistant	16
19.	Shakeel Ahmad	Assistant	16
20.	Zaheer ud Din	Assistant	16
21.	Altaf ur Rehman	Computer Operator	16
22.	Nasrullah Khan	Computer Operator	16
23.	Zahidullah	Computer Operator	16
24.	Feroz Shah	Computer Operator	16
25.	Fawad Hussain Khan	Computer Operator	16
26.	Fakhr-e-Alam	Computer Operator	16
27.	Sajid Nabi	Computer Operator	16
28.	Ahtesham Ghani	Computer Operator	16
29.	Muhammad Ajmal	Computer Operator	16

30.	Nadia Salahuddin	Computer Operator	16
31.	Syed Adnan Ali Shah	Computer Operator	16
32.	Habib ur Rehman	Computer Operator	16
33.	Inamullah Kundi	Computer Operator	16
34.	Muhammad Fawad	Computer Operator	16
35.	Shahzada Saqib Zaman	Computer Operator	16
36.	Sajjad Ali	Computer Operator	16
37.	Rahib Shah	Computer Operator	16
38.	Abdul Jabbar	Computer Operator	16
39.	Syed Shah Said	Computer Operator	16
40.	Baidar Bakht	Computer Operator	16
41.	Shakir Ullah	Computer Operator	16
42.	Shahid Jamal	Computer Operator	16
43.	Muhammad Aftab Khan	Driver	5
44.	Shah Hussain	Driver	5
45.	Muhammad Tahir	Driver	5
46.	Haider Raza	Driver	5
47.	Noor Khan	Driver	5
48.	Muhammad Junaid Khan	Driver	5
49.	Sami Ullah	Driver	5
50.	Kachkol Khan	Driver	5
51.	Imran Ullah	Driver	5
52.	Ali Gul	Driver	5
53.	Abdul Sami	Driver	5
54.	Manzoor ur Rehman	Driver	5
55.	Shabir Jan	Driver	5
56.	Hidayat Ullah	Driver	5
57.	Saleh Khan	Driver	5
58.	Munir Khan	Driver	5
59.	Bilal Khan	Driver	5
60.	Abdul Wahid	Driver	5
61.	Ihsan Ullah Jan	Driver	5
62.	Syed Qasim	Driver	5
63.	Raza Gul	Driver	5
64.	Pir Ullah	Driver	5
65.	Inamullah	Naib Qasid	2
66.	Ikram Ullah	Naib Qasid	2
67.	Sharbat Ali	Naib Qasid	2
68.	Abdur Rehman	Naib Qasid	2

69.	Khan Bacha	Naib Qasid	2
70.	Yasir khan	Naib Qasid	2
71.	Shah Baz Masih	Sanitary Worker	2
72.	Nacem Shah	Naib Qasid	2
73.	S. Aftab Shah	Naib Qasid	2
74.	Shukrullah	Naib Qasid	2
75.	Adeel Ahmad	Naib Qasid	2
76.	Akhtar Zeb	Naib Qasid	2
77.	Saifur Rehman	Naib Qasid	2
78.	Muhammad Asad	Naib Qasid	2
79.	S.Musanat Shah	Naib Qasid	2
80.	Altaf Masih	Sanitary Worker	2
81.	Muhammad Yaseen	Naib Qasid	2
82.	Din Muhammad	Naib Qasid	2
83.	Arshad Ali	Naib Qasid	2
84.	Tauqeer Ahmad	Naib Qasid	2
85.	Amjad Hussain	Naib Qasid	2
86.	Muqadar Khan	Naib Qasid	2
87.	Liaqat Ali	Chowkidar	2
88.	Rehmat ullah	Naib Qasid	2
89.	Zabit Gul	Naib Qasid	2
90.	Hazrat Noor	Naib Qasid	2
91.	Ubaid Ullah	Naib Qasid	2
92.	Intikhab Hussain	Naib Qasid	2
93.	Hazrat Umar	Naib Qasid	2
94.	Liaqat Ali	Naib Qasid	1

2. In order to ensure proper and expeditious adjustment/absorption of the above mentioned surplus staff, Deputy Secretary (Establishment) Establishment Department has been declared as focal person to properly monitor the whole process of adjustment/ absorption of the surplus pool staff.

3. Consequent upon above, all the above surplus staff alongwith their original record of service are directed to report to the Deputy Secretary (Establishment), Establishment Department for further necessary action.

CHIEF SECRETARY
GOVT. OF KHYBER PAKHTUNKHWA

Endst: No. & Date Even

Copy to:-

1. Additional Chief Secretary, P&D Department.
2. Senior Member Board of Revenue.
3. Principal Secretary to Governor, Khyber Pakhtunkhwa.
4. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
5. All Administrative Secretaries, Khyber Pakhtunkhwa.
6. The Accountant General, Khyber Pakhtunkhwa.

7. Chief Executive defunct FATA Development Authority with the request to ensure provision of Last Pay Certificates (LPCs) of the above mentioned surplus staff/ employees to Establishment & Administration Department.
8. Director General Information & Public Relations, Khyber Pakhtunkhwa.
9. All Divisional Commissioners in Khyber Pakhtunkhwa.
10. All Deputy Commissioners in Khyber Pakhtunkhwa.
11. PS to Chief Secretary, Khyber Pakhtunkhwa.
12. Deputy Secretary (Establishment), Establishment Department.
13. Deputy Secretary (Admin), Establishment & Administration Department.
14. PS to Secretary Establishment Department.
15. PS to Special Secretary (Regulation), Establishment Department.
16. PS to Special Secretary (Establishment), Establishment Department.
17. Section Officer (E-III) Establishment Department with the request to take up case for creation of corresponding 94 regular posts for the above mentioned surplus staff/employees in the surplus pool of Establishment department for drawl of salaries w.e.f. 20.04.2020 onward till further adjustment/posting.
18. Section Officer (Budget & Development), Establishment & Administration Department for necessary action regarding preparation and submission of Budget Estimates for the purpose of salaries of above mentioned 94 surplus staff/employees of defunct FATA-DA for the period from 20.04.2020 onward to Finance Department.
19. All Section Officers in Establishment Department.
20. PA to Secretary defunct FATA Development Authority (FDA).

(FAZLI WADOOD)
SECTION OFFICER (O&M)

05/08/2020

آسامیاں خالی ہیں

محکمہ عملہ سول سیکرٹریٹ، خیبر پختونخوا پشاور میں درج ذیل آسامیاں خالی ہیں۔ جس کے لئے صوبہ خیبر پختونخوا کے سکونتی موزوں اُمیدواروں سے مندرجہ ذیل کوائف کے مطابق درخواستیں مطلوب ہیں۔

نمبر شمار	آسامی/سکیل	تعداد آسامی	اہلیت	عمر کی حد
01	اسسٹنٹ (BS-16)	کل آسامیاں =61 خواتین کوٹہ =07 ۔ اقلیت کوٹہ =02 میرٹ =13 زون1 =08 ۔ زون2 =09 زون3 =09 ۔ زون4 =07 زون5 =06	کسی بھی تسلیم شدہ ادارے سے بی اے/بی ایس سے کم از کم سیکنڈ ڈویژن یا مساوی تعلیمی قابلیت	32-20 سال
02	کمپیوٹر آپریٹر (BS-16)	کل آسامیاں =68 خواتین کوٹہ =07 ۔ معذور کوٹہ =01 اقلیت کوٹہ =03 ۔ میرٹ =15 زون1 =09 ۔ زون2 =08 زون3 =08 ۔ زون4 =08 زون5 =09	ا۔ کسی بھی تسلیم شدہ بورڈ/یونیورسٹی سے کمپیوٹر سائنس میں سیکنڈ کلاس بیچلر ڈگری/ انفارمیشن ٹیکنالوجی (BCS / BIT) چار سالہ (یا) ا۔ کسی بھی تسلیم شدہ بورڈ/یونیورسٹی سے سیکنڈ کلاس بیچلر ڈگری مع منظور شدہ بورڈ آف ٹیکنیکل ایجوکیشن سے انفارمیشن ٹیکنالوجی میں ایک سالہ ڈپلومہ۔	28-18 سال
03	سٹینوگرافر (BS-14)	کل آسامیاں =262 خواتین کوٹہ =36 ۔ معذور کوٹہ =07 اقلیت کوٹہ =18 زون1 =51 ۔ زون2 =29 زون3 =52 ۔ زون4 =21 زون5 =48	ا۔ کسی بھی تسلیم شدہ تعلیمی ادارے سے ایف اے/ایف ایس سی کم از کم سیکنڈ ڈویژن یا مساوی تعلیمی قابلیت۔ ا۔ ٹائپنگ سپیڈ 35 الفاظ فی منٹ اور شارٹ ہینڈ میں 50 الفاظ انگلش فی منٹ۔ ا۔ MS Word اور MS Excel میں مہارت۔	30-18 سال

شرائط و ضوابط:

(1) تمام اہل اُمیدواروں کو اپنا سکریننگ ٹیسٹ دینے کی اجازت ہوگی۔ مجاز اتھارٹی کی طرف سے جانچ پڑتال کے دوران اگر کوئی اُمیدوار کسی بھی وجہ سے نااہل پایا گیا تو حلقہ اُمیدوار کو کسی بھی موقع پر بھرتی کے لئے نااہل کیا جائے گا۔ (2) صرف شارٹ لسٹڈ اُمیدواروں کو انٹرویو کے لئے بلایا جائے گا۔ (3) اُمیدواروں کی شارٹ لسٹنگ اپنا کے سکریننگ ٹیسٹ کی بنیاد پر ہوگی۔ (4) تمام تقرریاں حکومت خیبر پختونخوا کی مروجہ قوانین کے مطابق ریگولر بنیادوں پر کی جائے گی۔ (5) صرف سرکاری ادارے کی طرف سے جاری کردہ تجربہ سرٹیفکیٹ جس کو متعلقہ ادارے کے سربراہ نے Counter Sign کیا ہو قابل قبول ہوگا۔ (6) اُمیدواروں کے لئے اپنا سکریننگ ٹیسٹ میں 50% فیصد نمبر حاصل کرنا ضروری ہوگا۔ (7) انٹرویو کی اطلاع بذریعہ SMS دی جائے گی۔ لہٰذا تمام اُمیدوار بھرتی کا عمل مکمل ہونے تک اپنی موبائل سم بند یا تبدیل نہ کریں بصورت دیگر تمام ذمہ داری اُمیدواروں پر عائد ہوگی۔ (8) اُمیدواروں کے محولہ اہلیت درخواستیں وصول ہونے کی آخری تاریخ تک متعین ہوگی۔ (9) مکمل اور مقررہ تاریخ کے بعد وصول ہونے والی درخواستیں قابل غور نہیں ہوں گی۔ (10) عمر کی بالائی حد میں رعایت موجود قوانین کے مطابق دی جائے گی۔ (11) سرکاری اور نیم سرکاری اداروں میں کام کرنے والے اُمیدوار اپنے محکمے کے توسط سے درخواستیں ارسال کریں۔ (12) مجاز اتھارٹی کسی بھی درخواست بلا وجہ مسترد کرنے اور مشتہر کردہ آسامیوں کی تعداد میں ردوبدل / کمی بیشی / منسوخی کا حق محفوظ رکھتی ہے۔ (13) ٹیسٹ / انٹرویو کے لئے آنے والے اُمیدواروں کو کوئی سفری خرچ (TA/DA) نہیں دیا جائیگا۔ (14) غیر ملکی تعلیمی ڈگری کی صورت میں اُمیدوار کے لئے بائیر ایجوکیشن سے جاری کردہ مساوی تعلیم کا سرٹیفکیٹ پیش کرنا لازمی ہوگا۔ (15) غلطی / کمی کا ذمہ نہیں۔

درخواست دینے کا طریقہ کار:

(1) خواہشمند اُمیدوار ان ETEA کی ویب سائٹ www.etea.edu.pk پر حلقہ آسامی کے لئے آن لائن درخواست دے سکتے ہیں۔ (2) آن لائن درخواست جمع ہونے کے بعد UBL کی آن لائن پے آرڈر سلپ (جس پر ٹوکن نمبر آسامی کوڈ اور اُمیدوار کی ذاتی معلومات درج ہوں گی) Generate ہوگی۔ (3) اُمیدوار مذکورہ سلپ کا پرنٹ آؤٹ حاصل کرکے درج ذیل شدہ ٹیسٹ فیس رقم (ناقابل واپسی) UBL کی کسی بھی شاخ یا UBL اوپن ایجنٹ کے ذریعے جمع کریں۔ (4) فیس جمع کرنے کے بعد اُمیدوار سے کی اصل کاپی (جس پر بینک مہر لگی ہو) اپنی ذاتی تحویل میں رکھیں اور کسی کو نہ دکھائیں۔ (5) آن لائن درخواست دینے کے بعد اُمیدوار اپنی دستاویزات اپنا بھیجنے کی زحمت نہ کریں بلکہ تمام دستاویزات اپنے پاس رکھیں جو بعد میں سکریننگ ٹیسٹ میں کامیاب شدہ اُمیدواروں سے اپنا اور مجاز اتھارٹی کسی بھی وقت بغرض جانچ پڑتال طلب کرسکتی ہے۔ (6) آسامیوں کے لئے آن لائن درخواست فارم ETEA کی ویب سائٹ www.etea.edu.pk پر مورخہ 06-12-2021 سے دستیاب ہوگا۔ (7) آن لائن فارم جمع کرانے کی آخری تاریخ 24-12-2021 ہوگی۔ (8) اُمیدواروں کو رول نمبر سلپ ڈاؤن لوڈ کرنے کی اطلاع بذریعہ SMS دی جائے گی۔ لہٰذا تمام اُمیدوار ان بھرتی کا عمل مکمل ہونے تک اپنی موبائل سم بند یا تبدیل نہ کریں بصورت دیگر تمام ذمہ داری اُمیدواروں پر عائد ہوگی۔ (9) اپنا سکریننگ ٹیسٹ کے بارے میں تمام معلومات رول نمبر سلپ پر درج ہوں گی۔ (10) سکریننگ ٹیسٹ کیلئے علیحدہ سے کوئی کال لیٹر بذریعہ خط و کتابت / کوریئر نہیں بھیجا جائے گا۔

نوٹ: (1) آن لائن درخواست دیتے وقت اپنی پاسپورٹ سائز تصویر اور دستاویزات کی سکین شدہ سافٹ کاپی اپنے ساتھ رکھیں۔ (2) تمام اُمیدوار آن لائن درخواست پُر کرنے سے پہلے تمام ہدایات غور سے پڑھیں۔ (3) اپنا کسی بھی وقت اُمیدواروں کی جمع شدہ فیس کی تصدیق کرسکتا ہے تصدیق نہ ہونے کی صورت میں متعلقہ اُمیدوار کی درخواست روک دی جائے گی۔ (4) کسی دوسرے اُمیدوار کے شناختی کارڈ نمبر پر جمع شدہ فیس قابل قبول نہیں ہوگی۔ (5) نامزد اندراج شدہ تعلیمی قابلیت قابل قبول نہیں ہوگی۔ (6) اُمیدوار رجسٹریشن سے اپنی ذاتی حفاظت میں رکھیں۔ (7) اُمیدوار کی طرف سے آن لائن درخواست فارم میں غلط معلومات کی فراہمی پر نہ صرف متعلقہ اُمیدوار کی درخواست رد ہوگی بلکہ اس کے خلاف تادیبی کارروائی عمل میں لائی جائے گی۔

ڈپٹی سیکرٹری، محکمہ عملہ، سول سیکرٹریٹ، پشاور

INF(P) 6010/21

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT & ADMINISTRATION
DEPARTMENT
(ESTABLISHMENT WING)

Dated Peshawar the September 14, 2020

F

22

NOTIFICATION

No. SOE-III (E&AD)1-3/2020/FDA- In exercise of the power vested under provision of Sr. No 2 (a) of Rule-4 Appointment, Promotion and Transfer Rules, 1989 read with Para-5(c)(i) of the Surplus Policy contained in E&A Department (Regulation Wing) Govt. of Khyber Pakhtunkhwa circular letter No. SOR-I(E&AD)1-200/1998 dated 08-06-2001, the Competent Authority has been pleased to place the services of the following thirteen (13) Computer Operators (BPS-16) (Surplus Pool of Establishment & Administration Department) at the disposal of Secretary, Food Department Khyber Pakhtunkhwa for further adjustment in the office of Directorate of Food Khyber Pakhtunkhwa, Peshawar against the vacant posts of Computer Operators (BPS-16) w.e.f 20-04-2020 under initial recruitment quota:-

S#	NAME	DESIGNATION
1)	Altaf Ur Rehman	Computer Operator (BPS-16)
2)	Nasrullah Khan	Computer Operator (BPS-16)
3)	Zahidullah	Computer Operator (BPS-16)
4)	Feroz Shah	Computer Operator (BPS-16)
5)	Fawad Hussain Khan	Computer Operator (BPS-16)
6)	Fakhr-e-Alam	Computer Operator (BPS-16)
7)	Sajid Nabi	Computer Operator (BPS-16)
8)	Ahtesham Ghani	Computer Operator (BPS-16)
9)	Muhammad Ajmal	Computer Operator (BPS-16)
10)	Nadia Salahuddin	Computer Operator (BPS-16)
11)	Syed Adnan Ali Shah	Computer Operator (BPS-16)
12)	Habib Ur Rehman	Computer Operator (BPS-16)
13)	Muhammad Fawad	Computer Operator (BPS-16)

SECRETARY TO GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

Endst: No. SOE-III (E&AD) 1-3/2020/FDA Dated Peshawar the September 14, 2020

Copy forwarded to the:

1. Secretary to Govt. of Khyber Pakhtunkhwa, Food Department.
2. Secretary to Govt. of Khyber Pakhtunkhwa Finance Department.
3. Accountant General Khyber Pakhtunkhwa.
4. Director Food, Khyber Pakhtunkhwa, Peshawar.
5. Section Officer (Admn/Budget & Dev:), Establishment & Administration Department
6. Section Officer (O&M) Establishment Department.
7. PS to Secretary (Estt) Establishment Department.
8. PS to Special Secretary (Estt) Establishment Department.
9. PS to Additional Secretary (Reg-II) Establishment Department.
10. PA to Deputy Secretary (Estt) Establishment Department.
11. Officials concerned.
12. Master file.

(ZAMAN ALI KHAN) 14/9/20
Section Officer (E-III)

Annex G (25) Annex E

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1227/2020

Date of Institution ... 21.09.2020
Date of Decision ... 14.01.2022

(23)

Hanif Ur Rehman, Assistant (BPS-16), Directorate of Prosecution Khyber Pakhtunkhwa. ... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through its Chief Secretary at Civil Secretariat Peshawar and others. ... (Respondents)

Syed Yahya Zahid Gillani, Taimur Halder Khan & Ali Gohar Durrani, Advocates ... For Appellants

Muhammad Adeel Butt, Additional Advocate General ... For respondents

AHMAD SULTAN TAREEN ... **CHAIRMAN**
ATIQ-UR-REHMAN WAZIR ... **MEMBER (EXECUTIVE)**

JUDGMENT

ATIQ-UR-REHMAN WAZIR MEMBER (E):- This single judgment shall dispose of the instant service appeal as well as the following connected service appeals, as common question of law and facts are involved therein:-

1. 1228/2020 titled Zubair Shah
2. 1229/2020 titled Farooq Khan
3. 1230/2020 titled Muhammad Amjid Ayaz
4. 1231/2020 titled Qaiser Khan
5. 1232/2020 titled Ashiq Hussain
6. 1233/2020 titled Shoukat Khan
7. 1244/2020 titled Haseeb Zeb

8. 1245/2020 titled Muhammad Zahir Shah

9. 11125/2020 titled Zahid Khan

10. 11126/2020 titled Touseef Iqbal

02. Brief facts of the case are that the appellant was initially appointed as Assistant (BPS-11) on contract basis in Ex-FATA Secretariat vide order dated 01-12-2004. His services were regularized by the order of Peshawar High Court vide judgment dated 07-11-2013 with effect from 01-07-2008 in compliance with cabinet decision dated 29-08-2008. Regularization of the appellant was delayed by the respondents for quite longer and in the meanwhile, in the wake of merger of Ex-FATA with the Province, the appellant alongwith others were declared surplus vide order dated 25-06-2019. Feeling aggrieved, the appellant alongwith others filed writ petition No 3704-P/2019 in Peshawar High Court, but in the meanwhile the appellant alongwith others were adjusted in various directorates, hence the High Court vide judgment dated 05-12-2019 declared the petition as infructuous, which was challenged by the appellants in the supreme court of Pakistan and the supreme court remanded their case to this Tribunal vide order dated 04-08-2020 in CP No. 881/2020. Prayers of the appellants are that the impugned order dated 25-06-2019 may be set aside and the appellants may be retained/adjusted against the secretariat cadre borne at the strength of Establishment & Administration Department of Civil Secretariat. Similarly seniority/promotion may also be given to the appellants since the inception of their employment in the government department with back benefits as per judgment titled Tikka Khan & others Vs Syed Muzafar Hussain Shah & others (2018 SCMR 332) as well as in the light of judgment of larger bench of high court in Writ Petition No. 696/2010 dated 07-11-2013.

03. Learned counsel for the appellants has contended that the appellants has not been treated in accordance with law, hence their rights secured under the Constitution has badly been violated; that the impugned order has not been

passed in accordance with law, therefore is not tenable and liable to be set aside; that the appellants were appointed in Ex-FATA Secretariat on contract basis vide order dated 01-12-2004 and in compliance with Federal Government decision dated 29-08-2008 and in pursuance of judgment of Peshawar High Court dated 07-11-2013, their services were regularized with effect from 01-07-2008 and the appellants were placed at the strength of Administration Department of Ex-FATA Secretariat; that the appellants were discriminated to the effect that they were placed in surplus pool vide order dated 25-06-2019, whereas services of similarly placed employees of all the departments were transferred to their respective departments in Provincial Government; that placing the appellants in surplus pool was not only illegal but contrary to the surplus pool policy, as the appellants never opted to be placed in surplus pool as per section-5 (a) of the Surplus Pool Policy of 2001 as amended in 2006 as well as the unwillingness of the appellants is also clear from the respondents letter dated 22-03-2019; that by doing so, the mature service of almost fifteen years may spoil and go in waste; that the illegal and untoward act of the respondents is also evident from the notification dated 08-01-2019, where the erstwhile FATA Secretariat departments and directorates have been shifted and placed under the administrative control of Khyber Pakhtunkhwa Government Departments, whereas the appellants were declared surplus; that billion of rupees have been granted by the Federal Government for merged/erstwhile FATA Secretariat departments but unfortunately despite having same cadre of posts at civil secretariat, the respondents have carried out the unjustifiable, illegal and unlawful impugned order dated 25-06-2019, which is not only the violation of the Apex Court judgment, but the same will also violate the fundamental rights of the appellants being enshrined in the Constitution of Pakistan, will seriously affect the promotion/seniority of the appellants; that discriminatory approach of the respondents is evident from the notification dated 22-03-2019, whereby other employees of Ex-FATA were not placed in surplus pool but Ex-FATA Planning Cell of P&D was placed and merged into Provincial

P&D Department; that declaring the appellants surplus and subsequently their adjustment in various departments/directorates are illegal, which however were required to be placed at the strength of Establishment & Administration department; that as per judgment of the High Court, seniority/promotions of the appellants are required to be dealt with in accordance with the judgment titled Tikka Khan Vs Syed Muzafar (2018 SCMR 332), but the respondents deliberately and with malafide declared them surplus, which is detrimental to the interests of the appellants in terms of monitory loss as well as seniority/promotion, hence interference of this tribunal would be warranted in case of the appellants.

04. Learned Additional Advocate General for the respondents has contended that the appellants has been treated at par with the law in vogue i.e. under section-11(A) of the Civil Servant Act, 1973 and the surplus pool policy of the provincial government framed thereunder; that proviso under Para-6 of the surplus pool policy states that in case the officer/officials declines to be adjusted/absorbed in the above manner in accordance with the priority fixed as per his seniority in the integrated list, he shall loose the facility/right of adjustment/absorption and would be required to opt for pre-mature retirement from government service provided that if he does not fulfill the requisite qualifying service for pre-mature retirement, he may be compulsory retired from service by the competent authority, however in the instant case, no affidavit is forthcoming to the effect that the appellant refused to be absorbed/adjusted under the surplus pool policy of the government; that the appellants were ministerial staff of ex-FATA Secretariat, therefore they were treated under section-11(a) of the Civil Servant Act, 1973; that so far as the issue of inclusion of posts in BPS-17 and above of erstwhile agency planning cells, P&D Department merged areas secretariat is concerned, they were planning cadre employees, hence they were adjusted in the relevant cadre of the provincial government; that after merger of erstwhile FATA with the Province, the Finance Department vide

order dated 21-11-2019 and 11-06-2020 created posts in the administrative departments in pursuance of request of establishment department, which were not meant for blue eyed persons as is alleged in the appeal; that the appellants has been treated in accordance with law, hence their appeals being devoid of merit may be dismissed.

05. We have heard learned counsel for the parties and have perused the record.

06. Before embarking upon the issue in hand, it would be appropriate to explain the background of the case. Record reveals that in 2003, the federal government created 157 regular posts for the erstwhile FATA Secretariat, against which 117 employees including the appellants were appointed on contract basis in 2004 after fulfilling all the codal formalities. Contract of such employees was renewed from time to time by issuing office orders and to this effect; the final extension was accorded for a further period of one year with effect from 03-12-2009. In the meanwhile, the federal government decided and issued instructions dated 29-08-2008 that all those employees working on contract against the posts from BPS-1 to 15 shall be regularized and decision of cabinet would be applicable to contract employees working in ex-FATA Secretariat through SAFRON Division for regularization of contract appointments in respect of contract employees working in FATA. In pursuance of the directives, the appellants submitted applications for regularization of their appointments as per cabinet decision, but such employees were not regularized under the pleas that vide notification dated 21-10-2008 and in terms of the centrally administered tribal areas (employees status order 1972 President Oder No. 13 of 1972), the employees working in FATA, shall, from the appointed day, be the employees of the provincial government on deputation to the Federal Government without deputation allowance, hence they are not entitled to be regularized under the policy decision dated 29-08-2008.

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07. In 2009, the provincial government promulgated regularization of service Act, 2009 and in pursuance, the appellants approached the additional chief secretary ex-FATA for regularization of their services accordingly, but no action was taken on their requests, hence the appellants filed writ petition No 969/2010 for regularization of their services, which was allowed vide judgment dated 30-11-2011 and services of the appellants were regularized under the regularization Act, 2009, against which the respondents filed civil appeal No 29-P/2013 and the Supreme Court remanded the case to the High Court Peshawar with direction to re-examine the case and the Writ Petition No 969/2010 shall be deemed to be pending. A three member bench of the Peshawar High Court decided the issue vide judgment dated 07-11-2013 in WP No 969/2010 and services of the appellants were regularized and the respondents were given three months time to prepare service structure so as to regulate their permanent employment in ex-FATA Secretariat vis-à-vis their emoluments, promotions, retirement benefits and inter-se-seniority with further directions to create a task force to achieve the objectives highlighted above. The respondents however, delayed their regularization, hence they filed COC No. 178-P/2014 and in compliance, the respondents submitted order dated 13-06-2014, whereby services of the appellants were regularized vide order dated 13-06-2014 with effect from 01-07-2008 as well as a task force committee had been constituted by Ex-FATA Secretariat vide order dated 14-10-2014 for preparation of service structure of such employees and sought time for preparation of service rules. The appellants again filed CM No. 182-P/2016 with IR in COC No 178-P/2014 in WP No 969/2010, where the learned Additional Advocate General alongwith departmental representative produced letter dated 28-10-2016, whereby service rules for the secretariat cadre employees of Ex-FATA Secretariat had been shown to be formulated and had been sent to secretary SAFRAN for approval, hence vide judgment dated 08-09-2016, Secretary SAFRAN was directed to finalize the matter within one month, but the respondents instead of doing the needful,

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declared all the 117 employees including the appellants as surplus vide order dated 25-06-2019, against which the appellants filed Writ Petition No. 3704-P/2019 for declaring the impugned order as set aside and retaining the appellants in the Civil Secretariat of establishment and administration department having the similar cadre of post of the rest of the civil secretariat employees.

08. During the course of hearing, the respondents produced copies of notifications dated 19-07-2019 and 22-07-2019 that such employees had been adjusted/absorbed in various departments. The High Court vide judgment dated 05-12-2019 observed that after their absorption, now they are regular employees of the provincial government and would be treated as such for all intent and purposes including their seniority and so far as their other grievance regarding their retention in civil secretariat is concerned, being civil servants, it would involve deeper appreciation of the vires of the policy, which have not been impugned in the writ petition and in case the appellants still feel aggrieved regarding any matter that could not be legally within the framework of the said policy, they would be legally bound by the terms and conditions of service and in view of bar contained in Article 212 of the Constitution, this court could not embark upon to entertain the same. Needless to mention and we expect that keeping in view the ratio as contained in the judgment titled Tikka Khan and others Vs Syed Muzafar Hussain Shah and others (2018 SCMR 332), the seniority would be determined accordingly, hence the petition was declared as infructuous and was dismissed as such. Against the judgment of High Court, the appellants filed CPLA No 881/2020 in the Supreme Court of Pakistan, which was disposed of vide judgment dated 04-08-2020 on the terms that the petitioners should approach the service tribunal, as the issue being terms and condition of their service, does fall within the jurisdiction of service tribunal, hence the appellant filed the instant service appeal.

09. Main concern of the appellants in the instant service appeal is that in the first place, declaring them surplus is illegal, as they were serving against regular posts in administration department Ex-FATA, hence their services were required to be transferred to Establishment & Administration Department of the provincial government like other departments of Ex-FATA were merged in their respective department. Their second stance is that by declaring them surplus and their subsequent adjustment in directorates affected them in monitory terms as well as their seniority/promotion also affected being placed at the bottom of the seniority line.

10. In view of the foregoing explanation, in the first place, it would be appropriate to count the discriminatory behaviors of the respondents with the appellants, due to which the appellants spent almost twelve years in protracted litigation right from 2008 till date. The appellants were appointed on contract basis after fulfilling all the codal formalities by FATA Secretariat, administration wing but their services were not regularized, whereas similarly appointed persons by the same office with the same terms and conditions vide appointments orders dated 08-10-2004, were regularized vide order dated 04-04-2009. Similarly a batch of another 23 persons appointed on contract were regularized vide order dated 04-09-2009 and still a batch of another 28 persons were regularized vide order dated 17-03-2009; hence the appellants were discriminated in regularization of their services without any valid reason. In order to regularize their services, the appellants repeatedly requested the respondents to consider them at par with those, who were regularized and finally they submitted applications for implementation of the decision dated 29-08-2008 of the federal government, where by all those employees working in FATA on contract were ordered to be regularized, but their requests were declined under the plea that by virtue of presidential order as discussed above, they are employees of provincial government and only on deputation to FATA but without deputation allowance,

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hence they cannot be regularized, the fact however remains that they were not employee of provincial government and were appointed by administration department of Ex-FATA Secretariat, but due to malafide of the respondents, they were repeatedly refused regularization, which however was not warranted. In the meanwhile, the provincial government promulgated Regularization Act, 2009, by virtue of which all the contract employees were regularized, but the appellant were again refused regularization, but with no plausible reason, hence they were again discriminated and compelling them to file Writ Petition in Peshawar High Court, which was allowed vide judgment dated 30-11-2011 without any debate, as the respondents had already declared them as provincial employees and there was no reason whatsoever to refuse such regularization, but the respondent instead of their regularization, filed CPLA in the Supreme Court of Pakistan against such decision, which again was an act of discrimination and malafide, where the respondents had taken a plea that the High Court had allowed regularization under the regularization Act, 2009 but did not discuss their regularization under the policy of Federal Government laid down in the office memorandum issued by the cabinet secretary on 29-08-2008 directing the regularization of services of contractual employees working in FATA, hence the Supreme Court remanded their case to High Court to examine this aspect as well. A three member bench of High Court heard the arguments, where the respondents took a U turn and agreed to the point that the appellants had been discriminated and they will be regularized but sought time for creation of posts and to draw service structure for these and other employees to regulate their permanent employment. The three member bench of the High Court had taken a serious view of the unessential technicalities to block the way of the appellants, who too are entitled to the same relief and advised the respondents that the petitioners are suffering and are in trouble besides mental agony, hence such regularization was allowed on the basis of Federal Government decision dated 29-08-2008 and the appellants were declared as civil servants of the FATA

Secretariat and not of the provincial government. In a manner, the appellants were wrongly refused their right of regularization under the Federal Government Policy, which was conceded by the respondents before three member's bench, but the appellants suffered for years for a single wrong refusal of the respondents, who put the matter on the back burner and on the ground of sheer technicalities thwarted the process despite the repeated direction of the federal government as well as of the judgment of the courts. Finally, Services of the appellants were very unwillingly regularized in 2014 with effect from 2008 and that too after contempt of court proceedings. Judgment of the three member bench is very clear and by virtue of such judgment, the respondents were required to regularize them in the first place and to own them as their own employees borne on the strength of establishment and administration department of FATA Secretariat, but step-motherly behavior of the respondents continued unabated, as neither posts were created for them nor service rules were framed for them as were committed by the respondents before the High Court and such commitments are part of the judgment dated 07-11-2013 of Peshawar High Court. In the wake of 25th Constitutional amendments and upon merger of FATA Secretariat into Provincial Secretariat, all the departments' alongwith staff were merged into provincial departments. Placed on record is notification dated 08-01-2019, where P&D Department of FATA Secretariat was handed over to provincial P&D Department and law & order department merged into Home Department vide notification dated 16-01-2019, Finance department merged into provincial Finance department vide notification dated 24-01-2019, education department vide order dated 24-01-2019 and similarly all other department like Zakat & Usher Department, Population Welfare Department, Industries, Technical Education, Minerals, Road & Infrastructure, Agriculture, Forests, Irrigation, Sports, FDMA and others were merged into respective Provincial Departments, but the appellants being employees of the administration department of ex-FATA were not merged into Provincial Establishment & Administration Department, rather they were

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declared surplus, which was discriminatory and based on malafide, as there was no reason for declaring the appellants as surplus, as total strength of FATA Secretariat from BPS-1 to 21 were 56983 of the civil administration against which employees of provincial government, defunct FATA DC, employees appointed by FATA Secretariat, line directorates and autonomous bodies etc were included, amongst which the number of 117 employees including the appellants were granted amount of Rs. 25505.00 million for smooth transition of the employees as well as departments to provincial departments and to this effect a summery was submitted by the provincial government to the Federal Government, which was accepted and vide notification dated 09-04-2019, provincial government was asked to ensure payment of salaries and other obligatory expenses, including terminal benefits as well of the employees against the regular sanctioned 56983 posts of the administrative departments/attached directorates/field formations of erstwhile FATA, which shows that the appellants were also working against sanctioned posts and they were required to be smoothly merged with the establishment and administration department of provincial government, but to their utter dismay, they were declared as surplus inspite of the fact that they were posted against sanctioned posts and declaring them surplus, was no more than malafide of the respondents. Another discriminatory behavior of the respondents can be seen, when a total of 235 posts were created vide order dated 11-06-2020 in administrative departments i.e. Finance, home, Local Government, Health, Environment, Information, Agriculture, Irrigation, Mineral and Education Departments for adjustment of the staff of the respective departments of ex-FATA, but here again the appellants were discriminated and no post was created for them in Establishment & Administration Department and they were declared surplus and later on were adjusted in various directorates, which was detrimental to their rights in terms of monetary benefits, as the allowances admissible to them in their new places of adjustment were less than the one admissible in civil secretariat. Moreover, their seniority was also affected

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as they were placed at the bottom of seniority and their promotions, as the appellant appointed as Assistant is still working as Assistant in 2022, are the factors, which cannot be ignored and which shows that injustice has been done to the appellants. Needless to mention that the respondents failed to appreciate that the Surplus Pool Policy-2001 did not apply to the appellants since the same was specifically made and meant for dealing with the transition of district system and resultant re-structuring of governmental offices under the devolution of powers from provincial to local governments as such, the appellants service in erstwhile FATA Secretariat (now merged area secretariat) had no nexus whatsoever with the same, as neither any department was abolished nor any post, hence the surplus pool policy applied on them was totally illegal. Moreover the concerned learned counsel for the appellants had added to their miseries by contesting their cases in wrong forums and to this effect, the supreme court of Pakistan in their case in civil petition No. 881/2020 had also noticed that the petitioners being pursuing their remedy before the wrong forum, had wasted much of their time and the service Tribunal shall justly and sympathetically consider the question of delay in accordance with law. To this effect we feel that the delay occurred due to wastage of time before wrong forums, but the appellants continuously contested their case without any break for getting justice. We feel that their case was already spoiled by the respondents due to sheer technicalities and without touching merit of the case. The apex court is very clear on the point of limitation that cases should be considered on merit and mere technicalities including limitation shall not debar the appellants from the rights accrued to them. In the instant case, the appellants has a strong case on merit, hence we are inclined to condone the delay occurred due to the reason mentioned above.

11. We are of the considered opinion that the appellants has not been treated in accordance with law, as they were employees of administration department of the ex-FATA and such stance was accepted by the respondents in their comment

submitted to the High Court and the High Court vide judgment dated 07-11-2013 declared them civil servants and employees of administration department of ex-FATA Secretariat and regularized their services against sanctioned posts, despite they were declared surplus. They were discriminated by not transferring their services to the establishment and administration department of provincial government on the analogy of other employees transferred to their respective departments in provincial government and in case of non-availability of post, Finance department was required to create posts in Establishment & Administration Department on the analogy of creation of posts in other Administrative Departments as the Federal Government had granted amount of Rs. 25505 million for a total strength of 56983 posts including the posts of the appellants and declaring them surplus was unlawful and based on malafide and on this score alone the impugned order is liable to be set aside. The correct course would have been to create the same number of vacancies in their respective department i.e. Establishment & Administrative Department and to post them in their own department and issues of their seniority/promotion was required to be settled in accordance with the prevailing law and rule.

12. We have observed that grave injustice has been meted out to the appellants in the sense that after contesting for longer for their regularization and finally after getting regularized, they were still deprived of the service structure/rules and creation of posts despite the repeated directions of the three member bench of Peshawar High Court in its judgment dated 07-11-2013 passed in Writ Petition No. 969/2010. The same directions has still not been implemented and the matter was made worse when impugned order of placing them in surplus pool was passed, which directly affected their seniority and the future career of the appellants after putting in 18 years of service and half of their service has already been wasted in litigation.

13. In view of the foregoing discussion, the instant appeal alongwith connected service appeals are accepted. The impugned order dated 25-06-2019 is set aside with direction to the respondents to adjust the appellants in their respective department i.e. Establishment & Administration Department Khyber Pakhtunkhwa against their respective posts and in case of non-availability of posts, the same shall be created for the appellants on the same manner, as were created for other Administrative Departments vide Finance Department notification dated 11-06-2020. Upon their adjustment in their respective department, they are held entitled to all consequential benefits. The issue of their seniority/promotion shall be dealt with in accordance with the provisions contained in Civil Servant Act, 1973 and Khyber Pakhtunkhwa Government Servants (Appointment, Promotion & Transfer) Rules, 1989, particularly Section-17(3) of Khyber Pakhtunkhwa Government Servants (Appointment Promotion & Transfer) Rules, 1989. Needless to mention and is expected that in view of the ratio as contained in the judgment titled Tikka Khan and others Vs Syed Muzafar Hussain Shah and others (2018 SCMR 332), the seniority would be determined accordingly. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
14.01.2022

(AHMAD SULTAN TAREEN)
CHAIRMAN

(ATIQ-UR-REHMAN WAZIR)
MEMBER (E)

ORDER
14.01.2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the instant appeal alongwith connected service appeals are accepted. The impugned order dated 25-06-2019 is set aside with direction to the respondents to adjust the appellants in their respective department i.e. Establishment & Administration Department Khyber Pakhtunkhwa against their respective posts and in case of non-availability of posts, the same shall be created for the appellants on the same manner, as were created for other Administrative Departments vide Finance Department notification dated 11-06-2020. Upon their adjustment in their respective department, they are held entitled to all consequential benefits. The issue of their seniority/promotion shall be dealt with in accordance with the provisions contained in Civil Servant Act, 1973 and Khyber Pakhtunkhwa Government Servants (Appointment, Promotion & Transfer) Rules, 1989, particularly Section-17(3) of Khyber Pakhtunkhwa Government Servants (Appointment Promotion & Transfer) Rules, 1989. Needless to mention and is expected that in view of the ratio as contained in the judgment titled Tikka Khan and others Vs Syed Muzafar Hussain Shah and others (2018 SCMR 332), the seniority would be determined accordingly. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
14.01.2022

(AHMAD SULTAN TAREEN)
CHAIRMAN

(ATIQ-UR-REHMAN WAZIR)
MEMBER (E)

...ption free Pakistan"

GOVERNMENT OF KHYBER PAKHTUNKHWA
DIRECTORATE OF FOOD,
PESHAWAR

No: 4297 /ET-IT Computers Operators
Dated: 26 October, 2020.

091-9225378 fooddirectoratekpk@gmail.com @fooddirectoratekp @fooddirectorate

OFFICE ORDER

In pursuance to the Section Officer (E-III) Government of Khyber Pakhtunkhwa, Establishment Department (Establishment Wing) vide Notification No. SOE-III (E&AD)/1-3/2020/FDA dated 14th September, 2020 and Section Officer General Government of Khyber Pakhtunkhwa Food Department letter No.SOG/Food/7-46/2019/7628 dated 2nd October, 2020, the following 13 Computer Operators (BS-16) are hereby adjusted against the posts as below for the purpose of pay only with effect from 20.04.2020. They are directed to report to the below mentioned stations and then continue serving at Food Directorate:-

S.No.	Name & Designation	Domicile	Qualification	Adjusted in the Office
1.	Altaf-ur Rehman Computer Operator (BS-16)	Dir Lower	MSIT	DFC Office Dir Upper
2.	Zahid Ullah Jan Computer Operator (BS-16)	Peshawar	BCS-IT	S&EO Peshawar
3.	Nasrullah Khan Computer Operator (BS-16)	Karak	MBA(HRM)	DFC Office Karak
4.	Faroz Shah Computer Operator (BS-16)	Mohmand	M.A(Political Science)	ADF Officer Mardan
5.	Fakhar-e- Alam Computer Operator (BS-16)	Charsadda	M. Phil (CS)	DFC Office Charsadda
6.	Fawad Hussain Khan Computer Operator (BS-16)	Charsadda	MIT	DFC Office Abbottabad
7.	Sajid Nabi Computer Operator (BS-16)	Peshawar	M.Sc (CS)	ADF (Divisional) Office Peshawar
8.	Ahlasham Ghani Computer Operator (BS-16)	Peshawar	M.A(Political Science)	RC Office Peshawar
9.	Muhammad Ajmal Computer Operator (BS-16)	Kurrum	M.Phill (CS)	DFC Office Hangu
10	Syed Adnan Ali Shah Computer Operator (BS-16)	Nowshera	MSc (Economics)	DFC Office Bannu
11	Habib ur Rehman Computer Operator (BS-16)	Khyber	BSIT (Hnr)	ADF Office Kohat
12	Muhammad Fawad Computer Operator (BS-16)	Mohmand	M.Sc (CS)	ADF Office D.I.Khan
13	Nadia Salahudddin Computer Operator (BS-16)	Peshawar	B.A, DIT	DDF Office at Karachi

DIRECTOR FOOD,
KHYBER PAKHTUNKHWA,
PESHAWAR.

Memo No & Date Even

A copy forwarded to:-

1. The Accountant General, Khyber Pakhtunkhwa.
2. The District Accounts Officers, Bannu, Charsadda, Dir Upper, Hangu, Torghar, D.I.Khan, Karak, Kolai Pallas, Abbottabad, Mardan, Malakand and Kohat.
3. The Deputy Director Food Khyber Pakhtunkhwa at Karachi.

(39)

The Section Officer (E-III) Government of Khyber Pakhtunkhwa Establishme Department with reference to his Notification No. SOE-III (E&AD)/1-3/2020/FDA date 14th September, 2020

Section Officer General Government of Khyber Pakhtunkhwa Food Department lett No.SOG/Food/7-46/2019/ 7628 dated 2nd October, 2020.

The Section Officer (E-V) Government of Khyber Pakhtunkhwa Establishme Department (Establishment Wing) with reference to his order No. noted above. He requested that original Personal File, PERs and Service Book of the official concern may please be provided for record of Directorate of Food Khyber Pakhtunkhwa.

The District Food Controllers Bannu, Charsadda, Dir Upper, Hangu, Torghar, D.I.Kha Karak, Kolai Pallas, Abbottabad, Mardan, Malakand and Kohat.

The Storage & Enforcement Officer, PRC Peshawar.

The Rationing Controller, Peshawar.

). PS to Minister Food Khyber Pakhtunkhwa.

1. PS to Secretary Food, Khyber Pakhtunkhwa.
2. The Pay Bill Assistant, Directorate of Food Khyber Pakhtunkhwa Peshawar.
3. Officials concerned / Personal Files.

DIRECTOR FOOD,
KHYBER PAKHTUNKHWA,
PESHAWAR.

(I)

BEFORE THE SECRETARY ESTABLISHMENT, GOVT: OF KHYBER PAKHTUNKHWA

Dated: 24-11-2023 (49)

The Secretary to Government of Khyber Pakhtunkhwa,
Establishment Department, Civil Secretariat,
Peshawar.

SUBJECT: APPEAL FOR ADJUSTMENT IN THE CIVIL SECRETARIAT, KHYBER PAKHTUNKHWA

With due veneration, please refer to the above cited subject, we (undersigns) request your honour the following facts and grounds for favourable consideration please.

- That after the Constitutional (25th) Amendment Act, 2018 the Federally Administered Tribal Areas were merged into the respective provinces of Khyber Pakhtunkhwa and Baluchistan. In light of the merger of Erstwhile Fata into Khyber Pakhtunkhwa Province. the Government of Khyber Pakhtunkhwa dissolved the erstwhile FATA Development Authority and merged the employees into Establishment Department KP.
- Later on, the undersigns were adjusted in attached Department (Directorate of Industries/Food).
- That vide Khyber Pakhtunkhwa Service Tribunal Peshawar Judgment dated: 14/01/2022 in the service appeal No. 1227/2020 (Annexure-I) and subsequently vide Establishment Department Notification No. SOE-V (E&AD)/11-1/2022 dated: 29/08/202 (Annexure-II) and Notification No. SO (AD) 4 (173) S/T/2022 dated 29/08/2023 (Annexure-III). Several employees likewise us, who were adjusted in different attached Departments, were ordered and adjusted in the Civil Secretariat Khyber Pakhtunkhwa.
- That likewise the above said employees, the undersigned appeal your honour to be adjusted in the civil secretariat as per the precedence mentioned above and as per my humble request on humanitarian grounds, please.

We shall be very grateful to your honour for your favourable consideration and cooperation in this matter.

Thanking you in anticipation for your kind support.

Yours faithfully,

24/11/23

1. **Dr. Luqman Hakeem,** Assistant BPS-16,
   Directorate General of Industries & Commerce, Peshawar
2. **Feroz Shah,** Computer Operator BPS-16,
   Directorate of Food, Peshawar
   24-11-2023
3. Muhammad Fawad, Computer Operator BPS-16,
   Directorate of Food, Peshawar
   M. Fawad 24-11-2023

Copy for information to:-
PS to Chief Secretary Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.

POWER OF ATTORNEY

BEFORE THE Service Tribunal Peshawar.

_____No._____ of 2022

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Mr. Feroz Shah

VERSUS

Govt

I/we _____do hereby appoint & constitute **The Law Firm Of SHAH | DURRANI | KHATTAK** (a registered law firm) as counsel in the above mentioned case, to do all or any of the following acts, deeds and things:-

1. To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal or any other court/tribunal in which the same may be tried or heard and any other proceedings arising out of or connected therewith.
2. To sign, verify and file Plaint/Written Statement or withdraw all proceedings, petitions, suit appeals, revision, review, affidavits and applications for compromise or withdrawal, or for submission to arbitration of the said case, or any other document, as may be deemed necessary or advisable by him for proper conduct, prosecution or defence of the said case at any stage.
3. To do and perform all other acts which may be deemed necessary or advisable during the course of the proceedings.

AND HEREBY AGREE:-

a) To ratify whatever the said Advocates may do in the proceedings in my interest, Not to hold the Advocates responsible if the said case be proceeded ex-parte or dismissed in default in consequence of their absence from the Court/Tribunal when it is called for hearing or is decided against me/us.

b) That the Advocates shall be entitled to withdraw from the prosecution of the said case if the whole OR any part of the agreed fee remains unpaid.

In witness whereof I/We have signed this Power of Attorney/Wakalat Nama hereunder the contents of which have been read/explained to me/us and fully understood by me / us this _____day of _____at_____.

Signature of Executant(s)
14101-8921486-3

Accepted subject to term regarding payment of fee for/on behalf of The Law Firm of Shah | Durrani | Khattak.

ALI GOHAR DURRANI
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قیمت 50 روپے

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پشاور بار ایسوسی ایشن، خیبر پختونخواہ

PESHAWAR BAR ASSOCIATION

ایڈوکیٹ: Shahkar Khan Yousafzai

بارکونسل/ایسوسی ایشن نمبر: bc-19-1135

رابطہ نمبر: 0337-0414444

بعدالت جناب KP Service Tribunal, Peshawar

منجانب: Appellant

Feroz Shah

بنام

Govt. of KP etc.

دعویٰ: Appeal

علت نمبر: _____

مورخہ: _____

جرم: _____

تھانہ: _____

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ آن مقام Peshawar کیلئے Shahkar Khan Yousafzai کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے وتقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پرداختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہرجانہ التوائے مقدمہ کے سبب سے ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہٰذا وکالت نامہ لکھ دیا تاکہ سند رہے

PESHAWAR BAR ASSOCIATION
KHYBER PAKHTOONKHWA

المرقوم: ___/___/20

العبد گواہ شد العبد

مقام Peshawar کے لیے منظور ہے۔

Feroz Shah

Attested
Accepted

S. Khan

نوٹ: اس وکالت نامہ کی فوٹو کاپی ناقابل قبول ہوگی۔