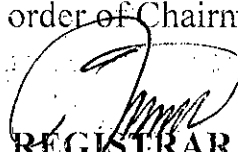


# FORM OF ORDER SHEET

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

**Appeal No. 582/2024**

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	18/04/2024	<p>The appeal of Mr. Nihar Ali Assistant presented today by Mr. Farhan Ullah Shahbanzai Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on <u>22-04-2024</u> Parcha Peshi given to the counsel for the appellant.</p> <p>By the order of Chairman</p>  <p><b>REGISTRAR</b></p>

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

Appeal No. 582 / 2024.

Nihar Ali

.....Appellant.

VERSUS


**Government of Khyber Pakhtunkhwa and others.**

.....Respondents.

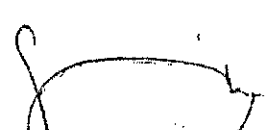
**I N D E X**

Sr. No.	Description of Documents	Annexure	Page No.
1)	Memo of Appeal Along with Affidavit and Addresses of the Parties		1-8
2)	Copy of CNIC appellant	A	9
3)	Copy of Seniority List	B	10
4)	Copy of KP Act No.XXIX of 2020	C	11-13
5)	Copy of surplus policy	D	14-15
6)	Copy of Letter dated: 03-01-2020	-E	16
7)	Copy of Notification dated: 14-09-2020 & orders 17-09-2020 of posting/adjustment of respondent No.4 as IDO	F & G	17-18
8)	Copy of Notification dated: 09-10-2020 & orders 26-10-2020 of posting/adjustment of respondent No.5 as IDO	H & I	19-20
9)	Copy of order dated 09.10.2020 regarding posting of the appellant as Assistant	J	21
10)	Copy of departmental representation	K	22
11)	Copy of opinion dated: 21-10-2021	L	23
12)	Copy of Writ Petition No.3050-P/2022 & COC Petition No.354-P/2023	M & N	24-31
13)	Copy of Communication letter dated: 21-03-2024 & Impugned order dated 02.10.2023	O & P	32-35
14)	Copy of other documents	Q	36-49
15)	Waqalat Nama		50

Dated; 18/04/2024.

  
APPELLANT

Through:-

  
(Farhan Ullah Shahbanzai)

Advocate High Court,  
PESHAWAR

Office- F.F. 30 Bilour Plaza Peshawar Cantt,

Mobile No. 0321-9171522

①

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

Appeal No. 582 /2024.

Mr. Nihar Ali, Assistant BPS (16), Directorate of Industries and  
Commerce, Khyber Pakhtunkhwa, Peshawar.

.....Appellant.

VERSUS

- 1) Government of Khyber Pakhtunkhwa through Secretary  
Establishment and administration Department Civil Secretariat,  
Peshawar.
- 2) Secretary Industries, Commerce and Technical education, Khyber  
Pakhtunkhwa, Civil Secretariat, Peshawar
- 3) Directorate of Industries and Commerce, Khyber Pakhtunkhwa,  
Peshawar
- 4) Mr. Mazhar Ali Shah, Industrial Development Officer BPS 16,  
Directorate of Industries and Commerce, Khyber Pakhtunkhwa,  
Peshawar
- 5) Mr. Shahid, Industrial Development Officer BPS 16, Directorate of  
Industries and Commerce, Khyber Pakhtunkhwa, Peshawar.

.....Respondents.

APPEAL U/S 4 OF THE NWFP SERVICES TRIBUNAL ACT,  
1974 AGAINST THE ORDER NO. 50 (Lit/IND)/2-335-  
/DIC/2023/3243-45 DATED: 02.10.2023, COMMUNICATED  
TO THE APPELLANT VIDE LETTER NO. 50 (Lit/IND)/5-  
1/DIC/2024/ DATED: 21.03.2024, WHEREBY THE  
DEPARTMENTAL APPEAL/REPRESENTATION OF THE  
APPELLANT AGAINST THE NOTIFICATION NO.SOE-III  
(E&AD)1-3/2020/FDA DATED: 09.10.2020, WAS  
DISMISSED AND THE APPELANT WAS POSTED AS  
ASSISTANT BPS(16) AGAINST THE LAW AND RULES.

Respectfully Sheweth:-

1) That the appellant was initially appointed as Assistant in the FATA Development Authority, Administration department, where he served with an excellent record and there is no adverse entry in the service record of the appellant.

**(Copy of CNIC is annexed as "A")**

2) That before the abolishment of the FATA Development Authority (Hereinafter called as FDA), the appellant stood at serial No.1 in the seniority list duly issued by the FDA, Administration department.

**(Copy of seniority list is attached as Annexure "B")**

3) That after merger of FATA with the province of Khyber Pakhtunkhwa, the FDA was abolished through Act No.XXIX of 2020 titled *The Federal Administrated Tribal Areas Development Authority regulation (Repeal) Act, 2020* and the employees of the FDA as per section 4 of the 2020 Act were declared as surplus and placed at the disposal of the Establishment for further posting/adjustment.

**(Copy of the KP Act No.XXIX of 2020 is attached as Annexure "C")**

4) That the establishment and Administration department has issued Policy No. SOR-I(E&AD)1-200/98 dated 08.06.2001, wherein clause 5(b) (*Procedure for adjustment of surplus employees*) of the said policy has provided that;

*"Those who opted for absorption/readjustment, a category wise seniority list will be caused in the surplus policy for their gradual adjustment against the future vacancies as and when occurred in any government department. These adjustments shall be on seniority-cum-fitness basis for this purpose the seniority list will be caused category wise with reference to their respective dates of appointment in the cadre".*

**(Copy of the Policy is attached as Annexure "D")**

5) That vide letter no. 124/1/13-DI-Admn dated 03.01.2020, respondent no.03 requested respondent no.02 for filling up two posts of Industrial Development Officer from the surplus pool, in the respondent no.03's department.

**(Copy of the Letter 03.01.2020 is attached as Annexure "E")**

3

- 6) That in sheer violation of the surplus policy respondent No.01 has issued notification dated 14.09.2020 which was adopted by respondent no.03 vide order dated 17.09.2020 and respondent no.04 was placed in the respondent no.02 department as *Industrial Development Officer BPS-16* (Hereinafter called as IDO) with the effect from 20.04.2020.  
***(Copy of the order notification dated 14.09.2020 and order dated 17.09.2020 of the respondent no.04 are annexed as "F" and 'G')***
- 7) That similarly repeating the said violation of the surplus policy, respondent No.01 issued notification dated 09.10.2020 which was adopted by respondent no.03 vide order dated 26.10.2020 and respondent no.05 was placed in the respondent no.02 department as *Industrial Development Officer BPS-16* (Hereinafter called as IDO) with the effect from 01.10.2020.  
***(Copy of the order notification dated 09.10.2020 and order dated 26.10.2020 of the respondent no.05 are annexed "H" and 'I')***
- 8) That as per seniority list appellant was at serial no.01 whereas private respondents no.04 and 05 were juniors to the appellant, but respondent no.01 and 03 highly treated the appellant with discrimination and clear violation of surplus seniority policy has posted the appellant as Assistant BPS-16 instead of IDO (BPS-16) vide order dated 09.10.2020.  
***(Copy of order of the appellant dated 09.10.2020 attached as Annexure "J")***
- 9) That being aggrieved from the said posting/adjustment the appellant filled departmental appeal before respondent No.02.  
***(Copy of Departmental appeal attached as Annexure "K")***
- 10) That respondent no.02 sought opinion from respondent no.01 regarding posting/adjustment against the vacant post of IDO (BPS 16) which was submitted on 21.10.2021, despite this no speaking order was passed on the appellant's departmental appeal/representation.  
***(Copy of Opinion dated 21.10.2021 is attached as Annexed as "L")***
- 11) That the respondent department ignored and failed to decide the departmental representation, after which the appellant filed Writ Petition No. 3050-P/2022 before the Hon'ble Peshawar High Court which was decided vide order dated 22.02.2023 whereby direction was given to decide the departmental appeal strictly in accordance of law within a fortnight.

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12) That accordingly appellant file Writ Petition No.3050-P/2022 before the Hon'ble Peshawar High Court, which was disposed off on 22-02-2023 with directions to the respondent No.2 to decide the departmental appeal of the appellant within a fortnight but respondent No.2 failed to decide the departmental representation of the appellant, as such he file COC petition No.354-P/2023 which was again decided on 01-08-2023 with directions to the respondent No.2 to decide the departmental appeal of the appellant within fortnight.

*(Copy of W.P No.3050-P/2022 along with order dated: 22-02-2023 & COC No. 354-P/2023 decided on 01-08-2023 are annexed "M & N")*

13) That despite clear directions of the Hon'able Peshawar High court passed in Writ petition as well as in COC petition, no speaking order was passed by respondent No.02 as such on appellant file an application to respondent No.1, dated: 19-03-2024 for passing a speaking in light of decision rendered in COC No.354-P/2023, after which the respondent department through communicated Letter NO. SO (Lit/IND)/5-1/DIC/2024/ dated 21.03.2024, send the impugned speaking order NO. SO (Lit/IND)/2-335-/DIC/2023/3243-45 dated 02.10.2023, whereby departmental appeal of the appellant was regretted.

*(Copy of communicated letter dated: 21-03-2024 & impugned order dated 02.10.2023 are attached as Annexure "O & P")*

14) That the appellant now approaches this Hon'ble tribunal for setting aside impugned order on the following grounds amongst others.

### GROUND S.

- A. That the order of not adjusting/posting the petitioner against the post of Industrial Development Officer by the Respondents is against the Law, Policy and Norms of Justice.
- B. That the respondents violated the surplus pool policy and rules, hence such act of the respondents is against the law, ethics and fair play.
- C. That the appellant has not been treated by the respondent department in accordance with law, rules on the subject and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan.

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- D. That as per surplus policy seniority principle will prevail that once vide letter dated 03.01.2020 respondent no.03 requested for filing the two vacant posts of IDO (BPS 16) from the surplus pool the appellant being the senior most in the seniority list, so preference under the policy has to be given to appellant for posting/adjusting him as IDO (BPS 16) but in clear violation of the said policy respondent no.4 was preferred despite being junior to the appellant vide notification dated 14.09.2020 hence not considering the appellant for the post of IDO (BPS 16) is illegal and the same is liable to be set aside.
- E. That the reason provided in the opinion by the respondent no.01 in letter dated 21.10.2021 that once surplus pool employee is adjusted he cannot be re-adjusted again is totally incorrect, against law, rules and policy when the initial order is clear violation of rules and policy, the same could not remain in field with such like excuse, rather to justify the same the proper law or rules has to be mentioned but the same is lacking in the matter in hand.
- F. That under the constitution of Pakistan, 1973, all the citizens are to be treated equally but in the case of appellant, official respondents has adopted the policy of pick and choose of their near and dear which cannot be justified by any manner under the law and the same required consideration of this Honble Tribunal.
- G. That despite of senior most in the seniority list order of the appellant by adjusting him as Assistant BPS-16 was issued latter on (09.10.2020) whereas order of the respondent no.04 was issued prior in time (on 14.09.2020) which shows the discriminatory treatment with the appellant which is totally un-warranted under the law and the same is liable to be set aside.

**(Copy of other documents are annexed as P)**

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- H. That the respondent department acted in arbitrary and illegal manner by ignoring the petitioner from adjusting/posting against the post of Industrial Development Officer BPS 16.
- I. That on the permission of this Hon'ble Tribunal the appellant may raise additional grounds if any, at the time of arguments.


It is therefore most humbly prayed that on acceptance of the appeal the following relief may kindly be granted in favour of the appellant;

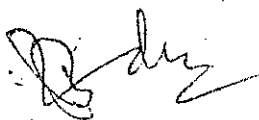
- a) Notification dated 09.10.2020 issued by respondent no.1 whereby appellant was posted/adjusted as Assistant BPS-16 may kindly be declared as illegal and as such the same may graciously be set aside and appellant be posted/adjusted against the post of Industrial Development Officer BPS (16) along with all back benefits.
- b) Notification of respondent no.04 and 05 posted/adjusted as IDO (BPS16) vide order dated 14.09.2020 and 09.10.2020 being in violation of seniority principle as provided under the surplus policy hence the same may graciously be set aside and declared null and void and without lawful authority.
- c) The impugned order dated 02.10.2023 passed by respondent no.02 be set aside and appellant be posted as IDO (BPS 16) along with all back benefits.
- d) Any other relief as deemed proper may also be passed in favor of the appellant.

  
APPELLANT

Dated; 18/04/2024

Through:-

  
(Farhan Ullah Shahbanzai)  
Advocate High Court,  
Peshawar

  
(Ibad-Ur-Rehman)  
Advocate High Court,  
Peshawar



7

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

Appeal No. \_\_\_\_\_ / 2024.

Nihar Ali

.....Appellant.

**V E R S U S**

Government of KP and others.

.....Respondents.

**A F F I D A V I T**

I, Nihar Ali, Assistant (BPS-16) Industries and Commerce department, Khyber Pakhtunkhwa do hereby solemnly affirm and state on oath that the contents of accompanying appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon' able Court.

(Deponent)

CNIC#17301-1661401-3

Mobile:0336-5398209

**ATTESTED**

8

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

Appeal No. \_\_\_\_\_ / 2024.

Nihar Ali

.....Appellant.

**VERSUS**

Government of KP and others.

.....Respondents.

**ADDRESSES OF THE PARTIES**

Nihar Ali, Assistant (BPS-16), Directorate of Industries and Commerce,  
Khyber Pakhtunkhwa.

.....Appellant.

**VERSUS**

- 1) Government of Khyber Pakhtunkhwa through Secretary Establishment and administration Department Civil Secretariat, Peshawar.
- 2) Secretary Industries, Commerce and Technical education, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar
- 3) Directorate of Industries and Commerce, Khyber Pakhtunkhwa, Peshawar
- 4) Mr. Mazhar Ali Shah, Industrial Development Officer BPS 16, Directorate of Industries and Commerce, Khyber Pakhtunkhwa, Peshawar
- 5) Mr. Shahid, Industrial Development Officer BPS 16, Directorate of Industries and Commerce, Khyber Pakhtunkhwa, Peshawar.

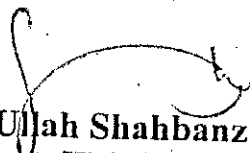
.....Respondents.



**APPELLANT.**

Dated; 18 /04/2024.

Through:-



**(Farhan Ullah Shahbanzai)  
Advocate High Court,  
PESHAWAR**

9

Ameeb

"A"

(A) (7)



PAKISTAN National Identity Card

Name: Nihar Ali



Father's Name: Sabir Ali Khan



Gender/Country of Birth: M / Pakistan

Identity Number: 17301-16614-3-21.05.1967

Date of Issue: 01.06.2017 Date of Expiry: 01.06.2027

Holder's Signature

Lawrence H. Makin  
Secretary General of Pakistan

17301-16614



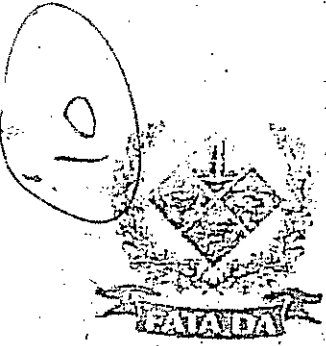
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گمشدہ کارڈ لئے پرتقریبی لیٹر کس میں ڈال دیں

ATTESTED

*(Handwritten signature)*

Annex B



3

FATA Development Authority  
Administration Department  
46-A, Sector B-2, Phase-V, Hayatabad, Peshawar  
Phone (091) 9219517 Fax (091) 9219511

Seniorly List of Assistants (BPS-15)

S. No	Name	Designation	Posting	Date of Joining	Date of Birth	Qualification
1.	Nihar Ali	Assistant	Admn Section	9-Feb-07	21-May-67	MA Islamiat
2.	Shahid	Assistant	PS to GM (Tech)	9-Feb-07	10-Feb-78	MA Islamiat
3.	Mazhar Ali Shah	Assistant	Admn Section	10-Apr-07	18-Dec-72	MA Islamiat
4.	Farman Ali Afridi	Assistant	Pre-Audit	3-Aug-07	1-Dec-80	MCOM
5.	Sadia Jehangir	Assistant	Minerals Section	10-Jan-09	1-Feb-84	BIT
6.	Muhammad Akif Khan	Assistant	Skill Section	10-Jan-09	25-Mar-85	BCS
7.	Usman Tariq	Assistant	P&D Section	3-Feb-09	10-Nov-77	MBA (Finance)
8.	Faheem Ullah	Assistant	Small Dam	1-Jan-09	24-Feb-86	MSC (Chemistry)
9.	Luqman Hakeem	Assistant	Finance	2-Jan-11	22-Mar-87	MS (Business Administration)
10.	Shakeel Ahmad	Assistant	Industries	3-Jan-11	6-Sep-86	BSC
11.	Zaheer Ud Din	Assistant	Ps to GM (P&D)	17-Jan-11	4-Jun-84	MS / M.Phil (CS)

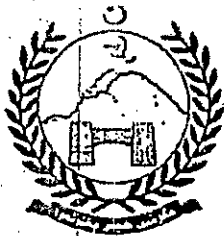
ATTESTED

Assistant Manager (Admn)  
FATA-DA

Annexure - B

Annex C 4

EXTRAORDINARY  
GOVERNMENT



REGISTERED NO. PIII

GAZETTE

11

## KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, WEDNESDAY, 12<sup>th</sup> AUGUST, 2020.

### PROVINCIAL ASSEMBLY SECRETARIAT KHYBER PAKHTUNKHWA

#### NOTIFICATION

Dated Peshawar, the 12<sup>th</sup> August, 2020.

No. PA/Khyber Pakhtunkhwa/Bills-108/2020/3260.— The Federally Administered Tribal Areas Development Authority Regulation (Repeal) Bill, 2020 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 28<sup>th</sup> July, 2020 and assented to by the Governor of the Khyber Pakhtunkhwa on 10<sup>th</sup> August, 2020 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

**THE FEDERALLY ADMINISTERED TRIBAL AREAS DEVELOPMENT AUTHORITY REGULATION  
(REPEAL) ACT, 2020.**

**(KHYBER PAKHTUNKHWA ACT NO. XXIX OF 2020)**

*(First published after having received the assent of the Governor of the  
Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa,  
(Extraordinary), dated the 12<sup>th</sup> August, 2020).*

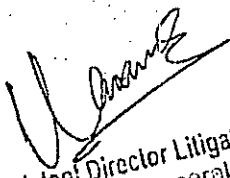
AN  
ACT

*to repeal the Federally Administered Tribal Areas Development Authority  
Regulation, 2006*

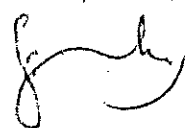
WHEREAS the Federally Administered Tribal Areas Development Authority, established under the Federally Administered Tribal Areas Development Authority Regulation, 2006 and continues to function under the Khyber Pakhtunkhwa Continuation of Laws in Erstwhile Federally Administered Tribal Areas Act, 2019 (Khyber Pakhtunkhwa Act No. XXIV of 2019), after the merger of erstwhile Federally Administered Tribal Areas with the Khyber Pakhtunkhwa Province through the Constitution (Twenty-fifth Amendment) Act, 2018 (Act No. XXXVII of 2018);

AND WHEREAS it is expedient to repeal the Federally Administered Tribal Areas Development Authority Regulation, 2006, in order to dissolve the Federally Administered Tribal Areas Development Authority, in the manner as hereinafter provided:

162

  
Assistant Director Litigation  
Directorate General of  
Industries & Commerce  
Khyber Pakhtunkhwa, Peshawar

ATTESTED



(12)

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It is hereby enacted as follows,-

1. **Short title and commencement.**---(1) This Act may be called the Federally Administered Tribal Areas Development Authority Regulation (Repeal) Act, 2020.

(2) It shall come into force at once.

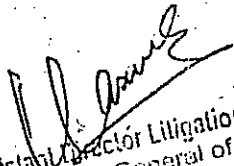
2. **Definitions.**---In this Act, unless the context otherwise requires,-

- (a) "assets" mean all properties and funds at the disposal of the Authority, and all properties, funds and due exchanged for, derived from, or otherwise attributable to the said properties and funds, cash, investments, accounts, receivables, loans granted, inventory, buildings, vehicles, furniture, plant, machinery, joint ventures and official record, which are under the administrative control of the Authority before the promulgation of this Act;
- (b) "Authority" means the Federally Administered Tribal Areas Development Authority, established under the repealed Regulation;
- (c) "employees" mean duly qualified persons, appointed against regular posts of the Authority, except those employed under Article 14 of the Federally Administered Tribal Areas Development Authority (Appointment against Project Posts) Standing Order, 2011;
- (d) "Government" means the Government of Khyber Pakhtunkhwa;
- (e) "project employees" mean the persons, who were appointed against project posts, and presently working in the ongoing projects under the control of the Authority; and
- (f) "repealed Regulation" means the Federally Administered Tribal Areas Development Authority Regulation, 2006, as repealed under section 3 of this Act.

3. **Repeal.**---The Federally Administered Tribal Areas Development Authority Regulation, 2006, is hereby repealed and as a corollary thereof, the Federally Administered Tribal Areas Development Authority, established thereunder, shall stand dissolved.

4. **Employees of the Authority.**--- On promulgation of this Act, employees of the Authority shall be deemed to have been declared surplus and placed at the disposal of the Establishment Department of Government for adjustment or posting as per policy. The Establishment Department of Government shall be the successor for resolving issues of human resources or litigations etc.

Provided that the project employees shall continue their services till the completion of projects of the Authority and thereafter their services shall be deemed to be terminated.

  
Assistant Director Litigation  
Directorate General of  
Industries & Commerce  
Khyber Pakhtunkhwa, Peshawar

ATTESTED



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5. **Assets and liabilities of the Authority.**— On the promulgation of this Act, all the assets and liabilities of the Authority, upon its dissolution, shall stand transferred in the following manner:

- (a) ongoing projects of the Authority alongwith project employees shall be handed over to concerned Administrative Departments of Government; and
- (b) headquarter building, located at Phase-V, Hayatabad, Peshawar and moveable assets of closed projects of the Authority shall be handed over to the Administration Department of Government.

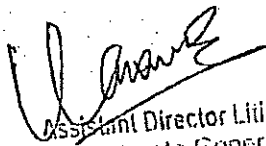
6. **Removal of difficulties.**—The Chief Minister, Khyber Pakhtunkhwa may setup a committee, consisting of such members as deemed appropriate, which shall be responsible to resolve any difficulty arising out of the dissolution of the Authority, not inconsistent with the provisions of this Act and make recommendations for appropriate action.

7. **Repeal of the Khyber Pakhtunkhwa Ordinance No. VII of 2020.**— The Federally Administered Tribal Areas Development Authority Regulation (Repeal) Ordinance, 2020 (Khyber Pakhtunkhwa Ordinance No. VII of 2020) is hereby repealed.

BY ORDER OF MR. SPEAKER  
PROVINCIAL ASSEMBLY OF KHYBER  
PAKHTUNKHWA

(NASRULLAH KHAN KHATTAK)  
Secretary  
Provincial Assembly of Khyber Pakhtunkhwa

Printed and published by the Manager,  
Stary. & Ptg. Deptt., Khyber Pakhtunkhwa, Peshawar

  
Assistant Director Litigation  
Directorate General of  
Industries & Commerce  
Khyber Pakhtunkhwa, Peshawar

ATTESTED



GOVERNMENT OF N.W.F.P.  
ESTABLISHMENT & ADMINISTRATION DEPARTMENT  
(REGULATION WING)

NO. SOR-I(E&AD)-200/98,  
Dated Peshawar the 8<sup>th</sup> June /2001

Annex "D"

14

To

- 1) All Administrative Secretaries in NWFP.
- 2) The Secretary to Governor, N.W.F.P.
- 3) All Commissioners in N.W.F.P.
- 4) All Heads of Attached Department in N.W.F.P.
- 5) All Heads of Autonomous/Semi-Autonomous Bodies in NWFP.
- 6) The Registrar, Peshawar High Court, Peshawar.
- 7) All Districts & Session Judges in NWFP.
- 8) All Deputy Commissioners/Political Agents in NWFP.
- 9) The Secretary, NWFP Public Service Commission, Peshawar.
- 10) The Director, Anti-Corruption Establishment, Peshawar.
- 11) The Registrar, NWFP Service Tribunal, Peshawar.

**SUBJECT: POLICY FOR DECLARING GOVERNMENT SERVANTS AS SURPLUS AND THEIR SUBSEQUENT ABSORPTION/ADJUSTMENT**

Sir,

I am directed to refer to the subject noted above and to say that the Provincial Government has been pleased to make the following policy for absorption/adjustment of Government Servants declared as surplus in view of the transition of District System and resultant re-structuring of the Government Organizations/Departments etc:

1. **POWER WITH REGARD TO THE DECLARATION OF POSTS AS SURPLUS.**

The Finance Department in consultation with Department concerned and with the approval of competent authority would decide with regard to the declaration of a particular organization, set up or individual post as redundant or inessential.

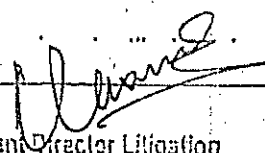
2. **CREATION OF SURPLUS POOL.**

There will be a surplus pools cell in the E&AD. After abolition of such posts in the concerned department, duly notified by the Finance Department, equal number of posts in the corresponding basic pay scales would be created in the E&AD for the purpose of drawl of pay and allowances etc by the employees declared surplus as such.


3. **IMPLEMENTATION/MONITORING CELL.**

For the purpose of coordination and to ensure proper and expeditious adjustment / absorption of surplus staff, the Government of NWFP has been pleased to constitute the following committee:-

- |  |       |           |
|--|-------|-----------|
| a. Additional Secretary (Establishment) E&AD | ..... | Chairman. |
| b. Deputy Secretary LG& RD Department.       | ..... | Member.   |
| c. Deputy Secretary Finance Department.      | ..... | Member.   |
| d. Deputy Secretary (Establishment) E&AD.    | ..... | Secretary |

  
Assistant Director Litigation  
Directorate General of  
Industries & Commerce  
Khyber Pakhtunkhwa, Peshawar

ATTESTED.





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4. CRITERIA FOR DECLARING A GOVERNMENT SERVANT AS SURPLUS AS A RESULT OF ABOLITION OF POST.

Consequent upon the abolition of a post in a particular cadre of a department, the junior most employee in that cadre would be declared as surplus. Such posts should be abolished in the respective departments and created in the surplus pool as indicated in para 2 above for the purpose of drawl of pay and allowances and also for consideration for subsequent adjustment

5. PROCEDURE FOR ADJUSTMENT OF SURPLUS EMPLOYEES.

Notwithstanding anything contained in any other law, rules or regulation to the contrary, for the time being in force, the following procedure for the adjustment of surplus staff would be followed:-

- (a) Before transferring an employee to the surplus pool, he should be given option by the concerned department
  - (i) to proceed on retirement with normal retiring benefits under the existing rules;
- OR
- (ii) to opt for readjustment/absorption against a future vacancy of his status/BPS which may not necessarily be in his original cadre/department.
- (ii) Those who opt for retirement would be entitled for usual pension and gratuity according to the existing Government Servants Pension and Gratuity Rules of the Provincial Government. Those who opt for absorption/re-adjustment, a category-wise seniority list will be caused in the Surplus Pool for their gradual adjustment against the future vacancies as and when occurred in any of the Government Departments. These adjustment shall be on seniority-cum-fitness basis. For this purpose the seniority list will be caused category-wise with reference to their respective dates of appointment in the cadre. In case where dates of appointment of two or more persons are the same, the person older in age shall rank senior and shall be adjusted first.
- (c) Adjustment shall be made on vacant post pertaining to initial recruitment quota from those in the surplus pool in the following manner: -
  - (i) In case of occurrence of vacancies in their corresponding posts in any Government Department/Organization, the senior most employee in the surplus pool should be adjusted first
  - (ii) In case of cross cadre adjustment, the persons with such minimum qualification as prescribed in the relevant Service Rules for the post in question shall be adjusted keeping in view their seniority position.
  - (iii) If an employee possess the basic academic qualification but lacks the professional/technical qualification, he may be adjusted against such post subject to imparting the requisite training.
  - (iv) (a) The surplus employees holding such posts which fall to promotion quota in about all the Departments, he shall remain in the surplus pool till the availability of a post in the parent department.

OR

(b) Where no equivalent post is available the civil servant may be offered a lower post in such manner, and subject to such conditions, as may be prescribed and where such civil servant is appointed to a lower post the pay being drawn by him in the post immediately preceding his appointment to a lower post shall remain protected.

*[Signature]*  
Assistant Director Litigation  
Directorate General of  
Industries & Commerce  
Khyber Pakhtunkhwa, Peshawar

ATTESTED  
*[Signature]*

9-25

16

**DIRECTORATE OF  
INDUSTRIES AND COMMERCE,  
KHYBER PAKHTUNKHWA, PESHAWAR.**

No. 194 /113-DI-Admin

Dated 53/12/2020

Amer  
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To  
The Section Officer (Admin)  
Government of Khyber Pakhtunkhwa,  
Industries, Commerce & Technical Education  
Department, Peshawar.

Subject: FILLING UP THE POSTS OF INDUSTRIAL DEVELOPMENT OFFICER (BPS-16)

I am directed to refer to the subject cited above and to state that Two (02) posts of Industrial Development Officer (BPS-16) is lying vacant in Khyber Pakhtunkhwa under the administrative control of this Directorate falling to the share of initial recruitment quota as per method of recruitment for the said post is as under:-

S. No.	Nomenclature of the post	Minimum qualification prescribed for appointment by initial recruitment	Age	Method of recruitment / appointment
1.	Industrial Development Officer BPS-16	At least Second Class B.B.A/B.A/B.Sc/L.L.B Degree from a recognized University.	21 to 32 years	(a) Fifty percent (50%) by promotion, on the basis of seniority-cum-fitness, from amongst Assistant Industrial Development Officers with five years' service as such, and (b) Fifty percent (50%) by initial recruitment

According to Government of Khyber Pakhtunkhwa, Finance Department circular dated 01.07.2019, regarding absorption of surplus staff, adjustment shall be made on vacant pertaining to the initial recruitment quota from surplus pool and grant of NOC.

It is therefore requested that the Establishment & Administration Department may be approached to depute two (02) suitable Grade-16 officers from the Surplus Pool possessing prescribed qualification for permanent adjustment / absorption against the posts of Industrial Development Officer (BPS-16) in the Khyber Pakhtunkhwa under the administrative control of Directorate. In case no suitable officer is available in the surplus pool then NOC may be issued for filling up the post of Industrial Development Officer (BPS-16) by initial recruitment through Khyber Pakhtunkhwa Public Service Commission.

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Administrative Officer,  
Directorate of Industries & Commerce  
Khyber Pakhtunkhwa, Peshawar

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[Signature]



Industries, Commerce and  
Technical Education Department

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

Dated Peshawar the September 14, 2020

**NOTIFICATION**

*ASL*  
**No. SOE-III (E&AD)1-3/2020/FDA-** In exercise of the power vested under provision of Sr. No. 2 (ii) 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 Mr. Mazhar Ali Shah Assistant (BPS-16) (Surplus Pool of Establishment & Administration Department) at the disposal of Secretary Industries, Commerce & Technical Education Department, Khyber Pakhtunkhwa for further adjustment in the office of Directorate of Industries & Commerce, Khyber Pakhtunkhwa as Industrial Development Officer (BPS-16) w.e.f 20-04-2020 under initial recruitment quota.

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 Industries, Commerce & Technical Education Department.
2. Secretary to Govt. of Khyber Pakhtunkhwa Finance Department.
3. Accountant General, Khyber Pakhtunkhwa.
4. Director Industries & Commerce, Khyber Pakhtunkhwa
5. Section Officer (Admn/Budget & Dev.), E&A 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. Official concerned.
12. Master file.

*Zaman Ali Khan*  
(Zaman Ali Khan)  
Section Officer (E-III)

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*Keep for record*

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(18)  
Annex "G"  
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**DIRECTORATE OF  
INDUSTRIES AND COMMERCE,  
KHYBER PAKHTUNKHWA, PESHAWAR.**

**ORDER**

In pursuance of Government of Khyber Pakhtunkhwa, Establishment Department Notification No. SOE-III (E&AD) 1-3/2020/FDA dated 14.09.2020 and Industries, Commerce & Technical Education Department letter No. E&AD (IND) 9-5/2020/Vol-IV, dated 17.09.2020, Mr. Mazhar Ali Shah, Assistant-BPS-16 (Surplus Pool of Establishment & Administration Department) is hereby adjusted as Industrial Development Officer (BPS-16) in the Directorate of Industries and Commerce, Khyber Pakhtunkhwa w.e.from. 20.04.2020 (F.N) and posted against the vacant post of Industrial Development Officer (BPS-16) District Swabi.

Sd/- Director, IC,  
Khyber Pakhtunkhwa.

Endst: No. 7071-76 16/936-DI-Admn:

Dated. 17/09/2020

Copy of the above is forwarded to:-

1. The District Accounts Officer, Swabi.
2. The Section Officer-III Govt. of Khyber Pakhtunkhwa, Establishment Department, Peshawar with reference to his notification No. SOE-III (E&AD)/ 1-3/2020/FDA dated 14.06.2020.
3. ✓ The Section Officer (Admn) Government of Khyber Pakhtunkhwa, Industries, Commerce & Technical Education, Department, Peshawar with reference to his letter No. E&AD (IND) 9-5/2020/Vol-IV, dated 17.09.2020.
4. The Assistant Director, Industries/ Consumer Protection Council, Swabi.
5. The officer concerned.
6. The personal file of the officer concerned.

Administrative Officer,  
Directorate of Industries & Commerce,  
Khyber Pakhtunkhwa, Peshawar.

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**ATTESTED**





20 Annex I  
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**DIRECTORATE OF  
INDUSTRIES AND COMMERCE  
KHYBER PAKHTUNKHWA, PESHAWAR**

**ORDER**

In pursuance of Government of Khyber Pakhtunkhwa, Establishment Department Notification No.SOE-III(E&AD)1-3/2020/FDA dated 09.10.2020 and Industries, Commerce & Technical Education Department letter No.E&A(IND)9-5/2020/Vol-IV/1197-99, dated 19.10.2020, Mr. Shahid, Assistant-BPS-16 (Surplus Pool of Establishment & Administration Department) is hereby adjusted/absorb as Industrial Development Officer (BPS-16) in the Directorate of Industries and Commerce, Khyber Pakhtunkhwa w.e.from. 01.10.2020 (F.N) under initial quota and posted against the vacant post of Industrial Development Officer (BPS-16) at Kohat.

Sd/- Director, IC,  
Khyber Pakhtunkhwa.

Dated.26/10/2020.

Endst.No. 8385-91 16/936-DI-Admin:

Copy of the above is forwarded to :-

1. The District Accounts Officer, Kohat.
2. The Section Officer (E-II) Govt. of Khyber Pakhtunkhwa, Establishment Department, Peshawar with reference to his notification referred to above for information.
3. The Section Officer (Admn) Government of Khyber Pakhtunkhwa, Industries, Commerce & Technical Education, Department, Peshawar with reference to his letter referred to above for information.
4. The Assistant Director, CPC, Kohat.
5. The Industrial Development Officer, Kohat.
6. The official concerned.
7. Personal file of the official concerned.

Administrative Officer,  
Directorate of Industries & Commerce,  
Khyber Pakhtunkhwa, Peshawar

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D. (B) (21) Annex J  
GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT & ADMINISTRATION  
DEPARTMENT  
(ESTABLISHMENT WING)

Dated Peshawar the October 09, 2020

NOTIFICATION

No. SOE-III (E&AD)1-3/2020/FDA- In exercise of the power vested under provision of Sr. No. 2 (ii) 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 three (03) Assistants (BPS-16) (Surplus Pool of Establishment & Administration Department) at the disposal of Secretary, Industries Commerce and Technical Education Department for their further adjustment in the Directorate of Industries & Commerce, Khyber Pakhtunkhwa against the vacant posts of Assistants (BPS-16) w.e.f 01-10-2020 under initial recruitment quota.

S#	NAME	DESIGNATION
1)	Mr. Nihar Ali	Assistant (BPS-16)
2)	Mr. Faheem Ullah	Assistant (BPS-16)
3)	Mr. Luqman Hakeem	Assistant (BPS-16)

SECRETARY TO GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT

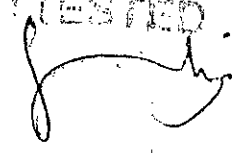
Endst: No. SOE-III (E&AD) 1-3/2020/FDA

Dated Peshawar the October 09, 2020

Copy forwarded to the:

1. Secretary to Govt. of Khyber Pakhtunkhwa, Industries Commerce and Technical Education Department.
2. Secretary to Govt. of Khyber Pakhtunkhwa Finance Department.
3. Accountant General Khyber Pakhtunkhwa.
4. Directorate of Industries & Commerce, Khyber Pakhtunkhwa.
5. Section Officer (Admn/Budget & Dev.), E&A 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)  
Section Officer (E-III)

ATTESTED  


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To

The Secretary to Govt; of Khyber Pakhtunkhwa,  
Industries, Commerce & Technical Education Department,  
Peshawar.

Subject: - REQUEST FOR POSTING AS INDUSTRIAL DEVELOPMENT OFFICER

Respected Sir,

A humbly request that, I was the employee of Ex-FATA Development Authority and was performing duties as Office Assistant (BS-16).

Due to merger of FATA in Khyber Pakhtunkhwa Province, all the employees of Ex-FATA Development Authority adjusted in different directorates of Civil Secretariat of Khyber Pakhtunkhwa.

I have been adjusted with some of my colleagues / Office Assistants in directorate of your good Department i-e Directorate of Industries and Commerce, Peshawar.

It is submitted that, some of our colleagues / Office Assistants are posted as Industrial Development Officers in Directorate of Industries and Commerce, Peshawar.

It is therefore requested that, being senior most amongst my colleagues / Office Assistants (copy enclosed) I may also be posted as Industrial Development Officer (BS-16) in Directorate of Industries and Commerce, Peshawar.

I shall be highly thankful to you for this act of kindness.

Yours faithfully,

(Nihar Ali)  
Assistant (Orakzai)

16/06/2021

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Dated: 16<sup>th</sup> June, 2021

Pl forward to ED  
for comments on channel by  
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091-9210524

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

No. SOE-III (E&AD)1-3/2021/FDA  
Dated Peshawar the 21<sup>st</sup> October, 2021

To

The Secretary to Govt. of Khyber Pakhtunkhwa,  
Industries, Commerce & Technical Education Department.

**SUBJECT: - APPEAL FOR POSTING/ ADJUSTMENT AGAINST THE VACANT POST OF INDUSTRIAL DEVELOPMENT OFFICER (BPS-16)**

R/ Sir,

I am directed to refer to your letter No. E&A(IND)2-61/2021, dated 02-09-2021, on the above cited subject and to state that the subject case has been examined in this Department in the light of law and policy:

- i. As per Section 11-A of the Khyber Pakhtunkhwa Civil Servants Act, 1973, a civil servant who is rendered surplus as a result of re-organization or abolition of a department, office or abolition of a post in pursuance of any Government decision, may be appointed to a post carrying basic pay scale equal to the post held by him before such appointment, if he possesses the qualifications and fulfills other conditions applicable to that post. Similar are the provisions of the Surplus Pool Policy of the Provincial Government.
- ii. The officials concerned/ Assistant (BPS-16), along with others, were rendered surplus on abolition of FDA in pursuance of section 4 of the FATA Development Authority Regulation (Repeal) ordinance, 2020, and were placed in the Surplus Pool of Establishment Department for further adjustment
- iii. Subsequently, they were adjusted as Assistant BPS-16 in the Directorate of Industries. The post carries the same nomenclature and Basic Pay Scale as such their adjustment took place in accordance with the provisions of law and policy. Moreover, Surplus Pool Policy has no provision for readjustment of an employee once adjusted as per the law and policy until he is again rendered surplus due to abolition of post etc.
- iv. Moreover, as per this Department's Instructions, the surplus employee upon his adjustment in the Industries Department, has no link with the Establishment Department and Administrative Department of the adjusted official is now Industries Department. The latter may, therefore, dispose of the case as per their competency under the relevant rules.

Yours faithfully,

(SANA HAFEEZ) 21/10  
SECTION OFFICER (E-III)

Endst. of even No. & date

Copy forwarded to:

1. P.S to Special Secretary (Reg.), Establishment Department
2. P.A to Additional Secretary (Estt.), Establishment Department

SECTION OFFICER (E-III)

ATTESTED

(24)

Annex "M"

**BEFORE THE PESHAWAR HIGH COURT, PESHAWAR**

**WRIT PETITION NO. \_\_\_\_\_ /2022**

Mr. Nehar Ali Assistant BPS (16) Directorate of Industries and  
Commerce, Khyber Pakhtunkhwa Peshawar.  
..... **Petitioner**

**VERSUS**

- 1- The Government of Khyber Pakhtunkhwa through Secretary Establishment and administration Department Civil Secretariat, Peshawar.
- 2- The Secretary Industries Commerce and Technical Education Department, Khyber Pakhtunkhwa, Civil Secretariat Peshawar.
- 3- The Directorate of Industries and Commerce, Khyber Pakhtunkhwa, Peshawar.
- 4- Mr. Mahar Ali Shah, Industrial Development Officer BPS (16) Directorate of Industries and Commerce, Khyber Pakhtunkhwa, Posted at District Swabi.
- 5- Mr. Shahid, Industrial Development Officer BPS (16) Directorate of Industries and Commerce, Khyber Pakhtunkhwa, Posted at District Kohat.


..... **Respondents**

**WRIT PETITION UNDER ARTICLE 199 OF THE  
CONSTITUTION OF ISLAMIC REPUBLIC OF  
PAKISTAN 1973 AS AMENDED UP TO DATE**

**R/SHEWETH:**

**ON FACTS:**

- 1- That the petitioner is the bonafide resident of District Peshawar and a law abiding citizen of Pakistan.  
Copy of CNIC is attached as.....A
- 2- That the petitioner was initially appointed as assistant in the FATA Development Authority Administration Department, issued seniority list of assistants placed the petitioner at Serial No. 1.  
Copy of seniority list is attached as Annexure.....B.
- 3- That due to the merger of FATA with the Province of Khyber Pakhtunkhwa, the FATA Development Authority become abolished and their employees declare as surplus pool employees and their service placed at the disposal of Establishment for further posting/adjustment.

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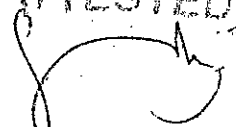
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- 4- That petitioner quit hopeful for his further adjustment/posting but astonishingly the petitioner was ignored despite the fact that petitioner most senior employ and juniors of the petitioner private respondents was adjusted against the vacant post of Industrial Development officer in the respondents department vide different orders. Copies of the orders are attached as Annexure..... C.
- 5- That after the petitioner has been discriminated and not treated as per his juniors colugo adjusted/posted against the vacant post of assistant in the Industries and Commerce department. Copy of the order is attached as annexure.....D.
- 6- That feeling aggrieved the petitioner time and again visited the respondents department to place/adjust him as per there juniors collages against the post of IDO, preferred departmental appeal/representation which was properly corresponded and lastly the establishment and Administration department referred the grievances of the petitioner to the Industries department. Copies of the departmental representation and relevant documents are attached as annexure.....E.
- 7- The petitioner being highly aggrieved and having no other efficacious remedy filed the instant writ petition on the grounds inter alia as under:-

**GROUND:**

- A- That by not adjusting/posting the petitioner against the post of Industrial Development officer by the respondents is against the law, facts and norms of natural justice.
- B- That petitioner has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the constitution of Islamic Republic of Pakistan 1973.
- C- That the respondents violated Surplus pool policy and rules and such act and deed of the respondents is against the law, ethics and fair play.

ATTESTED  


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- D- That, the treatment meted out to the petitioner is a clear violation of the Fundamental Rights of the petitioner enshrined in the Constitution of Pakistan, 1973.
- E- That the respondents acted in arbitrary and malafide manner by ignoring the petitioner from adjusting/posting against the post of Industrial Development officer BPS(16).
- F- That, the petitioner have been discriminated by the respondents on the subject noted above and as such the respondents violated the Principle of Natural Justice.
- G- That the petitioner seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore, most humbly prayed that on acceptance of this writ petition the action and inaction of the respondents by adjusting/posting the private respondents juniors to petitioner against the post of Industrial Development officer and ignoring the petitioner may kindly be declared as illegal, unconstitutional and ineffective upon the rights of the petitioner. That the respondents may kindly be directed to post/adjust the petitioner against the post of Industrial Development officer with all back benefits. Any other remedy which this august Court may deems fit that may also be awarded in favour of the appellat.

**INTERIM RELIEF:** That by way of interim relief the respondents may kindly be directed not to fill up the post of Industrial Development officer (BPS-16) till the final decision of the instant writ petition.

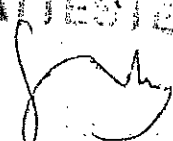
PETITIONER

THROUGH:

ASIM SHAMSHAD

&

UMAR FAROOQ MOHMAND  
ADVOCATES HIGH COURT.

ATTESTED  


VERIFICATION.

PESHAWAR HIGH COURT, PESHAWAR

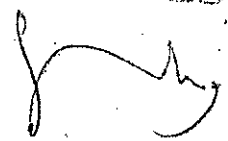
ORDER SHEET

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Date of Order or Proceedings	Order or others Proceedings with Signature of Judge
1	2
22.02.2023	<p><b>W.P No.3050-P/2022</b></p> <p><b>Present: Mr. Umar Farooq Mohmand,</b> <b>Advocate, for petitioner.</b></p> <p><b>Mr. Rab Nawaz Khan, AAG, for the</b> <b>respondents.</b></p> <p>*****</p> <p><b>MUSARRAT HILALI, J.-</b> The instant writ petition has been filed by the petitioner under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, wherein he seeks the following relief:-</p> <p><i>"It is, therefore, humbly prayed that on acceptance of this writ petition, the action and inaction of the respondents by adjusting / posting the private respondents junior to petitioner against the post of Industrial Development officer and ignoring the petitioner may be declared as illegal, unconstitutional and ineffective upon the rights of the petitioner. That the respondents may kindly be directed to post / adjust the petitioner against the post of Industrial Development officer with all back benefits."</i></p> <p>2. Heard. In essence, it is the petitioner's case that he was initially appointed as Assistant in FATA, however, due to merger of FATA with the Province of Khyber Pakhtunkhwa, his services were placed at the disposal of Establishment Department / for further</p>

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posting / adjustment. Stance of the petitioner is that he was waiting for his posting / adjustment but despite the fact, he being senior employee, was ignored and junior to him were adjusted. Against that, petitioner filed departmental appeal / representation before respondent NO.2 which is still pending and has not yet decided.

3. In view thereof, we, without dilating upon the merits of case, direct respondent No.2 to decide the departmental appeal / representation of petitioner, if any, strictly in accordance with law within a fortnight from the date of receipt of this order.

4. Accordingly, the instant writ petition is disposed of in the above terms.


JUDGE

JUDGE

**Announced**  
**22.02.2023**

(DB) Hon'ble Justice Musarrat Hilali  
Hon'ble Mr. Justice Abdul Shakoor

Noor Shah

ATTESTED  




PESHAWAR HIGH COURT, PESHAWAR.

ORDER SHEET

30



Date of Order or Proceedings.	Order or other Proceedings with Signature of Judge or that of parties or counsel where necessary.
01.08.2023	<p><u>COC No. 354-P/2023 in W.P.No. 3050-P/2022 (D).</u></p> <p><u>Present:</u> Mr. Asim Shamshad, Advocate, for petitioner. Mr. Javed Akhtar, AAG, for respondents.</p> <p style="text-align: center;">* * * *</p> <p><u>ISHTIAQ IBRAHIM, J.</u> Through the instant contempt petition, Nihar Ali, the petitioner, sought initiation of contempt proceedings against the respondent for non-compliance of order of this Court dated 22.02.2023, passed in Writ Petition NO-3050-P of 2022, which is reproduced below for ready reference;</p> <p style="text-align: center;"><i>"In view of the above, we, without dilating upon the merits of case, direct respondent No.2 to decide the departmental appeal / representation of petitioner, if any, strictly in accordance with law within a fortnight from the date of receipt of this order."</i></p> <p>2. The respondents were put on notice. The moment the case was taken up for hearing, Mr. Ikramullah, Superintendent Industry Department, came to the rostrum and stated at the bar</p>

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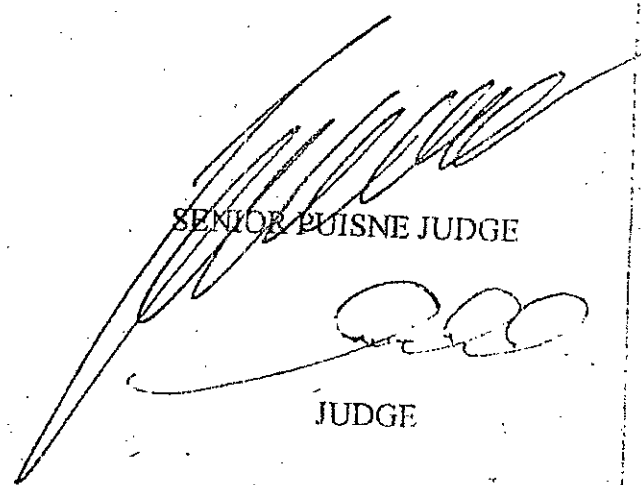
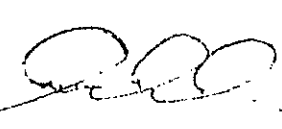
ATTESTED  
EXAMINER  
Peshawar High Court



that the departmental appeal / representation of the petitioner will be decided within a fortnight positively.

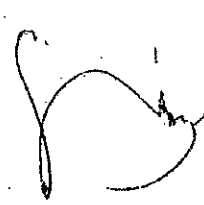
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In light of the undertaking rendered by the representative of respondents, the instant contempt of Court petition is disposed of, with direction to the respondent to decide the departmental appeal / representation of the petitioner within a fortnight positively after affording opportunity of hearing to the petitioner.

  
SENIOR PUISNE JUDGE  
  
JUDGE

6983  
Date of Presentation of Application 30-08-2023  
No of Pages 8-p  
Copying fee 32-00  
Date of Preparation of Copy 30-08-2023  
Date of Delivery of Copy 30-08-2023  
Presented by (Signature)

CERTIFIED TO BE TRUE COPY  
ESAMIL KHAN  
Peshawar High Court  
Authorized Under Section 20 of the  
the Oath and Affidavit Act 1956  
30 AUG 2023



**MOST IMMEDIATE/ COURT MATTER**

*Answer*

9740

No.SO. Lit. IND/5-1(DIC)/2024

**GOVERNMENT OF KHYBER PAKHTUNKHWA  
INDUSTRIES, COMMERCE AND TECHNICAL  
EDUCATION DEPARTMENT.**

091-9213805/ solitind@gmail.com

Tele: \_\_\_\_\_



Dated Peshawar, the 21<sup>st</sup> March, 2024

32

To

**Mr. Nihar Ali (Assistant),  
Industries & Commerce,  
Peshawar.**

Subject:

**PERSONAL HEARING**

Kindly refer to your application dated 19/03/2024 regarding court case titled "COC No. 354-P/2023 in Writ Petition No. 3050-P/2023 Nihar Ali versus Govt. of Khyber Paktunkhwa and others" on the subject noted above and to enclose herewith Speaking Order as desired please.

*N/A*  
*21/3/24*  
SECTION OFFICER (Lit)

Copy for information to the PS to Secretary, Industries Department.

*N/A*  
*21/3/24*  
SECTION OFFICER (Lit)

ATTESTED

*[Signature]*

(33)

Annex "P"

0919213805



GOVERNMENT OF KHYBER PAKHTUNKHWA  
INDUSTRIES, COMMERCE AND TECHNICAL  
EDUCATION DEPARTMENT.

Dated Peshawar, the 2<sup>nd</sup> October, 2023

**SPEAKING ORDER**

No. SO(Lit)/IND/2-335/DIC/2023/3243-45. WHEREAS the Hon'ble Peshawar High Court Peshawar vide its judgment dated. 01.08.2023 in COC No. 354-P/2023 in Writ Petition No. 3050-P/2022 directed that;

*"The instant contempt of Court petition is disposed of with direction to the respondent to decide the departmental appeal/representation of the petitioner within a fortnight positively after affording opportunity of hearing to the petitioner".*

2. **AND WHEREAS** the petitioner Mr. Nihar Ali, was working against the post of Assistant in Ex-FDA and rendered surplus after dissolution of Ex-FDA and his services were placed at the disposal of Secretary Industries, Commerce & Technical Education Department for further adjustment in the Directorate General of Industries and Commerce against the vacant post of Assistant (BPS-16) in accordance with surplus pool policy, the petitioner was appointed / adjusted against the post of Assistant (BPS-16) and assumed the charge as Assistant (BPS-16) in the Directorate General, Industries & Commerce.

3. **AND WHEREAS** after appointment the petitioner submitted departmental appeal for posting as Industrial Development Officer (BPS-16) which was forwarded to Establishment Department for view/ comments.

4. **AND WHEREAS** Establishment Department opined that the surplus pool policy has no provision for readjustment of an employee once adjusted as per law and policy until he is again rendered surplus due to abolition of post, etc.

5. **AND WHEREAS** an opportunity of personal hearing was afforded to the petitioner on 06.09.2023 in light of court orders referred to in above para.

6. **NOW THEREFORE**, Industries, Commerce & Technical Education Department regrets the appeal / representation of the petitioner as there is no provision in the surplus pool policy for readjustment of an employee once adjusted as per law and policy.

SECRETARY to  
Govt. of Khyber Pakhtunkhwa  
Industries, Commerce & Technical Education  
Department, Peshawar

Endst No. SO(Lit)/IND/2-335/2022/

Dated 2<sup>nd</sup> October, 2023

Copy forwarded for information the:-

- Director General, Directorate General Industries & Commerce, Khyber Pakhtunkhwa.
- PS to Secretary Industries, Commerce & Technical Education Department.
- PS to Secretary Establishment Department with reference to their letter No. SO-J(E&AD)-1-3/2021/FDA dated 21/10/2021.

ATTESTED.

6/c

Section Officer (Lit)  
Industries Department

02/10/2023

34



**DIRECTORATE GENERAL,  
INDUSTRIES AND COMMERCE,  
KHYBER PAKHTUNKHWA, PESHAWAR.**

Printing Press Building Shami Road, Peshawar.

No. 2293 /6/976-DI-Admn

Dated. 17/04/2024.

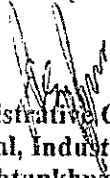
To

Mr. Nihar Ali,  
Assistant (BPS-16),  
Directorate General, Industries & Commerce,  
Khyber Pakhtunkhwa, Peshawar.

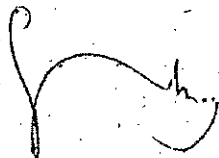
Subject: ISSUANCE OF COPY OF SPEAKING ORDER.

I am directed to refer to your application dated. 27.02.2024, regarding subject cited above and to enclose herewith Speaking Order in Writ Petition No. 3050-P/2022 issued by Industries, Commerce and Technical Education Department, Khyber Pakhtunkhwa, Peshawar.

Encl. A.A.

  
Administrative Officer,  
Directorate General, Industries & Commerce,  
Khyber Pakhtunkhwa, Peshawar.

ATTESTED



35

Spec. Dir. IAS  
19/13

To

The Secretary to Government of Khyber Pakhtunkhwa,  
Industries, Commerce & Technical Education Department.

Subject: - PERSONAL HEARING.

Dear Sir,

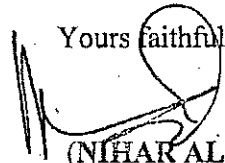
I have the honor to write this application in reference to your letter No. Lit. IND/2-335/2023/2435 dated 4<sup>th</sup> September, 2023 on the subject matter (copy enclosed for ready reference).

I was heard by your good self on 6<sup>th</sup> September, 2023 at 12:00 in my court case titled "COC NO. 354-P/2023 in Writ Petition No. 3050-P/2023 Nihar Ali Versus Government of Khyber Pakhtunkhwa and others".

I want to bring into your kind notice that I have visited the office to collect the minutes of personal hearing dated 6<sup>th</sup> September, 2023 but still not received.

In view of the above, it is humbly requested to kindly provide the minutes of the hearing to be submitted in the court, please.

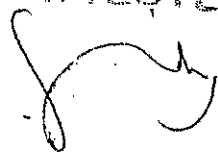
Yours faithfully,



19/03/2024

(NIHAR ALI)  
Assistant (BPS-16)  
Industries & Commerce  
Peshawar.  
(0336-5398209)

ATTESTED



EXTRAORDINARY  
GOVERNMENT

Annexure - VI Annex 11 Q 13



REGISTERED NO. PIII  
GAZETTE

36

**KHYBER PAKHTUNKHWA**

Published by Authority

PESHAWAR, FRIDAY, 20<sup>th</sup> OCTOBER, 2017.

GOVERNMENT OF KHYBER PAKHTUNKHWA  
INDUSTRIES, COMMERCE AND TECHNICAL EDUCATION  
DEPARTMENT

**NOTIFICATION**

Dated 13<sup>th</sup> October, 2017.

No. SO(IND)2-1/91/Vol-IV.— In pursuance of the provision contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Industries, Commerce & Technical Education Department, in consultation with Establishment Department and the Finance Department, hereby directs that in this Department's Notification No. SO(IND)2-1/91/Vol-IV, dated 8<sup>th</sup> June, 2012, the following amendments shall be made, namely:

**AMENDMENT**

In the Appendix.

(a) After Serial No. 3, the following new entries shall be inserted in the respective columns, namely:

1	2	3	4	5
*3-A	Deputy Director Administration (BPS-18)	--	--	By promotion, on the basis of seniority-cum-fitness, from amongst the Administrative Officer and Accounts Officer (BPS-17) with at least five (05) years service as such.

(b) After Serial No. 8, the following new entries shall be inserted in the respective columns, namely:

1	2	3	4	5
*8-A	Registrar (BPS-17)	--	--	By promotion, on the basis of seniority-cum-fitness in the following manner, namely: (a) Seventy five percent (75%) from amongst the Assistants (BPS-16) with five (05) years as such; and (b) Twenty five percent (25%) from amongst Senior Scale Stenographers (BPS-1E) with five (05) years as such.

(c) Against Serial No. 9, in column No. 3, for the existing entry, the following shall be substituted namely:

3  
\*At least Second Class B.B.A./B.A./B.Sc./L.L.B Degree from a recognized University.

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Assistant Director Litigation  
Directorate General of  
Industries & Commerce  
Khyber Pakhtunkhwa, Peshawar

ATTESTED

(d) For Serial No. 11, the following substituted, namely:

1	2	3	4	5
*11	Senior Scale Stenographer (BPS-16)	(i) Second Class Bachelor's Degree from a recognized University; (ii) A speed of 70 words per minute in Shorthand in English and 45 words per minute in typing; and (iii) Knowledge of computer in using MS Word, MS Excel.	20 to 32 years	By promotion, on the basis of seniority-cum-fitness, from amongst the Junior Scale Stenographers with at least five years (05) service as such; Provided that if no suitable candidate available for promotion, then by initial recruitment.

(e) For Serial No. 13, the following substituted, namely:

1	2	3	4	5
*13	Computer Operator (BPS-16)	(i) Second Class Bachelor's Degree in Computer Science/ Information Technology (DCA/ BIT four years) from a recognized University. OR (ii) Second Class Bachelor's Degree from a recognized University with one year Diploma in Information Technology from a recognized Board of Technical Education.	18 to 28 years	By initial recruitment.

(f) For Serial No. 14, the following substituted, namely:

1	2	3	4	5
*14	Junior Scale Stenographer (BPS-14)	(i) Intermediate or equivalent qualifications from a recognized Board; and; (ii) A speed of 50 words per minute in Shorthand in English and 35 words per minute in typing; and (iii) Knowledge of computer in using MS Word, MS Excel.	18 to 28 years	By initial Recruitment.

(g) After Serial No. 14, as so substituted, in the respective columns, the following new entry shall be inserted, namely:

1	2	3	4	5
*14-A	Reader (BPS-14)	(i) At least Second Class F.A./F.Sc. from a recognized Board; and; (ii) Knowledge of Computer in using MS Office, MS Excel.	21 to 32 years.	By initial Recruitment.

(h) Against Serial No. 15, in column No. 5, for the existing entries, the following shall be substituted, namely:

5
(a) Thirty percent (30%) by promotion, on the basis of seniority-cum-fitness, from amongst Consumer Inspectors (BPS-10) with three years service as such;
(b) Seventy percent (70%) by initial recruitment.

(i) After Serial No. 15, as so amended, in the respective columns, the following new entries shall be inserted, namely:

1	2	3	4	5
*15-A	Consumer Inspector (BPS-10)	(i) At least Second Class F.A./F.Sc. from a recognized Board; and; (ii) Computer literate.	21 to 32 years.	By initial Recruitment.

Assistant Director Litigation  
Directorate General of  
Industries & Commerce  
Khyber Pakhtunkhwa, Peshawar

ATTESTED

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(i) For Serial No. 18, the following substituted, namely:

1	2	3	4	5
18	Driver (BPS-06)	Literate having LTV driving license issued by the competent authority. Preference will be given to those who has sufficient experience in driving, repair and maintenance of vehicles.	18 to 40 years	By initial recruitment.

(ii) After Serial No. 19, in the respective columns, the following new entries shall be inserted, namely:

1	2	3	4	5
19-A	Bullish (BPS-04)	Secondary School Certificate from a recognized Board.	18 to 40 years	By initial recruitment.

(i) For Serial No. 18, in the respective columns, the following new entries shall be inserted namely:

1	2	3	4	5
18-A	Process Server (BPS-03)	Middle	18 to 40 years.	By initial recruitment, and

(iii) Against Serial No. 20, in column No. 2 and 4, for the existing entries, the following shall respectively be substituted, namely:

2	4
*Naili Qasid / Dak Runner (BPS-03)	18 to 40 years.

(iv) Against Serial No. 21, 22, 23 & 24 column No. 2 and 4, for the existing entries the following shall respectively be substituted, namely:

	2	4
21	Chowkidar (BPS-03)	18 to 40 years
22	Beheshil (BPS-03)	18 to 40 years
23	Mali (BPS-03)	18 to 40 years
24	Sweeper (BPS-03)	18 to 40 years; and

SECRETARY TO GOVERNMENT OF KHYBER PAKHTUNKHWA  
INDUSTRIES, COMMERCE AND TECHNICAL  
EDUCATION DEPARTMENT

Printed and published by the Manager,  
State & P.G. Dept., (Khyber Pakhtunkhwa, Peshawar)

*[Signature]*  
Assistant Director Litigation  
Directorate General of  
Industries & Commerce  
Khyber Pakhtunkhwa, Peshawar

ATTESTED  
*[Signature]*





GOVERNMENT OF KHYBER PAKHTUNKHWA  
INDUSTRIES, COMMERCE AND TECHNICAL  
EDUCATION DEPARTMENT.

NOTIFICATION

Peshawar, dated the 8<sup>th</sup> June, 2012

No. SOI(LND)2-1/91/Vol-IV: In pursuance of the provisions contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, and in supersession of all previous Rules and Notifications, issued in this behalf, the Industries, Commerce and Technical Education Department, in consultation with the Establishment Department and the Finance Department, hereby lays down, the method of recruitment, qualification and other conditions specified in Column 3 to 5 of the Appendix which shall be applicable to the posts borne in the Directorate of Industries and Commerce, Khyber Pakhtunkhwa, specified in Column No. 2 of the Appendix.

APPENDIX

DIRECTORATE OF INDUSTRIES AND COMMERCE, KHYBER PAKHTUNKHWA.

S.No.	Nomenclature of posts.	Qualification for appointment by initial recruitment.	Age limit.	Method of recruitment.
1.	2 Director (BPS-19).			5. By transfer from amongst Officers of the District Management Group/Provincial Civil Services( Executive Group)/ Provincial Civil Service (Secretariat Group)/Provincial Management Services.
2.	Additional Director (BPS-19).			By promotion, on the basis of seniority-cum-fitness, from amongst Deputy Directors and Chief Inspector of Boilers with at least seven years service in BS-18 or twelve years service in BS-17 and above.
3.	Deputy Director (BPS-18).			By promotion, on the basis of seniority-cum-fitness, from amongst the Assistant Directors with five years service as such.

Director of Industries and Commerce,  
Peshawar

ATTESTED

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4.	Chief Inspector of Boilers (BPS-18).	(i) M.S in Mechanical Engineering (with at least 2 <sup>nd</sup> Division) from a recognized University with three years experience in the relevant field. (ii) B.Sc in Mechanical Engineering (at least 2 <sup>nd</sup> Division) from a recognized University with five years experience in the relevant field. (iii) 1 <sup>st</sup> class certificate of competency from the Board of Examining Engineering under the Boiler Act.	30 to 40 years	(i) By promotion from amongst the inspector of Boilers with at least five years service as such. (ii) If no suitable person is available for promotion, then by initial recruitment.
5.	Inspector of Boilers (BPS-17).	At least 2 <sup>nd</sup> Division B.Sc. Mechanical Engineering or B.Tech (Honour) Mechanical Engineering from a recognized University.	21 to 32 Years.	By initial recruitment.
6.	Assistant Director (BPS-17).	At least 2 <sup>nd</sup> Division Master's Degree in Chemistry, Physics, Business Administration, Public Administration, Economics, Political Science, Statistics, commerce, Mathematics, Computer Science, Mechanical, Textile, Electrical, Agriculture Engineering or LLB from a recognized University.	21 to 32 years.	(a) Sixty percent (60%) by promotion, on the basis of seniority-cum-fitness, from amongst the Industrial Development Officers, with five years service as such; and (b) Forty percent (40%) by initial recruitment.
7.	Administrative Officer (BPS-17).			By promotion, on the basis of seniority-cum-fitness, from amongst the Superintendents, with five years service as such.
8.	Accounts Officer (BPS-17).	Master's Degree with at least 2 <sup>nd</sup> Division in M.Com, MBA, CA or B.Com (Hons), from a recognized University.	21 to 32 years.	By initial recruitment.
9.	Industrial Development Officer (BPS-16).	Master's Degree with at least 2 <sup>nd</sup> Division in Business Administration, Public Administration, Commerce, Political Science, Mathematics, Economics, Statistics, Chemistry, Physics or LLB from a recognized University.	21 to 32 years.	(a) Fifty percent (50%) by promotion, on the basis of seniority-cum-fitness, from amongst Assistant Industrial Development Officers with five years service as such; and (b) Fifty percent (50%) by initial recruitment.
10.	Superintendent (BPS-16).			(a) Seventy-five (75%) percent by promotion, on the basis of seniority-cum-fitness, from amongst the Assistants with five years service as such; and (b) Twenty five percent (25%) by promotion, on the basis of seniority-cum-fitness, from amongst the Senior Scale Stenographers with five years service as such.
11.	Senior Scale Stenographer (BPS-15).			By promotion, on the basis of joint seniority-cum-fitness, from amongst Junior Scale Stenographers and Computer Operators subject to clearance of Departmental test of Shorthand with a

ADDITIONAL

Administrative Officer  
Department of Industries & Commercial  
Kochi Palakkad District, Palakkad

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				speed of fifty words per minute in English with three years service as such.
12	Assistant (BPS-14)	Bachelor's Degree from a recognized University with at least 2 <sup>nd</sup> Division.	21 to 32 years.	(a) Sixty-five(65%) percent by promotion, on the basis of seniority-cum-fitness, from amongst the Senior Clerks, with three years service as such, and (b) Thirty-five(35%) percent by initial recruitment.
13	Computer Operator (BPS-12)	Bachelor's Degree with at least 2 <sup>nd</sup> Division from a recognized University, with one year Diploma in Information Technology or its equivalent qualification from Board of Technical Education.	21 to 32 years.	By initial recruitment.
14	Junior Scale Stenographer (BPS-12)	(a) F.C.S. (Faculty of Computer Science) with at least 2 <sup>nd</sup> Division from a recognized Board; and (b) a speed of fifty words per minute in shorthand in English and thirty five words per minute in typing.	18 to 32 years.	By initial recruitment.
15	Assistant Industrial Development Officer (BPS-11)	Bachelor's Degree (at least 2 <sup>nd</sup> Division) from a recognized University, in Physics, Chemistry, Commerce, Economics, Mathematics or Statistics as one of the subject.	21 to 32 years.	By initial recruitment.
16	Senior Clerk (BPS-09)			By promotion, on the basis of seniority-cum-fitness, from amongst the Junior Clerks with three years service as such.
17	Junior Clerk (BPS-07)	(a) Secondary School Certificate with at least 2 <sup>nd</sup> Division from a recognized Board; (b) a speed of thirty words per minute in typing, and (c) Computer literate.	18 to 32 years	(a) Thirty percent(30%) by promotion, on the basis of seniority-cum-fitness, from amongst the Daftaris, who have passed Secondary School Certificates Examination with two years service as such, or (b) If no suitable Daftari is available then by promotion from amongst the Naib Qasids, Chowkidars, Mali, Bhishti, Dak Runner and Sweeper etc, who have passed Secondary School Certificate Examination with two years service as such; and (c) Seventy percent(70%) by initial recruitment.
18	Driver (BPS-04)	Having a valid Driving Licence of Heavy Transport Vehicle/Light Transport Vehicle; with at least five years experience of practical driving.	18 to 32 years.	By initial recruitment.
19	Daftari (BPS-02)			By promotion, on the basis of seniority-cum-fitness from amongst the Naib Qasids, Chowkidars, Malis, Bhishti, Dak Runners and Sweepers who have passed at least middle with

ATTENDED

Director of Public Health  
Khyber Pakhtunkhwa, Peshawar

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				two years service as such.
20.	Naib Qasid/ Dak Runner (BPS-01).	Literate		By initial recruitment.
21.	Chowkidar (BPS-01).		18 to 35 years.	By initial recruitment.
22.	Bhishti (BPS-01).		18 to 35 years.	By initial recruitment.
23.	Mali (BPS-01).		18 to 35 years.	By initial recruitment.
24.	Sweeper (BPS-01).			

Secretary to Government of Khyber Pakhtunkhwa,  
Industries, Commerce & Technical Education Department

Dated Peshawar the 8<sup>th</sup> June, 2012.

Endst. No. SOI (IND)2-1/91/Vol-IV 71 8607973  
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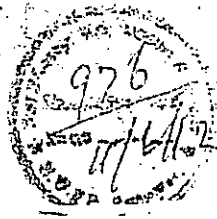
1. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
2. Secretary to Governor, Khyber Pakhtunkhwa, Peshawar.
3. Secretary to Chief Minister, Khyber Pakhtunkhwa, Peshawar.
4. All Head of Attached Department.
5. All DCOs in Khyber Pakhtunkhwa.
6. All Distt. & Session Judges, Khyber Pakhtunkhwa.
7. Registrar Peshawar High-Court Peshawar.
8. Secretary, Board of Revenue, Khyber Pakhtunkhwa.
9. Registrar, Service Tribunal, Khyber Pakhtunkhwa, Peshawar.
10. P.S to Minister for Industries & Commerce, Khyber Pakhtunkhwa.
11. The section Officer (Regulation-I) Govt. of Khyber Pakhtunkhwa, Establishment Department.
12. The Director, Industries & Commerce, Khyber Pakhtunkhwa, Peshawar.
13. The Manager, Printing & Stationery Department, Peshawar with the request to provide ten printed copies of the Gazette notification for onward submission to Law Department.

ATTACHED

AD (Admin)

(Mohammad Ayaz Khan Momand)  
Section Officer (Admin)

Administrative Officer  
Directorate of Industries & Commerce,  
Khyber Pakhtunkhwa Peshawar.



11/6/12

Annexure - 7

KEYBER PAKHTUNKHWA CIVIL SERVANTS ACT 1973  
(UPDATED UPTO 20th JAN 2009)

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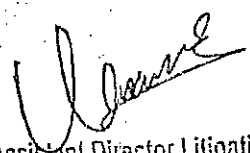
THE KHYBER PAKHTUNKHWA CIVIL SERVANTS ACTS, 1973  
(KHYBER PAKHTUNKHWA. Act No. XVIII of 1973)

*An Act to regulate the appointment of persons to, and the terms and conditions of service of persons in, the service of the North West Frontier Province.*

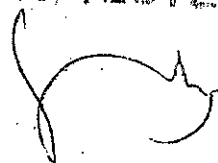
**Preamble-** WHEREAS it is expedient to regulate by law, the appointment of persons to, and the terms and conditions of service of persons in, the service of the North West Frontier Province, and to provide for matters connected therewith or ancillary thereto;

**3 11-A. Absorption of civil servants rendered surplus.** Notwithstanding anything contained in this Act, the rules made there-under, any agreement, contract or the terms and conditions of service, a civil servant who is rendered surplus as a result of reorganization or abolition of a department, office or abolition of a post in pursuance of any Government decision may be appointed to a post, carrying basic pay scale equal to the post held by him before such appointment, if he possesses the qualifications and fulfils other conditions applicable to that post:

Provided that, where no equivalent post is available, he may be offered a lower post in such manner and subject to such conditions as may be prescribed, and where such civil servant is appointed to a lower post, the pay being drawn by him in the higher post immediately preceding his appointment to a lower post shall remain protected".

  
Assistant Director Litigation  
Directorate General of  
Industries & Commerce  
Khyber Pakhtunkhwa, Peshawar

ATTESTED



THE KHYBER PAKHTUNKHWA CIVIL SERVANTS  
(APPOINTMENT, PROMOTION & TRANSFER) RULES, 1989

8  
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PART-I

GENERAL

1. **Short title and commencement:** - (1) These rules may be called the <sup>2</sup>[Khyber Pakhtunkhwa] Civil Servants (Appointment, Promotion and Transfer) Rules, 1989.

(2) They shall come into force at once.

2. **Definitions:**-(1) In these rules, unless the context otherwise requires:-

(a) "Appointing Authority" in relation to a post, means the persons authorized under rule 4 to make appointment to that post;

(b) "Basic Pay Scale" means the Basic Pay Scale for the time being sanctioned by Government, in which a post or a group of posts is placed;

(c) "Commission" means the <sup>3</sup>[Khyber Pakhtunkhwa] Public Service Commission;

<sup>4</sup>(d) "Departmental Promotion Committee" means a committee constituted for making selection for promotion or transfer to such posts under a Department, or offices of Government, which do not fall within the purview of the Provincial Selection Board;

<sup>5</sup>(dd) "Departmental Selection Board" means a Board constituted for the purpose of making selection for initial recruitment /appointment to posts under a Department or office of Government in Basic Pay Scale 17 not falling within the purview of the Commission;

Provided that more than one such committees may be constituted for civil servants holding different scales of pay".

(e) "Departmental Selection Committee" means a committee constituted for the purpose of making selection for initial appointment to posts under a department, or office of Government [in Basic Pay Scale 17 and below not falling within the purview of the Commission];

(f) "Post" means a post sanctioned in connection with the affairs of the Province, but not allocated to all Pakistan Unified Grades ; and


<sup>1</sup> For the words "NWFP" or "North-West Frontier Province", wherever occurred, the words "Khyber Pakhtunkhwa" substituted by the Khyber Pakhtunkhwa Laws (Amendment) Act, 2011 (Khyber Pakhtunkhwa Act No. IV of 2011) published in the Khyber Pakhtunkhwa Government Gazette Extraordinary dated 2<sup>nd</sup> April, 2011

<sup>2</sup> Sub. by the Khyber Pakhtunkhwa Act No. IV of 2011.

<sup>3</sup> Sub. by the Khyber Pakhtunkhwa Act No. IV of 2011.

<sup>4</sup> Substituted by Clause (d) of sub-rule (1) of Rule 2 vide Notification No. SOR-I (S&GAD) 4-1/80 (Vol-II) dated 14-01-92.

<sup>5</sup> Clause (dd) added by Notification No. SOR-III (S&GAD) 2-7/86, dated 8-12-1994

  
Assistant Director Litigation  
Directorate General of  
Industries & Commerce  
Khyber Pakhtunkhwa, Peshawar

ATTESTED



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(g) "Provincial Selection Board" means the Board constituted by Government for the purpose of selection of civil servants for promotion or transfer to posts in respect whereof the appointing authority under rule 4 is the Chief Minister and shall consist of such persons as may be appointed to it by Government from time to time.

(2) Words and expressions used but not defined in these rules shall have the same meanings as are assigned to them in the <sup>7</sup>[Khyber Pakhtunkhwa] Civil Servants Act, 1973 (<sup>8</sup>[Khyber Pakhtunkhwa] Act XVIII of 1973) or any other statutory order or rules of Government for the time being in force.

3. **Method of Appointment:-** (1) Appointment to posts shall be made by any of the following methods, namely:-

- (a) by promotion or transfer in accordance with the provisions contained in Part-II of these rules; and  
(b) by initial recruitment in accordance with the provisions contained in Part-III of these rules.

(2) The method of appointment, qualifications and other conditions applicable to a post shall be such as laid down by the Department concerned in consultation with the <sup>9</sup>Establishment and Administration Department and the Finance Department.

4. **Appointing Authority:-** The authorities competent to make appointment to posts in various basic pay scales shall be as follows:-

S.No. !	Posts !	Appointing Authority
<sup>10</sup> 1. (a)	Posts in Basic Pay Scale 18 and above including posts in Basic Pay Scale 17 borne on any of the following services; (i) Former Provincial Civil Service (Executive Branch); (ii) Former Provincial Civil Service (Judicial Branch); and (iii) Provincial Civil Secretariat Service.	Chief Minister
<sup>11</sup> (b)	Posts in Basic Pay Scale 17	Chief Secretary

<sup>6</sup> Clause (g) substituted by Notification No. SOR-I(S&GAD) 4-1/80/II, dated 14-01-1992.

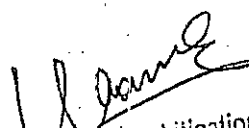
<sup>7</sup> Sub. by the Khyber Pakhtunkhwa Act No. IV of 2011.

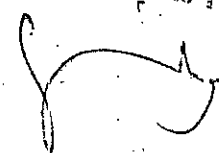
<sup>8</sup> Sub. by the Khyber Pakhtunkhwa Act No. IV of 2011.

<sup>9</sup> For the words "Services and General Administration" wherever occurred, substituted with the words "Establishment and Administration" by Notification No. SO(O&M) E&AD/8-6/2001 dated 30-05-2001.

<sup>10</sup> Substituted by Notification No. SOR-I(S&GAD)4-1/75/Vol-I, dated 22-08-1991.

<sup>11</sup> Substituted by Notification No. SOR-III(E&AD)2(144)03 dated 16-09-2003.

  
Assistant Director Litigation  
Directorate General of  
Industries & Commerce  
Khyber Pakhtunkhwa, Peshawar

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other than those covered by  
(a) above and the post of  
Deputy Superintendent of  
Police; and.

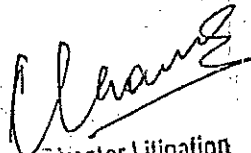
46

<sup>12</sup>(c) Posts of Deputy Superintendents  
of Police.

Provincial Police Officer/  
Inspector General of Police.

2. Posts in Basic Pay Scale 16.

(a) In the case of Secretariat of the  
Government of <sup>13</sup>[Khyber Pakhtunkhwa],  
the Chief Secretary.

  
Assistant Director Litigation  
Directorate General of  
Industries & Commerce  
Khyber Pakhtunkhwa, Peshawar

<sup>12</sup> Inserted by Notification No. SOR-III(E&AD)2(144)03 dated 16-09-2003.

<sup>13</sup> Sub. by the Khyber Pakhtunkhwa Act No. IV of 2011.

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(b) In case of High Court, the Chief Justice; and

(c) In the case of Attached Department:

(i) the Head of Attached Department concerned; and

(ii) In any other case the Secretary of the Department concerned.

3. Posts in Basic Pay Scales 3 to 15.

(a) In the case of civil Servants borne on ministerial establishment of Civil Courts subordinate to High Court, the officer authorized as such by the Chief Justice; and

(b) In other cases

(i) an officer declared under the relevant Delegation of Powers Rules, which shall to this extent be deemed as operative; or

(ii) Where no such appointing authority has been declared, the Secretary to Government or the Head of an Attached Department/ Office, as the case may be.

4. posts in Basic pay Scale 1 and 2.	Deputy Secretary incharge of Administration or office, , as the care may be
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5. <sup>14</sup>Departmental Promotion & Selection Committee/Board- (1) In each Department or office of Government there shall be one or more Departmental Promotion Committee and Departmental Selection Committee <sup>15</sup>(or, as the case may be, Departmental Selection Board), the composition of which shall be determined by the Establishment and Administration Department or the Department in consultation with the Establishment and Administration Department.

(2) Each such Committee (or the Board, as the case may be), shall consist of at least three members, one of whom shall be appointed as Chairman.

<sup>14</sup> The heading of rule 5 substituted by Notification No. SOR-I(S&GAD)2-7/86, dated 8-12-1994.

<sup>15</sup> The words inserted by Notification No. SOR-III(S&GAD)2-7/86, dated 8-12-1994

*U. Aslam*  
Assistant Director Litigation  
Directorate General of  
Industries & Commerce  
Khyber Pakhtunkhwa, Peshawar

*ATK*  
*[Signature]*

Tele:



(48) 2  
GOVERNMENT OF KHYBER PAKHTUNKHWA  
INDUSTRIES, COMMERCE AND TECHNICAL  
EDUCATION DEPARTMENT

No. E&(IND)9-5/2020/Vol-IV

Dated Peshawar, the 17<sup>th</sup> September, 2020

To

The Director,  
Industries and Commerce,  
Peshawar.

/9005

Subject: - FILLING UP THE POSTS OF INDUSTRIAL DEVELOPMENT OFFICER (BPS-16)

I am directed to refer to your letter No. 124/1/13/DI-Admn dated 03.01.2020 on the subject noted above and to forward herewith a copy of Establishment Department Notification bearing No. SOE-III (E&AD) 1-3/2020/FDA dated 14.09.2020 whereby services of Mr. Mazhar Ali Shah, Assistant (BS-16) (Surplus Pool<sup>B</sup> of Establishment & Administration Department) have been placed at the disposal of Secretary, Industries, Commerce & Technical Education, Khyber Pakhtunkhwa for further adjustment in Directorate of Industries and Commerce, Peshawar as Industrial Development Officer (BS-16) w.e.f 20.04.2020 under initial recruitment quota.

It is therefore requested that necessary action may be taken accordingly at your own level.

Endst: No. & Date Even:

Copy forwarded for information to:-

1. Section Officer (E-III), Establishment Department, Peshawar.
2. PS to Secretary, IC&TE Department, Peshawar.

9c SECTION OFFICER (ADMN)

17/9/2020

SECTION OFFICER (ADMN)

19/9/2020

17/09/2020

ATTESTED

*[Signature]*



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
(HRD WING)

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No. SO (HRD-II)/ED/1-10/2021 (RTI)/Nihar Ali  
Dated Peshawar the 27<sup>th</sup> January, 2022

To

Mr. Nihar Ali (Assistant BS-16),  
Directorate General, Industries and Commerce, KP,  
C/o Section Officer (Admn),  
Industries Department (0336-5398209).

Subject: REQUEST FOR PROVISION OF INFORMATION UNDER RTI ACT, 2013.

I am directed to refer to your application dated 15-11-2021 on the subject noted above and to state that the meeting referred to in your request for provision of information under RTI Act, 2013 was an in-house discussion for understanding the issue and no formal minutes have been approved/issued in this regard.

Public Information Officer (PIO)  
Establishment Department

UMAR PN

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قیمت 50 روپے

30508

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

ایڈوکیٹ: مصرحان اللہ سہانزی

بار کونسل ایسوسی ایشن نمبر: 31-31-11-BX

رابطہ نمبر: 22 د 71 91 71-0321



بعدالت جناب: حسرت بخش خواجہ کے سرسوں کے لئے

منجانب: <u>ایڈوائس</u>	دعویٰ: <u>سے اس ایل</u>
<u>بہار علی</u> <u>بنام</u> <u>حکومت KP مزور</u>	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:

**باعث تحریر آنگہ**

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ آن مقام سور کلبہ عباد الرحمن سند مصرحان اللہ سہانزی کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کال اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقررات و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق ذریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری کی طرف یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگہبانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی ہو 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 پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جائزہ 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، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے



المرقوم: 17/04/2024

الع ہد گواہ شد الع ہد

مقام کے لیے منظور ہے۔

Accepted by

[Signature]

پشاور ایسوسی ایشن (BPS-16) ڈائریکٹر جنرل کھارن صاحب خیبر پختونخواہ

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