BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL NO: 501/2024

Saifullah.....**Appellant**

Versus

The District & Sessions Judge, Battgram etc.....**Respondents**

SERVICE APPEAL

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Dated: 15/07/2024

Saifullah
(Appellant)

Through: -

Abdul Saboor Khan
A.S.C

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL NO: 501/2024

Saifullah son of Abdul Hakeem Ex-Process Server, In the Establishment of Senior Civil Judge, Battagram, resident of Tehsil and District Battgram...**Appellant**

Versus

(1) The District and Sessions Judge, Battgram.
(2) The Registrar, Peshawar High Court, Peshawar.
(3) The Senior Civil Judge (ADMN), Battgram.....**Respondents**

SERVICE APPEAL UNDER SECTION 04 OF THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL ACT, 1974 CALLING IN QUESTION THE LEGALITY, VALIDITY AND PROPRIETY OF THE IMPUGNED ORDERS DATED 25.05.2022 AND 28.05.2022 RESPECTIVELY VIDE WHICH THE VALID APPOINTMENT ORDER OF THE APPELLANT DATED 07.12.2021 HAS BEEN CANCELLED WITHOUT ANY LAWFUL JUSTIFICATION OR JUSTIFIABLE REASON.

Respectfully Sheweth!

1) That, initially, appellant and 6 others challenged the impugned orders dated 25.05.2022 and 28.05.2022 before the Honorable Peshawar High Court, Bench Abbottabad

through writ petition No. 664-A/2022 on 31.05.2022. Comments were called from the respondents. The Honorable High Court vide order dated 20.02.2024 raised questions regarding the maintainability of the writ petition in view of the bar contained in Article-212 of the Constitution.

2) That, appellant and other writ petitioners filed a C.M No:199-A/2024 for the conversion of the writ petition into service appeal and its remittance and transmition to this Honorable Tribunal in the light of the law laid down by the Honorable Supreme Court of Pakistan in the case of **"Abid Jan V/S Ministary of Defence"** reported as **"2023 SCMR-1451"**.

3) That, the Honorable Peshawar High Court vide order dated 06.03.2024 converted the writ petition into service appeal and remitted the same to this Honorable Tribunal for decision of the same on merits.

4) That, upon receipt of the order of the Honorable High Court dated 06.03.2024 and the complete file of

the writ petition with all annextures, this Honorable Tribunal entertained the same and allotted service appeal No. 501/2024.

5) That, when the matter came up before this Honorable Tribunal for preliminary hearing on 23.04.2024, it was noted by the Tribunal that the appeal is not on proper format, therefore, appellant was directed to submit appeal on proper format. Hence, this service appeal on proper format.

6) That, respondent No. 3 invited applications for appointment as Process Servers, Naib Qasid and sweeper through open publication/ advertisement.

(Copy of advertisement annexed as Annexure "A")

7) That, appellant being qualified and eligible in all respects as per terms and conditions of the advertisement, duly applied for the post of Process Server BPS-05.

8) That, appellant appeared in the written test conducted by DSC and after qualifying the same, appellant for summoned for interview which too he qualified, came on merit and

consequently, recommended for appointment unanimously by DSC headed by respondent No. 3 vide minutes of meeting dated 04.12.2021.

(Copies of minutes of meeting annexed as Annexure "B")

9) That, consequent upon recommendations of DSC dated 04.12.2021, respondent No. 3 being competent authority issued the appointment letter/order dated 07.02.2021 of the appellant against the post of Process Server BPS-05.

(Copy of appointment order dated 07.12.2021 annexed as Annexure "C")

10) That, consequent upon appointment order, appellant started to perform his duty after submitting arrival report and medical fitness certificate to the concerned authority.

11) That, respondent No. 3 vide office order dated 09.12.2021 issued adjustment/posting order of the appellant and others.

(Copy of adjustment order 09.12.2021 annexed as Annexure "D")

12) That, much after successful completion of the appointment process, one Zahoor Ahmed and

Kamran Maish belonging to District Battgram filed a PUC complaint No. 22497 against the appointment process. Upon which Director Inspections Secretariat of District Judiciary, Peshawar High Court, Peshawar submitted inquiry report to the competent authority after conducting fact finding inquiry.

(Copies of inquiry report dated 02.02.2022 annexed as Annexure "E")

13) That, in the light of inquiry report referred to in the preceding para, learned District and Sessions Judge, Mansehra was appointed as inquiry officer to conduct inquiry against the chairman of the DSC (Respondent No. 3) who after conducting inquiry recommended minor penalty of censure as provided under Rule -4(I)(a)(i) of the KPK Government Servants (Efficiency and Discipline) Rules, 2011. It is pertinent to mention here that in the said inquiry, the appellant was neither associated nor heard. It was also not recommended to withdraw the appointment order of the appellant.

(Copies of inquiry report annexed as Annexure "F")

14) That, consequent upon the above mentioned inquiry report against the respondent No. 3, respondent No. 2 vide impugned order No. 6981 dated 26.05.2022 directed the respondents No. 1 & 3 to undo the recruitment process and fresh process of recruitment be initiated.

(Copy of impugned order of appellate authority 26.05.2022 annexed as Annexure "G")

15) That, in view of the impugned order of the appellate authority dated 26.05.2022 respondent No. 3 without following the due process of law and disregarding all the principles of natural justice, he vide impugned office order bearing No. 186-190 dated 28.05.2022 cancelled and annulled the recruitment process with immediate effect.

(Copy of impugned order dated 28.05.2022 annexed as Annexure "H")

16) That, during the pendency of the Writ Petition, appellant submitted representation for the withdrawal of the impugned orders to the competent authority on 24.02.2024 which was made part of the writ petition by the Honorable High Court vide order dated 06.03.2024 by accepting C.M No: 200-A/2024.

(7)

(Copy of representation dated 24.02.2024 annexed as Annexure "I")

17) That, firstly, the appellate authority issued the order dated 26.05.2022, on the basis whereof, the impugned order dated 28.05.2022 has been issued by respondent No. 3. In such like eventuality, section-22 of the KPK Civil Servants Act, 1973 and Rule-17 of the KPK E&D Rules, 2011 are not applicable to the case of the appellant. The question of filing of Departmental Appeal even otherwise does not arise in the context of the peculiar facts of the present appeal and as per section-4 of the Service Tribunal Act, 1974 "Any civil servant aggrieved by any final order, whether original or appellate, made by a departmental authority in respect of any of the terms and condition of his service may file service appeal before this Honorable Tribunal"

18) That, appellant and six others filed Writ Petition bearing No. 664-A/2022, challenging the impugned orders before the Honorable Peshawar High Court, Bench Abbottabad on 31.05.2022 which

was later on converted into service appeal vide order dated 06.03.2024 and remitted the case to this Honorable Tribunal for decision on merits in view of the bar contained in Article-212 of the Constitution.

(Certified copy of order dated 06.03.2024 annexed as Annexure "J")

19) That, the appellant being aggrieved of the impugned orders dated 25.05.2022 and 28.05.2022, is filing the instant service appeal before this Honorable Tribunal for interference, inter-alia, on the following amongst other grounds.

Grounds: -

A) That, appellant was appointed by competent authority as process server after completing all the legal and codal formalities.

B) That, in both the inquiries, neither appellant was summoned nor heard and as such, he has been condemned unheard.

C) That, in both the inquiry reports, the appointment order/process of the appellant has been found in accordance with the law, rules and

due process, despite that, appointment order of the appellant has been withdrawn without any lawful justification or reason.

D) That, it is trite law that before taking any adverse action against a person, he must be issued a notice but no notice to the appellant was given or issued in this case and as such, his appointment order has been withdrawn without providing an opportunity of hearing.

E) That, it is well settled law that, once the appointment order was effected and acted upon, the Department is ceased of the power to cancel, rescind or undo the same.

F) That, no fault whatsoever, of the appellant has been found in the recruitment process. Any lapse of procedure, if any, not attributable to the appellant cannot be made a ground under the law to cancel his valid and legally issued appointment order.

G) That, seemingly and visibly, the impugned orders are illegal, unlawful, without lawful authority,

without jurisdiction and of having no legal effect.

Prayer: -

It is, therefore, most humbly prayed that on acceptance of the instant service appeal, this worthy tribunal may graciously be pleased to: -

a) ***Declare that the impugned orders bearing Nos. 6981 dated 26.05.2022 and 186-190 dated 28.05.2022 passed by respondents No. 2 & 3 respectively be declared as unconstitutional, illegal, unlawful, without jurisdiction, discriminatory in nature and of having no legal effect.***

b) ***Declare that, appellant has lawfully been appointed by respondent No. 3 being competent authority on the recommendations of the duly constituted DSC after having complied with all the legal formalities. Further declare that the impugned orders issued by respondents No. 2 & 3 are transgressed of authority and of having no legal effect.***

c) ***Declare that, after issuing of appointment order by competent authority in a prescribed manner followed by joining report, performing duty for 6 months and in view of the legal doctrine "locus poenitentiae" the right of appellant once accrued cannot be withdrawn or taken away under the garb of exercising power of authority.***

d) ***Consequent upon setting aside the impugned orders and the above***

11

declarations, respondents be directed to re-instate the appellant into service with all consequential back benefits.

Dated: 15/07/2024

Saifullah
(Appellant)

Through: -

Abdul Saboor Khan
A.S.C

Verification:

I SAIFULLAH SON OF ABDUL HAKEEM EX-PROCESS SERVER, IN THE ESTABLISHMENT OF SENIOR CIVIL JUDGE, BATTAGRAM, RESIDENT OF TEHSIL AND DISTRICT BATTGRAM DO HEREBY VERIFIED THAT THE CONTENTS OF FOREGOING SERVICE APPEAL ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND NOTHING HAS BEEN CONCEALED OR SUPPRESSED FROM THIS HONORABLE TRIBUNAL.

Dated: 15/07/2024

SAIFULLAH
(DEPONENT)

12

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL NO: 501/2024

Saifullah.....**Appellant**

Versus

The District & Sessions Judge, Battgram etc.....**Respondents**

SERVICE APPEAL AFFIDAVIT

I SAIFULLAH SON OF ABDUL HAKEEM EX-PROCESS SERVER, IN THE ESTABLISHMENT OF SENIOR CIVIL JUDGE, BATTAGRAM, RESIDENT OF TEHSIL AND DISTRICT BATTGRAM DO HEREBY SOLEMNLY AFFIRM AND DECLARE ON OATH THAT THE CONTENTS OF FOREGOING SERVICE APPEAL ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND NOTHING HAS BEEN CONCEALED OR SUPPRESSED FROM THIS HONORABLE TRIBUNAL.

Dated: 15/07/2024

SAIFULLAH
(DEPONENT)

P (13)

Annex (A)

Attested

بعدالت جناب سینئر سول جج (ایڈمن) بٹگرام

آسامیاں خالی ہیں

عدالت سینئر سول جج (ایڈمن) بٹگرام میں درجہ ذیل خالی آسامیاں پُر کرنے کیلئے ضلع بٹگرام کے مستقل سکونت پذیر اور ڈومیسائل رکھنے والے امیدواروں سے آخری تاریخ مورخہ: 20-11-2021 تک درخواستیں مطلوب ہیں، جو یدتحطی کے دفتر میں دفتری اوقات کار میں جمع کروا سکتے ہیں۔ ٹیسٹ وانٹرویو مورخہ: 04-12-2021 کو ڈسٹرکٹ کورٹ بٹگرام میں ہوگا، جس کے لیے کوئی علیحدہ کال لیٹر جاری نہیں کیا جائے گا۔

سیریل نمبر	نام آسامی	سکیل BPS	بذریعہ ابتدائی بھرتی					کل تعداد	مطلوبہ قابلیت اور تجربہ	عمر کی حد
			میرٹ	خواتین	معذور	اقلیت	ریٹائرڈ کلاس فور ملازمین کے بچوں کیلئے مختص کوٹہ			
.1	پیادہ	05	2	0	0	0	3	5	میٹرک	18 تا 35 سال
.2	نائب قاصد	03	1	0	0	0	1	2	ترجیحاً خواندہ	18 تا 40 سال
.3	[illegible]	03	1	0	0	0	0	1	ترجیحاً خواندہ	18 تا 40 سال

شرائط وضوابط:

1)۔ عمر کی بالائی حد درخواستیں جمع کرنے کی آخری تاریخ تک شمار ہوگی اور عمر میں رعایت حکومتی پالیسی کے مطابق ہوگی۔ (2)۔ جملہ اُمیدواران مجوزہ درخواست فارم www.districtcourtsbattagram.gov.pk سے ڈاون لوڈ بھی کی جاسکتی ہے۔ (3)۔ مجوزہ درخواست فارم کے ہمراہ ایک عدد حالیہ تصویر، قومی شناختی کارڈ، تعلیمی اسناد اور ڈومیسائل سرٹیفکیٹ کی تصدیق شدہ نقولات نیز دو معزز شہریوں سے کیریکٹر سرٹیفکیٹ جو درخواست دہندہ کے رشتہ دار نہ ہو اور ان کے اخلاق وعادات اور چال وچلن سے بخوبی واقف ہوں منسلک کریں۔ (4)۔ سرکاری ملازمین محکمانہ وساطت سے درخواستیں بمعہ NOC سرٹیفکیٹ جمع کرائیں۔ (5)۔ 2% کوٹہ معذور افراد، 5% کوٹہ اقلیت، 10% کوٹہ خواتین اُمیدواروں کے لئے جبکہ 25% کوٹہ ریٹائرڈ ملازمین کے بچوں کے لئے (کلاس فور ملازمین کے لئے) مختص ہیں۔ چونکہ موجودہ آسامیوں میں معذور افراد، اقلیت اور خواتین کیلئے کوئی ایک آسامی نہ ہے، البتہ عمومی قابلیت کی بنیاد پر درخواست دے سکتے ہیں۔ جبکہ ریٹائرڈ کلاس فور ملازمین کے بچوں کیلئے آسامی نمبر 1 میں تین آسامیاں اور سیریل نمبر 2 اور 3 میں ایک آسامی مختص ہے۔ مختص کوٹہ کے لیے موزوں اُمیدوار نہ ہونے کی صورت میں دیگر اُمیدواروں کی درخواستوں پر غور ہوگا۔ (6)۔ تمام تقرریاں عارضی بنیادوں پر کی جائیں گی۔ (7)۔ تنخواہ اور دیگر الاؤنسز قانون اور قواعد کے مطابق دیئے جائیں گے۔ (8)۔ ٹیسٹ اور انٹرویو کیلئے آنے والے اُمیدواروں کو کوئی TA/DA نہیں دیا جائے گا۔ صرف شارٹ لسٹڈ امیدواروں کو ٹیسٹ/انٹرویو میں شامل کیا جائے گا۔ نامزد امیدواروں کی حتمی فہرست مورخہ 29-11-2021 دفتری اوقات کے دوران نوٹس بورڈ عدالت ہذا پر آویزاں کیا جائے گا۔ (9)۔ تمام آسامیاں جناب چیف جسٹس پشاور ہائی کورٹ پشاور کے جاری شدہ احکامات ومروجہ قواعد وضوابط کے تحت پر کی جائے گی۔ (10)۔ مجاز اتھارٹی حکومت کی پالیسی کے مطابق اشتہار میں تبدیلی/ترمیم یا منسوخ کرنے یا آسامیوں کی تعداد میں کمی بیشی کرنے اور کسی بھی آسامی پر تعیناتی کرنے یا نہ کرنے کا مکمل اختیار رکھتی ہے۔ (11)۔ نامکمل یا مقررہ تاریخ کے بعد موصول ہونے والی درخواست قابل قبول نہ ہوگی۔ (12)۔ اُمیدوار ایک ہی وقت میں صرف ایک آسامی کے لیے درخواست دے سکتا ہے۔ (13)۔ درخواست دہندہ انٹرویو کے وقت اصل تعلیمی اور پیشہ ورانہ اسناد پیش کرے گا۔ (14)۔ غلط اور جعلی اسناد پیش کرنے والوں کے خلاف قانونی کارروائی کی جائے گی۔ (15)۔ تمام بھرتیاں مروجہ قانون کے مطابق ہونگی۔

شہزاد علی خان

سینئر سول جج (ایڈمن) بٹگرام

Senior Civil Judge-Admin

Battagram

BETTER COPY OF PAGE NO. 134

P. (14)
ANNEXURE
'B'

Attested

OFFICE OF THE SENIOR CIVIL JUDGE (ADMN) BATTGRAM

MINUTES OF THE MEETING OF THE DEPARTMENTAL SELECTION COMMITTEE DATED 04TH DECEMBER, 2021

Meeting of the Departmental Selection Committee was held on 04th December, 2021 Test and interviews consumed the whole day.

The meeting was attended by the following:

1. Mr. Shehzad Ali, Senior Civil Judge (Admn) Battagram (Chairman).
2. Mr. Sheraz, Firdos, Senior Civil Judge (Judicial), Battgram (Niminee of the Senior Civil Judge (Admn), Battgram (Member)
3. Mr. Naveed Ullah. Civil Judge, Puran (Shangla), (Nominee of August Peshawar High Court, Peshawar) (Member)

For recruitment of vacant posts of process servers, Naib Qasid and Sweeper, and advertisement was issued vide circulation in newspaper dated: 27.10.2021 the date fixed for inviting application was 20.11.2021 and the date fixed for test and interview was Mr. Naveed Ullah, Civil Judge, Puran (Shangla), for the Departmental Selection Committee, while the nominee of the Senior Civil Judge (Admn), Battgram was Mr. Sheraz Firdoos, Senior Civil Judge (Judicial), Battgram.

The categories wise description of the posts are as follows: -

PROCESS SERVERS BPS-05: -

As many as 605 candidates applied for the post of processor servers, in which 02 applications where rejected do to under age, while 603 candidates where short listed for written test. Out of 603, 502 candidates appeared in written test in which 36 candidates qualified the written test, who secured at least 64% marks and where allowed for interview. After interview, result was announced. The following candidates are recommended for appointment as process servers (BPS-05).

S.No	Name	Father's Name
1	Naseer Ullah	Faiz Muhammad
2	Abdul Basit	Fazal Khaliq
3	Imad Ullah Shah	Syed Maroof Shah
4	Waqar Ahmed	Meer Shah
5.	Saifullah	Abdul Hakeem

NAIB QASID (BPS-03)

As many as 303 candidates applied for the post of Naib Qasid, in which 02 applications were rejected due to under age, As one of the post was falling under retired son quota and the applicant namely Tanzeel Ur Rehman Son of

P(15)

Attested

Rahim Zada resident of Battgram Tehsil and District Battgram has applied for the post, therefore, he is recommended to be appointed against the said post, 257 candidates appeared and interviewed out of which 28 top most candidates were subjected to final round. On the basis of final interview, the following candidate is recommended for appointment as Naib Qasid (BPS-03)

S. No	Name	Father's Name
1	Nehal Muhammad	Muhammad Iqbal

SWEEPER (BPS-03)

As many as 54 candidates applied for the post of sweeper, 46 candidates were appeared, and they were interviewed, 04 candidates were shortlisted. After personally and experience test for the above post Mr. Sami Ullah son of Musa Khan resident of Ajmera, Tehsil and District Battgram was recommended for appointment.

The meeting ended after deciding to preserve the written test result and other details of the test/interviews.

MR. SHERAZ FIRDOS,
Senior Civil Judge (Judicial)
Battgram (Member)

MR, NAYEED ULLAH,
Civil Judge Puran (Shangla)
(nominee of Peshawar High Court, Peshawar) (Member)

(SHEHZAD ALI KHAN)
SENIOR CIVIL JUDGE (ADMN)
BATTGRAM (CHAIRMAN)

No. 493-496 Dated: 04.12.2021

Copy forwarded for information to:

1) The Honorable Registrar, Peshawar High Court, Peshawar.
2) The Honorable District and Sessions Judge, Battgram.
3) All the concerned members.

(SHEHZAD ALI KHAN)
SENIOR CIVIL JUDGE (ADMN)
BATTGRAM (CHAIRMAN)

P. (16)

OFFICE OF THE
SENIOR CIVIL JUDGE (ADMN),
BATTAGRAM

0997-310170
[illegible]@yahoo.com
[illegible].battagram.gov.pk

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Attested

MINUTES OF THE [illegible] OF THE DEPARTMENTAL SELECTION COMMITTEE DATED 04th DECEMBER, 2021

Meeting of the Departmental Selection Committee was held on 04th December, 2021. Test and interview remained the whole day.

The meeting was attended by the following:-

1. Mr. Shahzad Ali, Senior Civil Judge (Admn), Battagram (Chairman)
2. Mr. Sheraz Firdos, Senior Civil Judge (Judicial), Battagram (Nominee of the Senior Civil Judge (Admn), Battagram) (Member)
3. Mr. Naveed Ullah, Civil Judge, Puran (Shangla), (Nominee of Hon'ble Peshawar High Court, Peshawar) (Member)

For recruitment of vacant posts of Process Servers, Naib Qasid and Sweeper, an advertisement was issued vide circulation in newspaper dated: 27-10-2021. The date fixed for leaving application was 20-11-2021 and the date fixed for test and interview was 04-12-2021. The nominee of Honorable Peshawar High Court, Peshawar was Mr. Naveed Ullah, Civil Judge, Puran (Shangla), for the departmental selection committee, while the nominee of the Senior Civil Judge (Admn), Banagram was Mr. Sheraz Firdos, Senior Civil Judge (Judicial), Battagram.

The category wise descriptions of the posts are as follows:-

PROCESS SERVER BPS-05:

As many as 605 candidates applied for the post of Process Server, in which 02 applications were rejected due to under age, while 603 candidates were shortlisted for written test. Out of 603, 502 candidates appeared in written test in which 36 candidates qualified the written test, who secured at least 64% marks and were allowed for interview. After interview, result was announced. The following candidates are recommended for appointment as Process Servers (BPS-05).

S. No	Name	Father's Name
1	Nascerullah	Faiz Muhammad
2	Abdul Basit	Fazal Khaliq
3	Imdadullah Shah	Syed Maroof Shah
4	Waqar Ahmad	Meer Shah
5	Saifullah	Abdul Hakeem

P (17)

Attested

NAIB QASID (BPS-03):

As many as 301 candidates applied for the post of Naib Qasid, in which 02 applications were rejected due to under age, as one of the post was falling under retired soldier quota and the applicant namely Tanveer Ur Rehman S/o Habib Zada R/o Battagram, Tehsil & District Battagram has applied for the said post, therefore, he is recommended to be appointed against the said post. 252 candidates appeared and interviewed, out of which 28 top most candidates were subjected to final round. On the basis of final interview, the following candidate is recommended for appointment as Naib Qasid (BPS-03).

S. No	Name	Father's Name
1	Nehal Muhammad	Muhammad Iqbal

SWEEPER (BPS-03):

As many as 54 candidates applied for the post of Sweeper, 46 candidates appeared, and they were interviewed, 01 candidates were shortlisted. After personality and experience test for the above post, Mr. Samiullah s/o Musa Khan R/o Ajmera, Tehsil & District Battagram was recommended for appointment.

The meeting ended after deciding to preserve the written test result and other details of the test/interviews.

Mr. Sheraz Hirdos,
Senior Civil Judge (Judicial),
Battagram (Member)

Mr. Sayed Ullah,
Civil Judge, Puran (Shangla)
(Nominee of Peshawar High Court,
Peshawar) (Member)

(SHEHZAD ALI KHAN)
SENIOR CIVIL JUDGE (ADMN),
BATTAGRAM (CHAIRMAN)

No. 491-496

Dated 09/12/2021

Copy forwarded for information to:

1. The Honorable Registrar, Peshawar High Court, Peshawar.
2. The Honorable, District & Sessions Judge, Battagram.
3. All the concerned members.

(SHEHZAD ALI KHAN)
SENIOR CIVIL JUDGE (ADMN),
BATTAGRAM (CHAIRMAN)

P. (18) Annexure

E.C.)

OFFICE OF THE
SENIOR CIVIL JUDGE (ADMN),
BATTAGRAM

Ph# 0997-310170
Email: scjbattagram@yahoo.com
www.districtcourtsbattagram.gov.pk

Attested

ORDER

On the recommendation of the Departmental Selection Committee dated: 04-12-2021 and approval of Honorable Peshawar High Court, Peshawar No. 13619/SDJ/HRW/ADMN: dated: 08-10-2021, the Competent Authority is pleased to order the appointment on temporary basis of the following candidates as Process Server in BPS-05, with effect from the date of assumption of charge of the post, subject to medical fitness, antecedents verification and verification of testimonials through quarter concerned:

SR.#	NAME OF CANDITATE	FATHER'S NAME
1	Naseerullah	Faiz Muhammad
2	Abdul Basit	Fazal Khaliq
3	Imdadullah Shah	Syed Maroof Shah
4	Waqar Ahmad	Meer Shah
5	Saifullah	Abdul Hakeem

2. Their appointment to the service shall be subject to the following terms and conditions:

i. They will be governed by the NWFP Civil Servant Act, 1973 and NWFP Government Servant (Appointment, Promotion & Transfer) Rules, 1989.

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ii. They will be allowed the minimum pay of BPS-05 plus other allowances as admissible under the rules. Those who are already in Govt: Service and whose pay is more than the minimum of BPS-05 will be allowed to draw pay which they were drawing before their appointment, subject to permission by the Competent Authority. Their pay shall be fixed at proper stage in BPS-05.

iii. They shall be governed by such rules and instructions relating to leave, T.A., and Medical Attendance as may be prescribed from time to time.

iv. They shall be on probation initially for a period of one year extendable upto two years.

v. They will be eligible for continuance and eventual confirmation in the post on satisfactory completion of their probationary period, subject to availability of permanent posts and the completion of prescribed training, if any.

vi. Their service shall be liable to be dispensed with at any time without notice and assigning any reason before the expiry of the period of their probation/extended period of probation, if, their work or conduct during this period is not found satisfactory. In the event of termination from service, fourteen days notice or in lieu thereof fourteen days pay will be paid by the Government. In case of resignation, they will give one month notice to the Competent Authority or in lieu thereof one month pay shall be forfeited to the Government. The resignation shall, however, be subject to the acceptance by the Competent Authority.

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Attested

vii. They will be governed by the NWFP Government Servants (Efficiency and Discipline) Rules, 2011 and the NWFP, Government Servants Conduct Rule, 1987 and any other instructions which may be issued by the Competent Authority from time to time.

3. If the above terms and conditions of appointment are acceptable to them, they should report for duty to the undersigned immediately. The offer of appointment shall be deemed to have been cancelled if any one fails to report for duty to the undersigned within one month from the date of issue of this order.

4. They shall join duty at their own expenses.

5. He can be appointed in District Battagram or in Sub-Division Tehsil Allai.

(SHEHZAD ALI KHAN)
SENIOR CIVIL JUDGE (ADMN),
BATTAGRAM

No: 501-504 / SCJ (Admn) Dated 27/12/2021

Copy forwarded for information to:

1. The Worthy Registrar, Peshawar High Court, Peshawar.
2. The Honorable District & Sessions Judge, Battagram.
3. The District Accounts Officer, Battagram.
4. The Officials concerned.

(SHEHZAD ALI KHAN)
SENIOR CIVIL JUDGE (ADMN),
BATTAGRAM

P. (21) ANNEXURE "D"

OFFICE OF THE
SENIOR CIVIL JUDGE, ADMIN
BATTAGRAM.

Ph# 0997-310170
Fax# 0997-310170
Email: scjbattagram@yahoo.com
www.districtcourtsbattagram.gov.kpk

Attested

OFFICE ORDER: -

The following posting/transfer of ministerial staff of District Courts Battagram are hereby made in the best interest of public service with immediate effect: -

S.No	Name of official	From	To
1	Mr. Naseerullah, Process Server, BPS-05	Newly Appointed	Process Serving Agency
2	Mr. Abdul Basit , Process Server, BPS-05	Newly Appointed	Process Serving Agency
3	Mr. Imdadullah Shah, Process Server, BPS-05	Newly Appointed	Process Serving Agency
4	Mr. Waqar Ahmad, Process Server, BPS-05	Newly Appointed	Process Serving Agency
5	Mr. Saifullah, Process Server, BPS-05	Newly Appointed	Process Serving Agency
6	Mr. Nehal Muhammad, Naib Qasid, BPS-03	Newly Appointed	Court of SCJ (Admin), Battagram
7	Mr. Tanzeel-ur-Rehman, Naib Qasid, BPS-03	Newly Appointed	Court of CJ-I, Battagram
8	Mr. Samiullah, Sweeper, BPS-03	Newly Appointed	Court of CJ-Allai, Battagram

Note:- Civil Nazir is hereby directed to deploy newly Appointed officials with Bailiffs and Process Servers on training basis for 15 days.

(SHEHZAD ALI KHAN)
SENIOR CIVIL JUDGE, ADMIN
BATTAGRAM

No: _____/SCJ/ADMIN/BM Dated 09 / 12 /2021

Copy for information to: -

1. The Hon'able District & Sessions Judge, Battagram.
2. The Civil Judge / JM-I, Battagram.
3. The Civil Judge / JM-Allai, Battagram
4. The Civil Nazir , Process Serving Agency.
5. Officials Concerned by name.
6. Office Copy.

SENIOR CIVIL JUDGE, ADMIN
BATTAGRAM

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ANNEXURE SE3

"INQUIRY REPORT"

1. PUC complaint No. 22497 has been filed by Mr. Zahoor Ahmad s/o Kamran Ahmad and Mr. Kamran Masih s/o Junas Masih r/o District Battagram against the recruitment process carried out by the DSC, constituted for filling the posts of Class-IV employees in the establishment of Senior Civil Judge (Admin), Battagram. Similarly, PUC-I Complaint No. 24334 has been filed by Mr. Siddique Muhammad s/o Shajar Khan r/o Battagram with the same contention. PUC-I was processed by Director, HRC, wherein, comments of the District & Sessions Judge, Battagram were sought, which were received and placed on file and the file has been forwarded to this office, both the files, being on the same contention against the said DSC, have been clubbed.

2. According to contents of the complaints, complainants are aggrieved of recruitment process conducted by DSC. Complainants have levelled allegations of nepotism and ignoring the merit by selecting persons from same area and same family.

3. Comments of the District & Sessions Judge, Battagram were sought, which were received and may be perused at Flag "A". He has informed in his comments that one post of Sweeper (BPS-03) was lying vacant in the establishment of Senior Civil Judge (Admin), Battagram, for which meeting of DSC was held on 04.12.2021. A total of 54 candidates applied for the post of Sweeper, out of which 46 appeared for interview and only 04 candidates were shortlisted for the final round of recruitment. After personality and experience test, one Mr. Samiullah s/o Musa Khan was selected for the sole post of Sweeper (BPS-03). The District Judge has further revealed in his comments that the selected candidate Mr. Samiullah is the real cousin and brother in law of Mr. Ihsan Ullah, who is working as Junior Clerk in the establishment of Senior Civil Judge (Admin), Battagram. He has

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further reported that there was no criterion for shortlisting of the candidates, nor were any marks assigned for the purpose of interview and experience.

4. In the light of report of District & Sessions Judge, Battagram, the undersigned contacted him on telephone, who made some other revelations regarding the entire process of recruitment, wherein, Process Server, Naib Qasid and Sweeper have been appointed. He has informed that Mr. Sami Ullah, Naib Qasid is the paternal cousin of Mr. Ihsan Ullah, a junior clerk working in the establishment of Senior Civil Judge (Admin), Battagram. Similarly, Mr. Naseer Ullah appointed against the post of Process Server is also real brother of the said Junior Clerk, Mr. Ihsan Ullah and the appointed Naib Qasid Mr. Nehal Muhammad is the brother of driver of Senior Civil Judge (Admin), Battagram. Therefore, the District & Sessions Judge, Battagram was asked for conducting discreet inquiry and to furnish detailed report.

5. The District & Sessions Judge, Battagram submitted supplementary comments/ report Flag "B", wherein, he reiterated the same observations and stated that as the Senior Civil Judge (Admin), Battagram was on winter vacations, therefore, he was telephonically contacted and during discussion he admitted that there was no criteria and marks for the purpose of shortlisting, rather the appointments were made only on general outlook, a few questions were put to candidates during interview and they were selected on the basis of fitness and their experience. The District Judge has also recorded statements of the complainants Mr. Zahoor Ahmad and Mr. Kamran Maseeh on 12.01.2022, which are Flag "C" and "D", respectively. They both have deposed in their statements that neither any marks were assigned or communicated to them nor they had any knowledge of their position.

6. According to minutes of meeting of DSC Flag "E", held on 04.12.2021, the following committee was constituted:

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i. Mr. Shehzad Ali, Senior Civil Judge (Admin), Battagram (Chairman).
ii. Mr. Sheraz Firdous, Senior Civil Judge (Judicial), Battagram (Member)
iii. Mr. Naveed Ullah, Civil Judge, Puran, Shangla (Nominee of august Peshawar High Court, Peshawar)

For recruitment against 05 posts of Process Server 365 candidates applied, out of which 603 appeared in written test, whereby, 36 candidates qualified the test and the following candidates were recommended for the post of Process Server (BPS-05) after their final interview:

Sr.No.	Name	Father Name
1.	Naseerullah	Faiz Muhammad
2.	Abdul Basit	Fazal Khaliq
3.	Imdadullah Shah	Syed Maroof Shah
4.	Waqar Ahmad	Meer Shah
5.	Saifullah	Abdul Hakeem

For two posts of Naib Qasid (BPS-03), 303 candidates applied, in which one post was falling under retired employees' sons quota and one applicant Mr. Tanzeel Ur Rehman s/o Rahim Zada was appointed against the said quota. The remaining candidates were put to test and interviewed and out of which 28 top most candidates were subjected to final round of recruitment. After final interview, the following candidate was appointed against the vacant post of Naib Qasid (BPS-03):

Sr.No.	Name	Father Name
1.	Nehal Muhammad	Muhammad Iqbal

For the sole post of Sweeper (BPS-03), a total of 54 candidates applied, 46 candidates appeared in test and interview, while, following 04 candidates were shortlisted:

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Sr.No.	Name	Father Name
1.	Samiullah	Musa Khan
2.	Zahoor Ahmad	Noor Muhammad
3.	Kamran Masih	Jonsan Masih
4.	Saddique Muhammad	Shajar Khan

After personality and experience test the following candidate was appointed against the vacant post of Sweeper (BPS-03):

Sr.No.	Name	Father Name
1.	Samiullah	Musa Khan

Out of the shortlisted 04 candidates namely Mr. Samilullah, Mr. Zahoor Ahmad, Mr. Kamran Maseeh and Mr. Saddique Muhammad, Mr. Samiullah was appointed on the vacant post of Sweeper, while, rest of the three candidates are the complainants in the present two complaints.

7. It is worth mentioning that previously the Hon'ble Peshawar High Court, Peshawar had introduced "Bowl Policy" for appointment of Class-IV employees vide letter No. 13607-656 dated 22.08.2022, Flag "F", which was circulated to all the District & Sessions Judges and Senior Civil Judges in Khyber Pakhtunkhwa and class-IV employees were being appointed on the basis of criteria set in the said bowl policy, however, later on, such policy was discontinued by the Hon'ble Administration Committee through decision taken in its meetings held on 07.07.2021 to 09.07.2021 and circulated vide letter No. 11168-268/Admin dated 05.08.2021. It is noteworthy that currently there is no policy/ criteria for appointment of Class-IV employees in the District

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judiciary, therefore, the following suggestions are put forth for kind consideration:

a. Since, after discontinuation of "Bowl Policy" there is no criteria for appointment of Class-IV employees, therefore, the HR&W wing of the Secretariat of District Judiciary may be assigned with the task of devising a criterion for appointment of Class-IV employees in the District Judiciary, so that principles of fair play, transparency and merit are ensured. Unless and until a criteria for appointment of Class-IV employees is devised, such like complaints by numerous complainants will continue pouring in, after process of recruitment on such posts.

b. According to comments of the District Judge, Battagram, the appointment of Class-IV employees made by Senior Civil Judge (Admin), Battagram are relatives of Junior Clerk, Mr. Ihsan Ullah, working in the establishment of Senior Civil Judge (Admin) and driver of of Senior Civil Judge (Admin), Battagram, therefore, in absence of any criteria for their recruitment, the DSC may be asked to explain selection of the three appointees namely Mr. Naseerullah s/o Faiz Muhammad appointed on the post of Process Server (BPS-03), Mr. Samiullah s/o Musa Khan, appointed on the post of Sweeper (BPS-03) and Mr. Nehal Muhammad appointed on the post of Naib Qasid (BPS-03) and their relationship with Junior Clerk, Mr. Ihsan Ullah and driver of Senior Civil Judge (Admin), respectively.

8. Submitted for kind perusal and further appropriate orders, please.

(Khalid Khan Mohmand)
Director Inspections
Secretariat of District Judiciary
Peshawar High Court, Peshawar
02.02.2022

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ANNEXURE E&F

IN THE COURT OF ZIA-UR-REHMAN,
INQUIRY OFFICER/DISTRICT & SESSION JUDGE, MANSEHRA.

Departmental Inquiry No.1/DI of 2022.
Against Mr. Shahzad Ali, Senior Civil Judge (Admn) Battgram

INQUIRY REPORT.

1. Background.

I. Mr. Shahzad Ali, Senior Civil Judge (Admn), Battgram approached the Hon'able Peshawar High Court, Peshawar through proper channel seeking permission for recruitments against the vacant positions vide letter No. 348/SC/ADMIN/BM dated 01.09.2021, which was accorded vide letter No. 13619 dated 08.10.2021 (Ex.IW-1/1). Pursuant thereto, proclamation through publication was forwarded to The Director Information, Government of Khayber Pakhtunkhwa Peshawar vide letter No, 427/SCJ(Admn)/MB dated 21.10.2021 and 05 positions of process server, 02 of Naib Qasid and one post of Sweeper were advertised in Daily "Express" Peshawar and the Daily "Aaj" Peshawar dated 12.10.2021 and 27.10.2021 respectively (Ex.IW-1/2 and Ex.IW-1/3) inviting applications till the closing date 20.11.2021.

Zia-ur-Rehman
District Judge
Mansehra
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II. Upon completion of the scrutiny process, lists of eligible candidates were displayed. On 25.11.2021, the learned Senior Civil Judge (Admin) Battgram appointed Mr. Sheraz Firdos (Senior Civil Judge (Judicial) as nominee of Senior Civil Judge (Admn)/Authority for departmental Selection Committee meeting and vide letter No. 483 requested Hon'able Peshawar High Court, Peshawar for appointment of Nominee for the Departmental Selection Committee meeting. The Peshawar High Court through letter No. 17483/SDJ/HR&W/Admn dated 03.12.2021 nominated Mr. Naveed Ullah, Civil Judge Puran (Shangla) as nominee of the Peshawar High Court for the subject meeting scheduled for 04.12.2021.

III. The Departmental Selection Committee meeting held on 04.12.2021 and concluded the proceedings in respect of all the 08 vacant positions on the same day. As per minutes of the said meeting, Ex.IW-1/18, there were 603 eligible candidates for the post of Process Server, out of whom 502 appeared

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in the written test and only 36 qualified the same by securing 64 % and above marks. They were accordingly interviewed. The committee recommended 05 candidates namely (1) Nasceruliah s/o Faiz Muhammad, (2) Abdul Basit s/o Fazal Khaliq, (3) Inadadullah Shah s/o Syed Maroof Shah, (4) Waqar Ahmed s/o Meer Shah and (5) Saifullah s/o Abdul Hakeem for appointment as Process Server (BPS-5)

IV. There were 303 candidates for 02 positions of Naib Qasid. However, one post of was reserved for retired employees son quota and the applicant namely Tanzeel-ur-Rehman s/o Rahim Zada was recommended. For the remaining one position 257 candidates, who attended the proceedings, were interviewed and 28 candidates were shortlisted for the second and final round of interview. Thereafter, Mr. Nihal Muhammad s/o Muhammad Iqbal was recommended for appointment

V. As far as one vacant position Sweeper, out of 54 applicants 46 appeared and they were interviewed. 04 candidates were shortlisted and on the basis of personality assessment and requisite experience for the post Mr. Samiullah s/o Musa Khan was recommended for appointment

Zia-ur-Rehman
District Judge
Mohmand

COURT OF DISTT: & SESSION JUDGE MOHMAND

2. Initiation of Departmental Proceedings

I. Upon complaints of undue process, unfair play and nepotism in the subject recruitments, Hon'ble the Chief Justice, Peshawar High Court, Peshawar took notice of the matter by initiating the instant proceedings as the competent Authority. Mr. Shahzad Ali, Senior Civil Judge (Admn) Battgram/ Chairman of the Departmental Selection Committee was proceeded against by issuing the charge sheet and statement of allegations dated 19.02.2022 (Ex.IW-1/2 and Ex.IW-1/1 respectively. Mr. Asif Hussain Shah, Superintendent of this court was appointed as departmental representative while the undersigned as the Inquiry Officer. #

3. Charge Sheet

I. That you, while posted as Senior Civil Judge (Admn) Battgram, committed the following irregularities/illegalities/misconduct.

i. As Chairman of the Departmental Selection Committee, you, on 4th December 2021, selected and appointed Mr. Samiullah s/o Musa Khan as the Sweeper, without following due process and fair play, and without making a reasonable recruiting efforts to find the best suitable

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person, and avoidance of nepotism, as the said Samiullah is the real paternal cousin and brother-in-law of Mr. Ihsanullah s/o Faiz Muhammad, the junior clerk in his establishment.

II. As Chairman of the Departmental Selection Committee you, on 4th December 2021, selected and appointed Mr. Naseemullah, s/o Faiz Muhammad as the process server, without following due process and fair play, and without making a reasonable recruiting effort to find the best suitable person, and avoidance of nepotism, as the Naseemullah is also the brother of Mr. Ihsanullah s/o Faiz Muhammad, the junior Clerk of your establishment.

III. As Chairman of the Departmental Selection Committee, you,on 4th December 2021, selected and appointed Mr. Waqar Ahmed s/o Meer Shah as the process server, without following due process and fair play and without making a reasonable recruiting effort to find the best suitable person and avoidance of nepotism, as the said Waqar Ahmed is also the brother of your driver Marood Shah.

IV. As Chairman of the Departmental Selection Committee you, on 4th December 2021, selected and appointed Mr. Imdadullah Shah s/o Syed Marood Shah as the Process Server, without following due process and fair play and without making a reasonable recruiting effort to find the best suitable person, and avoidance of nepotism, as the said Imdadullah is also the brother of Syed Saleem Shah Junior Scale stenographer of your establishment.

By reason of the above, you appear to be guilty of misconduct under rule 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 and rendered yourself liable to all or any of the penalties specified in rule 4 of the Rules ibid.

III. You are, therefore, required to submit your written defence within seven days of the receipt of this Charge Sheet to the Inquiry Officer.

IV. Your written defence, if any, should reach the inquiry officer within the specified period, failing which it shall be presumed that you have no defence to put in and in that case, ex-parte action shall be taken against you.

V. Intimate whether you desire to be heard in person.

VI. A statement of allegations is enclosed.

4. Inquiry Proceedings:

Notice was issued to Mr. Shahzad Ali, SO (Admn) Battagram, who submitted reply to the charge sheet on 01.03.2022. List of witnesses from both the sides also submitted. Departmental Representative produced 14 Inquiry Witnesses, while the accused officer produced both the members of the DSC meeting as defense witnesses besides recording his own testimony.

5. Developments during the inquiry proceedings:

- During the course of inquiry, a complaint of one Muhammad Jaffar making appeal for investigation into the recruitment of post of process servers was received from Hon'ble Peshawar High Court, Peshawar alongwith covering letter No. 3233 Admn dated 26.02.2022 for consideration. The said letter was brought on record by the Departmental Representative in his statement as Ex.IW-1/3.
- The said complainant Muhammad Jaffar was partially examined as inquiry witness No. 02 on 10.03.2022. Before his cross examination he was re-examined on 30.03.2022 in the light of his application for withdrawal of the complaint received through post vide receipt No. 280 dated 17.03.2022. He was then cross examined by the Accused officer as well as by the Departmental Representative. Few questions were also put by the undersigned. He disowned the complaint dated 04.12.2021 by stating that it was wrongly attributed to him and thus requested for its withdrawal. Copy of his CNIC, withdrawal of complaint and registered envelope are Ex.IW-2/1, comprising of three sheet.

Though the Departmental Representative had closed his evidence on 06.04.2022 and two witnesses of the defence (IW-12 and IW-13) had also been examined. The case was fixed for the statement of accused officer but prior to that the Departmental Representative submitted an application on 18.04.2022 for production of additional evidence, to examine one Zahoor Ahmed s/o Noor Muhammad, an aggrieved candidate for the post of sweeper. Another application was also submitted for examination of two more witnesses namely Noor Shad Ali and Shafiq-ur-Rehman s/o Mir Salam Khan (Aggrieved candidates for the post of process server). Both these candidates submitted written application to the undersigned on 22.04.2022 for affording them opportunity of hearing. The applications were contested by the accused

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Mansehra
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officer through written reply However, both the applications were allowed vide order dated 09.04.2022 and resultantly three more witnesses namely Zahoor Ahmed s/o Noor Mohammad, Noor Shad Ali and Shafiq ur-Rehman were examined as IW-14 , IW-15 and IW-16 respectively Thereafter the accused officer got recorded his statement as IW-17

6. Evidence

The gist of the testimonies of the inquiry witnesses is as under

1. IW-1, Baklatiar Ali Shah, Clerk of Court, Senior Civil Judge (Admn) Battgram produced copy of the record of Department Selection committee dated 04.12.2021, (original has already been requisitioned by Departmental Representative) comprising of the following.

1. Permission of recruitment by Hon'able Peshawar High Court, through letter No 13619 dated 08.10.2021, Ex.IW-1/1.
2. Advertisement in Daily "Express" dated 12.10.2021 and Daily "Aaj Peshawar" dated 27.10.2021, Ex.IW-1/2 and Ex.IW-1/3 respectively
3. Directive of the High Court regarding dis-continuation of Bowl policy dated 05.08.2021, Ex.IW-1/4
4. Appointment of nominee of the Appointing Authority Senior Civil Judge Admn dated 25.11.2021, Ex.IW-1/5.
5. Request for nominee of PHC dated 25.11.2021Ex.IW-1/6.
6. Working papers of 603 eligible candidates for the post of process servers comprising of 22 sheets, Ex.IW-1/7.
7. List of two under age candidates of process servers Ex.IW-1/8
8. List/working papers of 301 candidates for the post of Naib Qasid, comprising of 14 sheets, Ex.IW-1/9.
9. List/working papers of 54 candidates for the post of Sweeper, comprising of 03 sheets, Ex.IW-1/10.
10. Attendance sheet of written test for the post of process servers dated 04.12.2021, comprising of 26 sheets, Ex.IW-1/11.
11. Attendance sheet of the candidates for the post of NaibQasid dated 04.12.2021, comprising of 12 sheets, Ex.IW-1/12.
12. Attendance sheet of the candidates of Sweepers dated 04.12.2021 comprising of 02 sheets, Ex.IW-1/13.

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District Judge
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COURT OF DISTT: & SESSION JUDGE

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13. List of 36 candidates who qualified written test and were short listed for interview, comprising of 02 sheets, Ex.IW-1/14.

14. Working papers of 05 candidates who were recommended by the Departmental Selection Committee for appointment as process servers, Ex.IW-1/15.

15. List of 28 candidates who were short listed for interview the post of NaibQasid, comprising of 02 sheets, Ex.IW-1/16.

16. List of 04 qualified candidates/short listed for interview for the post of Sweeper, Ex.IW-1/17.

17. Minutes of Departmental Selection Committee meeting dated 04.12.2021, comprising of 02 sheets, Ex.IW-1/18.

18. Appointment orders of 05 candidates for the post of process servers, comprising of 03 sheets, Ex.IW-1/19.

19. Appointment orders of 02 candidates for the post of NaibQasid, comprising of 03 sheets, Ex.IW-1/20.

20. Appointment order of 01 candidate namely Samiullah s/o Musa Khan for the post of Sweeper, comprising of 03 sheets Ex.IW-1/21.

Letter of verification of newly appointed candidates addresses to DPO bearing No. 514/SCJ (Admn) dated 16.12.2021, Ex.IW-1/22.

22. Letter to the Chairman Board of Intermediate and Secondary Education Abbottabad bearing No. 537/SCJ/ADMN/BM dated 15.12.2021 for verification of documents, Ex.IW-1/23.

Letter to the Assistant Director NADRA bearing No. 01 dated 05.01.2022 for verification of newly appointed candidates, Ex.IW-1/24.

Response of B.I.S.E Abbottabad regarding their requisite verification vide letter No. 50720-50724/SSC/CER/52/A/1, dated 15.12.2021, 3042/AB/BISE/HSSC/Secrecy dated 16.12.2021, 3496/AB/BISE/HSSC/Secrecy dated 16.12.2021, Ex.IW-1/25, comprising of 03 sheets.

25. Verification by DPO vide letter No. 296/HC dated 18.01.2022, Ex.IW-1/26

26. Nominee of Peshawar High Court bearing letter No. 17483/SDJ/HR&W/ADMN: dated 03.12.2021, Ex.IW-1/27.

27. Question paper of screen test for the post of process server, Ex.IW-1/28, Answer key of screen test, Ex.IW-1/29, Answer sheets of 36 candidates, Ex.IW-1/30, comprising of 36 sheets, as well as original list of 36

candidates who qualified the screening test, Ex.IW-3/1 bearing manual entries of marks of interview penned down by the committee with led pencil comprising of 02 sheets.

II. IW-2, Muhammad Jaffar s/o Abdul Lateef R/o Battagram CNIC No. 13202-0893582-5 is complainant of instant inquiry and stated that he applied for the post of process server and being an eligible candidate he was invited for the written test. He attempted the test and qualified the same by securing 16 marks out of 25. Accordingly, he was short listed for the interview during which his performance was satisfactory as he correctly answered almost all the questions put by the committee. However, upon conclusion of the proceeding, he was informed alongwith other unsuccessful candidates about the result. Out of 05 selected/appointed candidates for the post of process servers 03 were recommended on the basis of nepotism and connivance of Ehsanullah Junior Clerk. One of the said appointees is his brother, one is his cousin and the 3rd one is his brother in law. Similarly, as per his information one more process server was appointed against the merit because he is brother of Shamroz, driver of a Judicial Officer. He Further stated that on 15.03.2022, he dispatched an application to the office of District & Sessions Judge, Mansehra/Inquiry Officer for withdrawal of his complaint, Ex.IW2/1 (consisting of 03 pages. According to him, the earlier application dated 04.12.2021 for the purpose of inquiry was wrongly attributed to him as he did not file the same. However, he came to know about the said application on 10.03.2022 when he received a notice from this office to join the instant inquiry. He stated to have been misguided by someone that he will be appointed if he joins the inquiry and depose a statement. Since the alleged complaint was wrongly attributed to him therefore, he deemed it necessary to request for withdrawal of alleged complaint, was added. In response to a question by the accused officer about the source of his information so far as influence of Ehsanullah Junior Clerk or his relationship with appointees he replied to have heard from few unsuccessful candidates. While responding to a question by the Departmental Representative about the malafide withdrawal of the complaint, he denied the suggestion and reiterated that he did not file the complaint because of its wrong attribution to him he has voluntarily for its withdrawal. So far as the question asking reason of his appearance as inquiry witness prior to the withdrawal application, he stated that he was advised by a

co-villager cum class-fellow because he would get the job by doing so. He denied the suggestion of being under influence of anyone in making the request for withdrawal of the complaint.

III. IW-3, Waheed Ahmed, Incharge NADRA Office Battgram produce family tree of **Mr. Ehsanullah (Junior Clerk)** S/o Faiz Muhammad, Ex.IW-3/1. He also produce family tree of **Mr. Samiullah** s/o Musa Khan, **(the sole appointed sweeper,** IW-1/18) Ex.IW-3/2, according to their record Faiz Muhammad and Musa Khan are real brothers being sons of Mir Malik. Similarly, he produce family tree of **Mr. Naseerullah** s/o Faiz Muhammad Ex.IW-3/3 **(appointed process servers at Sr. No. 01** of the minutes, IW-1/18), **who is brother of Mr. Ehsanullah (Junior Clerk).** Family trees of Mr. Mahroof Shah s/o Mir Shah, Ex.IW-3/4, and Mr. Waqar Ahmed s/o Mir Shah (Appointed process server as per Sr. No. 04 of the minutes IW-1/18), Ex-IW3/5, according to record **Mahroof Shah, (Driver) and Waqar Ahmed** both are brothers and belong to Village and Post Office Sakkar Gah Tehsile Allai District Battgram. Likewise, he also produced family tree of Syed **Saleem Shah (Stenotpist)** s/o Syed Mahroof Shah and **Imdadullah Shah** (Appointed Process Server at Sr. No. 03 of the minutes IW-1/18) s/o Syed Mahroof Shah, EX.IW-3/6, according to which they are real brothers and belong to Village and Post Office Balandkot, Tehsil and District Battgram.

IV. IW-4, Ehsanullah s/o Faiz Muhammad Junior Clerk RRC Branch, District Courts Battgram was initially inducted in District Judiciary Battgram as Process Server (BPS-3) in the year 2015, (Ex.IW-4/1). However, he was subsequently appointed as Junior Clerk in the year 2017 through initial recruitment, copy of his application, recommendations of the DSC and Appointment order were produced as Ex.IW-4/2, Ex.IW-4/3 and Ex.IW-4/1 respectively. He claimed that all the appointments were made on merits and he was not part of the recruitment process in any manner, nor he requested or approached the appointment authority to appointing anyone. In his cross examination by the undersigned he admitted Naseerullah (appointed process server) as his brother and similarly Mr. Samiullah (appointed sweeper) as his paternal cousin as well as brother in law.

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V. IW-5, Naseerullah s/o Faiz Muhammad, process server, District Court Battgram applied for the advertised post of Process Server on 10.11.2021 and was ultimately appointed as process server on the basis of recommendations of the minutes of the Departmental Selection Committee meeting in question dated 04.12.2021. His application for the post, copy of CNIC, Domicile and SSC certificate, FSC DMC, Diploma in Information Technology and character certificate were produced as Ex.IW-5/1 to Ex.IW-5/7 respectively. He stated to have attempted and qualified the written test as well as the interview. In response to the questions by the undersigned he admitted Ehsanullah Junior Clerk as his real brother and newly appointed Samiullah s/o Musa Khan (Sweeper) as his paternal cousin.

VI. IW-6, Samiullah s/o Musa Khan Sweeper District Courts Battgram applied for the advertised post of sweeper on 10.11.2021 and was ultimately appointed as Sweeper on the basis of recommendations of the minutes of the Departmental Selection Committee meeting in question dated 04.12.2021. His application for the post, copy of CNIC, Domicile and SSC certificate, FSC DMC, Diploma in trade of electrical work from Skill Development Peshawar, Experience certificate from Affaran Public School and Experience certificate from Albadar Surgical and General Hospital Battgram were produced as Ex.IW-6/1 to Ex.IW-6/8 respectively. According to him he was called for interview twice on 04.12.2021, first by a panel of two judges and secondly by a panel of three judges and upon qualifying both the interview he was appointed on merit. During cross examination he admitted to be real paternal cousin as well as brother in law of Ehsanullah Junior Clerk. He also deposed about his relevant experience in addition to experties in cooking regarding which experience certificate Ex.IW-6/7 and Ex.IW-6/8 respectively were produced as part and parcel of his application of candidature.

VII. IW-7, Mahroof Shah s/o Mir Shah Driver to SCJ (Admn) Battgram, stated that he was inducted in District Judiciary Battgram as driver (BPS-6) in the year 2019. He stated that as per his knowledge and information all the appointments of December 2021 were made on merit and he did not approach or request the appointing authority for appointment of anyone. In cross examination he did not deny relationship of newly appointed process server

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Waqar Ahmed with him as his real brother, though reiterated that he did not approach the appointing authority in this regard.

VIII. IW-8, Waqar Ahmed s/o Mir Shah Process Server, District Courts Battgram applied for the advertised post of Process Server on 02.11.2021 and was ultimately appointed as process server on the basis of recommendations of the minutes of the Departmental Selection Committee meeting in question dated 04.12.2021. His application for the post, copy of CNIC, Domicile and SSC certificate, FSC DMC and character certificate were produced as Ex.IW-8/1 to Ex.IW-8/6 respectively. He stated to have qualified the written test as well as the interview and eventuality appointed on merits. In his cross examination he is admitted to be real brother of Maroof Shah IW-7 Driver.

IX. IW-9, Syed Saleem Shah s/o Syed Mahroof Shah Steno typist to the court of Civil Judge-II, Battgram, was appointed as steno typist in District Judiciary Battgram in the year 2018, copy of appointment order is Ex.IW-9/1. He stated that as per his knowledge and information all the appointments in-question were made on merit and he did not approach or request the appointing authority for appointment of anyone. In his cross examination while admitting appointment of his brother namely Imdadullah Shah as process server he denied the allegation of nepotism and claimed that his appointment was made on merits. He further stated that he neither played any role in his appointment nor was associated in the process of recruitment in any manner.

X. IW-10, Imdadullah Shah s/o Syed Mahroof Shah Process Server District Courts, Battgram, applied for the advertised post of Process Server on 18.10.2021 and was ultimately appointed as process server on the basis of recommendations of the minutes of the Departmental Selection Committee meeting in question dated 04.12.2021. His application for the post, copy of CNIC, Domicile and SSC certificate, FSC, BA Degree, Master in Pashto, Diploma in IT and Character certificate were produced as Ex.IW-10/1 to Ex.IW-10/9 respectively. He stated to have qualified the written test as well as the interview and eventuality appointed on merits. In his cross examination he is admitted to be real brother of Saleem Shah IW-9 Steno Typist.

XI. IW-11, Asif Hussain Shah, Superintendent Sessions Court Manschra/ Departmental Representative of Peshawar High Court Peshawar reiterated the

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facts mentioned in the earlier part of this report besides exhibiting charge sheet and statement of allegations and explained the developments during the course of inquiry pertaining to complaint of Muhammad Jaffar with reference to letter No.3233 dated 26.02.2022 of Additional Registrar (Admin) Peshawar High Court Peshawar, Ex.IW-11/3 directed District and Sessions Judge Mansehra/Inquiry Officer to consider the Muhammad Jaffar (complainant) as witness in the inquiry proceedings against the recruitment process. In response to a question by the accused officer to point out any candidate who would be discriminated by the DSC his response was that he does not know any candidate except the complaint Muhammad Jaffar. He, similarly stated to be not in knowledge of any legal bar in making appointments of relatives of staff members who were otherwise eligible for appointment on merits.

XII. IW-12, Naveed Ullah Civil Judge Puran District Shangla appeared as a defence witness. He was Nominee of the Peshawar High Court Peshawar, for the subject DSC scheduled for 04.12.2021 vide letter No.17485 /SDJ/HR&W/ADMIN dated 03.12.2021, already exhibited as Ex.IW-1/27. He stated to have received the information of his nomination on 03.12.2021 at about 12:30 P.M, through telephonically called of the superintendent Sessions Court Shangla and subsequently received softcopy of the letter through whatsapp from Mr. Sheraz Ferdos Senior Civil Judge (Judicial) Battagram at Isha time. He joined the proceedings on the next day on 08:00 AM. According to him the accused officer had already prepared the written test which was available in USB drive in sealed envelope and was opened and handed over to DEO for printing of the papers in presence of the committee. The test for the process server was conducted by the committee, papers were checked and result was displayed on the notice board. Thereafter, interviews for the post of Sweeper and Naib Qasid were conducted separately by the Committee and then interview for post of process server was also conducted. The merit list was prepared, issued and displayed on the same day. The committee finalized the working papers, other relevant documents prepared and signed the minutes and dispatched to the quarter concerned. In his cross examination by the Departmental Representative he stated that other Judicial Officers of the District were also engaged for checking of the papers. He admitted that no screening test was conducted prior to the written test. He, however stated that he was not in knowledge of such requirement of screening test on account of

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first ever experience in such like proceeding nor any other member informed him about the same. In response to question by the undersigned he stated his length of service is almost 11 and half years and that basic duty of nominee of High Court is to ensure transparency. He neither consulted any Senior Judicial Officer nor the High Court for the procedure to be followed nor could go through the relevant portion of Judicial Esta Code on account of paucity of time. He could not explain the procedure of recruitment in the light of Rules and the policy governing the subject. With respect to the interview to the post of Naiz Qasid and Sweeper his reply was that they initially interviewed the candidates randomly whereby on the basis of skills and relevant experience shortlisting was made and they in the second round of interview recommendation for appointments were made. As far as the criteria of interview for the post process server he said that after assessing reading and writing skills of a candidate they would discuss his fitness and then unanimously award him marks. A specific question was asked as to whether he noticed or suspected any staff member overwhelmingly engaged in the process of recruitments, however his response was that he did not notice any such thing.

XIII. IW-13, Sheraz Firdos, Senior Civil Judge Bunner also appeared as a defence witness. He was Nominee of the Senior Civil Judge (Admn) Battgram/ Authority for the subject DSC scheduled for 04.12.2021 vide letter No.484/SCJ/Admn/BM dated 25.11.2021, already exhibited as Ex.IW-1/5. He joined the proceedings of the day at 08:00 AM. According to him the accused officer had already prepared the written test which was available in USB drive in sealed envelope and was opened and handed over to COC for printing of the papers in presence of the committee. The test for the process server was conducted by the committee, papers were checked and result was displayed on the notice board. Thereafter, interviews for the post of Sweeper and Naib Qasid were conducted separately by the Committee and then interview for post of process server was also conducted. The merit list was prepared, issued and displayed on the same day. The committee finalized the working papers, other relevant documents prepared and signed the minutes and dispatched to the quarter concerned. In his cross examination, he was asked about formal approval/vetting of the advertisement prior to the publication which he admitted being legal requirement, however explained that such requirement

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was not in his knowledge by then. With regard to a question about need of screening test prior to the written test he responded that such requirement pertains to posts in BPS 05 and above and since post of process server is shown to be in BPS 01 in the revised Edition of Judicial Esta Code of 2011 and thus it was the reason that screening test was not conducted. While answering question of the undersigned regarding his DSC experience he replied that the subject DSC was his second ever experience. About up-gradation of post of process server he responded to have got knowledge of the same few weeks after the subject DSC, He admitted to have seen and distributed the question papers bearing the title "Screening Test" and not written test. However, stated that he could not notice this fact at the relevant time and remained under impression that it was the written test. Similarly, he also admitted that the question paper (Ex.IW-1/30) duly reflected the BPS of the post of process server as BPS 05 but again stated that he could not notice this fact too. According to him a minimum of 03 minutes would be required to interview one candidate of the post of Naib Qasid or Sweeper. As far as the criteria of interview he corroborated IW-12 that they would assess performance of every candidate and thereafter on the basis of deliberation and consensus recommend the chairman to award particular number of marks.

Attested

Ata-ur-Rehman
District Judge
Mansehra

XIV. IW-14, Zahoor Ahmed s/o Noor Muhammad R/o Paimal Shareef, Tehsil & District Battgram, had applied for the post of Sweeper and he was invited for the Interview. During the interview he was asked about cooking, driving and cleaning to which he responded correctly and quite satisfactorily and was accordingly shortlisted for the second and final round of interview besides three other candidates. According to him, upon conclusion of the proceedings a candidate with a higher qualification of FSC was recommended for appointment. In cross examination by the Departmental Representative about any evidence regarding appointment of sweeper made against the merit or on the basis of nepotism, he replied that he does not have any evidence, however, he heard that the appointed candidate is relative/cousin of some court official.

XV. IW-15, Noor Shad Ali s/o Noor Faraz R/o Kohani Kandi, Tehsil & District Battgram, is master degree holder but currently he is unemployed. Being aggrieved from the appointments made against the post of process server he wrote an application to the District & Sessions Judge, Manschra/Inquiry Officer for affording him an opportunity to express his grievance. He owned

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and admitted his application dated 20.04.2022, which is a joint application with one Shafique-ur-Rehman is Ex.IW-15/1. Further stated that recent disputed recruitments in District Judiciary Battgram brought bad name and disgrace to the Judiciary across the country for the reason that it is talk of the town that appointees bribed the authority. However he cannot press this claim of appointments against gratification/bribery due to lack of evidence. Nevertheless, partiality, nepotism and non-meritorious episode of the event can be well analyzed and inferred from this fact alone that all the appointees are near and dears of the staff of District Judiciary. As far as the post of process server is concerned, the candidate who was on top of the list namely Naseerullah and was finally appointed is brother of Clerk Ehsanullah. Similarly, the second appointee namely Abdul Basit is neighbor as well as close friend of the said court official Ehsanullah. The third successful candidate for the post of process server namely Imdad-ullah Shah, who also got appointed, is real brother of Saleem Shah steno typist. The fourth one namely Waqar Ahmed is brother of the driver of the then Senior Civil Judge (Admn)/Appointment Authority. Out of the five appointees he does not have information about the last one namely Saif-ullah. As far as the post of sweeper is concerned, the sole position was filled by appointing one Samiullah, who is brother in law as well as cousin of the above named court official Ehsanullah. *In cross examination by the accused officer, he admitted the suggestion correct that he had already called in question the appointments against the post of process server before the august Peshawar High Court, Abbottabad Bench claiming therein to be the deserving candidate. He told that he secured 22 marks out of 25. Similarly he replied to the question regarding marks of Naseerullah (appointed process server) that he secured 23 marks. His cross examination would show that his basic grievance pertains to allocation of SSC marks. He, on the basis of his SSC certificate was awarded 30 marks being second divisioner. He, on the contrary, on the strength of Masrassa degree, alleged equivalent to SSC and being first divisioner in the said exam claimed 30 marks of SSC,, which would have placed him at the top and ultimately recommended for appointment. However, he admitted to have not raised this objection at the relevant time. Moreover, this aspect is also pending adjudication in the above cited writ petition.*

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XVI. IW-16, Shafique-ur-Rehman s/o Mir Salam Khan R/o Shangli Bala, Tehsil & District Battgram, is a master degree holder (BS Zoology) but currently unemployed. Being aggrieved from the appointments made against the post of process server District Battgram he wrote an application, Ex. IW-15/1 to the District & Sessions Judge, Mansehra/Inquiry Officer for affording him an opportunity to express his grievance Further stated that despite he was having better position in the merit list he was dropped in the final list and relatives of the staff members were appointed. In cross examination by the Departmental Representative he replied that appointees were relatives of few staff members so peoples were talking that appointments have been made on the basis of nepotism.

XVII. IW-17, Shahzad Ali Senior Civil Judge (Admn) Battgram accused officer, in response to charge sheet and statement of allegations submitted reply, Ex.IW-17/1. He stated that he had advertised the post of Process Server, Naib Qasid and Sweeper through advertisement in two leading Newspapers. The candidates applied in pursuance to such advertisement and the list of shortlisted/eligible candidates was prepared and displayed in the premises of Judicial Complex Battgram. Consequently the shortlisted candidates competed for selection according to their eligibility and merit. Prior to advertisement, permission/approval for recruitment of above mentioned vacant post was got from Peshawar High Court, Peshawar. On 04.12.2021 written test and interview was conducted by the Departmental Selection Committee and recruitment in question was made under due process prescribed by rules and standing instruction of the Peshawar High Court. On 04.12.2021, he issued duty roster of staff members, Ex.IW-17/2 and as per the same Ehsanullah Junior Clerk and Saleem Shah Stenographer were not assigned any duty pertaining to test and interview. He as the chairman of DSC tried to appoint the best available candidates on the basis of their academic record, overall performance, appearance and body language. He was not in a position to interfere in the selection process as nominee of the Peshawar High Court Peshawar was present and who acted as a watchdog in entire recruitment process. Though, he was Chairman of Departmental Selection Committee but not vested with any power to discredit the assessment of other members of Departmental Selection Committee in the selection process. He further stated that it is evident from the record that disputed appointees have not been treated

favorably in terms of allotted number to inflate their merit against other candidates. There is nothing in the charge sheet that any candidate with the best merit position was excluded from selection to accommodate the disputed appointees. The recruitment process was completed with collective wisdom of Departmental Selection Committee having regard to prescribed procedure, with due regard to the merit of candidates to enable the selection of candidates with the best merit position, he added. In order to have vivid and lucid picture, it is important to mention that the one Muhammad Jaffar (Complainant/Candidate for post of process server/IW-02) got 18 marks out of 25 in interview by the Departmental Selection Committee, being highest scorer amongst all the pass candidates. However, due to his second division in SSC (Matric) he could not emerge with a merit position making his selection possible. The complainant Muhammad Jaffar has already deposed before the Honorable Inquiry Officer that he has not filed the instant complaint and someone else has falsely attributed the same to him, therefore, he wants to withdraw the instant complaint, which has further shattered the very base and foundation of the complaint. It's further stated that he neither acted in excess of power nor did make any undue interference in the selection process in order to derail the merit of candidates. The whole recruitment process was done in transparent manner by the departmental selection Committee unanimously without any favour and purely on merit. All the posts are of district cadre and all the appointees belong to District Battgram, whereas he belongs to District Peshawar. It is pertinent to mention that there were few candidates who despite being close relatives of quite influential staff members were not appointed just because they could not meet the criteria and qualify the process. For instance, a candidate for the post of process server namely Mansoor Ahmed s/o Ghulam Farid, Sr. No. 31 of final working paper Ex.IW-1/14 is son of serving Superintendent of District Court Battgra namely Ghulam Farid. He qualified the written test having scored 19 marks while obtained 15 marks in interview but could not make it to on account of less aggregate marks as compared to the successful candidates just because of lessor academic marks being second divisioner in SSC. Similarly, two candidates for the post of process server namely Asadullah and Imdadullah are sons of Naz Muhammad, Civil Nazar of the establishment of Senior Civil Judge (Admn) Battgram. Their names are duly mentioned at Sr. No. 30 and 71 respectively of initial working paper Ex.IW-1/7. However, they

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could not qualify the written test. Likewise, third son of the said Civil Nazir, namely Arshad Ali applied for the post of Naib Qasid, whose name is mentioned at Sr. No. 116 of working paper of Naib Qasid, Ex.IW-1/9. However, he could not qualify the interview. Similarly, a candidate for the post of Naib Qasid namely Muhammad is son of Akhtar Zeb, who is serving Naib Nazar/Incharge process serving agency. His name is mentioned at Sr. No. 301 of Ex.IW-1/9, but he too failed the interview. Had there been any favoritism and nepotism on his part he would have paved the way for appointment of these above mentioned candidates being sons of relatively more influential staff member as compare to Ehsanullah Junior Clerk and Saleem Shah Stenotypist to the court of Civil Judge-II Battgram, who even does not belong to his establishment. He accordingly rebutted the allegations leveled against him. The charges pressed into service in the charge sheet and statement of allegations does not constitute the ground for disciplinary action under E&D rules. Therefore, it is submitted that he may graciously be exonerated from the charge and relieved of the disciplinary proceedings. His cross examination would reveal that Mr. Ghulam Farid is not superintendent of the District Courts Battgram but a Senior Clerk, who is however serving in the Superintendent office. He disclosed that it was his first ever experience of recruitments as member or chairman of the DSC. He claimed the sole test for the post of process server as the prescribed written test. However, he admitted to have not taken the screening test being not aware of this requirement. He himself prepared the paper and de-sealed it in presence of the other members. In order to justify his proceedings concluding in just one day he relied upon previous recruitments to have been made in the same fashion, though did not produce any evidence in this regard. He also admitted to have not taken the plea in respect of unsuccessful candidates who were sons of senior officials of his establishment in his reply to the charge sheet.

Witnesses were cross examined by the accused officer and Departmental Representative after obtaining permission from the Inquiry Officer. The undersigned being inquiry officer also put some questions.

07. **Findings:**

1. Needless to mention that being civil servants, the procedure fo appointments of ministerial staff of the District Judiciary through initia

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recruitment is governed and regulated by Rule 10 of the Khyber Pakhtunkhwa Government Servants (Appointment, Promotion and Transfer) Rule, 1989 made u/s 26 of the KPK Civil Servants Act, 1973. In exercise of the powers conferred under Rule 3 (2) of the Rules, 1989 Hon'able the Peshawar High Court, Peshawar formulated a recruitment policy known as Recruitment Policy of Hon'able Peshawar High Court for District Judiciary, 2003, prescribing the Appointing Authorities for different posts, requisite Qualifications , Age and the method of recruitments besides issuing standing Orders, instructions and directions in this regard from time to time so as to ensure the appointments in fair, transparent manner, based on merit and in accordance with the procedure prescribed. All such directions and instructions have been made available in the previous as well as recent new and enlarged edition of the Judicial Esta Code. Besides, the administration of the Hon'able High Court, in collaboration with the Khyber Pakhtunkhwa Judicial; Academy, has persistently been endeavoring to build capacity of the Judicial Officers by arranging on campus, Distant learning through video link and regional training on Administrative law, focusing on the subject of Appointments through different modes.

2. Precisely, the charge against the Accused Officer is that the Appointments made by him, being the appointing authority against the posts of process servers (03 out of 05) and one post of sweeper on 04.12.2021 were result of violation of due process and fair play and without making a reasonable recruiting efforts to find the best suitable person, and avoidance of nepotism. Hence the charge may be split into two parts, 1) Appointments on the basis of nepotism to favour nears and dears of the named officials of the District Judiciary, 2) and appointments made without following due process, fair play and without making a reasonable efforts to find the best suitable person. After thorough and minute scrutiny of the record and evidence I would like to record my findings on both the heads of the charge as under;

3) Nepotism

i) As far as the post of sweeper is concerned, Mr. Samiullah s/o Musa Khan was appointed against the sole advertised position. The allegation is that the said appointee is the real paternal cousin as well as brother in law of Mr. Ihsanullah s/o Faiz Muhammad, the junior clerk in his establishment. It is pertinent to mention that the alleged relationship interse has duly been proved.

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The record produced by IW-3, family tree of Mr. Ihsanullah junior clerk (Ex.IW-3/1) and that of newly appointed sweeper Mr. Samiullah s/o Musa Khan (Ex.IW-3/2) prove that they are paternal cousins as their respective fathers are sons of one Mir Malik. Not only this relationship of paternal cousinship but also that of brother in law interse has been admitted by both Ihsanullah Junior Clerk and the appointed sweeper Samiullah in their respective cross examinations as IW-4 and IW-6 respectively. However, this admitted relationship would not be sufficient to prove that appointment of Samiullah was made on the basis of nepotism and to extend favour to Mr. Ihsanullah junior clerk. Following are the reasons for such finding.

Firstly, the sole witness produced to establish the charge is Mr. Zahoor Ahmed s/o Noor Muhammad, IW-14, who himself is an aggrieved candidate against the said appointment. There were total 54 applicants for the post (Ex.IW-1/10) and 46 appeared for the interview, as evident from attendance sheet (Ex.IW-1/13) and the list of short listed candidates for the second round of interview would show name of this witness/aggrieved candidate at sr. No. 02. It needs no emphasis that the criteria laid down in the recruitment policy, 2003 for the post of sweeper provides that literate candidate shall be given preference. The working paper (Ex.IW-1/10) would show that the appointed candidate Samiullah (Sr. No. 03) holds FSC degree while this witness Zahoor Ahmed (Sr. No. 42) is an illiterate candidate.

Secondly, this Zahoor Ahmed does not even know the meaning of word *"Khawanda"*, as evident from his answer to question No. 04 put by the undersigned. On the contrary, the appointed candidate Samiullah is not only FSC degree holder (Ex.IW-6/4) but also possesses relevant experience of the post, as evident from undisputed experience certificates from a private public school and a private sector Surgical and General Hospital (Ex.IW-6/7 and Ex.IW-6/8) besides experties in cooking. It may be appropriate to mention that academic credentials of the appointed candidate and his character verification were also made through the quarter concerned, as evident from Ex.IW-1/25 and Ex.IW-1/26.

Thirdly, there is no other evidence in support of the allegation except testimony of Mr. Zahoor Ahmed (IW-14) whose evidence is hearsay and thus inadmissible.

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Fourthly, it is reasonably established, especially in presence of the duty roster of the staff engaged during the process, and from cross examination of witnesses that Mr. Ihsanullah was not engaged in the process of recruitment nor there is any other evidence to presume or infer that he influenced the appointing authority in any manner.

Fifthly, the minutes of the meeting of the DSC, Ex.IW-1/18, last para, would show that the recommendation of Samiullah for appointment was made after personality assessment and experience test for the post. This fact, duly corroborated by answers of Samiullah (IW-6) to questions put by the undersigned in the absence of any evidence to the contrary reasonably established that his appointment was made on the basis of merit and not any other consideration. Hence, the charge of nepotism is not proved.

(ii) **As far as the posts of process server are concerned,** 05 positions were announced. Total 605 candidates applied, out of whom 02 were found eligible being underage (Ex.IW-1/8) and the list/working papers of eligible 603 candidates (Ex.IW-1/7) was duly displayed. According to attendance sheet Ex.IW-1/11, 502 candidates appeared in the screening/written test. Based on 64% and above result in the said test total 36 candidates (Ex.IW-1/14) were shortlisted for interview. The question paper, answer key and answer sheets of shortlisted candidates for interview are available on record as Ex.IW-1/28, Ex.IW-1/29 and Ex.IW-1/30 (36 sheets). The result of interview of these 36 candidates containing interview marks (typed), marks obtained in written and academic qualification marks as well aggregate (manual led pencil writing) is Ex.IW-1/31 which bears signatures of all the three members of the DSC. The formal working papers (Ex.IW-1/14) of these 36 candidates, duly signed by all the members provides complete details of the marks obtained by each candidate under each head and is found in the order of merit. It is observed that all the 05 selected candidates obtained the highest marks. The following candidates were accordingly appointed on the basis of recommendation of the committee;

a) Mr. Naseerullah s/o Faiz Muhammad ----- 74 Marks
b) Mr. Abdul Basit s/o Fazil Khaliq ----- 73 Marks
c) Imdadullah Shah s/o Syed Maroof Shah ----- 70 Marks
d) Waqar Ahmed s/o Mir Shah ------ 69 Marks
e) Saifullah s/o Abdul Hakim ----- 68 Marks

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iii) Amongst the above appointments Mr. Abdul Basit and Saifullah are not disputed. Out of the remaining three Mr. Naseerullah s/o Faiz Muhammad is alleged to be brother of Ihsanullah s/o Faiz Muhammad. This alleged relationship has duly been proved through documentary record of NADRA (Ex.IW-3/3). Moreover, Mr. Ihsanullah junior clerk (IW-4), while denying to have played any role in the said appointment, admitted the said Naseerullah as his brother. Similarly, the selected candidate Naseerullah (IW-5) also admitted the said fact in his testimony.

iv) The selected candidate at Sr. No. 03 of the minutes Mr. Imdadullah Shah s/o Syed Maroof Shah is alleged to be the brother of Syed Saleem Shah, junior scale stenographer. This relationship interse has also been proved through documentary evidence from NADRA, Ex.IW-3/6. Syed Saleem Shah junior scale stenographer was produced as IW-9, who admitted the relationship, though denied the allegation of nepotism and any role in appointments. Similarly, This Imdadullah Shah, in his testimony as IW-10, also admitted the fact. Thus the relationship between the two is proved.

v) Mr. Waqar Ahmed s/o Mir Shah was recommended vide Sr. No. 04 of the minutes and ultimately appointed. According to the charge sheet he is brother of Mr. Maroof Shah, driver of the accused officer. This alleged relationship too has duly been established through record of the NADRA, Ex.IW-3/5. Besides, both the brothers verified the fact through respective admissions in their statement as IW-7 and IW-8 respectively, though denied the allegation of any extraneous consideration.

vi) Though the alleged relationship of all the three appointees with the respective officials of the District Judiciary Battgram has duly been established, which would ordinarily create a perception of favoritism and nepotism, yet on account of the following reasons and factors their appointments may not be so termed and are reasonably found to be made on merit.

Firstly, though the very plea was not taken in the reply to the charge sheet but this assertion by the accused officer in his testimony (IW-17) that one son of a Senior Clerk, three sons of Civil Nazar and one of Naib Nazar of his establishment also applied for the advertised positions but none of them could get the appointment has not been denied or rebutted by the Departmental Representative. According to Sr. No. 31 of final working paper for the post of

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process server Ex.IW-1/14, the candidate namely Mr. Mansoor Ahmed is son of Ghulam Farid, a Senior Clerk. This candidate secured 19 marks in written test and 15 in interview but despite that he could not be appointed because of less academic marks on account of second division in SSC. Similarly, the candidates for the post of process server at Sr. No. 30 and 71 of the initial working paper of candidature namely Assadullah and Imdadullah both are sons of Naz Muhammad, who is serving Civil Nazar of the establishment of Senior Civil judge (Admn). However, they could not qualify the initial/written test. The third son of said Civil Nazar namely Arshad Ali applied for the post of Naib Qasid, whose name is mentioned at Sr. No. 116 of the working paper Ex.IW-1/9 also remained unsuccessful having failed the interview. Another candidate for the same post recorded at Sr. No. 301 is Muhammad s/o Akhtar Zeb, serving Naib Nazar of PS agency of his establishment.

b) This fact, in the absence of any evidence to the contrary, would repel the impression of nepotism in the subject appointments for the reason that as against Mr. Ihsanullah junior clerk and Syed Saleem Shah Junior Scale Stenographer, none of whom was either serving with the accused officer nor were associated with the process of recruitment would be in a position to get any favour from the accused officer as against such possibility in case of Civil Nazar or Naib Nazar, whose sons were not selected, being relatively more close to the accused officer in exercise of their day to day affairs of administrative nature. Similarly, they would be in a much better position to get such favour as against driver of the accused officer, who allegedly got appointed his brother.

Secondly, it is reasonably established that neither Ihsanullah, nor Syed Saleem Shah and nor Maroof Shah were involved in the process of recruitment so as to give an impression that they would be in a position to extend any favour to their brothers. The nominee of the Hon'able Peshawar High Court, Mr. Naveed-Ullah Civil Judge, IW-12, in response to a specific question stated that he did not notice overwhelmed involvement of any staff member during the process.

Thirdly, the possibility of disclosure of the question paper to these three appointed candidates is also repelled when both the member of the DSC corroborated each other by deposing that the accused officer/Chairman of the DSC opened the sealed USB containing the question paper in their presence

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and then obtained the print outs of the same. Needless to say that there is no evidence to the contrary.

Fourthly, the candidature of all three appointees on the strength of their credentials would show that the academic marks awarded to all of them have correctly been recorded in the working paper as well as subsequently got verified from the Board of Intermediate and Secondary Education, Abbottabad, IW-1/25. Mr. Naseerullah, Mr. Imdadullah and Mr. Waqar Ahmed all the three are recorded as 1st divisioner in SSC and thus awarded full 30 marks of educational qualification, Ex.IW-1/14. Both Naseerullah and Waqar Ahmed have also been awarded 05 marks of one stage higher qualification while Imdadullah has been awarded 10 marks of higher qualification being Master Degree holder. Now according to Ex.IW-5/4, Naseerullah obtained 855 marks out 1100 in SSC and is thus found be the 1st divisioner holder. The fact of his one stage higher qualification is established from his HSSC/FSC certificate (Ex.IW-5/5). Hence, he was rightly awarded 35 marks. Mr. Waqar Ahmed obtained 729 marks out of 1100 in SSC and thus he is also a 1st divisioner (Ex,IW-8/4) so rightly given 30 marks. He also possesses FSC degree as evident , EX.IW-8/5, and thus correctly allocated 05 marks of higher qualification. As far as, Imdadullah, his SSC certificate, Ex.IW-10/4 would show that he secured 662 marks out of 1050 and thus rightly placed as 1st divisioner and accordingly awarded 30 marks. His FSC degree is Ex.IW-10/5, graduation as Ex.IW-10/6 and Master Degree in Pashto as EX.IW-10/7 and therefore has correctly been awarded maximum 10 marks of Higher Qualification.

Fifthly, with regard to their performance in the written test, Mr. Naseerullah obtained 23 marks out of 25 in the written test, Mr. Imdadullah scored 17 and Mr. Waqar Ahmed got 18 marks. The answer sheets EX.IW-1/30, comprised of 36 sheets, of each of them (Naseerullah page, 13, Imdadullah page 15 and Waqar Ahmed page 16) would verify award of these marks. It is pertinent to mention that candidates at Sr. No. 14 namely Noor Shad Ali (IW-15/an aggrieved candidate) obtained 22 marks in the written test, higher than Imdadullah Shah and Waqar Ahmed but still he could not succeed in getting the appointment and similarly candidates at Sr. No. 08, 09, 10, 11 and 16 of the final working paper (Ex.IW-1/14) scored more marks them Imdadullah Shah and Waqar Ahmed in written test but they failed to make it through

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either on account of less educational marks or less marks in interview. It is pertinent to mention here none of them except Noor Shad and Shafique-ur-Rehman IW-16 (who failed the interview) was produced in evidence.

Sixthly, as for as the interview, again no exceptional marks were awarded to these three appointees in question. Mr. Naseerullah was awarded 16, Mr. Imdadullah Shah was awarded 13 and Mr. Waqar Ahmed was also awarded 16 marks. It is pertinent to mention that a candidate at Sr. No. 13 of this final working paper was awarded 16 marks and candidates at Sr. No. 31, 33 and similarly IW-15 Noor Shah Ali (Sr. No. 6) were given 15 marks each, higher than Imdadullah Shah. Thus, in the absence of any evidence to the contrary, it is reasonably established that neither these three candidates were exceptionally treated nor anyone else was discriminated during the interview.

Seventhly, Three aggrieved candidates namely Muhammad Jaffar, IW-2, Noor Shad Ali IW-15, Shafiq-ur-Rehman IW-16 were produced to prove the charge. As far as Muhammad Jaffar, whose complaint was also forwarded by the Hon'ble High Court for consideration, let it be mentioned at the very outset that he voluntarily withdrew his complaint by stating that he was misguided by someone that he would get the job if he joins the instant inquiry and that the complaint was not filed by him rather it was falsely attributed to him. His name appears at Sr. No. 27 of the final working paper which would show that besides obtaining 16 marks in the written he was awarded the highest marks in interview, 18 but his grand total happen to be 61 just because of the reason that despite being a graduate and accordingly awarded 7 marks for two stage higher qualification he scored 20 marks of SSC being 2nd divisioner. It was this sole reason and no other discrimination that he could not ultimately succeed. He nowhere in his testimony questioned such aspect of treating him 2nd divisioner in SSC. On the contrary, he disputed the appointments just on the basis of hearsay and gossips of unsuccessful candidates.

Eighthly, Noor Shad Ali, IW-15 has been found to be the most aggrieved candidate. However, his case is distinguishable from rest of the two aggrieved for the reason that he tried to challenge allocation of SSC marks by grading him 2nd divisioner. According to him his SSC marks should have been evaluated on the basis of his SSC certificate as well as his Madarasa degree of "Sanviya Aama" which is equivalent to SSC as per his stance and in which he

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obtained more then 70% marks. Thus the aggregate sum of both the said certificates would entitle him to be placed as 1st divisioner in SSC. Though his application and the accompanying documents were not exhibited but have been made available on record of this inquiry (annexed at the end) from record already secured by the Departmental Representative from office of the accused officer. The said record would show that he obtained 254 marks in class 10th of SSC examination out of 525, which is less then 50% but obtained 442 marks out of 600 in Sanviyan Aama Exam. However, it is pertinent to mention that no equivalence certificate issued by the competent authority was made available by the applicant. Further, it can reasonably be gathered from his cross examination and inferred as an admission that he did not question or raise objection upon such treatment as 2nd divisioner in the SSC at the time the initial working paper was displayed by the accused officer. Moreover, his such contention is admittedly pending adjudication before the august Peshawar High Court, Abbottabad Bench vide writ petition No. 1533-A/2021, Ex.IW-15/X-1. Therefore, it is not appropriate to comment upon veracity of the contention pertaining to equivalence of the alleged degree to SSC. Since he holds master degree so he was rightly awarded 10 marks of three stage higher qualifications in the working paper as evident from corresponding entries of Sr. No. 06 of the final working paper Ex.IW-1/14. Apart from the stated aspect of the matter, he seems to have fairly been treated by the committee as he was awarded 22 in the written test and 15 in the interview. With regard to rest of his allegations pertaining to connivance of court officials he admitted to have no evidence and his information is based upon hearsay.

Ninthly, the grievance of another candidate namely Shafiq-ur-Rehman, IW-16 who jointly submitted the application IW-15/1, alongwith Noor Shad Ali stated that despite having better position in merit list he was dropped in the final list and relatives of the staff members were appointed. He name figure at Sr. No. 09 of the final working paper IW-1/14. Being 1st divisioner in SSC he was awarded the maximum 30 marks and 5 marks for one stage up qualification making total of 35 academic marks. He scored 21 in written test but only 10 in the interview and thus failed, as the minimum passing marks in the interview are 12 as per the recruitment policy 2003. It is significant to highlight that neither in joint application, Ex.IW-15/1, nor in his examination in chief he uttered a single word about his marks in the interview. Therefore,

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there is no reason to presume any discrimination with him on the part of the selection committee.

Tenthly, the entire record including testimonies of the aggrieved candidates would manifest that the allegation of nepotism is an outcome of hearsay information and the perception of unsuccessful candidates got strengthened from this fact that three process servers appointed through the process are real brothers of three staff member while one sweeper is paternal cousin as well as brother in law of one of them. However, such perception would not be sufficient to substantiate the charge, particularly when there is no legal bar in appointing eligible candidates just because of the reason that they are relative of the ministerial staff of the appointing authority.

4. **Appointments made without following due process, fair play and without making reasonable efforts to find the best suitable person.**

i) As far as the post of sweeper, there has been the bowl policy in vogue in District Judiciary KPK over the span of last almost four years for recruitments of Class-IV employees. However, the Hon'able High Court reconsidered the policy with reference to the judgment of august Supreme Court of Pakistan and thereby discontinued the policy through the directive bearing No. 11168-268/Admn, dated Peshawar the 05.08.2021, Ex.IW-1/4. Now as a matter of fact there is no particular prescribed procedure for selection of candidates against Class-IV positions and thus it would be for the selection committee to adopt the best suitable mode for the interview of the candidates against such posts as the recruitment policy does not prescribe any examination for such positions. Accordingly significance of the interview would be much more then ever before.

ii) The record would show and as admitted by the accused officer as well as by both the member of the committee that entire process of recruitment for all the advertised positions was conducted and concluded on the same day. According to accused officer it was started around 08:00 O' Clock in morning and concluded at 02:00 AM midnight. This would mean that the process prolonged over almost 18 hours. Needless to mention that there would be breaks for prayers and meals. It was admitted by the nominee of the accused officer Mr. Sheraz Firdos, IW-13, in cross examination that minimum time required to interview a candidate for the post of Naib Qasid and sweeper would be 02 to 03 minutes at least. Admittedly, 257 candidates for the post of

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Naib Qasid and 46 Candidates for post of Sweeper, making total of 303, were interviewed by the committee on the same day. Keeping in view the yardstick of minimum time mentioned by IW-13, the committee would have consumed 600 to 900 minutes, meaningthereby 10 to 15 hours for interview of these positions. It needs not to be emphasized that the very purpose of the interview was to ascertain general suitability of the candidates for the post and assessment of their skills and relevant experience which would consume relatively more time for each candidate as compared to the one, stated by the witness/member of the DSC. It is also part of the record that committee checked papers of 502 candidates for the post of process server after conducting the test and thereafter interviewed 36 candidates for the said posts. The said interview obliviously consumed more time because it was aimed at their reading and writing skills as admitted by the members including the accused officer in their respective cross examinations. The crux of the discussion is that the committee would have either mechanically conducted the proceedings in haphazard manner or compromised on quality of the interview, which was aimed at selection of the best suitable candidates.

iii) It is admitted by the accused officer as well as by both the members of DSC in their depositions that only one test for the post of process server was conducted followed by interview, which according to them was the written test. They admitted that no screening test was arranged. According to para-III of the Recruitment Policy 2003 the DSC is bound to conduct screening test where number of candidates is four time greater then the number of positions announced. There were 500 candidates who appeared for the 05 advertised posts. Thus it was incumbent upon the committee to have conducted the said test.

iv) The fact of the matter is that the test taken for the post of process server was the screening test and not the written test, as evident from the very title at the top of question paper (Ex.IW-1/28), answer key (Ex.IW-1/29) and the answer sheets of 36 candidates (Ex,IW-1/30). Although all the three members stated that it was a clerical mistake and they could not notice the same. However the said plea is not worthy of credit when the format of the paper, multiple choice questions, is taken into account. Because the very nature of the post and job description of the process server would make it necessary for the committee to make candidates undertake some descriptive

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writing in order to assess their communication skills. Therefore, it can safely be concluded that the procedural formality of the formal written test for the post was wriggled out, rendering the proceedings defective.

v) If at all the test taken is treated as the formal written test then there would be another procedural discrepancy on the part of the committee pertaining to evaluation of the papers. The recruitment policy, 2003 stipulates that minimum passing marks in the written test are 12 out of 25. This would mean that all such candidates who scored 12 or more marks would be called for the interview. The committee, on the contrary and as admitted by the members, shortlisted only those candidates who scored 64 % and above marks. Thus the proceedings are further found to be without adherence to due process and without making a reasonable effort to find the best suitable person.

vi) Therefore, in the light of above discussion the second part of the charge stands proved.

5) **Recommendations as to penalty (as required under substituted Sub-rule (7) of Rule 11 of Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules, 2011 and as per direction of the competent authority communicated vide statement of allegations:**

i) Before recommendations as to penalty the following aspects and facts of the matter in issue would need consideration of Hon'able the competent authority, which may graciously be considered as mitigating circumstances;

a) The record would show that it was the first ever experience of the accused officer as well as of nominee of the High Court as far as the process of recruitments was concerned. Similarly, the other member/nominee of the appointing authority/accused officer has had also a very little exposure of such proceedings, who just once attended the proceedings as a member almost 5/6 years ago. Thus procedural irregularities on their part would urge benevolent treatment.

b) All the three members including the accused officer were found during the course of inquiry ignorant in respect of several codal formalities pertaining to relatively complex and lethargic procedure of appointment through initial recruitments in terms of Rule 10 of

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APT Rules, 1989 read with numerous directives of the Provincial Government, Recruitment Policy of Hon'able Peshawar High Court for District Judiciary, 2003 and instructions issued from time to time in this regard. Since capacity building initiative of the Hon'able High Court regarding the subject by imparting necessary trainings was launched a couple of year ago, so many Judicial Officers are yet to master the subject. Thus on this account too the irregularities committed by the accused officer may be leniently dealt with.

c) In order to restore confidence of the public in District Judiciary, as far as the appointments are concerned, taking notice of the above highlighted irregularities and to dispel the perception created on account of appointments of relatives of the named court officials the competent authority may consider, if so deemed appropriate, recalling of the appointments and denovo recruitments.

d) It is evident that appointment of the nominee of the Hon'able Peshawar High Court, was made on 03.12.2021 in this case, a day just before the schedule of the DSC, and was communicated to the nominee quite late in evening, which could be on account of multiple reasons. It is therefore, suggested that strict compliance of the directives regarding timely submission of the working papers by the appointing authorities and timely processing of the requests for nomination by the respective wing/branch of the Hon'able High Court may kindly be directed/enforced.

e) It is also observed that the accused officer did not seek prior formal approval from the Hon'able Peshawar High Court, Peshawar prior to publication of the advertisement and vetting of the requisite details, as required in the light of the directive circulated vide letter No. 19926-75/Admn dated 6th December, 2010 (page 502 and 503 of the new edition of Judicial Esta Code 2021). Though no such objection was raised while approving request of the accused officer appointment the nominee vide Ex.IW-1/27. The accused officer has again been found lacking knowledge of this directive.

f) Considering significance of role of a nominee of the Hon'able Peshawar High Court in DSC and DPC proceedings of the District

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Judiciary it is recommended that a pool of 10 to 15 Judicial Officers from each tier having relevant experience, exposure and aptitude may be notified for the purpose and be imparted advance level training as training of the trainers (TOT). This will hopefully go a long way in strict compliance of the Law, Rules, Regulations, Policy and the directives in promoting uniformity across the province and resultantly dispelling public perception of malpractices.

ii) In the light of above it is recommended that a minor penalty of censure, as provided under Rule 4 (1) (a) (i) of the Khyber Pakhtunkhwa Government Servants (Efficiency and discipline) Rule, 2011 may be imposed upon the accused officer.

Report is submitted, please.

19/05/21

Zia-ur-Rehman
Inquiry Officer /
District & Sessions Judge,
Mansehra

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The
PESHAWAR HIGH COURT
Peshawar

ANNEXURE
G 63

All communications should be addressed to the Registrar Peshawar High Court, Peshawar and not to any official by name.
Cantt: 9210149
Off: 9210135
Fax: 9210170
www.peshawarhighcourt.gov.pk
info@peshawarhighcourt.gov.pk
phcashr@gmail.com

No. 6981 /Admn Dated. 26-05-2022

To

The District & Sessions Judge,
Battagram.

Subject: RECRUITMENTS CARRIED OUT BY DEPARTMENTAL SELECTION COMMITTEE ON 04.12.2021.

Dear Sir,

I am directed to refer to the inquiry proceedings in respect of the subject recruitments and to say that the process of recruitments be undone and fresh process of recruitments be initiated.

You are therefore requested to share the same with the concerned authority for necessary action at his end under intimation to this office.

(Inamullah Khan)
Registrar

Endst: No 6982 /Admn Dated Peshawar the 26-05- /2022
Copy forwarded for information to:

- Senior Civil Judge (Admn), Battagram.

(Inamullah Khan)
Registrar

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OFFICE OF THE
SENIOR CIVIL JUDGE (ADMIN)
BATTAGRAM

Ph: 0997-310170
Fax: 0997-310170
Email: dsjbattagram@yahoo.com
Email: sejbattagram@yahoo.com
www.districtcourtsbattagram.gov.pk

ANNEXURE
C H3

Office Order:

In Compliance of Endorsement bearing No. 6981 dated 26/05/2022 of Hon'ble Peshawar High Court, Peshawar all the process of recruitments for post of Process Servers BPS-05, Naib Qasid BPS-03 and Sweeper BPS-03, which took place through Departmental Selection Committee held on 04/12/2021 are hereby annulled with immediate effect. Consequently, all the appointments made on the basis of said process stands cancelled.

Shehzad Ali Khan
Senior Civil Judge, (Admin)
Battagram

No. 186-90 SCJ/Admin/ (BM) Dated Battagram, The 28 / 05 /2022

Copy forwarded for information to:

1. The Worthy Registrar Peshawar High Court, Peshawar.
2. The Hon'ble District & Sessions Judge, Battagram.
3. The District Account Officer, Battagram.
4. The Officials concerned by name appointed on 04-12-2021.
5. Notice board of Judicial Complex Battagram.
6. Office copy.

Shehzad Ali Khan
Senior Civil Judge, (Admin)
Battagram

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ANNEXURE
S D 3

BEFORE THE HONORABLE CHIEF JUSTICE, PESHAWAR HIGH COURT, PESHAWAR

subject:

REPRESENTATION FOR WITHDRAWAL OF THE ORDER BEARING NO. 6981/ADMN DATED 26.05.2022 AND OFFICE ORDER BEARING NO. 186-190 DATED 28.05.2022

Respectfully Sheweth!

The applicant submits as under: -

1) That, applicant and four others were appointed as Process Servers (BPS-05) by the learned Senior Civil Judge (ADMN), District Battgram in a prescribed manner after completing all the legal and codal formalities vide appointment order dated 07.12.2021.

(Copy of appointment order annexed as Annexure "A")

2) That, after having been appointed, applicant kept on performing his duties to the entire satisfaction of the competent authority.

3) That, on 26.05.2022, the Honorable Registrar of the Peshawar High Court vide order bearing No. 6981 dated 26.05.2022 directed the appointing authority to undo the process of recruitment without citing any reason at all.

(Copy of order dated 26.05.2022 annexed as Annexure "B")

4) That, the Learned Senior Civil Judge (ADMN) Battgram vide office order bearing No. 186-190 dated 28.05.2022 annulled the entire recruitment process without following due process of law on the subject.

(Copy of order dated 28.05.2022 annexed as Annexure "C")

5) That, being aggrieved, applicant and six others impugned orders dated 26.05.2022 and 28.05.2022 before the Honorable Peshawar High Court at Abbottabad Bench vide Writ Petition No. 664-A/2022 which is still pending adjudication.

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6) That, the applicant is poorest of the poor and has been removed from service without any rhyme or reason.

7) That, before annulment of the recruitment process, no notice was issued to the applicant nor was associated with any inquiry. Both the orders have been passed at the back of the appellant condemning unheard, violating the constitutional safe guard provided by and under Article 10-A of the Constitution of the Islamic Republic of Pakistan, 1973.

8) That, there was no legal flaw or infirmity in the recruitment process. It has only been annulled on the ground that three appointees, namely (1) Naseer Ullah son of Faiz Muhammad (2) Waqar Ahmad son of Meer Shah (Process servers BPS-05) (3) Sami Ullah son of Musa Khan (Sweeper BP-03) were the relatives of the sitting Employees of the Establishment of the appointing authority. There was no such allegation at all against the applicant, despite that, appointment of the applicant has also been annulled which has resulted into grave mis-carriage of justice.

9) That, the appointment of the applicant has been illegally and unlawfully annulled, due to which, the applicant has lost his job for no reason and fault at all.

It is, therefore, very humbly prayed that on acceptance of the instant representation the impugned orders dated 26.05.2022 and 28.05.2022 may graciously be withdrawn and the applicant be reinstated into his service with all back benefits.

Dated:24.02.2024

Saif Ullah S/O Abdul Hakeem
R/O Village Deedal P/O Sadin Mira,
Tehsil & District Battgram
(Applicant)

(1) P. 61

BEFORE THE PESHAWAR HIGHT COURT
BENCH ABBATTABAD

Writ Petition No. 669 **of 2022**

1) Saifullah son of Abdul Hakeem.
2) Naseer Ullah son of Faiz Muhammad
3) Abdul Basit son of Fazal Khaliq
4) Imdad Ullah Shah son Syed Maroof Shah
5) Waqar Ahmed son of Meer Shah, process servers BPS-05
6) Nehal Muhammad son of Muhammad Iqbal, Naib Qasid in BPS-03.
7) Sami Ullah son of Musa Khan Sweeper in BPS-03, Senior Civil Judge Establishment, District Battgram.

..Petitioners

ANNEXURE EJ3

Versus

1) The Honorable District and Sessions Judge, Battgram.
2) The worthy Registrar, Peshawar High Court, Peshawar.
3) The Honorable Senior Civil Judge, (ADMN), Battgram.....**Respondents**

WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN, 1973 FOR A DECLARATION TO THE EFFECT THAT THE IMPUGNED ORDERS BEARING NO. 981 DATED 25.05.2022 AND 186-190 DATED 28.05.2022 PASSED BY RESPONDENT NO. 2 AND 3 RESPECTIVELY ARE ILLEGAL, NULL, VOID AND OF NO LEGAL EFFECT, HENCE LIABLE TO BE SET-ASIDE.

Certified to be True Copy
EXAMINER
15 JUL 2024
Peshawar High Court Atd Bench
Authorized Under Se 75 Evid Ordns:

ADDITIONAL REGISTRAR
PESHAWAR HIGHT COURT
ABBOTTABAD BENCH

PRAYER: -

On acceptance of the instant writ petition, this Honorable Court may graciously be pleased to.

(a) Declare that the impugned orders bearing Nos. 6981 dated 26.05.2022 and 186-190 dated 28.05.2022 passed by respondents No. 2 and 3 respectively be declared as

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PESHAWAR HIGH COURT, ABBOTTABAD BENCH

ORDER SHEET

Date of Order of Proceedings	Order or other Proceedings with the Signature of the Judge.
1	2
06.03.2024	**CM No. 200-A/2024 in WP No. 664-A/2022** Present: Mr. Abdul Saboor Khan, Advocate, petitioner. *** ***MUHAMMAD IJAZ KHAN, J.***- Through this CM, the petitioners want to place on file certain documents which are essential for just and fair decision of main writ petition. Accordingly, this CM is allowed and the documents so appended with instant CM shall be treated as part and parcel of main petition. **CM No. 199-A/2024 in WP No. 664-A/2022** ***MUHAMMAD IJAZ KHAN, J.***- Through this CM the petitioners seek conversion of main writ petition into a service appeal and to remit the same to the Worthy Khyber Pakhtunkhwa Service Tribunal for adjudication. 2. Accordingly, this CM is allowed and the writ petition is converted into a service appeal and the same is sent to the Worthy Khyber Pakhtunkhwa Service Tribunal for decision of the same on its own merit. JUDGE JUDGE

Certified to be True Copy
EXAMINER
15/3/2024
Peshawar High Court Abd Bench
Authorized Under Se 75 Evid Ordn

Tahir Saleem*

(DB) Mr. Justice Muhammad Ijaz Khan and Mr. Justice Muhammad Faheem Wali

DBAM No. 284

BC No. 11-2350

Name of Advocate: عبدالصبور خان

S.No 48956 163

Fee Rs. 200/-

وکالت نامہ

بعدالت: جناب سروس ٹریبونل سرکٹ بنچ ایبٹ آباد

عنوان: لطف اللہ بنام: ڈسٹرکٹ اینڈ سیشن جج بٹگرام

منجانب: اپیلنٹ نوعیت مقدمہ:

باعث تحریر آنکہ

دریں مقدمہ عنوان بالا میں اپنی طرف سے برائے پیروی وجواب دہی بمقام ایبٹ آباد کے لئے عبدالصبور خان ایڈووکیٹ سپریم کورٹ کو بدیں شرائط وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص روبرو عدالت حاضر ہوتا رہوں گا اور بوقت پکارے جانے وکیل موصوف کو اطلاع دیکر حاضر کروں گا۔ اگر کسی پیشی پر مظہر حاضر نہ ہوا اور غیر حاضری کی وجہ سے کسی طور پر مقدمہ میرے خلاف ہو گیا تو وکیل موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل موصوف صدر مقام کچہری کے علاوہ کسی اور جگہ کچہری کے مقررہ اوقات سے پہلے یا بروز تعطیل پیروی کرنے کے مجاز نہ ہوں گے۔ اگر مقدمہ کچہری کے علاوہ کسی اور جگہ ساعت ہوا یا کچہری کے اوقات کے آگے پیچھے ساعت ہونے پر مظہر کو کوئی نقصان پہنچے تو وکیل موصوف ذمہ دار نہ ہوں گے اور وکیل موصوف کو عرضی دعویٰ اور درخواست اجراء ڈگری ونظر ثانی اپیل نگرانی دائر کرنے نیز ہر قسم کی درخواست بیان حلفی وتصدیق کرنے اور اسپر دستخط کرنے کا بھی اختیار ہوگا۔ اور کسی حکم یا ڈگری کے اجراء کرانے اور قسم کا روپیہ وصول کرنے اور رسید دینے اور داخل کرنے کا ہر قسم کا بیان دینے اور سپرد ثالثی وراضی نامہ ودستبرداری واقبال دعویٰ کا اختیار بھی ہوگا بصورت اپیل وبرآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم امتناعی یا فیصلہ قبل از ڈگری اجرائے ڈگری بھی وکیل موصوف کر بشرط ادائیگی علیحدہ محنتانہ ادا کرنے کا مجاز ہوگا اور بصورت ضرورت بدوران مقدمہ یا اپیل ونگرانی کسی دوسرے وکیل یا بیرسٹر کو بجائے خود یا اپنے ہمراہ مقرر کریں اور مشیر قانونی کو بھی اس امر میں وہی اختیارات حاصل ہوں گے جیسے وکیل موصوف کو اور اگر پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو وکیل موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور ایسی حالت میں میرا مطالبہ وکیل موصوف کے برخلاف نہیں ہوگا مجھے کل ساختہ پرداختہ وکیل موصوف مثل ذات خود منظور وقبول ہوگا۔ لہٰذا وکالت نامہ لکھ دیا ہے اور دستخط/انگوٹھا ثبت کر دیا ہے تاکہ سند رہے۔ مضمون وکالت نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے۔

مورخہ 2024/03/18

ACCEPTED

العبد

لطف اللہ ولد عبدالحکیم