

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

1

SERVICE APPEAL NO. 1104/2023

Kamal-ud-din.....Appellant

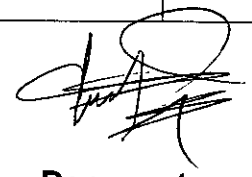
Versus

Govt. of Khyber Pakhtunkhwa & Others.....Respondents

JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 01 TO 05

INDEX

S. #	Description of Documents	Annex/Flag	Pages
1.	Joint Parawise Comments		2-4
2.	Authority		5
3.	Affidavit		6
4.	Finance Department's Notification dated 30.06.2015	A	7-8
5.	The relevant portion of KP Civil Servants Act, 1973	B	9-14
6.	Establishment Department's letter dated 04.04.2009	C	15-16



Deponent

~~28-03-2024~~
Peshawar
S.B.

24-04-2024

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

2

Service Appeal No. 1104/2023

Kamal Ud Din Driver (BPS-06), Governor's House Peshawar.....Appellant

VS

Government of Khyber Pakhtunkhwa & others.....Respondents

JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 01 TO 05

Respectfully Sheweth,

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 12006

Dated 29-03-2024

PRELIMINARY OBJECTIONS:

1. The appellant has not come to this Tribunal with clean hands.
2. The appellant is not an aggrieved person nor has any locus standi to file the present appeal.
3. That the appellant has concealed material facts from this Tribunal.
4. That the appellant is stopped by his own conduct to file the present appeal.
5. That the present appeal is against the prevailing law and rules.
6. That the appellant is not entitled for any relief, he has sought from This Honorable Tribunal.
7. That the present appeal is liable to be dismissed being devoid of any merits.
8. That the present appeal is hopeless by time barred, hence liable to be dismissed.
9. That the present appeal is filed by the appellant just to pressurize the respondents for getting illegal/ unlawful benefits.
10. That the appellant is just wasting the precious time of this Honorable Tribunal through the instant frivolous appeal.
11. As the appellant was appointed by Military Secretary to Governor under Rules 1970 where-under the competent authority has been defined as Military Secretary to Governor while the terms & conditions of employees of Respondent Department, the answering respondents have separate Rules where-under, Secretary Administration is the competent authority. Therefore, the instant appeal is not maintainable.

ON FACTS:

1. Para 1 is partially correct up to the extent of his appointment and up-gradation in BPS-6 by notification dated 30-06-2015 (**Annex-A**) however, his claim regarding being Civil Servant in terms of KP Civil Servant Act, 1973 is denied as the appellant was appointed under the "Terms and Conditions of Garden and Garage Establishment" Rules, 1970 notified on 30-03-1970 by the Military Secretary to Governor who is the Competent Authority to make such appointments which is still in the field governing terms & conditions of his service. Hence, Khyber Pakhtunkhwa Civil Servants Act, 1973 is not applicable upon him. The relevant part of the said Rules is reproduced below for ready reference (**Annex-B**):
 - i. The Order of Governor West Pakistan "Terms & Conditions of Appointment, confirmation, discharge and retirement etc of the Governor's Household, garden and Garage Establishments" dated 30th March 1970 as produced by appellant is found to be:
 - ii. Applicable to all Governor House as Lahore, Peshawar and Quetta etc.
 - iii. Addressed to Accountant General, West Pakistan.
 - iv. Issued with concurrence of Finance Department Government of West Pakistan.

2. **Incorrect**, there is a proper service structure under the relevant Rules, 1970 whereby he can be promoted up to grade 16. The appellant's post upgraded from BPS-4 to BPS-6 as mentioned in Para 1 in appeal. The appellant has still chances to be promoted to the highest grades under the Terms & Conditions of Garage Establishment as mentioned below:-

TOTAL GARAGE ESTABLISHMENT (14 PERSONS)		
i.	11 Drivers	BPS-6
ii.	2 Driver-cum-Supervisor	BPS-8
iii.	1 Garage Superintendent	BPS-16

3. **Incorrect, hence denied**, actually, the appellant was appointed under the "Terms and Conditions of Garden and Garage Establishment" Rules, 1970 notified on 30-03-1970 by the Military Secretary to Governor, who is the Competent Authority to make such appointments and seniority list is maintained as per enrollment of drivers.
4. **Incorrect, hence denied**, as no departmental appeal has been received in the office. However, if he forwarded departmental appeal directly to Chief Secretary that is against the rules.
5. **Incorrect, hence denied**, the appellant is not civil servant as already explained in Para-1 above.

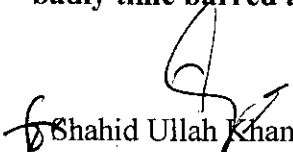
ON GROUNDS:


- A. **Incorrect, hence denied**, as the appellant is enjoying all perks & privileges and Job-descriptions at par with Civil Secretariat employees, but being House Hold Establishment of Governor's House, he is not supposed to be considered in the seniority list of any other department, hence cannot be granted seniority at the level of Civil Secretariat. The existing hierarchy/service structure of the Governor House Establishment is appropriate and there is no requirement to either enhance the position or pay grades of the appellant. However, the appellant may apply in any other Government Department or appear in any selection examination for Government Job after obtaining NOC if he so desires.
- B. **Incorrect, hence denied** because Drivers at the level of Civil Secretariat, Peshawar, enjoy proper service structure and service-rules which provide them the opportunities to get promoted up to BPS-16 on seniority-cum fitness basis. However, the said service structure and service-rules are not directly applicable to the appellant being Household Employee of Governor's House, Peshawar. It is well established that the appellant is appointee and household employee of Governor's House, Peshawar. Basically, he seeks inclusion/incorporation of his name in the seniority list of Drivers at the level of Civil Secretariat, Peshawar. Seniority of Drivers at the level of Civil Secretariat is maintained by Administration Department. Case of the appellant was examined in detail which transpired that the same is not tenable in the eyes of law. According to Establishment Department advice contained in its letter No. SOR.IV(E&AD)1-5/2008 dated 04-04-2009 (**Annex-C**) the staff appointed by Governor's House, Peshawar itself can neither be termed as regular employee of Civil Secretariat; nor can be placed in seniority meant for regular employees of the Civil Secretariat. On the other hand, cross cadre induction/absorption is also a violation of the Judgment of the August Supreme Court of Pakistan in CRL-89 of 2011.
- C. It is submitted that since bifurcation of E&A Department in 2001, the posts of Drivers, being centralized cadre post, on the basis of relevant functions enumerated under E&A Department in Schedule-II of Rules of Business, 1985, are filled by initial recruitment through Departmental Selection Committee under the Chairmanship of Secretary to Govt.


of Khyber Pakhtunkhwa, Administration Department in light of all codal formalities including publication of advertisement and calculation of zonal quota, disability quota and quota reserved for women. The appellant is appointed by Governor's House, Peshawar, therefore, the appellant can neither be termed as regular employees of Civil Secretariat, nor can he be placed in the seniority meant for regular employees of the Civil Secretariat being the household employee of Governor House and not Civil Secretariat, Peshawar so his request for induction in the seniority list of Drivers at the level of Civil Secretariat is not covered under the rules.


- D. **Incorrect, hence denied.** The staff appointed by Governor's House, Peshawar itself can neither be termed as regular employee of Civil Secretariat; nor can be placed in seniority meant for regular employees of the Civil Secretariat. On the other hand, cross cadre induction/absorption is also a violation of the Judgment of the August Supreme Court of Pakistan in CRL-89 of 2011.
- E. **Incorrect, hence denied.** The fact is that the Garage Establishment has established hierarchy with sufficient chance to acquire higher grades/posts consist of meager strength, 11 drivers in BPS-06, 02 Drivers cum-Supervisors BPS-08 and 01 (One) Garage Superintendent BPS-16. Being House Hold Establishment of Governor's House, he is not supposed to be considered in the seniority list of any other department, hence cannot be granted seniority at the level of Civil Secretariat. The staff appointed by Governor's House, Peshawar itself can neither be termed as regular employee of Civil Secretariat; nor can be placed in seniority meant for regular employees of the Civil Secretariat.
- F. **Incorrect, hence denied.** No comments.
- G. **Incorrect, hence denied.** As already explained in proceeding paras.
- H. **Incorrect, hence denied** as already explained in proceeding paras that being employee of the Governor's House, he could not be absorbed in the seniority list of any other department.
- I. **Incorrect, hence denied.** No comments.
- J. The council for the respondent seeks permission to raise additional grounds at the time of arguments.

It is therefore, requested that the appeal being devoid of any merits and badly time barred and devoid of merit may kindly be dismissed with cost, please.


for Shahid Ullah Khan, Secretary Establishment
through Kaleem Ullah Baloch, Special
Secretary Establishment
(Respondent No. 03)


Manzoor Ahmad
Secretary, Administration Department
(Respondent No. 04)


Ameer Sultan Tareen
Secretary, Finance Department
✓ (Respondent No. 05)



for Nadeem Aslam Chaudhry
Chief Secretary, Khyber Pakhtunkhwa
Through Kaleem Ullah Baloch, Special Secretary Establishment
(Respondent No. 01 & 02)

(5)

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT & ADMINISTRATION DEPARTMENT

AUTHORITY LETTER

Mr. Sultan Shah, Superintendent Litigation Section-I, Establishment Department, Government of Khyber Pakhtunkhwa is hereby authorized to submit joint parawise comments before the Khyber Pakhtunkhwa Service Tribunal, Peshawar in connection with S.A No. 1104/2023 titled Kamal ud Din VS Government of Khyber Pakhtunkhwa & others on behalf of Respondents.


for **Shahid Ullah Khan, Secretary**
Establishment through Kaleem Ullah Baloch,
Special Secretary Establishment
CNIC: 11101-1464320-1

SERVICE APPEAL NO. 1104/2023

Kamal Ud Din, Driver(BS-06), Governor' House Peshawar.....Appellant

Versus

Govt. of Khyber Pakhtunkhwa & Others.....Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1-5


AFFIDAVIT

I Kaleem Ullah Baloch, Special Secretary Establishment Department do hereby solemnly declare that contents of the Reply are correct to the best of my knowledge and record and nothing has been concealed from this Honourable Tribunal.

It is further stated on oath that in this Appeal, the answering respondents have neither been placed ex-parte nor their defense has been struck-off.



Deponent


for **Shahid Ullah Khan, Secretary
Establishment through
Kaleem Ullah Baloch, Special
Secretary Establishment
CNIC: 11101-1464320-1**

Mobile No. 0333-9744944

NOTIFICATION

NO. FD/SO/EBR/17-20/2015 The competent authority has been pleased to accord approval in the
upgradation of pay scales of the following provincial government employees with effect from 01-07-2015:

a) Two pay scale upgradation will be allowed to all provincial government employees from BS-01 to BS-05.

b) One pay scale upgradation will be allowed to all provincial government employees from BS-06 to BS-15.

c) Special Compensation Allowance equal to difference of notional upgradation of BS-16 to BS-17 will be allowed to all provincial government employees in BS-16 in lieu of upgradation.

d) Upgradation will be applicable to both pay and allowances with freezing limits and other conditions currently in vogue unless revised by the government.

e) Pay fixation on upgradation will be applicable w.e.f. 01-07-2015 or 01-12-2015 on the option to be given by the concerned employees.

f) All provincial government employees who have been upgraded on-block or individually in last five years starting from 01-07-2010 or have been granted special allowance / pay equal to 40% or more of their normal pay shall not be entitled for the instant upgradation.

2. Pay of existing incumbents of the posts shall be fixed in higher pay scales at a stage next above the pay in the lower pay scale.

3. All the concerned departments will amend their respective service rules in the same effect in the prescribed manner.

4. The above upgradation scheme shall not be applicable to employees of Autonomous Bodies, Semi Autonomous Bodies and Public Sector Companies.

5. Explanatory note and subsidiary instructions on the subject will be issued separately.

SECRETARY TO GOVT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

Dated Peshawar, the 30-06-2015

Annex-A



Handwritten initials or marks

Endst No. & Date even.

Copy of the above is forwarded for information

action to the:-

(8)

- 1) PS to Additional Chief Secretary, FATA.
- 2) All Administrative Secretaries Government of Khyber Pakhtunkhwa.
- 3) Senior Member, Board of Revenue, Khyber Pakhtunkhwa Peshawar.
- 4) Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 5) Secretary to Governor, Khyber Pakhtunkhwa, Peshawar.
- 6) Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
- 7) Secretary Provincial Assembly, Khyber Pakhtunkhwa.
- 8) All Heads of Attached Departments in Khyber Pakhtunkhwa.
- 9) Registrar, Peshawar High Court, Peshawar.
- 10) All Deputy Commissioners, Political Agents, District & Sessions Judges / Executive District Officer Khyber Pakhtunkhwa.
- 11) Chairman, Khyber Pakhtunkhwa Public Service Commission, Peshawar.
- 12) Registrar, Service Tribunal Khyber Pakhtunkhwa.
- 13) Secretary to Govt. of Punjab, Sindh and Balochistan, Finance Department, Lahore, Karachi and Quetta.
- 14) The District Comptroller of Accounts, Peshawar, Mardan, Kohat, Bannu, Abbottabad, Swat and F Khan.
- 15) The Senior District Accounts Officer Nowshera, Swabi, Charsadda, Haripur, Manshera and Dir Lower.
- 16) The Treasury Officer, Peshawar.
- 17) All District/Agency Accounts Officers in Khyber Pakhtunkhwa / FATA.
- 18) PSO to Senior Minister for Finance, Khyber Pakhtunkhwa.
- 19) PSO to Chief Secretary, Khyber Pakhtunkhwa.
- 20) Director Local Fund Audit, Khyber Pakhtunkhwa Peshawar.
- 21) PS to Finance Secretary.
- 22) PAs to All Additional Secretaries, Deputy Secretaries in Finance Department.
- 23) All Section Officers/Budget Officers in Finance Department.
- 24) Mr. Jabir Hussain Bangash, President, Class-IV Association, Civil Secretariat, Khyber Pakhtunkhwa Peshawar.
- 25) Mr. Manzoor Khan, President, Civil Secretariat Driver Association, Khyber Pakhtunkhwa, Peshawar.
- 26) Mr. Akbar Khan Mohmand, Provincial President, Class-IV Association, Khyber Pakhtunkhwa Peshawar.

[Handwritten signature]

~~CONTROLLED BY (M.E.D.)
SECTION OFFICER (PR)~~

1970

Rules

Annex-B

13
9

No MSG-24-A/681-70/1955

To
THE ACCOUNTANT GENERAL, WEST PAKISTAN, LAHORE.
Dated Lahore, the 30th March, 1970.

Subject—TERMS AND CONDITIONS OF APPOINTMENT, CONFIRMATION, DISCHARGE AND RETIREMENT ETC., OF THE GOVERNOR'S HOUSEHOLD, GARDENS AND GARAGE ESTABLISHMENTS.

SIR,

IN supersession of all previous orders issued on the above subject, the Governor of West Pakistan, has been pleased to order that in the matters of appointment, confirmation, leave, discharge, discipline, retirement from service, grant of pension/gratuity etc., the Governor's Household, Gardens, and Garage Establishments will henceforth be governed by the following provisions with effect from the date of issue of these orders:—

APPOINTMENTS:

- (1) Appointments to these establishments shall be made by the Military Secretary to the Governor of West Pakistan, or any other officer authorised by him to exercise these powers
- (2) Age on first appointment to these establishments shall not normally exceed 25 years, but in suitable and deserving cases this age limit can be relaxed by the Military Secretary to the Governor of West Pakistan, or any other officer authorised by him.
- (3) a. On first appointment every member of staff shall have to be medically examined by the Medical Officer, Governor's House Dispensary, Karachi, or the Civil Surgeon of the respective area, where he is appointed and produce medical certificate of fitness as required under the medical rules.
- b. The present incumbents of these establishments will also be required to produce medical certificate of fitness as at (a) above. The servants/employees, who may be declared medically unfit, will continue in service subject to the approval by the Military Secretary to the Governor, West Pakistan, on their previous terms and conditions of service and the terms and conditions of service sanctioned herein shall not be applicable to them.

[Signature]
Attested

[Signature]

Attested

[Signature]

LEAVE:

- (4) a. An employee/servant of the said establishments, who has continuous service of one year, but not exceeding three years will be granted leave on average pay @ one day for each thirty days of duty period and maximum leave on average pay that may be accumulated shall be 20 days. In addition, he will be entitled to 10 days sick leave on half average pay for each completed year of service on the production of medical certificate. All employees/servants falling in this category will also be entitled to 20 days casual leave during a calendar year.
- b. An employee/servant, who has been on any of the said establishments for a continuous period of more than three years shall be governed by the Leave Rules, 1955, as amended from time to time, as in the case of permanent Government servants in Class IV.

PENSION/GRATUITY:

- (5) a. The members of the aforesaid establishments shall on discharge or retirement from service be entitled to a gratuity not exceeding one half month's pay for each completed year of qualifying service, provided that the qualifying service on discharge or retirement from service, is not less than 10 years and more than 15 years.
- b. All those, who have put in more than 15 years and less than 25 years of service, shall on discharge or retirement from service be entitled, to a gratuity not exceeding one month's pay for each completed year of qualifying service.
- c. The pension/gratuity to all those members of the aforesaid establishments, who have to their credit at the time of their discharge or retirement from service 25 year or more qualifying service, shall on discharge or retirement be entitled to pension-cum-gratuity as admissible to regular Government Servants under the West Pakistan Civil Services Pension Rules, as amended from time to time.
- d. On resignation, one shall be entitled to pension/gratuity.
- (6) An employee/servant, who dies before discharge or retirement, his nominee or nominees and if there is no nominee, the family and if there is no family, his heirs shall be entitled to receive 75% of the amount of gratuity that would have been payable to him under sub paragraph (5) above had he been alive and discharged or retired from service on the

(15)
(14)
(13)

date of his death. If an employee dies after discharge or retirement but has not yet received his gratuity, his nominee or nominees and if there is no nominee, his family, if there is no family, his heirs shall be entitled to receive 100% of the amount of gratuity that would have been payable to him. The entitlement to pension/gratuity on death after 25 years of qualifying service will be decided according to the provisions of West Pakistan Civil Services Pension Rules, as amended from time to time.

NOTE:

The qualifying service will start on attaining the age of 18 years and would exclude the period of leave without pay and allowances being counted towards qualifying service. The Military Secretary to the Governor of West Pakistan, or any other officer authorised by him shall have powers to condone the deficiency in or interruptions of service upto a period of six months for the purpose of qualifying service towards gratuity or gratuity-cum-pension, as the case may be, when the service is long and meritorious in the case of deficiency; and provided each spell of service is for a period of more than 5 years in the case of interruption.

- (8) Gratuity or pension-cum-gratuity as the case may be, under sub-paragraph (5) above may also be granted to an employee/servant, who by physical or mental infirmity is permanently incapacitated for public service or for the particular branch of it to which he belongs.

NOTE:

- (i) Each employee will be required to make nomination in the forms at Annexure 'A' and 'B' after having put in ten years service or more. The nomination so made shall be pasted in the Service Book of the individual concerned. In the absence of such nomination being exercised the amount payable shall be disbursed to the nominee or nominees, or family or heirs, as the case may be, of the employee concerned according to the formulae as set out in the West Pakistan Civil Services Pension Rules.
- (ii) An employee/servant, who is discharged from service on any of these establishments as a disciplinary measure shall not be entitled to any gratuity/pension, etc., unless it is otherwise determined and ordered by the punishing authority.

Attested
[Signature]
[Signature]
[Signature]
Attested

(9) The members of the aforesaid establishments drawing pay not exceeding Rs. 150 per mensem shall be entitled to medical facilities on the scale and in the manner as applicable to Class IV Government servants. All those who are drawing pay exceeding Rs. 150 per mensem shall be entitled to medical facilities on the scale and in the manner as applicable to Class III Government servants under the West Pakistan Government Servants (Medical Attendance) Rules, 1959, as amended from time to time.

RENT FREE ACCOMMODATION:

(10) The employees/servants borne on the said establishments drawing pay not exceeding Rs. 150/- per mensem shall be entitled to availability, in rent-free residential accommodation in the Governor's House Estate and free use of water. The members of these establishments drawing pay exceeding Rs. 150/- per mensem shall be entitled, subject to availability, to rent free residential accommodation, in the next category of accommodation according to their pay above that of applicable to Class IV Government servants. They shall, however, not be required to pay the conservancy charges, if any.

TRAVELLING ALLOWANCE AND OTHER ALLOWANCES:

(11) a. The members of the aforesaid establishments drawing pay not exceeding Rs. 150/- per mensem shall be entitled to Travelling Allowance and Travelling Allowance Concession on the scale and in the manner as applicable to Class IV Government servants and those who are drawing pay exceeding Rs. 150/- per mensem, shall be entitled to Travelling Allowance and Travelling Allowance Concession of Inter Class. Daily Allowance will be admissible to them as applicable to Class III Government servants. The leave travel concession shall be allowed to the extent and under the conditions applicable to Government servants of the corresponding category.

b. The members of the aforesaid establishments drawing pay not exceeding Rs. 150/- per mensem shall be entitled to other allowances and concessions, etc., on the scale and in the manner applicable to Class IV Government servants and those drawing pay exceeding Rs. 150/- per mensem shall be entitled to such as applicable to Class III Government servants.

MEDICAL FACILITIES:

(12) The members of the aforesaid establishments drawing pay not exceeding Rs. 150 per mensem shall be entitled to medical facilities on the scale and in the manner as applicable to Class IV Government servants. All those who are drawing pay exceeding Rs. 150 per mensem shall be entitled to medical facilities on the scale and in the manner as applicable to Class III Government servants under the West Pakistan Government Servants (Medical Attendance) Rules, 1959, as amended from time to time.

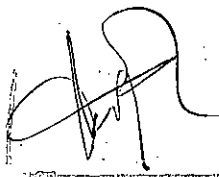
7
13
17

DISCIPLINE

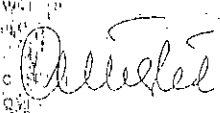
- (12) The following penalties may, for good and sufficient reasons, be imposed on a member of the aforesaid establishment:—
- (i) Censure
 - (ii) Withholding of increment or promotion.
 - (iii) Fine recoverable in cash of an amount not exceeding Rs. 20/- in each case.
 - (iv) Recovery by deduction from pay of whole or part of any pecuniary loss caused to Government by negligence or breach of orders.
 - (v) Suspension.
 - (vi) Reduction to a lower post or time scale, or to a lower stage in the time scale.
 - (vii) Removal from the service, which does not disqualify from future employment.
 - (viii) Dismissal from service, which ordinarily debars from further employment.
- (13) The appointing authority shall be the punishing authority.
- (14) The appellate authority in all cases shall be the Military Secretary to Governor of West Pakistan, who shall be the sole judge, provided that where a penalty/punishment is imposed by the order of the Military Secretary to Governor West Pakistan, himself, there shall be no appeal, but the employee/servant concerned may appeal for a review of the order.

RETIREMENT FROM SERVICE


- (15) An employee/servant shall retire from service after attaining the age of 55 years or the age of superannuation fixed by the Government of West Pakistan. The extension in service beyond the age of superannuation can be granted by the Military Secretary to Government of West Pakistan, or any other officer, duly authorized by him, in accordance with the policy of Government of West Pakistan adopted for the regular non-gazetted Government Servants.



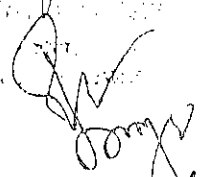
Attested




Attested

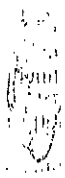


Attested



Attested





PRINTED AT THE SIND GOVERNMENT PRESS

M. AFZAL KHAN,
WING COMMANDER,
Military Secretary to Governor,
West Pakistan.

Your obedient servant,

3. These rules have been issued with the concurrence of the Finance Department, Government of West Pakistan. A copy, duly endorsed by the Finance Department, Government of West Pakistan, is being sent to you separately.
- (1) Office of the Secretary to Governor West Pakistan, Governor's House, Lahore.
 - (2) Government House, Peshawar and attached Houses.
 - (3) Government House, Quetta and attached Houses.
 - (4) Government House, Karachi and attached Houses.
 - (5) West Pakistan, Rawalpindi, including Governor's Annex.
 - (6) Government House, Murree and West Pakistan House, Murree.

2. These terms and conditions shall also apply to the similar establishments in the—

(17) An employee/servant may be discharged from service at any time without any notice.

DISCHARGE FROM SERVICE

- (ii) when the authority empowered to dismiss him from service, is satisfied for one reason or the other that he has rendered himself unsuitable for future service.
- or
- (i) on the ground of conduct, which has led to his conviction in a criminal charge/conviction;
- (16) An employee/servant may be dismissed or removed from service—

DISMISSAL FROM SERVICE

14
181
10
8

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

No SOR/IV(E&AD)1-5/2008
 Dated, Peshawar, the April 4th, 2009

Handwritten notes: 15, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100

The Section Officer (Admn),
 Administration Department,
 Govt of NWFP

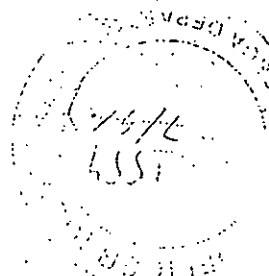
SUBJECT: ENLISTMENT IN JOINT SENIORITY LIST

Please refer to your letter No. E&A(DP/17)/09 dated 16/3/2009 on the subject noted above.

According to the service rules meant for the Secretariat employees, the post of Dattari is required to be filled by promotion on the basis of seniority-cum-fitness from amongst the holders of the posts of matriculate Qasids/Naib Qasids with at least three years service as such there exists no provision for direct recruitment of Dattari in the Civil Secretariat. The Governor's House/Secretariat and C.M.'s Secretariat are part and parcel of the Civil Secretariat and all posts of these Secretariats including House Hold staff reflected in the Budget are the Secretariat posts. However, recruitments against certain posts are not regulated under the NWFP Civil Servants (Appointment, Promotion & Transfer) Rules, 1969 because such posts are filled up by the MS to Governor office under their own arrangements without observing the laid down procedure. Furthermore, such recruitments are also not made by the appointing authorities declared in the rules ibid.

Therefore, the staff appointed by the Governor's House itself neither can be termed as regular employees of the Secretariat nor their names can be placed on the seniority list meant for the regular employees of the Secretariat. As far as precedent quoted by the Governor's House is concerned, the Administration Department itself will be in a better position to know as to how the name of another employee of Governor's House who was not a regular employee of the Secretariat, was included in the seniority list which was meant only for regular employees of the Secretariat.

(Muhammad Javed Siddiqi)
 Section Officer (R-IV)



Handwritten signature and scribbles at the top of the page.



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(REGULATION WING)

16

No. SORIV/E&AD(1-5)/2008
Dated Peshawar the, 04.04.2009

To,

The Section Officer (ADMN),
Administration Department

Subject: **ENLISTMENT IN JOINT SENIORITY LIST**

Please refer to your letter No. E&A(AD)4(17)/09 dated 16.03.2009 on the subject noted above.

According to the service rules mentioned the Secretariat employees, the post of Daftari is required to be filled by promotion on the basis of seniority cum fitness from amongst the holder of the post of Matriculate Qasid/ Naib Qasid with at least three years as such there exist on provision of direct recruitment of Daftari in the Civil Secretariat, the Governor House/ Secretariat and CM's Secretariat are part of the parcel of the Civil Secretariat and all post of these Secretariat including House Hold Staff reflected in the budget of the Secretariat post. However, recruitments against certain post are not regulated under NWFP Civil Servants Appointment, Promotion and Transfer Rules, 1989 because such post filled up by MS to Governor Office their own arrangements without observing the laid down procedure furthermore, such recruitment are also not made by the appointing authorities declared in the rules *ibid*.

Therefore, the staff appointed by the Governor House itself neither can be termed as regular employee of the Secretariat nor their names can be placed on the seniority list of meant for the regular employees of the Secretariat. As far as precedent quoted by the Governor's House is concerned, the Administration Department itself will be in better position to know as to how the name of another employee of Governor's House who was not a regular employee of the Secretariat was including in the seniority list which was meant only for regular employees of the Secretariat.

(MUHAMMAD JAVED SADDIQI)
Section Officer (R-IV)