


# FORM OF ORDER SHEET

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

**Appeal No. 719/2024**


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	29/05/2024	<p>The appeal of Mr. Akbar Ali resubmitted today by Mr. Fazal Shah Mohmand Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar 31.05.2024. Parcha Peshi given to the counsel for the appellant.</p> <p>By the order of Chairman  REGISTRAR</p>

The appeal of Mr. Akbar Ali received today i.e on 17.05.2024 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

- 1- Annexures of the appeal are unattested.
- 2- Check list is not attached with the appeal.
- 3- Index of the appeal is incomplete.
- 4- Appeal has not been flagged/marked with annexures marks.
- 5- Memorandum of appeal is not signed by the appellatant.
- 6- Annexures/documents attached with the appeal are not in sequence.
- 7- Affidavit is not attested by the Oath Commissioner.
- 8- Wakalat nama attached with the appeal is blank.
- 9- 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. 52 /Inst;/2024/KPST,

Dt. 20/05 /2024.

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.


Fazal Shah Mohmand Adv.  
High Court Peshawar.

Resit,

Re submitted after remove

and the objections.

Dated 27/05/2024

Fazal Shah Mohmand Adv.  


**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**

**PESHAWAR**

C.M. No \_\_\_\_\_/2024

In

Service Appeal No 719 /2024

Akbar Ali .....Appellant

**VERSUS**

Govt. & Others. ....Respondents

**APPLICATION FOR FIXATION OF TITLED SERVICE APPEAL AT PRINCIPLE SEAT OF THIS HONORABLE TRIBUNAL AT PESHAWAR.**

**Respectfully Submitted:-**

1. That the above titled service appeal is being filed today i.e 17-05-2024 in which no date of hearing is fixed.
2. That the relevant contesting respondents as well as the counsel of the appellant are seated at Peshawar hence the applicant requests for fixation of the titled Service Appeal at principal seat of this honorable Tribunal at peshawar.
3. That the rules on the subject are also very much clear which favors fixation of Service Appeals at the convenience of the parties.
4. That there is no legal bar on fixation of titled Service Appeal at principal seat of this honorable Tribunal which would rather cause convenience to the parties.

**It is therefore most humbly prayed, that on acceptance of this application, the titled Service Appeal, may kindly be fixed at the principal seat of this honorable Tribunal at Peshawar for preliminary hearing at principle seat Peshawar.**

**Dated:--17-05-2024**

**Appellant**

**Through**

  
**Fazal Shah Mohmand**  
**Advocate Peshawar.**

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

Service Appeal No 719 /2024

Akbar Ali.....Appellant

**V E R S U S**

Govt. & others.....Respondents

**I N D E X**

S. No	Description of Documents	Annexure	Pages
1.	Service Appeal with Affidavit		1-5
2.	Copy of Letter dated 09-02-2011	A	6-7
3.	Copies of Section 11-B, titled page of Writ Petition, Judgment dated 18-04-2018 & Order dated 06-01-2020	B, C & D	8-20
4.	12 (2) Petition, COC Petition & Order dated 15-12-2020	E, F & G	21-32
5.	Copies of COC Petition No 90-M/2021, Letter dated 25-02-2021, Notification dated 21-01-2022 & Order dated 13-04-2022	I, J & K	33-43
6.	Copies of Office Orders dated 19-02-2020, Office Order dated 02-03-2020 & List of Salaries	L, M	44-49
7.	Copy of Letter dated 22-06-2020	N	50
8.	Copies of Notification dated 22-09-2022 & Letters dated 14-10-2022	O	51-52
9.	Copy of Order dated 02-01-2024, Departmental Appeal dated 19-01-2024 with covering Letter	P, Q	53-55
10.	Copy of Inquiry Report	R	56-62
11.	Copies of documents & Letters	S	63-84
12.	Vakalat Nama		85

Dated:-16-05-2024

Through

Appellant

  
Fazal Shah Mohmand  
Advocate,  
Supreme Court of Pakistan

OFFICE:- Cantonment Plaza Flat 3/B Khyber Bazar Peshawar Cell# 0301 8804841  
Email:- fazalshahmohmand@gmail.com

①

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

Khyber Pakhtunkhwa  
Service Tribunal

Service Appeal No 719 /2024

Diary 12868

Dated 17-05-2024

Akbar Ali, Waiter (BPS-06), Pakistan Austrian Institute of Tourism & Hotel Management (PAITHOM), Camp Office, Saidu Sharif Swat

.....Appellant

**V E R S U S**

1. Government of Khyber Pakhtunkhwa through Secretary, Culture, Tourism, Archeology & Museum Department, Peshawar.
2. Chief Instructor/Incharge Pakistan Austrian Institute of Tourism and Hotel Management, Shagai, Swat.

.....Respondents

**APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL ACT 1974 AGAINST THE OFFICE ORDER DATED 02-01-2024, WHEREBY THE PROMOTION ORDER OF THE APPELLANT ISSUED VIDE OFFICE ORDER BEARING NO 3(1)/2011/PAITHOM-ADMN/VOL/IV DATED 19-02-2020 HAS BEEN WITHDRAWN AND AGAINST WHICH DEPARTMENTAL APPEAL OF THE APPELLANT HAS NOT BEEN RESPONDED SO FAR DESPITE THE LAPSE OF MORE THAN THE STATUTORY PERIOD OF NINETY DAYS.**

**PRAYER:-**

On acceptance of this appeal the impugned Office Order dated 02-01-2024 to the extent of the appellant, may kindly be set aside and the Promotion Order of the appellant dated 19-02-2020 may kindly be restored with all back benefits.

**Respectfully Submitted:-**

1. That the appellant was initially appointed as Waiter on Contract basis in May 2006 in the Ministry of Tourism, Government of Pakistan and his services were regularized subsequent to the Establishment Division Office Memorandum dated 29-08-2008, vide Order/Letter dated 09-02-2011 and since appointment he performed his duties with honesty and full devotion and to the entire satisfaction of his high ups. **(Copy of Letter dated 09-02-2011 is enclosed as Annexure A).**
2. That after Eighteenth Constitutional Amendment, the Federal Ministry of Tourism was devolved into Provinces and consequently the services of the appellant were also devolved to the province of Khyber Pakhtunkhwa however the Khyber Pakhtunkhwa Govt. was reluctant to accept the appellant along

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with others, as Civil Servants despite amendment in the Khyber Pakhtunkhwa Civil Servants Act 1973, by inserting Section 11-B, so the appellant along with were constrained to file Writ Petition No 507-M/2017 for the purpose which was allowed vide Judgment dated 18-04-2018 with directions to treat the appellant along with others as Civil Servants by extending them all service benefits. The CPLA No 556-558-P of 2018 filed by the Govt. was also dismissed with permission to file petition under Section 12(2) CPC vide Order dated 06-01-2020. **(Copy of Section 11-B, titled page of Writ Petition, Judgment dated 18-04-2018 & Order dated 06-01-2020 is enclosed as Annexure B, C & D).**

3. That the department thus filed petition under Section 12 (2) CPC in the stated Writ Petition and the department was also not ready to implement the Judgment dated 18-04-2018, so the appellant along with others filed COC Petition No 54-M/2019, the 12(2) petition filed by the Govt. was dismissed while the COC petition filed by the appellant was disposed with directions to respondents to implement the above stated Judgment vide Order dated 15-12-2020. **(Copy of 12 (2) Petition, COC Petition & Order dated 15-12-2020 is enclosed as Annexure E, F & G).**
4. That even then the department was not ready to implement the Judgment dated 18-04-2018, so the appellant along with others filed another COC Petition No 90-M/2021, and the matter was also sent to the Khyber Pakhtunkhwa law department for opinion and the law department opined for the conditional implementation of the stated Judgment vide letter dated 25-02-2021, thus during the pendency of stated COC Petition, the services of the appellant along with others were regularized vide Notification dated 21-01-2022 and thus the COC Petition was withdrawn vide Order dated 13-04-2022, against the dismissal of 12 (2) CPC Petition, the department has approached the Apex Court. **(Copy of COC Petition No 90-M/2021, Letter dated 25-02-2021, Notification dated 21-01-2022 & Order dated 13-04-2022 is enclosed as Annexure H, I, J & K).**
5. That the appellant along with other colleagues were promoted to various positions, the appellant was promoted as Cashier (BPS-07) vide Office Order issued vide No 3 (1/ 2011/PAITHOM-ADMN/Vol-IV dated 19-02-2020 while his other colleagues were promoted vide No 3 (1/ 2011/PAITHOM-ADMN/Vol-IV dated 02-03-2020 and the appellant along with his colleagues were paid salaries of the promoted post from February 2020 to May 2020. **(Copies of Office Orders dated 19-02-2020, Office Order dated 02-03-2020 & List of Salaries is enclosed as Annexure L & M).**

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6. That strangely the stated promotion orders mentioned above were held in abeyance till the final outcome of Court proceedings which order was communicated vide Letter dated 22-06-2020, without assigning any reason. **(Copy of Letter dated 22-06-2020 is enclosed as Annexure N).**
7. That upon application of the appellant, the matter routed through in the department, inquiry committee was also constituted to look into the matter and even the appellant was also called for personal hearing time and again but of no avail. **(Copy of Notification dated 22-09-2022 & Letters dated 14-10-2022 are enclosed as Annexure O).**
8. That against the impugned Order dated 22-06-2020, the appellant after availing departmental remedy filed Service Appeal No 1618/2023 wherein reply was submitted and in reply it was disclosed that the promotion order of the appellant has been withdrawn subsequent to Letter dated 29-12-2023 vide Office Order dated 02-01-2024, so against the said order, the appellant filed departmental on 19-01-2024, which has not been responded so far despite lapse of more than the statutory period of ninety days. **(Copy of Order dated 02-01-2024, Departmental Appeal dated 19-01-2024 with covering Letter is enclosed as Annexure P & Q).**
9. That the impugned order dated 02-01-2024 to the extent of the appellant whereby his promotion order has been withdrawn, is against the law, facts and principles of natural justice on grounds inter-alia as follows:-

**GROUNDS:-**

- A. That the impugned Order to the extent of the appellant is illegal, unlawful, without lawful authority and void.
- B. That the appellant is not treated in accordance with law and rules which being his fundamental right as per Article 4, 10-A and 25 of the Constitution and law of the land.
- C. That no Charge Sheet was issued to the appellant, thus no charge was framed against him.
- D. That no Show Cause Notice was issued to the appellant, thus the impugned Order is liable to be set at naught on this score alone.
- E. That no proper inquiry was conducted in the matter, no one was examined in presence of the appellant, nor was ever the appellant afforded opportunity of cross examination.

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- F. That the appellant along with other colleagues were promoted in February & March 2020 by which time even the 12 (2) CPC petition of the department was dismissed by the honorable High Court and after which the appellant was promoted, upon production of same in the High Court the COC petition was withdrawn hence holding the same in abeyance amounts to Contempt of Court.
- G. That the impugned order has been passed in utter violation of law and rules, as the appellant was not provided opportunity of hearing, thus condemned unheard.
- H. That even inquiry conducted against the respondent No 2 of granting promotion to the appellant and others have recommended that the department should frame Service Rules through Service Standing Rules Committee for improving the performance of the department but with no fruits so far. **(Copy of inquiry report is enclosed as Annexure R).**
- I. That the appellant has been discriminated as two colleagues of the appellant promoted are not only performing their duties rather they have been promoted to BPS-17 even despite the fact that they are low qualified than the appellant. Even their posts were abolished and new posts were also created for their new post which speaks of anything but not fair and bonafide. **(Copies of documents & Letters are enclosed as Annexure S).**
- J. That no case is pending in any Court against the promotion order of the appellant hence too the impugned order/letter is not tenable and liable to be set at naught.
- K. That the impugned order is not speaking order as per Section 24 of the General Clauses Act hence liable to be set at naught.
- L. That there is no omission or commission on part of the appellant and he could not be punished for the fault of others even if any.
- M. That the appellant was promoted by the competent authority and appointment no promotion/upgradation has been allowed to the appellant hence too the impugned Order is not tenable in the eyes of law.
- N. That the appellant is having about 15 years of service with unblemished service record.



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

Any other relief not asked for and deemed appropriate in the circumstances of the case, may also be granted in favor of the appellant.

Dated: 16-05-2024

Through Appellant

Fazal Shah Mohmand  
Advocate,  
Supreme Court of Pakistan

Baseer Ahmad Shah  
&  
Ibad Ur Rehman Khalil  
Advocates, Peshawar

**LIST OF BOOKS:**

1. Constitution 1973.
2. Other books as per need

**CERTIFICATE:**

Certified that as per instructions of my client, no other Service Appeal on the same subject and between the same parties has been filed previously or concurrently before this honorable Tribunal.

ADVOCATE

**AFFIDAVIT**

I, Akbar Ali, Cashier Pakistan Austrian Institute of Tourism & Hotel Management (PAITHOM), Camp Office, Saidu Sharif Swat, do hereby solemnly affirm and declare on oath that the contents of this **Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

**DEPONENT**

No. 2(25)/2002-Plug (Pt-III)  
Government of Pakistan  
Ministry of Tourism  
\*\*\*\*\*

9th Floor, Green Trust Tower, Blue Area,  
Islamabad, the 9<sup>th</sup> February, 2011

→ Mr. Hurmat Yab Khan,  
Chief Instructor/Incharge,  
Pakistan Austrian Institute of Tourism  
& Hotel Management (PAITHOM),  
C/o PTDC Tourist Facilitation Centre,  
Club Annexe, Jinnah Road,  
Abbottabad Fax # 0992-336533

Subject: MINUTES OF THE MEETING HELD ON 13.01.2011

Dear Sir,

I am directed to refer to your letter No.2(1)/2009-PAITHOM-Admn dated 29<sup>th</sup> January, 2011 on the above cited subject.

2. The services of the following employees, working on Contract Basis in the Pakistan Austrian Institute of Tourism and Hotel Management (PAITHOM), Guli Bagh, Swat are hereby regularized with effect from 1<sup>st</sup> July, 2008 in accordance with the Establishment Division's O.M. No.10(30)/2008-R-II, dated 29<sup>th</sup> August, 2008 and as approved by the Board of Governors of PAITHOM, Guli Bagh, Swat in its meeting held in Abbottabad on 7<sup>th</sup> June, 2010 and in compliance with the decisions taken in the subject meeting:

S.#	Name of the Employees & Designation
1.	Mr. Ali Shah, Waiter (BPS-6)
2.	Mr. Nisar-ul-Haq, Waiter (BPS-6)
3.	Mr. Akbar Ali, Waiter (BPS-6)
4.	Mr. Akbar Hussain, Waiter (BPS-6)
5.	Mr. Abid Shah, Waiter (BPS-6)
6.	Mr. Adil Shah, Waiter (BPS-6)
7.	Mr. Israr Ali, Waiter (BPS-6)
8.	Mr. Haider Ali, Receptionist (BPS-5)
9.	Mr. Javed Iqbal, Receptionist (BPS-5)
10.	Mr. Akbar Khan, Cook (BPS-5)
11.	Mr. Mumtaz Ali, Cook (BPS-5)
12.	Mr. Murad Ali, Cook (BPS-5)
13.	Mr. Asghar Shah, Room Attendant (BPS-5)
14.	Mr. Tahir Khan, Room Attendant (BPS-5)
15.	Qari Nasrullah, Electrician/Plumber (BPS-5)
16.	Mian Sher Ali, Washer/Presser (BPS-5)
17.	Mr. Arshad, Washer/Presser (BPS-5)
18.	Mr. Mehboob-ur-Rehman, Washer/Presser (BPS-5)
19.	Mr. Ghafoor-ur-Rehman, Helper (BPS-1)
20.	Mr. Abdul Khaliq, Office Attendant (BPS-1)

Contd.....

102 PAITHOM-03

ATTACHED



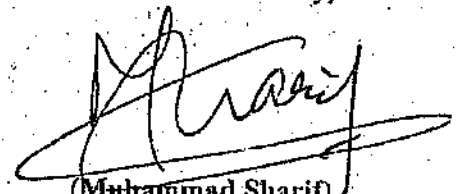
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3. With the regularization of the above employees their pay and allowances stand re-fixed in Basic Pay Scale as per attached proforma.
4. Moreover, Mr. Haq Nawaz, Maintenance Supervisor, has also been regularized as Supervisor BPS-7 and his pay has also been fixed in the attached proforma with effect from 01.07.2008. Over payment of Rs.238,622/- to Mr. Haq Nawaz will be adjusted against his future increment.
5. Incharge, PAITHOM is requested to issue necessary orders accordingly and to make payments of arrears to each employee as calculated in the attached proforma.
6. The existing wages of 07 Daily Wagers are hereby increased to Rs.7000/- each per month with effect from 1<sup>st</sup> July, 2010. They may also be paid arrears with effect from 1<sup>st</sup> July, 2010.
7. The proposal for hiring of building for PAITHOM has been deferred by the competent authority as the final outcome of devolution is still awaited.
8. This issues with the approval of the competent authority.

Yours truly,



(Muhammad Sharif)  
Public Relations Officer  
Tel: 051-9204550  
Fax: 051-9217488

ATTACHED



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A  
BILL  
further to amend the Khyber Pakhtunkhwa  
Civil Servants Act, 1973.

WHEREAS it is expedient further to amend the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973), for the purposes hereinafter appearing;

It is hereby enacted as follows:

1. Short title and commencement.--(1) This Act may be called the Khyber Pakhtunkhwa Civil Servants (Amendment) Act, 2015.

(2) It shall come into force at once.

2. Insertion of section 11B in the Khyber Pakhtunkhwa Act No. XVIII of 1973.--In the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973), hereinafter referred to as the said Act, after section 11A, the following new section shall be inserted, namely:

"11B. Absorption or appointment of Federal employees.--

(1) Notwithstanding anything contained in this Act, all those employees of the Federal Government, who are holding various posts in Federal Government entities on regular basis, before the commencement of the Constitution (Eighteenth Amendment) Act, 2010 (X of 2010) and the said entities being devolved to Province in pursuance of aforesaid amendment, shall be deemed to be the civil servants of the Province for all intents and purposes under this Act.

(2) All such Federal Government employees,-

- (a) if their relevant cadre is available in Government, shall be absorbed in the said cadre in the prescribed manner; and
- (b) if no relevant cadre is available in Government, shall be deemed to have been appointed on regular basis to various cadres posts to be created for this purpose.

Assist. Legal Drafter  
Govt. of Khyber Pakhtunkhwa  
Law Department

ATTESTED

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Provided that on such appointment or absorption, as the case may be,-

- (i) their seniority shall be determined in accordance with the provision of this Act; and
- (ii) their liabilities with regard to pension, gratuity, group insurance, benevolent fund and leave encashment shall be proportionally shared between the Federal Government and Government in such a manner as may be agreed upon.

(3) Government shall constitute a committee consisting of Secretary to Government, Establishment Department, Secretary to Government, Finance Department, Secretary to Government, Law, Parliamentary Affairs and Human Rights Department, Secretary to Government, Inter Provincial Coordination Department and Secretary of the concerned Department to remove difficulties, if any, in implementation of this section."

30/8/15  
 Asstt. Legal Officer  
 Govt. of Khyber Pakhtunkhwa  
 Law Department

STATEMENT OF OBJECTS AND REASONS

It is desirable to amend the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973). Hence, this Bill.

*Pers. Minister*  
 MINISTER-IN-CHARGE.  
 20/8/15.

ATTESTED

*[Signature]*

(17) (10)

Anet C

**BEFORE HON'BLE PESHAWAR HIGH COURT,  
MINGORA BENCH/DARUL QAZA SWAT.**

W.P.No. 507 - M/2017.



- 1) Haq Nawaz S/O Aziz ur Rehman House Engineer,
  - 2) Akbar Ali S/O Shah Wazir, Waiter/ Cashier,
  - 3) Haidar Ali S/O Qubad Khan Receptionist/Computer operator,
  - 4) Ali Shah S/O Habibullah Waiter/ Marketing Representative
  - 5) Jawaid Iqbal Khan S/O Majeedullah Receptionist/ Junior Instructor
  - 6) Abid Shah S/O Mian Muazzam Waiter
  - 7) Adil Shah S/O Mian Muazzam Waiter
  - 8) Akbar Hussain S/O Muhammad Saeed Waiter / Record Keeper
  - 9) Nisar ul Haq S/O Muhammad Rahim Waiter/ Dispatch Clerk
  - 10) Israr Ali S/O Sardar Ali Waiter
  - 11) Asghar Shah S/O Farooq Shah Room Attendant
  - 12) Tahir Khan S/O Pir Muhammad Khan Room Attendant
  - 13) Mian Sher Ali S/O Mian Syed Azhar Washer / Presser
  - 14) Arshad S/O Muhammad Zaman Washer / Presser
  - 15) Akbar Khan S/O Muhammad Ghani Cook
  - 16) Muntaz Ali S/O Gul Rahim Cook
  - 17) Murad Ali S/O Qubad Mian Cook
  - 18) Abdul Khaliq S/O Fazal Muhammad Driver
  - 19) Ghafoor Rahman S/O Fazal Subhan Helper
  - 20) Nasrullah S/O Electrician
  - 21) Mehboob ur Rahman S/O Toti Khun Washer / Presser,
- Presently all are Employees of Paithoin, Campoffice,  
Amankot, Swat. ....Petitioners.

FILED TODAY  
15 JUL 2011  
Additional Registrar

ATTESTED

*(Handwritten signature)*

ATTESTED  
*(Handwritten signature)*  
Examiner  
Peshawar High Court Bench  
Mingora Dar-ul-Qaza Swat

(2)

VERSUS

- (1) Government of KPK through Secretary Sports, Youth Affairs, Tourism, Archaeology & Museum Department, Government of Khyber Pakhtunkhwa, 13-A, Khyber Road Peshawar.
- (2) Focal Person Paithom, Section Officer, Tourism Department, 13-A, Khyber Road, Peshawar.
- (3) Secretary, Finance Department, Government of Khyber Pakhtunkhwa, Civil Secretariate Peshawar.
- (4) Secretary Establishment & Administration Department Regulation, Civil Secretariate, Peshawar.
- (5) Inter Provincial Coordination, through its Secretary, Civil Secretariate, Peshawar..... Respondents.

WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN 1973.

Respectfully sheweth:

1. Petitioners are bonafide citizens of Pakistan where in correct addresses of the parties are given in the heading of the petition. (Copy of NICs are Annexure "A").
2. That petitioners are employees of Respondent No.1 performing their duties on different posts at Paithom since their recruitment, well mentioned in the attached detail list as Annex. "B"

FILED TODAY

15 JUL 2017

Additional Registrar

ATTESTED

ATTESTED

Examiners  
Peshawar High Court Bench  
Minors Bar-ul-Qaza, Swat.

*[Handwritten signature]*

19

17

Judgment Sheet

PESHAWAR HIGH COURT, MINGORA BENCH (DAR-UL-QAZA)  
SWAT.

JUDICIAL DEPARTMENT

W.P.No. 507-M/2017 with Interim Relief

JUDGMENT



Date of hearing.....18.04.2018.....

Petitioners...(Haq Nawaz Khan and others ) by Mr. Khwaja Salahuddin  
Advocate.

Respondents (Govt of Khyber Pakhtunkhwa through Secretary Sports and  
others) by Mr. Arshad Ahmad, Additional A.G.

**MUHAMMAD NASIR MAHFOOZ, J:-** Vide our  
detailed judgment in the connected W.P No. 546-  
M2017 titled, "Waheed Murad Vs Govt of Khyber  
Pakhtunkhwa through Secretary Education and  
others" the instant writ petition is allowed with the  
directions to the respondents contained in the said  
judgment.

S.No	1	
Name of Applicant	Muhammad Ali	
Date of Presentation of Applicant	10-1-23	
Announced Completion of Copies	11/1/23	
Dated	18/04/2018	
Urgent Fee		
Fee Charged	44/-	
Date of Delivery of Copies	10/1/23	

JUDGE  
JUDGE

(Sanaullah) D.B Hon'ble Mr. Justice Mohammad Ibrahim Khan  
Hon'ble Mr. Justice Muhammad Nasir Mahfooz.

97 23/4

ATTES [Signature]

Certified to be true Copy

EXAMINER  
Peshawar High Court Bench  
Mingora/Dar-ul-Qaza, Swat

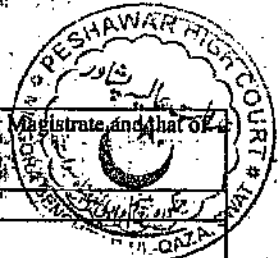
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15 73

PESHAWAR HIGH COURT, MINGORA BENCH (DAR-UL-QAZA),  
SWAT.  
FORM "A"

FORM OF ORDER SHEET.



Serial No of order or proceeding	Date of Order or Proceeding	Order or other proceedings with Signature of judge or Magistrate, and that of parties or counsel where necessary
1	2	3
	18.04.2018	<p><u>W.P No. 546-M/2017 with IR</u></p> <p><u>Present:-</u> Mr. Khwaja Salahuddin Advocate for the petitioner.</p> <p>Mr. Arshad Ahmad, Additional A.G for respondents.</p> <p>*****</p> <p><u>MUHAMMAD NASIR MAHFOOZ, J:-</u> Through this single order we shall dispose of instant as well as the connected <u>W.P No. 655-M/2017</u> titled, "<u>Liaqat Raza and other Vs Govt of Khyber Pakhtunkhwa and others</u>" and <u>W.P No. 507-M/2017</u> titled, "<u>Hag Nawaz and others Vs Govt of Khyber Pakhtunkhwa and others</u>". The petitioners prayed that:-</p> <p><i>"On acceptance of this writ petition, this honorable court may graciously be issued writs and direct the respondents to treat the services of petitioner as regular employee from the date of his initial appointment and to issue order/notification for regularization of services of the petitioner by extending all benefits allowed to the regular Government Employees of the Department".</i></p> <p>2. Brief facts of the instant case are that petitioner has the qualification of B.A with Diploma in Hotel management from <i>Pakistan Austrian Institute Of Tourism</i></p>

*[Handwritten signature]*

ATTES *[Handwritten signature]*

*[Handwritten signature]*

ATTES *[Handwritten signature]*  
Peshawar High Court Bench  
Mingora, Dar-ul-Qaza, Swat.

(16)

(17)

And Hotel Management (herein referred as PAITHOM) and got training at Margala Hotel Islamabad and Sheraz Arena Peshawar. In 2011 the respondents appointed the petitioner as Instructor & House Keeping Incharge on contract basis for six months which was extended from time to time. The respondents assured the petitioner that his services will be regularized but till date no such step has been taken by the respondents and thus the petitioner is on slip foot and at risk beside a having good hands, best performance, dutiful and having no adverse remarks. Petitioner approached the respondents time and again to admit his claim but they refused.

Similarly petitioners in connected W.P No. 507-M/2017 and W.P No. 655-M/2017 alleges that they have been regularized since the year 2011 but they are not being treated as Government Servants at par with others and their pay scales have not been revised since then and due to this reason they are not being held entitled to pensionary benefits and other allowance that is enjoyed by others like health Insurance, Group Insurance, G.P Fund etc, hence the instant writ petition.

3. Respondents were summoned who submitted their comments.

4. Arguments of learned counsel for the petitioners and learned Additional A.G for respondents

ATTESTED

ATTESTED  
Examiner  
Peshwar High Court Bench  
Minsara, Qaza, Swat.

(14)

(15)

heard and record perused.

5. In the comments of respondents it is mentioned that after serving for 4 years and 7 months in the institute his request for regularization was sent to the department vide letter dated 3.6.2016. He served in Hotel Margala Islamabad and Sheraz Arena for two years and three months and for 1 year in 7 Stars Hotel at Lahore and his services were adjusted in the institute as Housekeeping Incharge on the basis of his good performance. It is also mentioned that other employees of PAITHOM were devolved as regular employees in the institute by the Federal Ministry of Tourism (Defunct) but the petitioner was appointed after devolution so none of his constitutional rights have been violated.

6. The experience required and his past career does not show anything to even impliedly assume to cast any adverse doubts against him. From the year 2011, he is performing duties in PAITHOM on consolidated salary initially for six months and then extended with the passage of time and he has consistently requested for renewal/ extension and regularization of his services but the respondents are adamant to appreciate his past career or his services. Petitioner has also relied on Khyber Pakhtunkhwa Civil Servants (Amendment) Act, 2015 whereby section 11 (b) has been added relating to

*J. J. J.*

ATTESTED *[Signature]*

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Examiner  
Peshawar Bench  
Mingora Dar-ul-Qaza, 5W8.

(15) (16)

absorption of appointment of Federal Employees. In accordance with this provision all those employees of the Federal Government who are holding various posts in Federal Government entities on regular basis before the commencement of 18<sup>th</sup> amendment of the constitution and the said entities has been devolved to province, shall be deemed to be the Civil servants of the province and they shall be absorbed in the relevant cadre in prescribed manner.

7. An office memorandum dated 6.09.2000 regarding policy of the Government about autonomous bodies indicates the intention of Government to either treat them as Government Department or as a company registered under the company laws but no final decision has been annexed with the comments herein. An office order dated 26.09.2016 reveals that the Provincial Government regularized services of Mr. Naseeb Gul, Gardner, Mr. Muqarab Shah, Security Guard and Mr. Mohibullah Security Guard w.e.f 17.05.2016 and that too in pursuance to decision of this Court in W.P. No. 67 of 2011 dated 17.05.2016. Similar treatment has been meted to one Sher Zaman Gardner on 18.04.2016. Yet another decision passed by administration of PAITHOM dated 09.02.2011 and 23.02.2011 reveals that services of 20 employees have been regularized who are serving in BPS

*S. J. Khan*

ATTEST

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Examiner  
Keshwar High Court Bench  
MIRANSA Dar-ul-Qad, Swat.

*[Signature]*

(18)

(17)

1 to BPS-6. Letter dated 10.04.2004 reveals that 93 posts were newly created in PAITHOM in BPS-16 to BPS-20.

8. Vide notification dated 31.03.2011 Ministry of Tourism, Tourism Division have transferred the employees of PAITHOM to the Government of Khyber Pakhtunkhwa.

9. Honorable Supreme Court of Pakistan in case titled, "Tikka Khan and others vs Syed Muzafar Hssain Shah and others" reported as 2018 SCMR 332, has provided as follows;

"It is not even a case of absorption by any attribute. The case of the respondents precisely is that many ministries were abolished and reorganized in the wake of the Constitution (18<sup>th</sup>) Amendment Act, 2010 and that they being the employees of the ministry abolished were transferred to the ministry reorganized. Transfer of the respondents to the ministry reorganized cannot be seen through the prism of rule 4 of the rules mentioned above. Their case is fully covered by Serial No.33 (6) of Estacode, Volume 1 Edition 2007. In this context, their case would be more akin to Rule 4A rather than Rule 4 of the Rules. No cannons of interpretation would scratch or strike off their past service when they on abolition of the ministry, were compulsorily transferred to the ministry of Religious Affairs and Interfaith Harmony."

Reference is also made to case titled, "Board of Intermediate and Secondary Education and another Vs Muhammad Altaf and others" reported 2018 SCMR 325 relevant para is reproduced as under,

"The respondents were employed by the petitioner Board, they have been

ATTESTED



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Examiner  
Peshawar High Court Bench  
Mingora Dar-ul-Qasba, Swat.



18

working as Drivers, clerks, Naib Qasids and Security Guards, for considerable period of time, on daily wages. Some of them have been so working since the year 1996. However, their employment contracts were terminated after every 89 days and were resumed a day thereafter. All of them have certainly served the petitioner. Board for not less than 9 months, however, with artificial breaks, as noted above, intent to avoid their regularization."

10. We are constrained to hold that the petitioners deserve to be treated similarly as the other employees of PATHOM have been treated and regularized and no distinguishing features has been pointed out by the learned A.A.G to deny them the relief asked for. Therefore, the instant writ petition as well as the connected writ petitions are allowed and the respondents are directed to treat the petitioners similarly and allow them the same benefits as regular employees are entitled under the civil servants Act and the rules framed thereunder as they are regularly performing their duties from the last so many years.

Announced:  
18.04.2018

*[Signature]*  
JUDGE

*[Signature]*  
JUDGE

S.No. 21  
Name of Applicant Muhammad Ali  
Date of Presentation of Applicant 10/11/23  
Date of Completion of Copies 10/11/23

(Sensallah) "D-B"

Hon'ble Mr. Justice Mohammad Ibrahim Khan of Copies  
Hon'ble Mr. Justice Mohammad Nasir Khan

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Date of Delivery of Copies 10/11/23

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EXAMINER  
Peshawar High Court Bench  
Mineral/Dar-ul-Qaza Swat

*[Signature]*

**SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**PRESENT:**

Mr. Justice Gulzar Ahmed, CJ  
Mr. Justice Ijaz ul Ahsan  
Mr. Justice Sajjad Ali Shah

C.P.No.586-BR-P of 2018

Against the order dated 18.04.2018, passed by the Peshawar High Court,  
Mingora Bench (Dar-ul-Qaza) Swat in W.P.No.546-M/2017

**Govt. of KP through Secretary Sports, (in all cases)  
Culture, Tourism, Youth Affairs,  
Archaeology & Mussum Peshawar.**

...Petitioner (s)

VERSUS

**Wahneed Murad & another.  
Haq Nawaz & others.  
Liaqat Raza & another.**

(in CP No.556-P)  
(in CP No.557-P)  
(in CP No.558-P)  
...Respondent(s)

*Attested*

*Chittani*

For the Petitioner (s) : Barrister Qasim Wadood, Addl.A.G.  
KP  
Nisar Muhammad, S.O. Sports &  
Tourism

For the Respondent(s) : N.R.

Date of Hearing : 06.01.2020

**ORDER**

Gulzar Ahmed, CJ: These petitions are barred by 21 days. Though the application for condonation of delay has been filed but the learned Additional Advocate General, states that the ground taken in the application for condonation of delay is that of late supply of documents and lengthy correspondence between various tiers of the department. Such ground has never been accepted by this Court to be a sufficient cause for condonation of delay. Learned Addl.A.G. further states that before the High Court, parties have apparently committed fraud and made a

**ATTESTED**

Senior Court Associate  
Supreme Court of Pakistan  
Islamabad

*Attested*

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S.C.P.No.556-318-P of 2018

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misrepresentation and the High Court itself has wrongly exercised jurisdiction under Article 199 of the Constitution and thus, the petitioner will avail remedy by way of an application under Section 12(2) CPC, to ensure that whatever wrong has been done through the impugned order, is corrected.

2. In view of the submission of the learned Addl.A.G., we find nothing to enter into merits of these cases. All the petitions are, therefore, dismissed. Applications for condonation of delay are also disposed of.



Sd/-HCJ  
Sd/-J  
Sd/-J

Certified to be True Copy

Senior Court Associate  
Supreme Court of Pakistan  
Islamabad

11/1/20

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GR No: 167/20  
 Date of Presentation: 6-1-20  
 No of Words: 6  
 No of Folios: 6  
 Requisition Fee Rs: 500  
 Copy Fee in: 200  
 Court Fee Stamp: 800  
 Date of Completion of Copy: 11/1/20  
 Date of delivery of Copy: 11/1/20  
 Compared by/Prepared by: [Signature]  
 Received by: [Signature]

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BEFORE THE PESHAWAR HIGH COURT, DARUL QAZA SWAT.

CM No. 12(2) 4<sup>M</sup>/2020

in

WP No. 655-M/2017

Govt. of KP through Secretary Sports, Culture, Tourism, Youth Affairs,  
Archeology & Museums Department, Peshawar.

.....Petitioner(s)

VERSUS

Liazaqat Raza & others.

.....Respondent(s)

APPLICATION U/S 12(2) CPC AGAINST THE JUDGMENT/ORDER  
DATED 18/04/2018

Respectfully Sheweth:

1. That the respondents were serving in (PAITHOM) Pakistan Austrian Institute of Tourism and Hotel Management registered under the Societies Act, 1860 and the control and management by Federal Government, Ministry of Tourism and youth affairs having its own board of governor (certificate of Registration is attached as Annex "A").
2. That under the 18<sup>th</sup> Constitutional amendment Act, 2010, the said department was devolved into the Provincial Government of Khyber Pakhtunkhwa along-with its employees.
3. That the respondents were not government employees or civil servant but being a company employees and having no proper service structure, therefore, retained in PAITHOM as workman.
4. That the respondents filed writ petition before the Hon'ble Peshawar High Court, Mingora Bench (Dar-ul-Qaza) Swat for the regularization of their services, wherein, their writ petition was

**FILED TODAY**

05 MAR 2020

Additional Registrar

ATTORNEY

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accepted and allowed vide Order/Judgment dated 18/04/2018 (copy of Judgment is attached as Annex "B").

5. That the applicant being aggrieved from the Impugned Judgment/Order dated 18/04/2018 of this Hon'ble Court, preferred CPLA before the august Supreme Court of Pakistan but the same was dismissed vide Order/Judgment dated 5/01/2020, on the basis of being time barred without touching the merit of the case, however, the apex Court held that the applicant/government may seeks/avail remedy by way of application u/s 12(2) CPC (copy of Judgment of Supreme Court is attached as Annex "C"), hence, this application Inter alia on the following grounds:-

Grounds:-

(A) That respondents are employees of registered company and are not regular employees, hence, they are falls under the definition of workman, therefore, this Hon'ble Court have had got no jurisdiction to entertain the writ petition of the respondents.

(B) That being employees of company, the Regularization Act, 2009 is not at all applicable to the respondents, hence, this Hon'ble Court was not properly assisted on this ground.

(C) That with utmost regard and respect the Judgment in hand was passed without jurisdiction, hence, liable to be set aside.

(D) That respondent was serving in Pakistan Austrian Institute of Tourism and Hotel Management registered under Societies Act 1860, under control and management of Ministry of Tourism & Youth Affairs, Govt. of Pakistan being its own board of Governor, and after devolution the status of employees of including could not be change.

(E) That the Provincial Assembly passed KP Tourism Act 2019, and matter relates to different categories of employees in Tourism Department will be dealt with in accordance with the Ibid Act.

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Additional Registrar

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FORM OF ORDER SHEET

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Court of .....

Case No. .... of .....

1	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge and that of parties or counsel where necessary.
	15-12-2020	<p><u>C.M No. 4-M/2020</u>  <u>In W.P No. 655-M/2017</u></p> <p>Present: Mr. Razauddin Khan, Addl: A.G for the petitioner.</p> <p>*****</p> <p><u>WIQAR AHMAD, J.</u>- Vide our detailed order passed in the connected application (C.M No. 2-M/2020), the instant application under section 12 (2) CPC is accordingly dismissed.</p> <p><u>Announced</u>  <u>Di: 15.12.2020</u></p> <p>JUDGE  JUDGE</p>

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(D.S) HON'BLE MR. JUSTICE NHTIAR BERAMIN HON'BLE MR. JUSTICE WIQAR AHMAD

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BEFORE THE PESHAWAR HIGH COURT AT MINGORA  
BENCH (DARUL QAZA) SWAT

COC No: 59 M of 2019  
In

Writ Petition No. 507 M of /2017

Haq Nawaz son of Aziz Ur Rehman r/o Muhalla Qazi Baba Qaza, Swat  
House NO. 14 Street 1 Janazgah Road Mingora, Distruct Swat.



.....Petitioner

Versus

1. Kamran Rehman, Secretary, Tourisms, 13 A Khyber  
Pakhtunkhwa Peshawar
2. Shakeel Qadir Khan, Secretary Finance, Khyber  
Pakhtunkhwa Peshawar

.....CONTEMNORS/RESPONDENTS

CONTEMPT OF COURT PETITION UNDER ARTICLE  
204 OF THE CONSTITUTION OF ISLAMIC REPUBLIC  
OF PAKISTAN READ WITH ENABLING SECTION OF  
CONTEMPT OF COURT ORDINANCE FOR  
INITIATING CONTEMPT OF COURT PROCEEDING  
AGAINST THE RESPONDENTS FOR THEIR  
VIOLATION OF THIS HONOURABLE COURT DATED  
18-4-2018 IN 507 M of 2017.

Respectfully Sheweth:

1. That the petitioner is law abiding citizen of Pakistan &  
permanent address given in the title of this COC petition and is  
entitled for all privilege under the law.
2. That the petitioner is employee of Tourism Department Govt. of  
Khyber Pakhtunkhwa and performing his duty at PAITHOM  
since their initial appointment.
3. That the petitioner was finally regularized by the respondents  
vide notification dated 09-02-2011, and the government of KP

FILED TODAY  
11 JUL 2019

Additional Registrar

ATTESTED  
Examiner  
Peshawar High Court Bench  
Mingora Dar-ul-Qaza, Swat.

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accepted the service of petitioner on 05-04-2011 as employee of PAITHOM as civil servant

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4. That the petitioner was regularized by the respondents since 2012 respectively, but till date the petitioner was not treated as govt. servant as per the other government servant in the other department, and thereafter which act of the respondents was challenged by the petitioner through writ petition No 507 M of 2017 and this Honorable Court was pleased to allow the same in the flowing words: " We are constrained to hold that the petitioner deserve to be treated similarly as the other employee of PAITHOM have been treated and regularized and no distinguishing feature has been pointed out by the learned AAG to deny them the relief asked for, therefore the instant writ petition as well other connected writ petition are allowed and the respondents are directed to treat the petitioner similarly and allow them the same benefit as regular employee are entitled under the civil servant act, and the rule frame their under as they are regularly performing their duties from the last so many years". (Copies of memo of writ petition & order dated 18-04-2018 are is attached as annexure "A" & "B" respectively).

5. That though the aforesaid order was passed in the presence of learned A.A.G for official respondent and but even then the petitioner by himself conveyed and supplied the attested order of this Honorable court but till dated the same has not been implemented.

6. That the petitioner already regularized by the respondents year 2011/2012 with assurance to be treated as a regular civil servant but in-fact the petitioner pay scale have not been revised since regularization and has been refrained from the pensionary amount and all back benefits, that a civil servant enjoy attaining at the age of superannuation, seniority of each of the petitioner from initial date of appointment has not yet fixed, and similarly service structure of each of petitioner from initial date of appointment are not yet made and are also not treating or accommodating the petitioner under the National Pay

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Examiner  
Peshawar High Court Bench  
Muzaffargarh, Dar-ul-Qaza, Swat.

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11 JUL 2019

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Scale nor any sort of amount under the head of Health insurance etc, but till know the petitioner have been deprived his back benefit as mentioned above

7. That the petitioner is appointed on contract basis, and thereafter his service regularized by the respondents, however the petitioners have been regularized the subsequently writ petition allowed as prayed; thus entitle to that much of the salary as given to other employee from the initial date of appointment be paid to the petitioner.
8. That petitioner approached the Respondents by showing them the order of this Hon'ble Court, but the words of the respondents were harsh and unbelievable contemptuous.
9. That respondents are intentionally and willfully disobeying the order of this honorable court, which fact has caused to lower the authority of this Honorable court in the public at large in general, therefore this Honorable court needs to initiate contempt of court proceeding against them.
10. That willful disobedience to the order of court by the respondents/ contemnors intends to bring the judiciary into disrespect / disregard and to low down / bow down before their wishes.
11. That contemnors should be punished to maintain the dignity and decorum of the court and to keep the public confidence of the courts undiminished free from pollution and obstruction.
12. That disobedience to order of this honorable court by the respondents / contemnors who are highly qualified and on key post employees / officials is a sorrowful state of affairs and are entitled to be strictly treated for contempt of court.
13. That the Act of respondents is discriminatory and is utter violation of Article 25 of Constitution.
14. That the Act of respondents is against the norms of justice against the public interest and if such practice is continued then the confidence of citizen of the Country would be lost on the judiciary so no one is above the law and the respondents are bound to honor the order of this Honorable Court without any delay.

FILED TODAY

11 JUL 2019

Additional Registrar

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ATTESTED  
Examiners  
Swat High Court Bench  
Mingora Dar-ul-Qaza, Swat.

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- 15. That it will be pertinent to bring in to the kind notice of this honorable court, that some other same placed employee of the department were regularized in pursuance of the judgment of the apex court bearing title Azam Khan Chief Sectary VS Ghulam Rasool & others, but the petitioner of that writ petition were compelled to file COG, which was allowed by this Honorable Court at Principal Seat, and the Government of KP filed CPLA before the Supreme Court of Pakistan, which was dismissed and maintained the order / judgment of this honorable court. (Copy of the compliance notification dated 11<sup>th</sup> June, 2019 is attached as annexure "C")
- 16. That further grounds, with leave of this Honorable Court, would be raised at the time of arguments before this Honorable Court.

PRAYER

It is therefore most humbly prayed that on acceptance of the present petition, the respondents may very graciously be directed to comply with the order/judgment dated 18-4-2018 pertaining the said all back benefit without any further delay, and, furthermore, Contempt of Court proceedings may kindly be initiated against the respondents and may be dealt in accordance with law in the best interest of justice

FILED TODAY  
11 JUL 2019  
Additional Registrar

Applicant/ petitioner  
Through  
RAHIMULLAH CHITRALI  
Advocate High Court

CERTIFICATE:

Certified on instructions of my client that petitioner has not previously moved this hon'ble court under article 204 of the constitution of Islamic republic of pakistan read with enabling section of contempt of court ordinance regarding the instant matter.

ATTESTED  
*[Signature]*

ATTESTER  
*[Signature]*  
Examiner  
Peshawar High Court Bench  
Mingora Dar-ul-Qaza, Swat

*[Signature]*  
RAHIMULLAH CHITRALI  
Advocate High Court

*[Signature]*


(3) (28) 9

**AWAR HIGH COURT, MINGRA BENCH (DAR-UL-QAZI), SWAT**

**FORM OF ORDER SHEET**

Court of .....

Case No. .... of .....

Date of Order or Proceedings	Order or other Proceedings with Signature of Judge and that of parties or counsel where necessary.
2	3
<p style="text-align: center;">15-12-2020</p> <div style="text-align: center;">  </div> <p style="text-align: center;">No true copy</p> <p style="text-align: center;">12-01-2021</p>	<p><b>C.O.C No. 54-M/2019</b> <b>In W.P No. 507-M/2017</b></p> <p><b>Present:</b> <i>Mr. Rahimiullah Chitrali, Advocate for the petitioner.</i></p> <p><i>Mr. Razuddin Khan, Addl: A.G for the respondents.</i></p> <p style="text-align: center;">*****</p> <p><b>W/OAR AHMAD, J.-</b> Vide our detailed judgment passed in the connected C.O.C No. (55-M/2019), the instant petition is disposed of accordingly.</p> <p><b>Announced</b> <b>Dt: 15.12.2020</b></p> <div style="text-align: right;"> <p><i>[Signature]</i> JUDGE</p> <p><i>[Signature]</i> JUDGE</p> </div>

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HON'BLE MR. JUSTICE INTIAQ JIBRAHIM  
HON'BLE MR. JUSTICE W/OAR AHMAD

**ATTESTED**

*[Signature]*

*[Signature]*



(31)

(29)

BEFORE THE PESHAWAR HIGH COURT AT MINGORA  
BENCH (DARUL QAZA) SWAT

COC No. 54 M of 2019

In

Writ Petition No. 507 M of 2017

Haq Nawaz son of Aziz Ur Rehman r/o Muhalla Qazi Baba  
House NO. 14 Street 1 Janazgah Road Mingora, District Swat.

.....Petitioner

Versus

1. Kamran Rehman, Secretary Tourism 13 A Khyber  
Pakhtunkhwa Peshawar
2. Shakeel Qadir Khan, Secretary Finance Khyber  
Pakhtunkhwa Peshawar

.....CONTEMNORS/RESPONDENTS

CONTEMPT OF COURT PETITION UNDER ARTICLE  
204 OF THE CONSTITUTION OF ISLAMIC REPUBLIC  
OF PAKISTAN READ WITH ENABLING SECTION OF  
CONTEMPT OF COURT ORDINANCE FOR  
INITIATING CONTEMPT OF COURT PROCEEDING  
AGAINST THE RESPONDENTS FOR THEIR  
VIOLATION OF THIS HONOURABLE COURT DATED  
18-4-2018 IN 507 M of 2017.



TESTED  
By and at  
Peshawar High Court Bench  
(Darul Qaza) Swat

Respectfully Sheweth:

FILED TODAY  
17 JUL 2019  
Additional Registrar

1. That the petitioner is law abiding citizen of Pakistan & permanent address given in the title of this COC petition and is entitled for all privilege under the law.
2. That the petitioner is employee of Tourism Department Govt. of Khyber Pakhtunkhwa and performing his duty at PAITHOM since their initial appointment.
3. That the petitioner was finally regularized by the respondents vide notification dated 09-02-2011, and the government of KP

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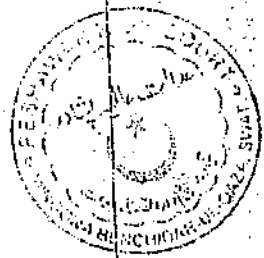
(3) (30)

PAWAB HIGH COURT, MINGORA BENCH (DAR-UL-QAZA), SWAT

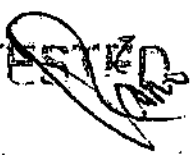
FORM OF ORDER SHEET

Court of .....

Case No. .... of .....

1 Date of Order or Proceedings	2 Order or other Proceedings with Signature of Judge and that of parties or counsel where necessary.
<p style="text-align: center;">15-12-2020</p> 	<p><u>C.O.C No. 55-M/2019</u> <u>In W.P No. 546-M/2017</u></p> <p><i>Present: Mr. Rahimullah Chitrali, Advocate for the petitioner.</i></p> <p><i>Mr. Kazauddin Khan, Addl.A.G for the respondents.</i></p> <p style="text-align: center;">*****</p> <p><b>W/OAR AHMAD, J.-</b> This order is directed to dispose of the instant C.O.C petition as well as the connected C.O.C No. 53-M/2019 and C.O.C No. 54-M/2019, as all these petitions have been arising out of one and the same consolidated judgment of this Court dated-18.04.2018 passed in W.P No. 546-M/2017.</p> <p><u>2.</u> Petitioner has contended in his petition that he was appointed by the respondents department as Instructor and House Keeping Incharge in Pakistan Austrian Institute of Tourism and Hotel Management (hereinafter referred to as 'PAITHOM'), on contract basis for six months but after that his services were not regularized and he was not treated as civil servant. Against said act of respondents, he approached this Court through W.P No. 546-M/2017, which was allowed vide order of this Court dated 18.04.2018 and respondents were directed to treat petitioner similarly and allow him</p>

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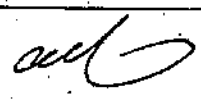


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مینگورا دارال قزا سوات

**ATTESTED**

Examiner  
Peshawar High Court Bench  
Mingora Dar-ul-Qaza, Swat.



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the same benefits as regular employees were entitled under the Civil Servants Act and the rules framed thereunder. Said judgment has not been complied with by respondents till date, petitioner has therefore filed the instant C.O.C petition with the following prayer;

"It is therefore most humbly prayed that on acceptance of the present petition, the respondents may very graciously be directed to comply with the order/judgment dated 18.04.2018 pertaining the said to all back benefit without any further delay, and furthermore, contempt of Court proceedings may kindly be initiated against the respondents and may be dealt in accordance with law in the best interest of justice."

1. Reply was asked from respondents, who accordingly filed the same. It was contended in reply that petitioner was a contract employee of PAITHOM which was an autonomous Institute devolved from Federal Government to Provincial Government of Khyber Pakhtunkhwa. Said Institute was registered on 04.06.2003 as non-profitable society under Societies Act XXI of 1860 and was working under the Administrative Authority of Sports & Tourism Department. It was further contended by respondents that they had filed CPLA against judgment of this Court dated 18.04.2018 before Hon'ble Supreme Court of Pakistan but same had not been decided either way.

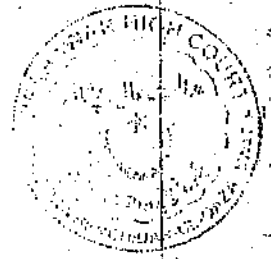
ATTESTED

(Sd/-) HON'BLE MR. JUSTICE MHTAQ UR RAHMAN  
HON'BLE MR. JUSTICE INOAB ALI MAQ

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Examiner  
Peshawar High Court Bench  
Mingora Darent Qaza, Swat.

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(21) (52)



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4. Arguments heard and record perused.

5. Respondents have been delaying implementation of judgment of this Court, firstly due to the reason that they had filed CPLA before Hon'ble Supreme Court of Pakistan and subsequently on the pretext that they had challenged the main order through petitions under section 12 (2) CPC before this Court. Their CPLA filed against earlier judgment of this Court has already been dismissed by the Hon'ble Supreme Court of Pakistan vide its judgment dated 06.01.2020. Applications under section 12 (2) CPC were also dismissed by this Court vide even order of today in C.M 12. (2) No. 2-M/2020. No reason exists for further delaying implementation of judgment of this Court. A last chance is granted to respondents as well as those officers who have presently been competent authority for the purpose of services of petitioners, for implementation of judgment of this Court within a period of two months of receipt of copy of this order.

6. The petition in hand is disposed of accordingly.

Announced  
Dt: 15.12.2020

JUDGE

JUDGE

11/01/21  
WIR

(D-1) FEDERAL MR. JUSTICE HIRSHAD KHAN  
FEDERAL MR. JUSTICE WAZIR AHMED

11/01/21  
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**BEFORE THE PESHAWAR HIGH COURT MINGORA  
BENCH (DARUL QAZA) SWAT**

C.O.C No. 90 / 2021 In C.O.C. 54 / 2015  
W.P No. 507-M / 2017



1. Haq Nawaz S/o Aziz Ur Rehman, House Engineer.
- ✓ 2. Akbar Ali S/o Shah Wazir, Waiter / Cashier.
3. Ali Shah S/o Habibullah, Waiter / marketing Representative.
4. Abid Shah S/o Mian Muazzam, Waiter.
5. Adil Shah S/o Mian Muazzam, Waiter.
6. Akbar Hussain S/o Muhammad Saeed, Waiter / Record Keeper.
7. Nisar Ul Haq S/o Muhammad Rahim, Waiter / Dispatch Clerk.
8. Israr Ali S/o Sardar Ali, Waiter.
9. Asghar Shah S/o Farooq Shah Room, Attendant.
10. Tahir Khan S/o Pir Muhammad Khan, Room Attendant.
11. Mian Sher Ali S/o Mian Syed Azhar, Washer / Presser.
12. Arshad S/o Muhammad Zaman, Washer / Presser.
13. Akbar Khan S/o Muhammad Ghani, Cook.
14. Mumtaz Ali S/o Gul Rahim, Cook.
15. Murad Ali S/o Qubad Mian, Cook.
16. Abdul Khaliq S/o Fazal Muhammad, Driver.
17. Ghafar Rahman S/o Fazal Subhan, Helper.
18. Nasrullah S/o Shah Rasool, Electrician.
19. Mehboob Ur Rahman S/o Toti Khan, Washer / Presser.

All Presently Employees of Falthom, Camp Office at Amankot, District Swat.

...Petitioners

VERSUS

Abid Majeed / Secretary Tourism, Sports, Youth Affairs, Archeology & Museum Department, Government of Khyber Pakhtunkhwa, 13-A, Khyber Road, Peshawar.

Page 1 of 11

FILED TODAY

28 OCT 2021

Additional Registrar

ATTES

*abd*

34

21

2. Alif Rehman / Secretary Finance, Government of Khyber Pakhtunkhwa at Civil Secretariat, Peshawar.
3. Tashfin Haider / Additional Secretary Tourism, Sports, Youth Affairs, Archeology & Museum Department, Government of Khyber Pakhtunkhwa, 13-A, Khyber Road, Peshawar.
4. Jibrail Raza / Deputy Secretary Tourism, Sports, Youth Affairs, Archeology & Museum Department, Government of Khyber Pakhtunkhwa, 13-A, Khyber Road, Peshawar.
5. Waqar / Budget Officer / Section Officer Tourism, Sports, Youth Affairs, Archeology & Museum Department, Government of Khyber Pakhtunkhwa, 13-A, Khyber Road, Peshawar.
6. Masood Ahmad Jan / Budget Officer-III, Finance, Government of Khyber Pakhtunkhwa at Peshawar.
7. Safer / Additional Secretary Finance, Government of Khyber Pakhtunkhwa at Peshawar.

...Respondents

Application under Article 204 of the Constitution of Islamic Republic of Pakistan 1973, for contempt of court / implementation of the order / judgment dated: 15-12-2020, in C.O.C No. 54-M/2019 and the order / judgment dated 18-04-2018 of this august court passed in W.P. No. 507-M of 2017, titled "Haq Nawaz and others VS Govt. of KP and others".

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28 OCT 2021

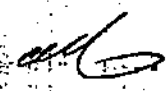
Additional Registrar

Respectfully Sheweth:

1. That the captioned W.P. No. 507-M of 2017 titled "Haq Nawaz etc VS Govt. of KP etc"; was filed by petitioners, which was allowed by this august court vide judgment dated 18-04-2018 along with Writ Petition Nos. 546-M/2017 & 655-M/2017 (Copies of judgment dated 18-04-2018 along with grounds are annexure A & B).

ATTESTED  
 Examiner  
 Peshawar High Court Bench  
 Abingera Dar-ul-Qaza, Swat.

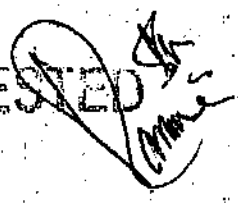
ATTESTED  





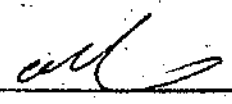
55 55

2. That after the aforesaid judgment, C.O.C No. 54 of 2019, was filed by petitioner No. 1 for implementation of judgment dated 18-04-2018, which was disposed of by this august court vide judgment dated 15-12-2020, with the directions to respondents for implementation of the judgment within a period of 2 months of the receipt of the copy of judgment dated 15-12-2020. (Copies of memorandum of C.O.C along with judgment dated 15-12-2020 are annexure C).
3. That even after the passing of judgment dated 15-12-2020 in C.O.C No. 54 of 2019, about 10 months have passed, during this period respondents were approached and requested time and again for implementation of the judgment dated 18-04-2018, but even then both the said judgments of this august court were not complied and the relief granted to petitioners was not implemented.
4. That although there is no hurdle in implementation of the aforesaid judgments of this august court, but even then respondents are using delaying tactics and depriving the petitioners of their due rights.
5. That petitioners are serving on various posts from BPS-01 to BPS-16 and respondents Nos. 1 & 2 are authorized to implement the aforesaid judgments of this august court, moreover, there is no hurdle in implementation of the aforesaid judgments by respondents Nos. 1 & 2.
6. That petitioners in connected writ petition bearing Nos. 655-M/2017 and 546-M/2017, jointly decided along with the writ petition No. 507-M/2017 of petitioners, vide consolidated judgment dated 18-04-2018, are serving in BPS-17 to BPS-19, have no connection with the implementation / granting relief of the judgment dated 18-04-2018 to the extent of petitioners, because the implementation of the aforementioned judgments to the extent of petitioners, is in

**FILED TODAY**  
 28 OCT 2021  
 Additional Registrar

ATTESTED 

ATTESTED   
 Examiner  
 Page 3 of 3 HAWK High Court Bench  
 P.O. Box 1000, Swat



35 36

the jurisdiction of respondents Nos. 1 & 2 and relief granted to petitioners in writ petition Nos. 655-M/2017 and 546-M/2017, is in the domain of Chief Secretary to Government of Khyber Pakhtunkhwa, thus respondents Nos. 1 & 2 are not authorized to delay the implementation of the aforesaid judgments, because of petitioners in writ petition Nos. 655-M/2017 and 546-M/2017.

- 7. That instead of implementing the aforementioned judgments, respondents have illegally and unlawfully stopped the monthly salaries of petitioners from the month of July, 2021, till date.
- 8. That it is in the interest of justice that contempt of court proceedings be initiated against the respondents.

It is therefore, most humbly prayed that, on acceptance of this application, respondents may please be directed to implement the aforesaid judgments, moreover, the respondents may also be directed to release the monthly salaries of petitioners since July, 2021 and contempt of court proceedings may also be initiated against the respondents.

Any other relief not specifically prayed for, but this august court deems appropriate, may also be granted in favour of petitioners.

FILED TODAY  
28 OCT 2021  
Additional Registrar

Petitioners  
Through Counsel  
Asghar Ali  
Advocate Supreme Court

ATTESTED  
Examiner  
Peshawar High Court Bench  
Mingota Dar-ul-Qaza, Swat.

ATTESTED

and





**GOVERNMENT OF KHYBER PAKHTUNKHWA**  
**LAW, PARLIAMENTARY AFFAIRS &**  
**HUMAN RIGHTS DEPARTMENT**

37

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9

No. SO(OP-II)/LD/5-8/2012-VOL-II  
 Dated: Pesh 4 the March, 2021 2709-12

To, The Secretary,  
 Government of Khyber Pakhtunkhwa,  
 Sports, Tourism, Culture, Archeology  
 Department

Museum & Youth Affairs,

**Subject: JUDGMENT DATED 15-12-2020 IN CONTEMPT OF COURT PETITIONS NO. 53-M OF 2019 IN WP 655-M OF 2017 TITLED "LIAQAT RAZA & 01 OTHER", NO.54-M OF 2019 IN WP 507-M OF 2017 TITLED "HAQ NAWAZ V/S KAMRAN REHMAN, SECRETARY TOURISM & 01 OTHER" AND NO.55-M OF 2019 IN WP 546-M OF 2017 TITLED "WAHEED MURAD VS KAMRAN REHMAN, SECRETARY TOURISM & 01 OTHER.**

Dear Sir,

I am directed to refer to your Department's letter No.SO(LIT)S&TD/1-180/2017/Liaqat Raza/2492-94 dated 10-02-2021 on the subject noted above and to enclose herewith a copy of letter No.2625/AG dated 25-02-2021 received from the office of Learned Advocate General Khyber Pakhtunkhwa and to state that Law Department endorses the opinion of the Learned Advocate General Khyber Pakhtunkhwa contained in the above referred letter.

2. I am further directed to request that all correspondence with the office of Learned Advocate General Khyber Pakhtunkhwa may kindly be routed through Law, Parliamentary Affairs & Human Rights Department, please.

Yours faithfully,

Section Officer (Opinion-II)

Ends!! of even No. date.

Copy is forwarded to the:

1. PS to Learned Advocate General, Khyber Pakhtunkhwa.
2. PS to Secretary, Law Department.
3. PA to Law Officer, Law Department.

**ATTESTED**

Section Officer (Opinion-II)



OFFICE OF ADVOCATE GENERAL, KHYBER PAKHTUNKHWA, PESHAWAR

No. 243 /AG Date: Peshawar, the 15/2/2021

Address: High Court Building, Peshawar  
Tel. No. 091-9212668

Exchange No 9213833  
Fax No. 091-9210270

1870  
24/2  
02

SUBJECT:- JUDGMENT DATED 18-12-2020 IN CONTEMPT OF COURT PETITIONS NO. 53-M OF 2019 IN WP 655-M OF 2017 TITLED "LIAQAT RAZA & 01 OTHER VS KAMRAN REHMAN, SECRETARY TOURIST & 01 OTHER", NO. 54-M OF 2019 IN WP 507-M OF 2017 TITLED "HAQ NAWAZ VS KAMRAN REHMAN, SECRETARY TOURISM & 01 OTHER" AND NO. 55-M OF 2019 IN WP 648-M OF 2017 TITLED "WAHEED MURAD VS KAMRAN REHMAN, SECRETARY TOURISM & 01 OTHER.

R/Sir,

That opinion is solicited in subject case vide letter No. SO(LIT)/S&TD/1-180/2017/Liaqat Raza/2492-94 dated 10<sup>th</sup> February, 2021, perusal of the letter reveals that the administrative department without following the procedure laid down in 12(6) of Khyber Pakhtunkhwa Rules of Business 1985, directly sent the case to the Office of Advocate General, Khyber Pakhtunkhwa, which provides that official correspondence to the office of the Advocate General, Khyber Pakhtunkhwa should be routed through Law, Parliamentary Affairs & Human Rights Department, Khyber Pakhtunkhwa. Since, it is a court matter and exigencies are involved in the case, therefore, the competent authority marked the matter to the undersigned, to opine in the matter, notwithstanding above requirements of Rules of Business.

I have gone through the entire case file which depicts that above noted writ petition was allowed by the Hon'ble Peshawar High Court, Mingora Bench on 18/04/2018, and CPLA filed by the government/department was also dismissed, after the dismissal of the CPLA, 12(2) CPC petitions were filed by the government/department that too were dismissed, which order was then impugned before the apex court and is still pending adjudication. After the dismissal of the 12(2) CPC petitions, the Hon'ble Peshawar High Court, Mingora Bench, while disposing of the contempt of court petition directed the respondent/department to implement order/judgment dated 18/04/2018 of Peshawar High Court, Mingora Bench, within two months by way of last chance.

ATTES  
[Signature]

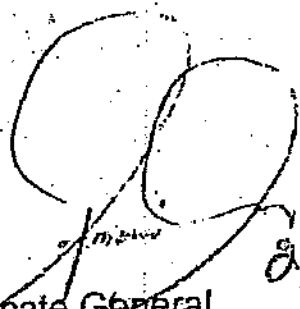
[Signature]

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(39)

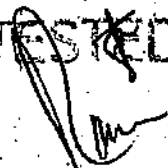
In my humble opinion, that the judgment dated 18/04/2018 may be conditionally implemented, subject to the outcome of CPLA filed before the apex Court, as far as the enactment of Khyber Pakhtunkhwa Tourism Act, 2019 is concerned, wherein mechanism is provided about the retention of employees of the corporation and institution, it is the legislative competence of legislature to give an enactment retrospective effect with clear intendment spell out from its language, but in Khyber Pakhtunkhwa Tourism Act, 2019, there is no provision available regarding retrospective effect of the Act. Hence, it would not be helpful in the instant case, as the aforementioned judgment was passed much earlier than enactment. Therefore, judgment dated 18/04/2018 may be conditionally implemented, as opined herein above.

Submitted please.

  
25/02

Ld. Advocate General  
Khyber Pakhtunkhwa,  
Peshawar.

  
25/02/2021  
(Muhammad Sohail)  
Assistant Advocate General,  
Khyber Pakhtunkhwa, Peshawar.

ATTESTED  


Secretary to Govt. of Khyber Pakhtunkhwa,  
Law Department, Peshawar.





GOVERNMENT OF KHYBER PAKHTUNKHWA,  
SPORTS, TOURISM, ARCHAEOLOGY, MUSEUMS & YOUTH  
AFFAIRS DEPARTMENT.

Dated Peshawar 21<sup>st</sup> January, 2022

**NOTIFICATION:**

No. SO(Tourism)/5-P/2020/4852-88 Pursuant to the Peshawar High Court Mingora Bench decision in W.P No. 548-M/2017 dated 18.04.2018 read with COG No. 58-W/2019, W.P No. 507-M/2017 dated: 18.04.2018 read with COG No. 54-M/2019, W.P No. 555-M/2017 read with COG No. 53-M/2019 and W.P No. 250-M/2018 and in light of the opinion of Advocate General, Khyber Pakhtunkhwa contained in Letter dated: 25.02.2021 duly endorsed by Law Department, Khyber Pakhtunkhwa vide letter dated 04.03.2021, the Competent Authority (Chief Minister, Khyber Pakhtunkhwa) is pleased to conditionally regularize the services of the following employees of Pakistan Austrian Institute of Tourism and Hotel Management (PAITHOM), Swat as Civil Servants, with effect from the dates mentioned against each, subject to final decision of the CPLAs No. 108-P/2021, No. 109-P/2021, No. 110-P/2021 and No. 88-P/2021 filed by Sports & Tourism Department, Khyber Pakhtunkhwa in the Supreme Court of Pakistan, under the terms and conditions mentioned below:

S#	Name of the Employee	Designation with BPS	Date of Regularization
1	Mr. Hummat Yab Khan S/o Hammesyat Yab Khan	Chief Instructor (BS-18)	22.10.2007
2	Mr. Liaqat Raza S/o Said Raza	Administrative Officer (BS-17)	17.10.2007
3	Mr. Waheed Murad S/o Murad Ali	Instructor (BS-17)	01.12.2011
4	Mr. Haq Nawaz S/o Aziz ur Rehman	Supervisor (BS-07)	01.07.2008
5	Mr. Ali Shah S/o Habibullah	Waiter (BS-06)	01.07.2008
6	Mr. Akbar Hussain S/o Mohammed Saheed	Waiter (BS-06)	01.07.2008
7	Mr. Akbar Ali Khan S/o Shah Wazir Khan	Waiter (BS-06)	01.07.2008
8	Mr. Nisar Ul Haq S/o Muhammad Rahim	Waiter (BS-06)	01.07.2008
9	Mr. Adil Shah Mian S/o Mian Muazam	Waiter (BS-06)	01.07.2008
10	Mr. Israr Ali S/o Sardar Ali	Waiter (BS-06)	01.07.2008
11	Mr. Abid Shah S/o Mian Muazam	Waiter (BS-06)	01.07.2008
12	Mr. Javed Iqbal Khan S/o Majeed Ullah Khan	Receptionist (BS-05)	01.07.2008
13	Mr. Nasrullah Khan S/o Shah Rasool	Electrician (BS-05)	01.07.2008
14	Mr. Asghar Shah S/o Farooq Shah	Room Attendant (BS-05)	01.07.2008
15	Mr. Tahir Khan S/o Pir Mohammad Khan	Room Attendant (BS-05)	01.07.2008
16	Mr. Mian Sher Ali S/o Mian Syed Zahir	Washer / Presser (BS-05)	01.07.2008
17	Mr. Arshad S/o Muhammad Zaman	Washer / Presser (BS-05)	01.07.2008
18	Mr. Mehboob-Ur-Rehman S/o Toif Khan	Washer / Presser (BS-05)	01.07.2008
19	Mr. Murad Ali S/o Qubad	Cook (BS-03)	01.07.2008
20	Mr. Mumtaz Ali S/o Gul Rahim	Cook (BS-03)	01.07.2008
21	Mr. Akbar Khan S/o Muhammad Ghani	Cook (BS-03)	01.07.2008
22	Mr. Abdul Khaliq S/o Fazal Muhammad	Office Attendant (BS-03)	01.07.2008
23	Mr. Ghafoor Rehman S/o Fazal-e-Subhan	Helper (BS-03)	01.07.2008
24	Mr. Sher Zaman S/o Muhammad Ghafoor	Gardner (BS-03)	01.07.2008
25	Mr. Naseeb Gul S/o Rozl Gul	Gardner (BS-03)	01.07.2008
26	Mr. Muqarreb Shah S/o Mohammad Qamar	Security Guard (BS-03)	01.07.2008
27	Mr. Mohibullah S/o Muhammad Ismail	Security Guard (BS-03)	01.07.2008

MK Inck  
27-7-2021

SECRETARY

all

(42) (41)

**TERMS AND CONDITIONS:**

- i. The services of all the employees of Pakistan Austrian Institute of Tourism & Hotel Management (PAITHOM) shall be governed by the Khyber Pakhtunkhwa Civil Servants Act, 1973 and all the laws applicable to the Civil Servants and rules framed thereunder.
  - ii. They will be governed by the Khyber Pakhtunkhwa Government Servants (Efficiency and Disciplinary) Rules, 2011 and Khyber Pakhtunkhwa Government Servants (Conduct) Rules, 1987 and any other instructions which may be issued by the Government from time to time.
  - iii. They will not be entitled to TA / DA on appointment.
2. In case the above terms and conditions are acceptable, an UNDERTAKING to this effect on a Judicial Stamp Paper duly attested by the Oath Commissioner should be produced in Sports, Tourism, Youth Affairs, Culture, Archaeology & Museums Department, Khyber Pakhtunkhwa and submit arrival within 15 days on the receipt of this Notification.

**Secretary to Government of Khyber Pakhtunkhwa  
Sports, Tourism, Archaeology, Museums & Youth  
Affairs Department**

**Endst: No. & Date even:**

Copy forwarded to:

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Registrar, Peshawar High Court, Mingora Bench, Swat.
3. Secretary, Law & Parliamentary Affairs Department, Khyber Pakhtunkhwa.
4. Secretary, Establishment Department, Khyber Pakhtunkhwa.
5. Secretary, Finance Department, Khyber Pakhtunkhwa.
6. Advocate General, Khyber Pakhtunkhwa.
7. Section Officer (Litigation), Sports, Culture & Tourism Department.
8. Chief Instructor / Incharge, Pakistan Austrian Institute of Tourism & Hotel Management (PAITHOM), Mingora, Swat.
9. Director General, Directorate of Tourist Services, Khyber Pakhtunkhwa.
10. District Accounts Officer, Swat.
11. PS to Secretary, Sports & Tourism Department.
12. Officers / officials concerned.

  
SECTION OFFICER (TOURISM)

ATTESTED  




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**PESHAWAR HIGH COURT, MINGORA BENCH**  
**(DAR-UL-QAZA), SWAT**

**FORM OF ORDER SHEET**

Court of .....  
Case No. .... of .....



Serial No. of order or proceeding	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge and that of parties or counsel where necessary
1	2	3
	13.04.2022	<p><u>C.O.C No.90-M/2021 in C.O.C No.54/2019</u> <u>in W.P No.507/2017</u></p> <p>Present: Mr. Asghar Ali, Advocate for petitioners.</p> <p>Mr. Alam Khan Adenzai, A.A.G for the official Respondents.</p> <p style="text-align: center;">***</p> <p>Respondent No.1 is directed to appear in person for framing of charge in view of the order rendered in W.P No.507-M/2017 dated 18.04.2018 or to come up with implementation of the order in letter and spirit. When learned counsel for petitioner was confronted with the relief granted by this Court, prayer of the main petition and the prayer in the contempt of Court application, he stated at the bar that he does not want to press the instant petition to the extent of Petitioners No.7 to 19 as their grievance has already been redressed, therefore, in view of the above the instant petition to the extent of petitioners</p>

Muhtaq Ahmad/SSP (D.B) HON'BLE MR. JUSTICE MUHAMMAD NAFEE ANWAR  
HON'BLE MR. JUSTICE MUHAMMAD MAZ KILAN

ATTEN

Registrar,  
Peshawar High Court Bench  
Mingora Dar-ul-Qaza, Swat.

ATTEN

Handwritten signature

(45) (93)

No.2 to 19 stands dismissed as withdrawn. Adjourned to a date in office.

JUDGE

JUDGE

S.No. 18  
 Name of Applicant MIRWAJID AH  
 Date of Presentation of Applicant 10-1-23  
 Date of Completion of Copies 10/1/23  
 No of Copies 6  
 Urgent Fee 24/-  
 Fee Charged 24/-  
 Date of Delivery of Copies 10/1/23

Certified to be true Copy

M. R. Khan  
 EXAMINER 10/1/23  
 Peshawar High Court Bench  
 Mingora/Dar-ul-Qaza, Swat

Office  
14/14  
W/R

Mushaq Ahmed 0555

(O.B) HON'BLE MR. JUSTICE MUHAMMAD MAEEM ANWAR  
HON'BLE MR. JUSTICE MUHAMMAD IJAZ KHAN

*cell*

ATTESTED  
*[Signature]*



PAKISTAN AUSTRIAN INSTITUTE OF  
TOURISM AND HOTEL MANAGEMENT  
Office of In-charge PAITHOM, Pizagat, SWAT



PAITHOM  
Gateway to Excellence

Ref No. 3(I)/2011/PAITHOM-ADMN/Vol-IV

Dated: 19/02/2020

OFFICE ORDER

Subject: APPROVAL OF PROMOTION

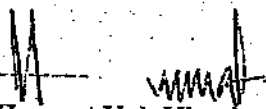
Powers of appointment, confirmation and promotion delegated under Rule 2(II) of governing rules of PAITHOM to the undersigned for posts in BS-1 to BS-15(copy attached). The applicants are most dutiful and have performed their task with devotion under the orders of the undersigned and now the court has also allowed them right of promotion.

The following staff is promoted as under;

Sr. No.	Name of the staff	Present designation with BPS	Promoted to Post with Scale
1.	Mr. Alisha	Waiter BPS-06. Having charge of Marketing Representative since 2011	Marketing Representative BPS-12
2.	Mr. Akbar Ali	Waiter BPS-06 Having charge of Cashier since 2011	Cashier BPS-07
3.	Qari Nasrullah	Electrician Plumber BPS-05	Supervisor BPS-07
4.	Mian Sher Ali	Washer BPS-05	Laundry In-charge BPS-06
5.	Mr. Akbar Khan	Cook BPS-05	Chef Cook BPS-07

Their pay shall be fixed in higher scale with immediate effect.

Enclsd:As Above

  
(Hurmat Yab Khan)  
Chief Instructor / In-charge

Copy to:

1. Section Officer (G), Tourism Department, Peshawar for information.
2. Mr. Alisha, Marketing Representative PAITHOM
3. Mr. Akbar Ali, Cashier, PAITHOM
4. Qari Nasrullah
5. Mian Sher Ali
6. Akbar Khan
7. Office File

  
ATTESTED





PAITHOM

PAKISTAN AUSTRIAN INSTITUTE OF  
TOURISM AND HOTEL MANAGEMENT  
PAITHOM CAMP OFFICE NEAR TECHNICAL COLLEGE,  
FIZA GHAT, SWAT



MINUTES OF THE COMMITTEE FOR PROMOTION/ UPGRADATION OF STAFF FROM  
BPS-1 TO 16

The meeting was stated with the recitation of the Holy Quran.

The convener brief the members regarding no relief to employees since their date of initial appointment in comparison with the relief allowed/ enjoyed by the other departments employees.

All staff have submitted applications for promotion/ up-gradation on the basis of their additional duties and upgraded qualifications.

The convener of the committee open discussion forum for suggestions and recommendations thereon from members of the committee which is as follows;

- i. The committee has received 25 applications from the staff wherein some of them has applied for more than 3 posts.
- ii. The committee recommended that at present Mr. Tahir Khan, Room Attendants in BPS-05 may be promoted as Room Man BPS-06.
- iii. The committee recommended that Mr. Ghafoor Rehman, Helper working in BPS-01 his scale be revised in BPS-04(class iv). the committee also recommends that his pay may not be fixed at this stage because after notification of civil servant his pay shall be fixed by quarter concerned so that his arrears, if any, may not be affected.
- iv. The committee also considered the grievances of gardeners and security guards recorded verbally and in principle agrees that they may be considered as class (iv) employees. The committee has also a consensus upon the fixation of pay that their may be affixed after their decision by the august high court where there case is pending the decision so that their present pay fixation may not affect their arrears if any.
- v. The committee while examining the applications noted that Mr. Israr Ali BPS-06 to be promoted as Head Waiter BPS-07. His pay may be fixed at next high scale with immediate effect.
- vi. The committee while considering application submitted for the post BPS-16, probed into the matter that who is competent authority for promotion to the post of BPS-16 and observed that Incharge PAITHOM under rule 10 of the service rules of PAITHOM (copy enclosed) is not competent to promoting employees to BPS-16 whereas chairman BOG is

ATTESTED

47 196

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40	Scullery (Black & White)/Cleaner	1	5
Grand Total			93

The method of appointment to each of the above post is detailed at sr.no.9 below and the job descriptions to each of the above posts are placed at Appendix-B.

8. CREATION AND ABOLITION OF POSTS:

The Board may at any time create, abolish or hold in abeyance any post or posts in any class, either permanent or temporary.

9. PROVINCIAL/REGIONAL QUOTAS AND ELIGIBILITY FOR APPOINTMENT:

- i) The appointment in Pakistan Institute of Tourism & Hotel Management on posts reserved for direct recruitment shall be made in accordance with the following merit and provincial/regional quotas as prescribed by the Government. The other instructions issued by the Government from time to time in this regard will be applicable to the Institute.
- ii) Merit quota ----- 30%
- iii) Khyber Pakhtunkhwa ----- 50%
- iv) Federal area of Islamabad ----- 20%
- v) PATA & FATA ----- 15%
- vi) Minorities ----- 5%

- i) No person shall be eligible for employment in the Institute unless he is a Pakistani national. When a suitable Pakistani not available, a non-Pakistani may be appointed on such terms and conditions and for such duration as the competent authority may decide. However, in such cases there shall be at least one Pakistani counterpart who shall remain under study to such non-Pakistani staff.
- ii) No person shall be eligible for appointment in the Institute, unless declared medically fit by a registered graduate medical practitioner or officer either appointed or nominated by the Institute.
- iii) No person shall be appointed without fulfilling codal formalities as prescribed for the post in these rules.

10. POWER OF APPOINTMENT:

The power of appointment to various posts in the Institute shall vest in the authority as indicated below:

Post:

Appointing Authority

1. Posts from BPS-16 to BPS-20  
2. All other posts of BPS-1 to 15

Chairman/Board of Governors  
Principal/Incharge of PAITHOM

*ad*

ATTEST  
*[Signature]*

49

47

competent authority for same. The committee decided that all application for the promotion to post in BPS-16 may be forwarded to the department for further perusal in the matter.

1. Mr. Haq Nawaz  
Engineer Incharge

2. Mr. Liaqat Raza  
Admin Officer

3. Mr. Hurmat Yab Khan  
Incharge PAITHOM

28/2/2010

*all*

ATV/SJL



PAKISTAN AUSTRIAN INSTITUTE OF  
TOURISM AND HOTEL MANAGEMENT  
Office of In-charge PAITHOM, Fizagat, SWAT



PAITHOM  
Gateway to Excellence

Ref No. 3(1)/2011/PAITHOM-ADMN/Vol-IV

Dated: 02/03/2020

OFFICE ORDER

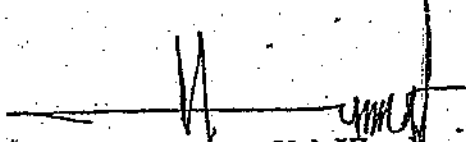
Subject: APPROVAL OF PROMOTION

Powers of appointment, confirmation and promotion delegated under Rule 2(II) of governing rules of PAITHOM to the undersigned for posts in BS-1 to BS-15(copy attached). In this regard a departmental promotion committee was constituted which recommended promotion of the following two staff as given in the table below. The applicants are most dutiful and have performed their task with devotion under the orders of the undersigned and now the court has also allowed them right of promotion.

The following staff is promoted as under;

Sr. No.	Name of the staff	Present designation with BPS	Promoted to Post with Scale
1.	Mr. Israr Ali	Waiter BPS-06	Head Waiter BPS-07
2.	Mr. Tahir Khan	Room Attendant BPS-05	Room Man BPS-06

Their pay shall be fixed in higher scale with immediate effect.  
Encls:As Above

  
(Hurmat Yab Khan)  
Chief Instructor / In-charge

Copy to:

1. Section Officer (G), Tourism Department, Peshawar for information.
2. Mr. Israr Ali, Head Waiter, PAITHOM
4. Mr. Tahir, Room Man
7. Office File





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STAFF SALARY LIST OF PAITHOM FOR THE MONTHS OF APRIL & MAY, 2020

S.No	Name of Employees	Designation	Salary for April, 2020	Salary for May, 2020	Prev Salary arrears for Feb & March in promotion case	Net issued salaries amounts	Signature
1	Mr. Hummat Yab Khan	Chief Instructor	146,352	146,352		292,704	
2	Mr. Liaqat Raza	Admin Officer	92,924	92,924		185,848	
3	Mr. Haq Nawaz	Engr Incharge	52,193	52,193		104,386	
4	Mr. Akbar Ali	Cashier	30,907	30,907	2,224	64,038	
5	Mr. Ali Shah	Mkt/Rep	32,878	32,878	6,166	71,922	
6	Mr. Nisar Ul Haq	D/Clerk	29,795	29,795		59,590	
7	Mr. Akbar Hussain	Record Keeper	29,795	29,795		59,590	
8	Mr. Adil Shah	Walter	29,795	29,795		59,590	
9	Mr. Israr Ali	Head Waiter	30,907	30,907	2,224	64,038	
10	Mr. Abid Shah	Walter	29,795	29,795		59,590	
11	Mr. Nasrullah	Supervisor	29,213	29,213	1,786	60,212	
12	Mr. Javed Iqbal	Receptionist	28,320	28,320		56,640	
13	Mr. Asghar Sheh	Room Attndt	28,320	28,320		56,640	
14	Mr. Tahir Khan	Room Man	29,687	29,687	2,734	62,108	
15	Mr. Mian Sher Ali	Laundry Incharge	29,687	29,687	2,734	62,108	
16	Mr. Arshad	W/Presser	28,320	28,320		56,640	
17	Mr. Mehboob	W/Presser	28,320	28,320		56,640	
18	Mr. Akbar Khan	Chef Cook	29,213	29,213	1,786	60,212	
19	Mr. Mirad Ali	Cook	28,320	28,320		56,640	
20	Mr. Mumtaz Ali	Cook	28,320	28,320		56,640	
21	Mr. Abdul Khaliq	Driver	28,320	28,320		56,640	
22	Mr. Ghafoor Rehman	Helper	23,162	23,162		46,324	
23	Mr. Muhibullah	Security Guard	20,252	20,252		40,504	
24	Mr. Muqarab Shah	Security Guard	20,252	20,252		40,504	
25	Mr. Naseeb Gul	Gardener	20,252	20,252		40,504	
26	Mr. Sher Zaman	Gardener	20,252	20,252		40,504	
27	Mr. Waheed Murad	H.K./in-charge	24,050	24,050		48,100	
		Grand Total:	949,601	949,601	19,654	1,918,856	

PAITHOM INSTITUTE  
 Cashier / PHT  
 AKBAR ALI

*Handwritten signature*

MAILED



GOVERNMENT OF ~~SO~~ (SO) N

GOVERNMENT OF KHYBER PAKHTUNKHWA,  
SPORTS, TOURISM, ARCHAEOLOGY, YOUTH AFFAIRS &  
MUSEUMS DEPARTMENT.  
13-A, KHYBER ROAD, PESHAWAR CANTT.

No: SO (T)5-81/2016 / 7054-56  
Dated Peshawar the 22<sup>nd</sup> June, 2020

To  
The Incharge,  
PAITHOM, Swat.

SUBJECT: i) APPROVAL OF PROMOTIONS  
ii) ENDORSEMENT OF APPROVAL OF UP-GRADATION OF POSTS  
UNDER HIGH COURT DECISION D-1-14/-

I am directed to refer to your office letters No. 3(1)/2011/PAITHOM-  
ADMN/Vol-IV dated: 19.02.2020 and No. 3(1)/2011/PAITHOM-ADMN/Vol-IV dated:  
18.02.2020 on the subjects noted above and to state that both the cases may be held  
in abeyance till final outcome of the court proceedings as per directives of the  
competent authority.

Section Officer (Tourism)

Copy forwarded for information to:

1. PS to Secretary, Sports & Tourism Department, Khyber Pakhtunkhwa.
2. PA to Additional Secretary-1, Sports & Tourism Department

Section Officer (Tourism)

ATTESTED



(3)  
GOVERNMENT OF KHYBER PAKHTUNKHWA,  
SPORTS, TOURISM, CULTURE, YOUTH AFFAIRS,  
ARCHAEOLOGY & MUSEUMS DEPARTMENT.  
13-A, KHYBER ROAD, PESHAWAR CANTT.  
TELE: 9210377.  
FAX # 9212538.

Dated Peshawar the, 22<sup>nd</sup> September, 2022

**NOTIFICATION:**

**No.SO(T)5-81/2016/PAITHOM/Vol-III-** The Competent Authority (Secretary Sports and Tourism Department) is pleased to constitute a fact finding inquiry committee comprising of the following Officers of this Department to examine various cases of PAITHOM employees under the relevant rules/policies.

- i. Ms. Anila Faheem, Deputy Secretary-III.
- ii. Mr. Gauhar Ali, Deputy Secretary-IV.

**TORs of the committee are as under:**

- i. To examine the promotion orders issued in respect of employees of PAITHOM by management of PAITHOM.
- ii. To examine the rules/policies under which the orders were issued.
- iii. To examine the status of representations/litigation/CoCs filed by Haq Nawaz & other employees of PAITHOM & to recommend a viable way forward giving a fair opportunity of hearing to all such employees.
- iv. The committee will also prepare a report covering therein the above TORs as well as background of PAITHOM with concrete recommendations. The committee will submit the report within 30 days of issuance of this Notification.

Secretary to Govt. of Khyber Pakhtunkhwa,  
Sports, Tourism, Culture, Youth Affairs,  
Archaeology & Museums Department.

**Endst. No. & Date Even. /487-91**

A copy is forwarded to the :-

1. Members of the committee.
2. Incharge PAITHOM with the Direction to assist the committee in coordinating with the employees/litigants/appellants and providing the relevant record as and when required.
3. PS to Secretary, Sports, Tourism, Culture, Youth Affairs, Archaeology & Museums Department.
4. PA to Additional Secretary-I, Sports, Tourism, Culture, Youth Affairs, Archaeology & Museums Department.
5. PAs to Deputy Secretary-III/IV, Sports, Tourism, Culture, Youth Affairs, Archaeology & Museums Department.

ATTESTED

Section Officer (General)

22/9/22

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GOVERNMENT OF KHYBER PAKHTUNKHWA,  
SPORTS, TOURISM, ARCHAEOLOGY, YOUTH  
AFFAIRS & MUSEUMS DEPARTMENT.  
13-A, KHYBER ROAD, PESHAWAR, CANTT.

No. SO (T)5-81/2022  
Dated Peshawar the 14<sup>th</sup> October, 2022

To

1. The Incharge / Chief Instructor,  
PATTHOM Swat.
2. Mr. Ali Shah, Waiter
3. Mr. Akbar Ali, Waiter
4. Mr. Nasrullah Khan, Electrician
5. Mian Sher Ali, Washer
6. Mr. Akbar Khan, Cook

Subject: PERSONAL HEARING

I am directed to refer to the subject noted above and to state that in light of the notification No. SO(T)5-81/2016/PATTHOM/Vol-III dated 22.09.2022, you are requested to appear for personal hearing before the below mentioned committee on 17.10.2022 (Monday) at 02:00 PM in Sports & Tourism Department, Khyber Pakhtunkhwa, please:

- I. Mr. Gauhar Ali Deputy Secretary-IV
- II. Ms. Aneela Faheem, Deputy Secretary-III

Section Officer (Tourism-I)  
14/10/22

Copy forwarded for information to:

1. PS to Secretary Sports & Tourism Department, Khyber Pakhtunkhwa.
2. PA to Additional Secretary-I, Sports & Tourism Department.
3. PA to DS-III, Sports & Tourism Department.
4. PA to DS-IV, Sports & Tourism Department.
5. Master file.

Section Officer (Tourism-I)

ATTESTED





**PAKISTAN AUSTRIAN INSTITUTE OF  
TOURISM AND HOTEL MANAGEMENT**  
Camp Office PAITHOM, DTS Building, Shagai, Saidu Sharif,  
SWAT



PAITHOM  
Gateway to Excellence

Ref.No.3(1)/2011/PAITHOM-ADMN/Vol-IV

Dated 02/01/2024

**OFFICE ORDER**

1. Mr. Akbar Ali, Waiter
2. Mr. Alisha, Waiter
3. Mr. Israr Ali, Waiter
4. Mr. Nasarullah Khan, Electrician
5. Mr. Mian Sher Ali, Washer/Presser
6. Mr. Tahir Khan, Room Attendant
7. Mr. Akbar Khan, Cook

53

**Subject: WTIHDRAWAL OF PROMOTION ORDER**

In compliance to the departments letter No. SO(T)5-81/2022/Vol-III/5545-47 dated 29-12-2023 which is self explanatory wherein the undersigned is directed to withdraw the office order No. 3(1)/2011/PAITHOM-ADMN/Vol-IV dated 19-02-2020 & 02-03-2020. (Copy attached)

2. Therefore, the above mentioned office orders, issued by the undersigned, are hereby withdrawn and declared as null and void. The seven employees who were promoted vide above mentioned office orders shall be considered as not promoted and are restored to their original pay scales whereon they were regularized.

**ENCLSD;AS ABOVE**

(Hurmat Yab Khan)  
Chief Instructor/Incharge PAITHOM

Cc to:

1. Section Officer (Tourism), Tourism Department, Govt. of Khyber Pakhtunkhwa
2. Office Copy

(54) 9


**BEFORE THE SECRETARY, CULTURE, TOURISM, ARCHEOLOGY  
& MUSEUM DEPARTMENT KHYBER PAKHTUNKHWA,  
PESHAWAR**

**subject:- appeal against the letter/order dated 02-01-2024,  
whereby the promotion order of the appellant issued vide  
office order bearing No. 3(1)/2011/PAITHOM-ADMN/Vol-IV  
dated 02-01-2024, has been withdrawn.**

**Respectfully Submitted:-**

1. That the appellant was initially appointed as Walter on Contract basis in May, 2006 in the Ministry of Tourism, Government of Pakistan and his services were regularized subsequent to the Establishment Division Office Memorandum dated 29-08-2008, vide Order/Letter dated 09-02-2011 and since appointment he performed his duties with honesty and full devotion and to the entire satisfaction of his high ups.
2. That the appellant along with others were promoted as Cashier (BPS-07) Vide office order issued vide No. 3(1)/2011/PAITHOM-ADMN/Vol-IV dated 19-02-2020 while his other colleagues were promoted vide No. 3(1)/2011/PAITHOM-ADMN/Vol-IV dated 02-03-2020 and the appellant along with his colleagues were paid salaries of the promoted post from February 2020 to May 2020. **(Copies of office order 19-02-2020, office order dated 02-03-2020 and list of salaries is enclosed as annexure A)**
3. That strangely the stated promotion orders mentioned above were held in abeyance in the meanwhile the appellant filed departmental appeal through proper channel which was not responded where after, the appellant filed the service appeal No. 1618/2023 before the honorable Khyber Pakhtunkhwa service tribunal in during the pendency of the said service appeal the promotion order of the appellant was withdrawn by the In-charge PAITHON vide letter/order dated 02-01-2024. **(Copy of letter dated 02-01-2024 is enclosed as annexure B)**
4. That the impugned order communicated vide letter dated 02-01-2024 whereby the promotion order by the appellant has been withdrawn, is against the law, facts and principles of natural justice on grounds inter-alia as follow:-

**G R O U N D S :-**

- A. That the impugned Order to the extent of the appellant is illegal, unlawful, without lawful authority and void.
- 

55



- B. That the appellant is not treated in accordance with law and rules which being his fundamental right as per Article 4 and 25 of the Constitution and law of the land.
- C. That the impugned order has been passed in utter violation of law and rules, as the appellant was provided opportunity of hearing, thus condemned unheard.
- D. That no charge sheet or show Cause notice was issued to the appellant nor he was provided opportunity of personal hearing.
- E. That no case is pending in any court against the promotion order of the appellant hence too the impugned order/letter is not tenable and liable to be set at naught.
- F. That there is no omission or commission on part of the appellant and he could not be punished for the fault of others even if any.
- G. That the appellant was promoted by the competent authority after due process of law, hence withdrawal order is not tenable in the eye of law.
- H. That the appellant is having about 15 years and 6 months of service with unblemished service record

**It is therefore prayed that on acceptance of this appeal, the impugned order communicated vide Letter dated 02-01-2024 may kindly be set aside and the promotion order of the appellant may kindly be restored with all back benefits.**

**Akbar Ali,**  
CASHIER, PAITHOM  
Camp Office, Saidu Sharif Swat.

Dated:- 19-01-2024

Cell # 0318-4242788



~~Amer Latif~~  
**GOVERNMENT OF KHYBER PAKHTUNKHWA,  
CULTURE, TOURISM, ARCHAEOLOGY & MUSEUMS  
DEPARTMENT.**

Dated Peshawar 30<sup>th</sup> May, 2023

56

**NOTIFICATION:**

**No. SO(T)/5-81/PAITHOM/2023/3553-59** : The Competent Authority (Chief Secretary, Khyber Pakhtunkhwa) is pleased to appoint Mr. Amer Latif (PCS EG BS-20), Member-I, Board of Revenue, Revenue & Estate Department as Inquiry Officer to conduct inquiry against Mr. Hurmat Yaab Khan, Chief Instructor (BS-19), Pakistan Austrian Institute of Tourism & Hotel Management (PAITHOM) for the charges mentioned in the Charge Sheet and Statement of Allegations.

2. The Inquiry Officer shall submit report alongwith recommendations within 30 days positively.

-Sd-

Secretary to Government of Khyber Pakhtunkhwa  
Culture, Tourism, Archaeology & Museums Department

**Endst: No. & Date even:**

Copy forwarded to:

1. Mr. Amer Latif (PCS EG BS-20), Member-I, Board of Revenue, Revenue & Estate Department, Khyber Pakhtunkhwa alongwith copy of inquiry report, Charge Sheet and Statement of Allegations.
2. Chief Instructor (PAITHOM), Gullibagh Swat alongwith copy of Charge Sheet and Statement of Allegations.
3. PSO to Chief Secretary, Khyber Pakhtunkhwa.
4. PS to Secretary, Establishment Department, Khyber Pakhtunkhwa.
5. PS to Secretary Culture & Tourism Department Khyber Pakhtunkhwa.
6. PS to AS, Culture & Tourism Department.
7. PA to DS (Tourism), Culture & Tourism Department.
8. Master File.

*Amer Latif*  
*A*  
*ad*  
**(AKHLAQ AHMAD)  
SECTION OFFICER (TOURISM)**  
30/05/2023

~~Annex-11~~

(13)

Confidential

57

GOVERNMENT OF KHYBER PAKHTUNKHWA  
BOARD OF REVENUE,  
REVENUE & ESTATE DEPARTMENT

091-9210553

No. PS to MBR-I/ Inq/Tourism 15971-76

Dated 06,07.2023

To

✓

The Section Officer (Tourism)  
Culture, Tourism, Archaeology & Museum Department.  
Govt: of Khyber Pakhtunkhwa.

Subject:

INQUIRY AGAINST MR. HURMAT YAAB, CHIEF  
INSTRUCTOR (BPS-19), PAKISTAN AUSTRIAN INSTITUTE OF  
TOURISM & HOTEL MANAGEMENT

I am directed to refer to your Notification bearing No. SO (T)/5-81/PAITHOM/2023/3553-59 dated 30th May, 2023 and to enclose herewith inquiry report containing five (05) pages alongwith Annexures 01 to 14 (pages 01 to 164) for further necessary action please.

*[Signature]*

PS to Member - 1  
Board of Revenue

Endst: No. and dated even:

Copy forwarded to the: -

1. PSO to Chief Secretary, Khyber Pakhtunkhwa.
2. PS to Secretary, Establishment Department Khyber Pakhtunkhwa.
3. PS to Secretary Culture & Tourism Department Khyber Pakhtunkhwa.
4. PS to AS, Culture & Tourism Department.
5. PA to DS (Tourism), Culture & Tourism Department.

*[Signature]*

PS to Member - 1  
Board of Revenue

*[Signature]*

*[Signature]*

(57) (S8) (14)

**Report of inquiry proceedings against Mr. Hurmat Yab Khan Chief Instructor, Pakistan-Austria Institute of Tourism and Hotel Management**

**Preliminary**

This inquiry report, hereinafter called report is based on inquiry proceedings, hereinafter called inquiry, conducted after Culture, Tourism, Archaeology & Museum Department Khyber Pakhtunkhwa, hereinafter called department, Notification No. SO (T)/5-81/PAITHOM/2023/3553-59 dated 30<sup>th</sup> May, 2023. This Inquiry has been initiated and completed against Mr. Hurmat Yab Khan, the Accused Officer hereinafter called AO who is posted as Chief Instructor at the Pakistan-Austria Institute of Tourism and Hotel Management, hereinafter called PAITHOM.

Proceedings of inquiry are annexed as Annexure-1 to this report in the form of inquiry Order Sheet. Letter No. PS to MBR-I/Inq/Tourism/13640-41 dated 05<sup>th</sup> June, 2023 sent to all concerned to attend inquiry on 26<sup>th</sup> June 2023 is annexed as Annexure-2. This inquiry has been made into three allegation communicated to all concerned vide Statement of Allegations which is annexed as Annexure-3 to this report. Reply of AO to Statement of Allegations is annexed as Annexure-4 to this report. Mr. Akhlaq Ahmed Section Officer of department assisted in inquiry as Departmental Representative, hereinafter called DR. Questionnaires framed by undersigned and replies of AO and DR are annexed as Annexures 5 and 6 respectively to this report.

The term Public Servant used in this report means a person as defined in Section-21 of the Pakistan Penal Code 1860 and is hereinafter called public servant. The term Civil Servant used in this report means a person as defined in the Section 2(b) of the North-West Frontier Province Civil Servants Act, 1973 and is hereinafter called civil servant.

**Inquiry**

During inquiry each one of the allegations, reply of AO to allegations and annexures, reply of AO in questionnaire, office record presented by DR and relevant notifications issued by Government of Khyber Pakhtunkhwa, hereinafter called government, from time to time were examined in detail following which finding against each allegation has been recorded as follow:

*Attest*

*act*

*[Signature]*

(59)

Allegation No-1.

You promoted 07 employees of PAITHOM vide Office Order dated 19.02.2020 and 02.03.2020, without prior approval of the Administrative Department, since the case of regularization of PAITHOM's employees was adjudicated before the court of law at that time;

1. AO promoted a total of seven (07) employees of PAITHOM in various pay scales through two separate orders (Annexures-7 and 8) as follows:

	Order No	Date	No of employees promoted
1	3(1)/2011/PAITHOM/ADMN/Vol-IV	19-02-2020	5
2	3(1)/2011/PAITHOM/ADMN/Vol-IV	02-03-2020	2

- AR
2. These employees were appointed on contract basis as PAITHOM employees, hereinafter called employees, and were therefore public servants. In April 2011 PAITHOM was transferred to government after 18<sup>th</sup> Constitutional Amendment and services of employees were devolved accordingly. PAITHOM was taken over by department.
3. As a result of Dar-ul-Qaza Swat order dated 18<sup>th</sup> April, 2018 in a Writ Petition No 507-M/2017 and after dismissal of departmental appeal by department in the Supreme Court of Pakistan on 11<sup>th</sup> January, 2020 services of employees were regularized with back benefits vide department's Notification on 21<sup>st</sup> January, 2022. This regularization meant that employees became civil servants instead of public servants.
4. Immediately after dismissal of departmental appeal in the Supreme Court of Pakistan and almost two years prior to issuance of regularization notification by department, AO issued above promotion orders on 19<sup>th</sup> February and 2<sup>nd</sup> March 2020. He did not receive any advice of department in this matter nor did he approach it for consultation prior to issuing promotion orders.
5. Since the services of employees were regularized by Dar-ul-Qaza with back benefits therefore they were civil servants at the time of issuance of their promotion orders by AO regardless of the fact that their regularization notification was issued two years later by department.
6. AO in his reply and answers to questions has argued that he had issued these promotion orders on the basis of 'powers conferred upon' him 'under governing rules & regulations of 'PAITHOM', hereinafter called regulations, (Annexure-9). The subject of PAITHOM rules have been discussed in detail under third allegation. Here, it is sufficient to record that:
- i. Regulations which were framed prior to devolution under Federal Ministry of Tourism, hereinafter called ministry, were no longer applicable to employees once they were regularized as civil

servants. Terms and Conditions of service and Promotion of civil servants are governed by the North-West Frontier Province Civil Servants Act, 1973 read with Rule 5 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989 which have not been applied in these cases.

- ii. Regulation No 12(II) conferred promotion powers upon Principal / Director (Annexure-10) whereas AO was and is Chief Instructor PAITHOM. He has been called Incharge PAITHOM in official correspondence but there is nothing on the record that he was entrusted with responsibility of Principal / Director as additional charge or even to look after this post.
- iii. Service regulations under Regulation Serial No. 12 (II) were never approved prior to or after devolution. Therefore even if employees are considered as public servant in February / March 2020 there were no service regulations under which they could be promoted.

7. Therefore the following irregularities have been noted on the part of AO:

- i. Promotion of seven (07) civil servants employees of PAITHOM vide Office without prior approval of department which resulted in violation of Rule 5 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989.
- ii. Exercising of powers of Principal / Director without explicit orders by department to this effect.
- iii. Application of incorrect and unapproved service regulations in promotion process of employees who were civil servants.

#### Finding

The allegation stands proved against AO.

#### Allegation No-2.

*You re-designated the post of Supervisor (BPS-07) to House Engineer (BPS-16) in favor of Mr. Haq Nawaz vide Officer Order dated 20.06.2013, without approval of the Administrative Department;*

1. Immediately before devolution of PAITHOM to department Mr. Haq Nawaz was regularized as Supervisor in BPS-7 as public servant as evident from para-4 of Government of Pakistan Ministry of Tourism Memo No. 2(25)/2002-Plug (Pt-III) dated 9<sup>th</sup> February, 2011 (Annexure-11).
2. He was later regularized as civil servant along with other employees as a result of litigation noted above. But instead of accepting his regularization as Supervisor in BPS-7 he resorted to further litigation seeking for himself the post of House Engineer in BPS-16 on the grounds



*[Handwritten signature]*

1. Prior to devolution, PAITHOM was governed by its regulations which were issued by ministry (Annexure-9). However no supporting service regulations were operational at that time under regulation number 12 (11). It has come to fore that in June 2009 the Federal Ministry of Tourism constituted a committee to draft service rules for employees, herinafter called rules (Annexure-12). On 16<sup>th</sup> February 2010, Board of Governors of PAITHOM, herinafter called board, approved rules subject to proper signing of the draft by Convener and Secretary of board so that rules

*You failed to perform your functions as assigned to you under the law / rules and did not frame / draft service rules for the employees of PAITHOM till date.*

Allegation No-3.

The allegation stands proved against AO.

Findings

- i. Lack of authority to carry out such redesignation in absence of approved regulations for public servants as in 2013 PAITHOM employees were working as public servants not civil servants.
- iii. Negligence of duty as incharge PAITHOM to seek guidance and prior approval of department to issue redesignation / upgrade order under question if it was necessary at all though no relief was granted by any court in 2013 to beneficiary Mr. Haq Nawaz.
- iv. Exercising of powers of Principal / Director without explicit orders by department to this effect.

ii. Irregular promotion from BPS-7 to BPS-16 under garb of redesignation. Redesignation is carried out in same BPS. Raising BPS of a same post is called upgrade. He thus carried out both upgrade and redesignation at the same time without due process.

3. AO has not denied this fact and has candidly admitted in his reply to allegation and in his reply to question No-3 that he has carried out this redesignation on the analogy of redesignation once carried out by department in 2012. Therefore it is evident that AO has carried out redesignation of the post Supervisor BPS-7 to House Engineer BPS-16. Therefore the following irregularities on the part of AO have been noted in this redesignation process.

that Incharge PAITHOM had already promoted him to the post of House Engineer BPS-16 in 2013 through process of redesignation of the post of Supervisor BPS-7 as House Engineer BPS-16 vide letter No.3 (1)/2011/PAITHOM-ADMN on 20<sup>th</sup> June 2013 when services of employees were not yet regularized as civil servants in government.

*Alleged*

*61*

*5*

(62) (18)

could be communicated to the Finance and Establishment Divisions for their concurrence (Annexure-13). However nothing has been found on the record that rules were either sent to Finance and Establishment Divisions or their concurrence to rules was received in PAITHOM prior to devolution in April 2011.

3. Instead, after devolution, on 24<sup>th</sup> July, 2011 rules were submitted to one Mr. Sajeed Hameed 'focal person' PAITHOM in Tourism Department Khyber Pakhtunkhwa 'for further perusal in the matter' (Annexure-14). DR in his reply in questionnaire has stated that 'as per available record draft rules of PAITHOM are not approved by competent forum'.
4. After regularization of employees as civil servants in 2020 these draft rules became irrelevant as these were meant for public servants and were to be approved by board. Under changed circumstances it became the mandate of Standing Service Rules Committee, hereinafter called SSRC, of department constituted under Services and General Administration Department Notification No. SOR. VI(E&AD)2-69/2003 dated 29th January, 2005 amended from time to time read with Rule 3(2) of the NWFP Civil Servants (Appointment, Promotion & Transfer) Rules, 1989. Service rules framed by SSRC were required to be approved by government
5. Therefore no irregularity noted on the part of AO as the following facts have come to fore:

- i. AO had submitted draft service rules inherited from ministry in 2011 to focal person PAITHOM in department for approval of board which remained unapproved till regularization of employees as civil servants
- ii. Since regularization of employees in 2020, department has yet to convene meeting of SSRC to draft service rules for them

**Finding**

The allegation does not stand proved against AO.

**Recommendations as requested by department**

- i. In short run department should frame service rules for employees through SSRC.
- ii. In long run department may improve over all operational performance including service conditions of PAITHOM by introducing legislation on the analogy of KP TEVTA Act 2012

*AmerLatif*  
(AmerLatif)

Inquiry Officer/ Member-1, Board of Revenue

PAKISTAN AUSTRIAN INSTITUTE OF TOURISM AND HOTEL MANAGEMENT  
CLUB ANNEKE JINNAH ROAD ABBOTTABAD  
PHONE: 0992-543989 FAX: 0992-336533

Ref No: 2(2)/PAITHOM/NAVTEC

5<sup>th</sup> November, 2011

**OFFICE ORDER**

To,

Mr. Waheed Murad  
Chargull, Mardan.

Subject: **APPOINTMENT AS INSTRUCTOR (VISITING FACULTY) FOR NAVTEC COURSES AT DISTRICT, SWAT**

Refer to your application on the subject cited above and recommendation of the Secretary Tourism intimated through local person letter No. STC/FOCAL PERSON/PAITHOM/ dated 31-10-2011, initially for a fixed period of six months on a competitive salary of Rs: 14,166/ per month.

2. You will be responsible to take two classes of Front Office and Housekeeping three days a week. You will not be entitled to any benefit usually available to other government employees. You are advised to report on duty at Swat w.e.f 01-12-2011. If the above terms and conditions are acceptable to you please intimate your written acceptance to the undersigned within a period of 7-days from the issue date of this letter.

(Huzmat Yab Khan)  
Incharge PAITHOM  
Local Coordinator, NAVTEC

- Cc:
1. PS to Regional Director, NAVTEC, Peshawar.
  2. Focal Person, PAITHOM, Tourism Department.
  3. Personal file.
  4. Master file NAVTEC

NAVTEC



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**PAKISTAN AUSTRIAN INSTITUTE OF  
TOURISM AND HOTEL MANAGEMENT**  
Camp Office: PTDC MOTEL SAIDUSHARIF SWAT  
FAX: 0946-700618



Ref No. 3(1)/2011/PAITHOM-ADMIN

Dated: 27/07/2012


To,

Mr. Waheed Murad,  
Village & P.O Chargulli,  
District Mardan  
Ph:0937-800588 Cell#0345-2372538

Subject: **FIXED PERIOD-APPOINTMENT ON CONTRACT BASIS**

I am directed to convey the approval of the competent authority for your appointment for a period of six months (renewable on mutual consent) against the post of Housekeeper Incharge in PAITHOM on standard terms and conditions of contract appointment on a monthly consolidated salary of 15,000/- per month.

2. If you agree with this offer of appointment as mentioned in the para above then a written consent in black & white to the undersigned
3. This issues with the approval of the competent authority.

  
(Liaqat Haza)  
Management Secretary

Copy to:

1. Incharge PAITHOM Swat
2. Focal Person PAITHOM, Tourism Department, Peshawar
3. Master File
4. Personal File



  
ATTESTED

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To,

17-02-2020

The Incharge,  
PAITHOM,  
Mingora Swat.

**Subject: Request for Promotion from the post of "Housekeeping Incharge BPS-05" to "Demonstrator BPS-16"**

Respected Sir,

With due reverence it is stated that I have been serving PAITHOM since 2011, under your kind control, in various capacities i.e. as Instructor, Housekeeping Incharge etc. to the best of my knowledge and abilities. (Details provided in the enclosed statement)

2. During my services I have proven myself to be a loyal, hardworking and honest member of the team. I always completed every assignment in due course of time and in the best possible manner with no complaints whatsoever.

3. It is further added that despite my tiresome efforts and continued service I have never been promoted and I am still serving in BPS-05 since my appointment 08 years ago.

4. Your kind self is therefore requested that I may be promoted from the post of "Housekeeping Incharge BPS-05" to "Demonstrator BPS-16" so that I may continue to serve and add yet more value to this prestigious Institution.

5. I shall be eternally grateful for your kindness.

Yours Sincerely,

*Wahed Murad*  
17/02/2020

Wahed Murad  
Housekeeping Incharge  
PAITHOM Mingora Swat

*Comments*  
*11/2*



Shot on Vivo  
vivo dual camera

ATTES  
*[Signature]*

2021.03.17 15:31

*all*

**DETAIL OF EMPLOYEE IN CASE WRIT PETITION NO. 546-M OF 2017**

S. No	Name & Father Name with CNIC	Designation	BPS	Initial Date of Appointment	Current Designation	Remarks
1.	Wahced Murad s/o Murad Ali 16101-9299950-9	Housekeeping In-charge	05	27-07-2012	Housekeeping Incharge (Currently demonstrate and instructs shon courses as and when required)	He is hardworking and dutiful individual. He has good demonstration skill of housekeeping and Food Service. He is also instructing short certificate courses since 2012. He is strongly recommended for the post of demonstrator BS-16

Attested and Verified by

(Hurnat Yab Khan)  
Incharge PAITHOM

HURMAT YAB KHAN  
INCHARGE PAITHOM  
TOURISM DEPARTMENT  
Govt. of Khyber Pakistunkhwa

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A. LESTI

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*(Handwritten mark: 77)*



PAKISTAN AUSTRIAN INSTITUTE OF  
TOURISM AND HOTEL MANAGEMENT  
Camp Office PAITHOM, Buzgat, SWAT



PAITHOM  
Gateway to Excellence  
17/03/2021

Ref.No.3(1)/2011/PAITHOM-ADMIN/Vol-IV  
To.

The Section Officer (T),  
Tourism Department,  
Government of KPK,  
Peshawar.


Subject: RECOMMENDATION ON APPLICATION OF MR. WAHEED MURAD  
UNDER AUGUST HIGH COURT DECISION DATED 18-04-2018

Mr. Waheed Murad was hired on contract basis in PAITHOM to instruct classes of housekeeping in NAVTTC funded project but later on the request of the Tourism Department in 2012 he was retained on the post of Housekeeping In-Charge BS-05 later on he instructed housekeeping short courses executed by the institute as well as sponsored by NAVTTC and other NGO's. He is a dutiful, hardworking and a professional individual. To use his qualities and technical acumen, the undersigned selected him as caretaker of government rest houses in Galyat and singly handed these houses in extreme winter season. He also demonstrated skills to caretakers of rest houses in caretaker/custodian short course of one month executed by PAITHOM during operations of rest houses under government directions.

His claim for up-gradation is justified wherefore undersigned has already recommended endorsement and approval of up-gradation of posts from BS-1 to BS-15 vide letter No.3(1)/2011/PAITHOM-ADMIN/Vol-IV dated 18/02/2020 as these posts are not in proper hierarchy and service ladder for such an international repute institute where trainings are being given on the subject.

The undersigned strongly recommends that the scale of the post of housekeeping in-charge may be upgraded from BS-05 to BS-14 as proposed earlier, as well as, in comparison with prevailing scale of receptionist in other government organizations thereafter he may be promoted to the post of Demonstrator BS-16 to motivate him and appease his grievances since long 16 years keeping in view his previous proven performances.

Encls: As Above

  
(Hurmat Yab Khan)  
In-charge PAITHOM

Copy for information and coordination to:

1. Mr. Waheed Murad, Housekeeping Incharge with reference to his application on the subject above.
2. Office Copy

ATTESTED  


Shot on Y93  
vivo dual camera

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To,

Mr. Liaqat Raza  
Admin Officer  
PAITHOM, Swat

02/06/2016

Subject: REGULARIZATION OF SERVICES IN PAITHOM

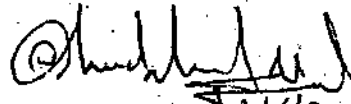
Dear Sir,

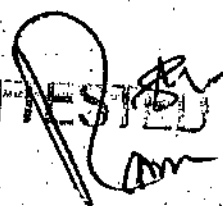
It is respectfully stated that the applicant is serving PAITHOM since July, 2012 on contract basis against post of Incharge Housekeeping BS-05 to the entire satisfaction of my superiors. My responsibilities and task include following:

- 1) Instructor NAVTTC Project from January, 2012 to December 2013 responsible for instructions and practical orientation for Housekeeping classes.
- 2) Deputy Incharge for TCKP/PAITHOM Tent Village, at Batakundi.
- 3) Instructor for six month diploma for NETHM Institute Abbottabad responsible for instructions and practical orientation for Housekeeping classes.
- 4) Deputed as Unit Incharge at Chakdara PTDC Restaurant lower Dir and PTDC Motel Kalam.
- 5) Performed as an Booking Supervisor, Maintenance and Accounts related matters and guest relations at Nathiagali Rest Houses which was transferred to Tourism Corporation, Khyber Pakhtunkhwa, wherein I was responsible for aforesaid responsibilities.
- 6) Instructor for two weeks training for care takers of Galiyat Rest Houses and 1 month skill up-gradation course at Nathiagali.

I have come to know through reliable sources that the services of other employees who came from Federal Government are adopted by department. In this view, I request that I may also be considered from date of my first appointment for regularization of services along with others, keeping in view of excellent services mentioned above.

Thanking You

  
(Waheed Murad)  
Housekeeping Incharge  
PAITHOM, Swat  
2/6/2016

ATTESTED  






(57) (76) (69)



**PAKISTAN AUSTRIAN INSTITUTE OF TOURISM  
AND HOTEL MANAGEMENT**  
Tourism Department, Government of Khyber Pakhtunkhwa  
Camp Office: Faizabad Saidu Sharif Road, Swat  
Fax# 0946-726987



Ref No. 2(1)/2009/PAITHOM-ADMIN

Dated: 02/06/2016

To:

Mr. Hurmat Yab Khan  
Chief Instructor/ Incharge  
PAITHOM, Swat


Subject: REGULARIZATION OF SERVICES IN PAITHOM

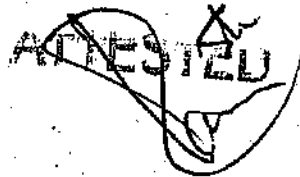
i) The applicant forwarded application for regularization of services in PAITHOM as Housekeeping Incharge BP-05 was appointed in ... 2012.

ii) He performed his duty whenever his services required, he is punctual, obedient and skilled employee, in all above he always at work and on time, having good attendance record as well. recently our high-ups has endorsed his performance at Galiyat, where he performed duty for almost for a year.

iii) Therefore, I compelled to recommended his application for his regularization of services in PAITHOM.

iv) Submitted for your kind consideration please.

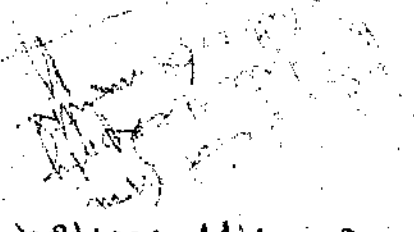
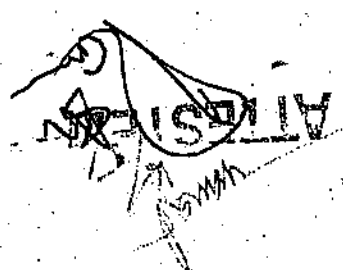
  
(Liaqat Reza),  
Admin Officer

  
ATTESTED



W

Your truly  
Michael Mural



my Application Object

Your kind self requested to consider  
extend my contract period by one year possibly  
operation it is therefore requested that inibly  
extend to get more opportunities under your kind  
Housekeeper Incharge of PATTHOM, whereas I am  
employee in right of my present performance  
has been expired on 25/2/2017 as contract  
term dated 27/9/2016 (copy attached) My contract  
kindly refer to letter No 2(1)/2009/PATTHOM

Subject: EXTENSION OF CONTRACT

Incharge PATTHOM,  
Swat

(70) (68)

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To,

Mr. Humat Yab Khan  
Incharge PAITHOM  
Swat

Subject: UPGRADATION FOR THE POST OF ADMINISTRATOR OFFICER

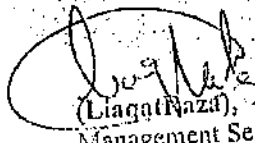
Dear Sir,

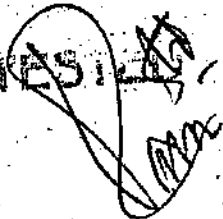
It is to inform you that I have joined PAITHOM in 17/10/2007, since that I have been working hard to maintain its prestige status specially after quitting of Mr. Omer Mir former Principal PAITHOM and Mr. Zia ulhaq (Accountant), subsequently in March 2008 Ministry of Tourism deputed me as a Incharge PAITHOM in war like situation in Swat but I never loose my temperament as Incharge and completed six month pending diploma of 44 students at PAITHOM June, 2008 in the presence of more than five hundred law enforcement soldiers.

2. It is also notify you that I have joined PAITHOM as an Management Secretary BPS-16 to look after all the administrative responsibilities but in 2009 in the absence of the accountant, your kind self has assigned me additional accounts responsibilities for smooth functioning of PAITHOM since then I have been working hard in the absence of proper accountant. Moreover I completed one year NAVTEC project as an accountant in 2009-10 and presently working on same project for 2012-1. Besides I did MBA with specialization of HRM.

3. It is therefore requested that my services may kindly be promoted to the post of administrator officer BPS-17 on the basis of my past performances to encourage me for my future assignments/ tasks.

With Regards,

  
(Liaqat Nazki), 28/01/2012  
Management Secretary  
PAITHOM, Swat.

ATTES  




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**PAKISTAN AUSTRIAN INSTITUTE OF TOURISM AND HOTEL MANAGEMENT**  
Ministry of Tourism, Government of Khyber Pakhtunkhwa  
Camp Office: Shahdara Watkay Swat  
FAX: 0946-700618



Ref No. 2(1)/2009/PAITHOM-ADMN  
To

Dated: 03/02/2012

Mr. Sajjad Hameed,  
Focal Person, PAITHOM,  
Tourism Department,  
Government of Khyber Pakhtunkhwa,  
Peshawar

**SUBJECT: UPGRADATION FOR THE POST OF ADMINISTRATOR OFFICER**

Dear Sir,

Kindly find enclosed an application by Mr. Liaqat Raza, Management Secretary PAITHOM which is self explanatory.

2. The application is forwarded for favorable consideration by the competent authority for promoting/ upgrading the job status of the applicant considering his services in promotion and functioning of the Institute despite all odds and evens. The applicant was appointed on 17-10-2007 since then he is performing his duty and any task assigned to him diligently and efficiently.

3. It is therefore requested that he deserves the up-gradation/ promotion in his service and the Secretary, Ministry of Tourism in his capacity as Ex-Officio Chairman of the Board of Governors, PAITHOM has been delegated with powers under PAITHOM administrative rules and regulations to promote/demote services of officers from BPS-16 and above.

Enclsd: As Above

Regards,

Yours truly,

*MAP on file with all the details asked for in condition action taken vide P/ 8/8. see 8/2/2012*

(Hurmat Yab Khan)  
Incharge /Chief Instructor

ATTESTED  
*(Signature)*

*(Signature)*



**PAKISTAN AUSTRIAN INSTITUTE OF  
TOURISM AND HOTEL MANAGEMENT**  
Ministry of Tourism, Government of Khyber Pakhtunkhwa  
Camp Office: Shaldara Watkay Swat  
FAX: 0946-700618



Ref No. 2(1)/2009/PAITHOM-ADMN  
To, ✓

Mr. Sajjad Hameed,  
Focal Person, PAITHOM,  
Tourism Department,  
Government of Khyber Pakhtunkhwa,  
Peshawar

Dated: 14/02/2012

Subject: UPGRADATION OF THE POST OF ADMINISTRATIVE OFFICER

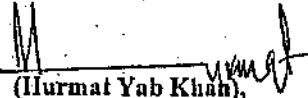
Dear Sir,

Kindly refer to your letter No. STC/FOCAL PERSON/PAITHOM/501-62 dated 08-02-2012 on the subject cited above. The requisite information as desired by Competent Authority is detailed hereunder;

- i) The applicant was hired against the sanctioned post of Management Secretary (BPS-16) included in the posts of PAITHOM (Annex-I) 17-10-2007 in response to advertisement appeared in National Dailies. He is an MBA-IT with specialization in HRM (Annex-I)
- ii) The experience of the applicant since his joining till-to-date is 4 years 4 month approximately on the post of Management Secretary and he has also been performing the additional charge of Accountant in the absence of the proper Accountant.
- iii) Where in this case the applicant fulfills the condition for promotion/move-over under Chapter-III titled, "General Terms & Condition of the Service" sub rule 19, 21 & 22 along with Schedule of manner of promotion and appointment on the posts (Annex-II) and there is no other officer working on the post of Administrative Officer presently so he becomes the senior most and eligible candidate for the up-gradation/promotion.

2. The requisite information is forwarded as desired for favorable consideration of the Competent Authority please.

With regards

  
(Ilurmat Yab Khan),  
Chief Instructor/ Incharge

Cc: Copy forwarded for information to MD TCKP/Secretary Tourism Department,  
Government of Khyber Pakhtunkhwa.

  
**ANNEXED**  




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GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
SPORTS, TOURISM, YOUTH AFFAIRS,  
ARCHAEOLOGY & MUSEUMS DEPARTMENT

No.STC / FOCAL PERSON / PAITHOM / 501-82  
Dated Peshawar the February 8<sup>th</sup>, 2012.

To

The Incharge PAITHOM,  
Street Zamrud Kan,  
Peoples Square, Mingora, Swat.

**SUBJECT: UPGRADATION OF THE POST OF ADMINISTRATIVE OFFICER.**

I am directed to refer to your letter No. 2(1)/2009-ADMIN-PAITHOM dated February 3<sup>rd</sup>, 2012 alongwith its enclosures, on the subject noted above. The Competent Authority has directed that a self-contained case covering all aspects i.e details of pots, applicants experience, length of service, seniority list, status of service rules of Paithom etc. for favour of further necessary action in the matter.

You are therefore, requested to submit the requisite information, for favour of consideration of the competent authority please.

*Sajjad Hameed*

(SAJJAD HAMEED)  
FOCAL PERSON PAITHOM

C.C: Copy forwarded for information to MD TCKP/Secretary Tourism Department,  
Government of Khyber Pakhtunkhwa.

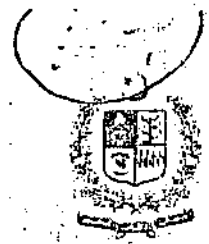
*[Signature]*  
FOCAL PERSON PAITHOM

ATTESTED  
*[Signature]*

*[Signature]*



PAKISTAN AUSTRIAN INSTITUTE OF TOURISM  
&  
HOTEL MANAGEMENT



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To,  
Mr. Liaqat Ruza  
Management Secretary  
PAITHOM Guli Bagh  
SWAT.

Subject: Extension of Contract

Dear Sir,

The competent authority has been pleased to extend your contract appointment as Management Secretary in this institute for a period of one year from 17-10-2008 to 16-10-09 on the similar terms and conditions already laid down in your first contract appointment.

Mr. Hurmat Yab Khan  
Incharge/ Chief Instructor

I do hereby report for duty w.e.f 13-04-2009 in PAITHOM as the above conditions are acceptable to me.

19-Km Gulibagh  
Swat, NWFP  
Pakistan

Tel: +92(0)946-731480-81  
Fax: +92(0)946-731484  
E-mail: principal\_paithom@hotmail.com  
Web: www.paithom.com

ATTESTED

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PAKISTAN AUSTRIAN INSTITUTE OF TOURISM AND HOTEL MANAGEMENT  
CLUB ANNEXE JINNAH ROAD ABBOTTABAD  
PHONE: 0992-543989 FAX: 0992-336533

To,

Mr. Mohammadi Sharif,  
Public Relation Officer,  
Ministry Of Tourism  
Islamabad.

RefNo: 2(1)/2009-PAITHOM-ADMN

28<sup>th</sup> July, 2010

Subject: EXTENTION OF CONTRACTS WITH SALARY RAISE

Dear Sir,

The contracts of following officer's staff of PAITHOM have been expired or to be expired as per details given in the table below:-

S.No	Name of the Officer	Designation with consolidated salary/month	Contract Expiry Date
1.	Hurmat Yab Khan	Chief Instructor/ Incharge Rs. 45000/-	23 <sup>rd</sup> October, 2010
2.	Mohammad Hanif Khan	Instructor Rs. 22000/-	10 <sup>th</sup> June, 2010
3.	Linqat Raza	Management Secretary Rs. 30000/-	15 <sup>th</sup> October, 2010

2. It is also necessary to mention here that one of the Instructor Mr. Adnan Manzoor has resigned on the plea that it is now impossible for him to continue his job on the salary which has not been raised during his tenure of three years. He was hardworking and competent instructor and no doubt was an asset to the Institute. To retain such experience and competent staff we may set rules of annual increment.

3. Mr. Hanif Khan (Instructor "Front Office") is also working since three years without any raise in salary who is competent and hardworking individual having Mater Degree in Business Administration and professional Hotelling experience of eight years in a 5-Star Hotel. The undersigned strongly recommends that his contract may be extended for one more year with a consolidated salary of Rs: 30000/ month with immediate effect.

4. The contracts of the undersigned and Management Secretary are going to expire on the dates mentioned in the table above. The contract periods may be extended for one more year. The Management Secretary is presently assisting in administrative, financial affairs of the Institute. The Management Secretary is working without any raise since almost three years.

ATTESTED



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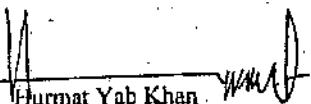
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5. The undersigned is looking after all affairs of the Institute since August 2008. Being Incharge of the Institute the undersigned can not recommend any raise in salary of my own. It is also necessary to mention that keeping in view the progress of the Institute despite all odds and lack of facilities and the way we progressed and got projects from NAVTEC for off-campus trainings to make the Institute functional as a team. The former Principal was drawing a consolidated salary of Rs. 145,000/- for the same job responsibilities as the undersigned is performing, so a reasonable raise in salary as the competent may deem suitable may kindly be granted.

3. The approval of the Honorable Secretary Ministry of Tourism in his capacity as Ex-Officio Chairman of the Board of Governors PAITHOM Institute is solicited.

Yours Truly,

  
Hurmat Yab Khan  
Chief Instructor/Incharge

o/c





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(B) In the case of BPS-1 to 15 posts the merit seniority-cum-fitness may be taken into consideration by a selection/ promotion committee appointed by the Principal/ Incharge of the Institute and recommendation of this committee would be submitted to him for his final approval.

(C) In the case of promotion to the post of BPS-16 and above, the Chairman in consultation with the committee constituted by him for this very purpose shall endorse its recommendations to the Board of Governors for approval.

19. PROMOTION:

Promotion of an employee to a higher post shall be made by the appointing authority on the basis of the following criteria:

a) Merit in the case of Management, Academic/Engineering and Supervisory posts, with due regard to seniority.

b) Seniority-cum-merit in the case of secretarial and clerical posts. Cases for promotion to the post of Principal, Chief Instructor, Senior Instructor, Instructor and other Officers shall be recommended to the Chairman by a selection committee appointed by him wherefore Principal/Incharge shall be the convenor. The cases for promotion to all other posts shall be put up to the Principal/Incharge by a selection committee constituted by him on that behalf.

No employee shall be considered for promotion to a post higher than one grade above the post held by him or if his/ her due promotion falls in another post in any other grade thereof.

20. GRANT OF SENIOR SCALE:

a) In pursuance of the rules of Establishment Division conveyed vide O.M. dated 28th February, 1988, the senior scale BPS-5, BPS-6 and BPS-7 shall be granted to 50% of the Driver/Dispatch Riders of the Institute on the following conditions:-

b) that the senior scale NPS-7 shall be granted to the Drivers who have put in 15 years service as Drivers/Dispatch Riders.

c) that if a Driver/Dispatch Rider has rendered more than 10 years but less than 15 years of such service, he shall be granted senior scale of pay in BPS-6 but BPS-7 shall be granted to him on completion of 15 years of such service.

d) that if a Driver/Dispatch Rider has completed more than 5 years of such service but less than 10 years of such service, he shall be granted senior scale of pay in BPS-5, but PS-6 shall be granted to him on completion of 10 years of such service and BPS-7 shall be granted to him on completion of 15 years of such service.

e) The senior scale of pay will not be granted to a Driver/Dispatch Rider who has not completed 5 years of such service.

ii) The selection grade BPS-2 and BPS-3 shall be granted to 20% staff of the Naib Qasid/ Daftary. (Ref: Finance Division O.M. No. F. 1(1) Imp/2008, dated 30<sup>th</sup> June 2008.

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21. CONDITION FOR PROMOTION

Promotion to post(s) given in the table below shall be made by selection amongst the persons who hold the next downward post(s) specified in column (2) on regular basis and possess the qualifications and experience as in column (3).

Sr.No.	Name of Post	Next Person Eligible	Condition of Eligibility
1.	Principal/Director (BPS-20)	Chief Instructor / Deputy Director (BPS-19)	17 years service equivalent to BPS-17 or above post or 12 Years service equivalent to BPS-18 posts or 5 years service equivalent to BPS-19 post in the Institute.
2.	Chief Instructor (BPS-19)	Senior Instructor (BPS-18)	5 Years service as a Senior Instructor in the Institute
3.	Senior Instructors & Manager (BPS-18)	Instructors (BPS-17)	4 years service as Instructor in the Institute
4.	Instructor (BPS-17)	Demonstrator (BPS-16)	4 Years service in the Institute as Demonstrator.
5.	Accounts Officer (BPS-17)	Accountant (BPS-16)	Preferably the post may be filled by deputation however if not, 5 years service as Accountant in the Institute will be considered.
6.	Admin Officer (BPS-17)	Management Secretary (BPS-16)	4 Years service as Management Secretary in the Institute.
7.	Accountant (BPS-16)	Cashier (BPS-7)	5 Years service as a Cashier in the Institute.
3.	Head Waiter (BPS-7)	Waiter (BPS-6)	3 years service as waiter in the training hotel of the Institute

22. MOVE-OVER:

In case any employee in BPS-16 and above of the Institute has reached the maximum of his pay scale, he may be allowed move-over to the next higher pay scale in accordance with the move-over policy framed by the Government for their employees.

Move-over to the employees of BPS-15 and below may be allowed in the next higher pay scale immediately after the employee has reached the maximum of his pay scale.

23. TRANSFER:

ATTACHED  
[Signature]

[Signature]

(28) (80)  
**CHAPTER-X**  
**MISCELLANEOUS**

94. **AGREEMENT WITH INSTITUTE:**

An employee entering the permanent service of the Institute shall, at the time of appointment, be given an appointment letter along with prescribed job description, which shall form the basis of contractual obligations of both the Institute and the employee concerned.

95. **MEMBERSHIP OF PROVIDENT FUND:**

All employees in the permanent service cadre of the Institute, excluding deputation staff, shall become members of the Institute Provident Fund Scheme, in accordance with the relevant rules.

96. **INCOME TAX RETURN:**

It shall be the duty of an employee to submit his annual income tax return to the authorities concerned, directly or through the Institute.

**SCHEDULE**

The appointment to the posts classified as under shall be made in the manner indicated below:

Sr.No.	Name and Basic Pay Scale of the Post	By Promotion	By Initial Appointment
1	Principal/Director (BPS-20)	50%	50%
2	Chief Instructor / Deputy Director (BPS-19)	50%	50%
3	Senior Instructors/Manager (BPS-18)	50%	50%
4	Instructors (BPS-17)	50%	50%
5	Administrative Officer (BPS-17)	50%	50%
6	Assistant Manager (BPS-17)		100%
7	Accounts Officer (BPS-17)	25%	75% Preferably through transfer/deputation
8	Management Secretary (BPS-16)		100%

*ad*  
**ATTESTED**  
*[Signature]*

(27)

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5.	Administrative Officer (BPS-17)	i) Masters in Business Administration or MB(IT) with specialization in HR OR 3 years practical experience as assistant admin officer in posts equivalent to BPS-16 OR ii) 3 years practical experience in personnel department of a 4-5 star hotel, Must be fluent in English	35 years
6.	Assistant Manager (BPS-17)	Post-graduate in Finance/Commerce 3 years experience of managerial work in 4-5 star hotel OR 3 years experience of managerial work.	30 years
7.	Accounts Officer (BPS-17)	MBA Finance OR- ACMA OR Master in Commerce At least 3 years accounting experience in an industrial, commercial and/or Government organization.	30 years
8.	Accountant (BPS-16)	Commerce graduate or SAS At least 2 years accounting experience in an industrial, commercial and/or Government organization	30 years
9.	Management Secretary (BPS-16)	Post-graduate in Business Administration in Economics/ Commerce 3 years experience of Admin work in posts equivalent to BPS-16	30 years
10.	Engineer Incharge (BPS-16)	<u>Essential</u> B.Sc Engineering/B.E. (Air-conditioning and Refrigeration) <u>Preferable</u> Knowledge of Boiler Engineering will be preferred. Experience 3 years experience in the relevant field	30 years
11.	Secretary to Principal (BPS-18)	Graduate. 3 years experience as personal Assistant Shorthand writing is essential	30 years
12.	Librarian (BPS-16)	<u>Essential</u> B.A. degree with certificate in Library Science <u>Desirable</u> Experience in management of Library. Knowledge of foreign language other than English	30 years
13.	Demonstrator (BPS-16)	Degree OR Diploma in Hospitality and Tourism related subjects	30 years

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GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
SPORTS, TOURISM, YOUTH AFFAIRS,  
ARCHAEOLOGY & MUSEUMS DEPARTMENT

No. TCKP/FOCAL PERSON/PAITHOM/ 1798-203  
Dated Peshawar the January 11<sup>th</sup>, 2013.

To

The Incharge PAITHOM,  
PTDC Motel, Mingora, Swat.

**SUBJECT: FIXATION OF SALARY OF INCHARGE & ADMN OFFICER, PAITHOM.**

I am directed to refer to the subject noted above and to inform that the competent authority has been pleased to allow fixation of salaries of the following two officers of the Pakistan-Austrian Institute of Tourism & Hotel, Management, Swat:

- i. Mr. Hurmat Yab Khan  
Incharge, PAITHOM.
- ii. Mr. Liaqat Raza,  
Admin Officer, PAITHOM.

Copies of fixation of the above officers are enclosed herewith for favour of record and further necessary action.

Encl. As above.

*[Handwritten signature: Sajjad Hameed]*

(SAJJAD HAMEED)  
FOCAL PERSON PAITHOM

C.C: Copy forwarded for information to :

- i. The Managing Director, TCKP/Secretary Tourism Department,  
Government of Khyber Pakhtunkhwa.
- ii. The Section Officer(T), Tourism Department, GoKhyber Pakhtunkhwa  
w/r to letter under reference.

*[Handwritten signature: Atiqe]*

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FOCAL PERSON PAITHOM

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Mr. TCKP PESHAWAR

FORM NO. 10080 91 9210871

19 Dec. 2012 2:43PM PJ



**TOURISM CORPORATION, KHYBER PAKHTUNKHWA**  
13-A, Khyber Road, Peshawar, Ph: 9211080-81 Fax: 9210871  
No. TCKP/OP/4-17/PAITHOM/KC/2012/1723-31.  
Date: 17/12/2012.

TO BE REPLACED WITH LETTER OF EVEN NO. AND DATE

OFFICE ORDER

The competent authority is pleased to regularize the services of Mr. Humart Yab Khan, Chief Instructor in BPS-19 (w.e.f 22-10-2007) as well as the services of Mr. Liaqat Raza, Admn Officer BPS-17 (w.e.f 17-10-2007) in PAITHOM as per past precedent i.e. staff previously regularized in PAITHOM from scale BPS-1 to 15. However, the above officer will not claim any back financial benefits. Whereas, this arrangement would be to the extent of PAITHOM only.

*[Handwritten Signature]*

GENERAL MANAGER

Copy forwarded for information to

1. The Managing Director, Tourism Corporation, Khyber Pakhtunkhwa.
2. The Acting General Manager (Marketing), TCKP, / Focal Person PAITHOM.
3. The Section Officer (Tourism), Tourism Department, Peshawar.
4. The PS to Secretary to Government of Khyber Pakhtunkhwa, Tourism, Sports, Youth Affairs, Archaeology & Museum Department, Peshawar.
5. The Officers concerned / Personal File.

*[Handwritten Signature]*  
17/12/2012  
SUPERINTENDENT  
TOURISM CORPORATION, KHYBER PAKHTUNKHWA

ATTESTED  
*[Handwritten Signature]*

*[Handwritten Signature]*



GOVERNMENT OF KHYBER PAKHTUNKHWA,  
CULTURE, TOURISM, ARCHAEOLOGY & MUSEUMS  
DEPARTMENT.  
13-A, KHYBER ROAD, PESHAWAR CANTT:

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No. SO (T)5-81/2022/Vol-III  
Dated Peshawar the 29<sup>th</sup> December, 2023

5545-47

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To

The In-charge PAITHOM,  
Pakistan Austrian Institute of Tourism & Hotel Management (PAITHOM).  
Saidu Sharif Swat.

Subject: APPROVAL OF PROMOTION

Kindly refer to the subject noted above and state that the In-Charge PAITHOM carried out the promotions of seven employees in contravention of the rules and regulations of the Provincial Government vide office order No. 3(1)/2011/Paithom-Admn/Vol-IV dated 19.02.2020 & dated 02.03.2020. When the same came into the knowledge of the department through Writ Petitions and civil Appeals filed by other employees for similar treatment, the subject promotion orders were held in abeyance vide this department letter No. SO(T)5-81/2016 dated 22.06.2020 and a fact-finding inquiry was conducted against him for illegal exercise of powers. The inquiry officers established substantial facts in the preliminary and the subject fact-finding inquiry was followed by a full-fledged Inquiry. The inquiry officers proved the following facts against the In-charge PAITHOM in their proceedings vide letter No. PS to MBR-1/Inq/Tourism/15971-76 dated 06.07.2023

- I. Promotion of (07) civil servants employees of PAITHOM vide office order without prior approval of the department which resulted in a violation of Rule 05 of the Khyber Pakhtunkhwa Civil Servants (Appointment, promotion, and transfer) Rules 1989.
- II. Exercising of powers of the Principal/Director without explicit orders by the Department to this effect.
- III. Application of incorrect and unapproved service regulations in the promotion process of employees who were civil servants.

2. Keeping in view the position, explained above this department hereby withdraws the order of held in abeyance vide letter No. SO(T)5-81/2016 dated 22.06.2020 and declares the promotion orders of the employees of PAITHOM as null and void.


3. You are hereby directed to immediately withdraw the subject promotion orders of the seven employees which were conducted by you vide office order No. 3(1)/2011/Paithom-Admn/Vol-IV dated 19.02.2020 & dated 02.03.2020 and restore the subject employees to their original pay scales under intimation to this department, please.

  
SECTION OFFICER (TOURISM-1)

Encl: As Above.

Copy forwarded for information to:

1. PS to Secretary Culture & Tourism Department, Khyber Pakhtunkhwa.
2. PA to Additional Secretary, Culture & Tourism Department.
3. Master file.

  
SECTION OFFICER (TOURISM-1)





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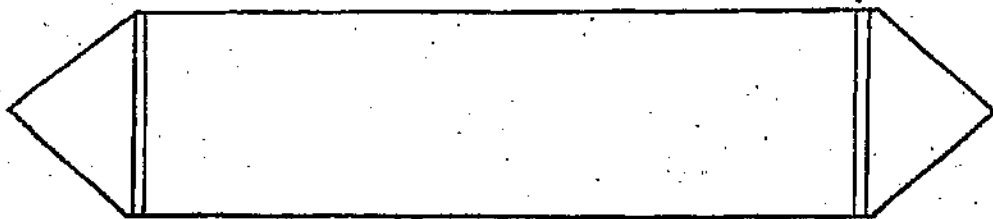
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