


# FORM OF ORDER SHEET

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

**12(2) CPC Petition No. 1071/2024**

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	19/09/2024	<p>The Petition U/S 12(2) CPC in service appeal no. 3936/2020 submitted today by Mr. Humayun Zia Khanzada through Mr. Noor Muhammad Khattak Advocate. It is fixed for hearing before Division Bench at Peshawar on - 20.09.2024. Original file be requisitioned. Parcha Peshi given to the counsel for the petitioner.</p> <p>By order of the Chairman  REGISTRAR</p>

# THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

## CHECK LIST

MR. HUMAYUN ZIA KHANZADA V/S

GOVT: OF KP

<u>S NO</u>	<u>CONTENTS</u>	<u>YES</u>	<u>NO</u>
1.	This petition has been presented by: <b>Noor Muhammad Khattak Advocate Supreme Court</b>	√	
2.	Whether Counsel/Appellant/Respondent/Deponent have signed the requisite documents?	√	
3.	Whether appeal is within time?	√	
4.	Whether the enactment under which the appeal is filed mentioned?	√	
5.	Whether the enactment under which the appeal is filed is correct?	√	
6.	Whether affidavit is appended?	√	
7.	Whether affidavit is duly attested by competent Oath Commissioner?	√	
8.	Whether appeal/annexures are properly paged?	√	
9.	Whether certificate regarding filing any earlier appeal on the subject, furnished?	√	
10.	Whether annexures are legible?	√	
11.	Whether annexures are attested?		
12.	Whether copies of annexures are readable/clear?	√	
13.	Whether copy of appeal is delivered to AG/DAG?	√	
14.	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	√	
15.	Whether numbers of referred cases given are correct?	√	
16.	Whether appeal contains cutting/overwriting?	x	
17.	Whether list of books has been provided at the end of the appeal?	√	
18.	Whether case relate to this court?	√	
19.	Whether requisite number of spare copies attached?	√	
20.	Whether complete spare copy is filed in separate file cover?	√	
21.	Whether addresses of parties given are complete?	√	
22.	Whether index filed?	√	
23.	Whether index is correct?	√	
24.	Whether Security and Process Fee deposited? On _____		
25.	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On _____	√	
26.	Whether copies of comments/reply/rejoinder submitted? On _____		
27.	Whether copies of comments/reply/rejoinder provided to opposite party? On _____		

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name:- Noor Muhammad Khattak, ASC

Signature:- \_\_\_\_\_

Dated:- \_\_\_\_\_

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

12(2) Petition No 1071/2024  
Service Appeal No. 1071 /2024

**MR. HUMAYUN ZIA KHANZADA**

**V/S**

**GOVT: OF KP**

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Dated: 19-09-2024

**APPELLANT**  
**THROUGH:**  
**NOOR MUHAMMAD KHATTAK**  
ADVOCATE SUPREME COURT

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL**

**PESHAWAR**

C.M. 12 (2) CPC PETITION No. 1071 /2024

IN

**SERVICE APPEAL NO 3936/2020**

Khyber Pakhtunkhwa  
Service Tribunal

Humayun Zia Khanzada (BPS-04)  
Daftari, Finance Department  
Civil Secretariat, Peshawar.

Diary No. 15866

Dated 19-09-2024

.....PETITIONERS

**VERSUS**

1. Government of Khyber Pakhtunkhwa through Secretary Establishment Civil Secretariat, Peshawar.
2. The Secretary to Governor, Governor House Khyber Pakhtunkhwa, Peshawar.
3. Special Secretary Establishment Government of Khyber Pakhtunkhwa, Peshawar.
4. Section Officer to Military Secretary to Governor, Governor House Khyber Pakhtunkhwa, Peshawar.
5. Secretary Administration, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
6. Arshad Khan S/o Toor Muhammad, Naib Qasid Governor House Khyber Pakhtunkhwa.(Sa No.3936/20)
7. Mr.Sagheer Ali Naib Qasid Naib Qasid Governor House Khyber Pakhtunkhwa (SA No.3935/20)
8. Mr.Maqbali Khan s/o Rasool Khan Naib Qasid Governor House Khyber Pakhtunkhwa (SA No.3937/20)
9. Mr.Muhammad Imran s/o Muhammad Rafiq Khan Naib Qasid Governor House Khyber Pakhtunkhwa (SA No.3938/20)
- 10.Mr. Ashfaq s/o Abdul Sattar Khan Naib Qasid Governor House Khyber Pakhtunkhwa (SA No.3939/20)
- 11.Mr. Ayaz s/o Tamaz Khan Naib Qasid Governor House Khyber Pakhtunkhwa (SA No.3940/20)

..... RESPONDENTS

**PETITION UNDER 12(2) OF C.P.C FOR SETTING ASIDE ORDER & JUDGMENT DATED 18/07/2024 PASSED BY THIS HONOURABLE TRIBUNAL IN SERVICE APPEAL NO 3936/2020 ALONGWITH CONNECTED SERVICE APPEALS NO 3935/2020, 3937/2020, 3938/2020, 3939/2020 & 3940/2020 ON THE BASIS OF FRAUD AND MISREPRESENTATION VIDE WHICH THE APPEAL OF THE PRIVATE RESPONDENT(S) ALONGWITH THE CLUBBED APEALS WERE ACCEPTED MERELY AND MAINLY FOR NON-SUBMISSION OF RULES CALLED TERMS & CONDITIONS OF**

**APPOINTMENT, CONFIRMATION, DISCHARGE AND RETIREMENT OF THE GOVERNOR HOUSEHOLD GARDEN AND GARAGE ESTABLISHMENT RULES 1970 BY THE OFFICIAL RESPONDENTS ON HEARING DATE.**

**R/SHEWETH:**

**ON FACTS:**

- 1) That the private respondent received a judgment dated 18/07/2024 in his favour and has misrepresented the present petitioner and has also committed fraud with the present petitioner. Copy of judgment dated 18/7/2024 is attached as annexure.....**A**
  
- 2) That the official respondents have time and again negated the stance of household staff and has defended the cases against these staff vigorously with the plea that the household staff of the Governor's House are not regulated under Appointment, Promotion & Transfer Rules, 1989 rather it is dealt with under the Terms & Conditions of appointment, Confirmation, Discharge and Retirement of the Governor Household Garden and Garage Establishment, hereinafter the Household Staff Rules, 1970 which is still in the filed/operative. Copy of Household Staff Rules dated 30/03/1970 are attached as annexure.....**B**
  
- 3) That as evident from Para 9 of the aforesaid judgment dated 18/07/2024, due to failure on the part of official respondent on hearing date for non-submission of a document "Terms & Conditions of appointment, Confirmation, Discharge and Retirement of the Governor Household Garden and Garage Establishment Rules 1970 ", the appeal of the private respondent was accepted. Relevant portion of judgment is reproduced below:  
 "Respondents were directed several times to produce rules and on previous date Mr. Muhammad Shakeel, Deputy Secretary Administration present on the previous date i.e on 09-07-2024, who sought time to assist the Tribunal in light of judgment in Service appeal No 149/2015 titled "Ayub Khan...Vs...Chief Secretary" on 27-09-2023. He was directed to produce four copies of Rules of 1970 but today he did not bother to attend this Tribunal what to say about assistance of Tribunal. This attitude of the Deputy Secretary is not of a good civil servant and needs strict action by the authorities. When respondents are not interested to defend

and safeguard their interest by providing proper assistance to this Tribunal. Then in such a situation the only way left with us is to accept the appeal on the ground that appellants should not be discriminated and be treated equally with employees of other Governor Houses”.

- 4) That a service appeal bearing No 7302/21 titled Humayun Zia Khanzada is pending adjudication in this Honourable Tribunal which is fixed for 20/09/2024 and there is a conflict of interest in these service appeals as such these appeals need to have been clubbed in order to arrive at a common conclusion.
- 5) That it is pertinent to mention here that the present private respondent despite having knowledge of pendency of Service Appeal No 7302/21 filed by the petitioner, did not ever dare to bring the material facts before this Honourable Tribunal with malafide intention to get gain.
- 6) That the impugned Judgment dated 18/07/2024 passed in Service Appeal No. 3936/2020 along with other 05 appeals is based on misrepresentation on the part of the private respondent, hence the petitioner is left with no other remedy but to file the instant petition u/s 12(2) CPC on the following grounds amongst the others.

**GROUNDS:-**

- A) That the impugned Judgment dated 18/07/2024 is obtained by the private respondent on the basis of misrepresentation and collusion by the respondents hence, liable to be set aside.
- B) That the private respondents i.e. household staff of Governor's house is a separate entity which cannot be treated like the regular employees of the Civil Secretariat as the authorities have never bothered to endorse the appointment orders to Administration department.
- C) That certain employees household staff of Governor's House have been appointed on contract/temporary basis even for a month or so section 8 of civil servant Act 1973 and rule-17 of Appointment, Promotion & Transfer Rules 1989.

- D) That the staff appointed by the Governor's House is neither termed as regular employees of the Secretariat nor can be placed on the seniority list meant for the regular employees of the Secretariat. With context to a precedent, it was also questioned as to how the name of an employee of Governor's House who was not regular employee of Secretariat was included in the seniority list ~~of~~ meant for regular employees of the Secretariat. Copy of letter of Establishment department dated 04/04/2020 is enclosed as annexure.....**C**
- E) That with reference to Service Appeal No 3936 to 3940/2020 being annoyed from the induction of house hold staff & other staff from attached department, Administration Department has initiated a fact-finding inquiry to dig out the responsible officers. Copy of minutes of meeting dated 12/07/2024 is attached as annexure.....**D**
- F) That moreover, even in a decided case of an employee of Governor's House, the Secretary Establishment vide its verdict dated 24/01/2024 has categorically added that by inclusion of the official in the seniority list of Civil Secretariat the rights of more than 300 employees will be infringed, beside a floodgate of <sup>un</sup>ending and unnecessary litigations for the provincial government will be opened. Copy of order dated 24/01/2024 is enclosed as annexure.....**E**
- G) That private respondents malafidely did not brought the material available on record regarding actual position.
- H) That impugned judgment is violative of article 4 & 10-A of the Constitution of Pakistan, 1973.
- I) That in case of implementation of the impugned judgment dated 18/07/2024 in favour of private respondent, then the petitioner will suffer irreparable loss in terms of seniority and promotion.
- J) That the petitioner of the instant application/petition seek permission to advance other grounds and proofs at the time of hearing.

It is therefore, most humbly prayed that on acceptance of this 12 (2) petition the impugned Judgment dated 18/07/2024 passed by this Honorable Tribunal in

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Service Appeal No. 3936/2020 may very kindly be set aside and the case may kindly be decided on real and factual facts/documents and other materials available on record to meet the ends of justice.

Any other remedy which this august Court deems fit that may also be awarded in favor of the petitioner.

Dated: 19-09-2024

  
PETITIONER

THROUGH:

**NOOR MUHAMMAD KHATTAK**  
ADVOCATE SUPREME COURT

UMAR FAROOQ MOHMAND

WALEED ADNAN

**KHANZAD GUL**  
ADVOCATES HIGH COURT

**CERTIFICATE:**

No such like application is pending or filed between the parties on the subject matter before this Honorable Tribunal.

Advocate 

**AFFIDAVIT**

I, Humayun Zia Khanzada (BPS-04) Daftari, Finance Department Civil Secretariat, Peshawar, do hereby solemnly affirm and declare on oath that the contents of this **application under section 12(2) CPC** are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble tribunal.



**DEPONENT**

**ATTESTED**



19-9-2024



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**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR**

**C.M. 12 (2) CPC PETITION No. \_\_\_\_\_/2024**

**IN**

**SERVICE APPEAL No 3936/2020**

HUMAYUN ZIA KHANZADA

**VERSUS** THE CHIEF SECRETARY & OTHERS

**APPLICATION FOR SUSPENSION OF THE OPERATION OF THE ORDER & JUDGMENT DATED 18/07/2024 PASSED BY THIS HONOURABLE TRIBUNAL IN SERVICE APPEAL NO 3936/2020 ALONGWITH CONNECTED SERVICE APPEALS NO 3935/2020, 3937/2020, 3938/2020, 3939/2020 & 3940/2020 PASSED BY THIS HONORABLE TRIBUNAL TILL FINAL DISPOSAL OF THE INSTANT APPLICATION.**

**RESPECTFULLY SHEWETH:**

- 1- That, the above title 12(2) CPC Petition have been filed today before this Honorable Court in which no date has been fixed so far.
- 2- That, grounds of the petition may kindly be read as part & parcel of this application.
- 3- That, the petitioner have got a good prima facie case and he is hopeful for its success.
- 4- That, balance of convenience also lies in favour of the petitioner.
- 5- That, if the impugned Judgment dated 05/06/2024 is not set aside, petitioners would suffer irreparable loss.
- 6- That as there is conflict of interest in two kinds of service appeals and the parties are two different entities, as such, it is expedient to club this 12(2) CPC petition with the pending Service Appeal No 7302/21 so that a common findings could be arrived at, till time the execution of the judgment dated 18/07/2024 may be suspended.

It is therefore, most humbly prayed that on acceptance of this application the operation of the order &

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judgment dated 18/07/2024 passed by this Honourable Tribunal in Service Appeal No 3936/2020 alongwith connected Service Appeals No 3935/2020, 3937/2020, 3938/2020, 3939/2020 & 3940/2020 may kindly be suspended till final disposal of the instant 12(2) CPC petition.

Dated: 19-09-2024

  
**PETITIONER**

**THROUGH:**

  
**NOOR MUHAMMAD KHATTAK**  
ADVOCATE SUPREME COURT

  
UMAR FAROOQ MOHMAND

  
WALEED ADNAN

  
**KHANZAD GUL**  
ADVOCATES HIGH COURT

**AFFIDAVIT**

I, Humayun Zia Khanzada (BPS-04) Daftari, Finance Department Civil Secretariat, Peshawar, do hereby solemnly affirm and declare on oath that the contents of this **application** are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble tribunal.

  
**DEPONENT**

**ATTESTED**



19-9-2024

Amir S/As

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

Service Appeal No. 3936/2020

BEFORE:MR. KALIM ARSHAD KHAN ... CHAIRMAN  
MRS. RASHIDA BANO ... MEMBER (J)

Mr. Arshad Khan S/o Toor Muhammad, NaibQasid, Governor House,  
Peshawar, R/o FatuAbdurRahima, District Peshawar.

.... (Appellant)

**VERSUS**

1. Government of Khyber Pakhtunkhwa, through Secretary Establishment, Civil Secretariat, Peshawar.
2. Secretary to Governor, Khyber Pakhtunkhwa, Governor House, Peshawar.
3. Special Secretary Establishment, Civil Secretariat, Peshawar.
4. Section Officer to Military Secretary to Governor, Peshawar.
5. Secretary Administration, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.

... (Respondents)

Mr. Hazrat Said Khan  
Advocate

...

For appellant

Mr. Muhammad Jan  
District Attorney

...

For respondents

----

Date of Institution.....19.03.2020  
Date of Hearing.....18.07.2024  
Date of Decision.....18.07.2024

**ATTACHED**

**CONSOLIDATED JUDGMENT**

RASHIDA BANO, MEMBER (J):The instant service appeal has been instituted under section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as below:

RK

"On acceptance of this service appeal, the respondents may please be directed to include the name of the appellant in the seniority list from the date of his appointment and be promoted on his turn according to the seniority list."

2. Through this single judgment, we intend to disposed of the instant service appeal as well as connected service appeals which are mentioned below, as in all these appeals common questions of law and facts are involved:

1. Service Appeal No. 3935/2020
2. Service Appeal No. 3937/2020
3. Service Appeal No. 3938/2020
4. Service Appeal No. 3939/2020
5. Service Appeal No. 3940/2020

3. Brief facts of the case are that appellants are working in the Governor House, Khyber Pakhtunkhwa Peshawar since their appointment. During service, seniority list of matriculate Class-IV employees was issued vide notification dated 24.07.2015 in which names of the appellant were missing. They file writ petition before the Hon'ble Peshawar High Court, Peshawar bearing No. 789-P/2016 for inclusion their names in the seniority list but was dismissed on the ground of jurisdiction. That in the year 2018-19 impugned seniority lists were issued in which again names of the appellants were missing. Feeling aggrieved, he filed departmental appeal, which was not responded to, hence the present service appeal.

4. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents put appearance and contested the

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appeal by filing written reply raising therein numerous legal and factual objections. The defense setup was a total denial of the claim of the appellant.

5. We have heard learned counsel for the appellants and learned District Attorney for the respondents.

6. The learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned District Attorney controverted the same by supporting the impugned order(s).

7. Perusal of record reveals that appellants are working in the Governor House, Peshawar who were appointed in accordance with proviso to Rule 10 of (Appointment, Promotion & Transfer) Rules, 1989. Appellants contended that they are civil servants and their names ought to have been included in the seniority list of the Class-IV employees of the respondent/department. Admittedly there is no separate Service Rules for the employees of the Governor House as is stated by the respondents in their reply. Under Section-5 of the Khyber Pakhtunkhwa, Civil Servants Act, 1973 the Governor is the overall head of the provincial government and all appointments had to be made by the Governor himself or anyone else authorized on his behalf. When Governor is head actual authority and all appointments of civil servants is made by him or on his name by his delegates and that persons are treated civil servant, then equality demands that any one appointed by his military secretary to whom too he delegated powers of appointment be also treated as civil servant. Details of Class-IV employees of Chief Minister House Secretariat promoted as Daftari (BPS-04) on the recommendation of DPC vide order dated 21.05.2018.

S.No	Name	Designation	Department
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28	Rizwan Ahmad	NaibQasid	Chief Minister Secretariat
39	Syed AyazHussain Shah	NaibQasid	-do-
42	Fazle Amin	NaibQasid	-do-
54	Riaz Khan	NaibQasid	-do-
71	Sajid Khan	NaibQasid	-do-
72	Naseemullah	NaibQasid	-do-
78	BakhtBilland	NaibQasid	-do-
81	Arshad Khan	Chowkidar	-do-
87	Roohullah	NaibQasid	-do-
123	Murad Khan	NaibQasid	-do-
184	TanveerGhulam	Sweeper	-do-
208	SherTaj	Chowkidar	-do-
230	Saifullah	Farash	-do-
231	Tariq Jan	Mali	-do-
232	Najecb	Chowkidar	-do-
236	Syed Zafar Ali Jafri	NaibQasid	-do-
246	Yousaf Ali Shah	NaibQasid	-do-
247	Gohar Ali	NaibQasid	-do-

8. Appellants alleged that many employees of Chief Minister House Secretariat are also included in the list and were promoted as Daftari BPS-04 on regular basis vide order dated 21.05.2018. So, from it, it is clearly established that employees working in the Houses were not only included in the seniority list by respondent rather they were promoted too. Appellants being a civil servants also entitled for some treatment like employees of all others Houses, must be given equal and fair chance of career progress, if their name were not included in any seniority list, they will be deprived from legitimate expectation of promotion and will remain as Class-IV for their entire service period which is injustice.

9. Respondents were directed several time to produce rules and on previous date Mr. Muhammad Shakeel, Deputy Secretary Administration was present on the previous date i.e. on 09.07.2024, who sought time to assist the Tribunal in light of Judgment in Service Appeal No.149/2015 titled "Ayub Khan Vs Chief Secretary" on 27.09.2023. He was directed to produce four

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copies of Rules of 1970 but today he did not bother to attend this Tribunal what to say about assistance of Tribunal. This attitude of the Deputy Secretary is not of a good civil servant and needs strict action by the authorities. When respondent are not interested to defend and safeguard their interest by providing proper assistance to this Tribunal. Then in such a situation the only way left with us is to accept the appeal on the ground that appellants should not be discriminated and be treated equally with employees of other Governor Houses.

10. For what has been discussed above, we accept the instant service appeal as well as connected service appeals with direction to respondents to determine seniority of the appellants like employees of other Houses and include their names in seniority list of Class-IV employees. Costs shall follow the event. Consign.

11. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 18<sup>th</sup> day of July, 2024.*

  
(KALIM ARSHAD KHAN)  
Chairman

  
(RASHIDA BANO)  
Member (J)

Kaleemullah

ATTESTED

ORDER  
18.07.2024

1. Learned counsel for the appellant present. Mr. Muhammad Jan learned District Attorney alongwith Aimal Khan, Section Officer to Military Secretary and Azmat Shah, Section Officer to Principal Secretary to the Governor Khyber Pakhtunkhwa for the respondents present.

2. Vide our detailed judgment of today placed on file, we accept the instant service appeal as well as connected service appeals with direction to respondents to determine seniority of the appellants like employees of other Houses and include their names in seniority list of Class-IV employees. Costs shall follow the event. Consign.

3. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 18<sup>th</sup> day of July, 2024.

  
(KALIM ARSHAD KHAN)  
Chairman

  
(RASHIDA BANO)  
Member (J)

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Minor - 1

"B"

(14)

No. HSG:(24-A/66)-70/1955

To

THE ACCOUNTANT GENERAL, WEST PAKISTAN, LAHORE,

Dated Lahore, the 30th March, 1970.

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

Sir

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

APPOINTMENTS:

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

~~ATTACHED~~

**LEAVES:**

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

**PENSION/GRATUITY:**

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

**ATTESTED**

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

NOTE:

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

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

NOTE:

- (i) Each employee will be required to make nomination in the forms at Annexure 'A' and '13' after having put in ten years service or more. The nomination so made shall be pasted in the Service Book of the individual concerned. In the absence of such nomination being exercised the amount payable shall be disbursed to the nominee or nominees, or family or heirs, as the case may be, of the employee concerned according to the formulae as set out in the West Pakistan Civil Services Pension Rules.

- (ii) An employee/servant, who is discharged from service on any of these establishments as a disciplinary measure shall not be entitled to any gratuity/pension, etc., unless it is otherwise determined and ordered by the punishing authority.

ATTACHED

**MEDICAL FACILITIES:**

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

**RENT FREE ACCOMMODATION:**

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

**TRAVELLING ALLOWANCE AND OTHER ALLOWANCES:**

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

**ATTESTED**

**MEDICAL FACILITIES:**

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

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

ATTESTED

DISCIPLINE

(12) The following penalties may, for good and sufficient reasons, be imposed on a member of the aforesaid establishment

- (i) Censure.
- (ii) Withholding of increment or promotion.
- (iii) Fine recoverable in cash of an amount not exceeding Rs. 20/- in each case.
- (iv) Recovery by deduction from pay of whole or part of any pecuniary loss caused to Government by negligence or breach of orders.
- (v) Suspension.
- (vi) Reduction to a lower post or time scale, or to a lower stage in the time scale.
- (vii) Removal from the service, which does not disqualify from future employment.
- (viii) Dismissal from service, which ordinarily debars from further employment.

(13) The appointing authority shall be the punishing authority.

(14) The appellate authority in all cases shall be the Military Secretary to Governor of West Pakistan, who shall be the sole Judge, provided that where a penalty/punishment is imposed by the order of the Military Secretary to Governor West Pakistan, himself, there shall be no appeal, but the employee/servant concerned may appeal for a review of the order.

RETIREMENT FROM SERVICE

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

AMENDED

DISMISSAL FROM SERVICE

(16) An employee/servant may be dismissed or removed from service-

(i) on the ground of conduct, which has led to his conviction in a criminal charge/conviction:

or

(ii) when the authority empowered to dismiss him from service, is satisfied for one reason or the other that he has rendered himself un-suitable for future service.

DISCHARGE FROM SERVICE

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

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

- (1) Office of the Secretary-in Governor West Pakistan, Governor's House, Lahore.
- (2) Government House, Peshawar and attached Houses.
- (3) Government House, Quetta and attached Houses.
- (4) Government House, Karachi and attached Houses.
- (5) West Pakistan, Rawalpindi, including Governor's Annexe).
- (6) Government House, Murree and West Pakistan House,

3. These rules have been issued with the concurrence of the Finance Department, Government of West Pakistan. A copy, duly endorsed by the Finance Department, Government of West Pakistan, is being sent to you separately.

Yours obedient servant

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

ANNEXED



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

21

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

To

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

SUBJECT: ENLISTMENT IN JOINT SENIORITY LIST

Page 3/12

Please refer to your letter No.E&A(AD)4(17)/09 dated 16/3/2009 on the subject noted above

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

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

1559  
7/4/09

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





## Better Copy

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

No. SOR.IV(E&ad)1-5/2008

Dated, Peshawar, the April 4<sup>th</sup>, 2009

To

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

**Subject: - ENLISTMENT IN JOINT SENIORITY LIST**

Please refer to your letter No. E&A(AD)4(17)/09 dated 16/3/2009 on the subject noted above:

According to service rules meant for the Secretariat employees, the post of Daftari is to be filled by promotion on the basis of sonority-cum-fitness from amongst the holders of posts of matriculate Qasid/Naib Qasids with at least three years' service as such, moreover this is no provision for direct recruitment of Daftari in the Civil Secretariat. The Governor's House and CM's Secretariat are part and parcel of the of Civil Secretariat and all posts of these Secretariats including House Hold staff reflected in the Budget of Secretariat posts. However, recruitments against certain posts are not regulated under the NWFP Civil Servants (Appointment, Promotion & Transfer) Rules, 1989 because such posts are filled up by the MS to Governor office under their own arrangements without observing the laid down procedure. Furthermore, such recruitments are also not made by the appointing authorities declared in the rules ibid.

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

-----sd-----

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

ATTESTED



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ADMINISTRATION DEPARTMENT

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22

**SUBJECT: MINUTES OF THE MEETING REGARDING SERVICE APPEAL NO.3938 TO 3940 OF 2020 ARSHAD KHAN & 4 OTHER VERSES GOVERNMENT OF KHYBER PAKHTUNKHWA.**

A meeting in the subject was held under the chairmanship of Deputy Secretary (Admn), Administration Department on 12-07-2024 at 03:00PM in the office. The following officers attended the meeting.

1	Mr. Shakeel Ahmad, Deputy Secretary (Admn)
2	Mr. Azmat Shah, Section Officer (Litigation) Governor's Secretariat, Peshawar
3	Mr. Aimal Khan, Section Officer, Governor's House, Peshawar
4	Mr. Amjad Ali Khan, Section Officer (Lit-I), Establishment & Administration Department
5	Mr. Asim Saddiqui, Supdt (Admn), Administration Department

The Meeting was started with holy Quran and welcome note by the Chair. The meeting briefly reviewed background of the case and examined the issues of seniority of the household staff / appellants of the Governor's House, Peshawar..

After threadbare discussion the following decision was taken unanimously.


**Decision:**

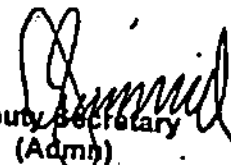
To initiate a fact-finding inquiry into the anomalies regarding seniority of the Household staff at the level of Administration Department Civil Secretariat, Peshawar to dig out the responsible officers who inducted such household staff and other officials from attached departments in the seniority lists maintained by Administration Department. It was also decided in the meeting that findings / recommendations of the fact-finding inquiry will be shared with Chairman, Khyber Pakhtunkhwa Service Tribunal, Peshawar for further course of action.

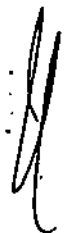
Meeting was ended with vote of thanks from the Chair.

  
Mr. Aimal Khan  
Section Officer  
Governor's House

  
Section Officer  
(Litigation) Governor's  
Secretariat, Peshawar

  
Mr. Amjad Ali  
Section Officer (Lit-I),  
E&A Department

  
Deputy Secretary  
(Admn)  
Administration  
Department





0591-71047  
0591-71047

**ESTABLISHMENT DEPARTMENT  
(Establishment Wing)**

Dated Peshawar, the January 24, 2024

**ORDER**

NO. SOE-V (E&AD)/11.1/2024

WHEREAS, the Hon'ble Service Tribunal Peshawar in its Judgment dated 27-09-2023 in Appeal No. 146/2019 allowed the Appeals on the terms mentioned below (Annex-I):-

*"The only point to be determined for inclusion of the appellant in the cadre/seniority list of Computer Operator maintained by Establishment & Administration Department is whether the appellant meet the criteria prescribed for appointment of Computer Operator in accordance with the service rules. The respondents are, therefore, directed to scrutinize eligibility of the appellant in terms of their qualification for the post of Computer Operator and if they are found qualified then they shall be taken on the cadre strength of Computer Operator by including their name at the appropriate place in the seniority list of Computer Operator. The instant service appeal as well as connected service appeal bearing No. 147/2019 are allowed the above terms."*

2. AND WHEREAS, as per available record with the appeals, both the Appellants were earlier appointed as Key Punch Operators (BPS-10) by Military Secretary to Governor Khyber Pakhtunkhwa vide office order dated 22-08-2009 and 01-03-2010 respectively (Annex-II&III), in exercising his powers under Terms and Conditions of Appointment, Confirmation, Discharge and Retirement etc. of the Governor's Household, Gardens and Garage Establishments Rules, 1970. The said Rules provide specific terms and conditions of service of the Governor's Household Employees.

3. AND WHEREAS, the Military Secretary (MS) to Governor vide his letter dated 27-04-2011 forwarded an application in respect of the appellants with the request to include them in the seniority list of Computer Operators of Establishment Department (Annex-IV) without mentioning the mode of appointment of the officials under the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989 read with Khyber Pakhtunkhwa (Provincial Information Technology Group) Service Rules, 2006. Consequently, Establishment Department registered the appeal of the Appellants with the assertion that the same were not covered under the Civil Servants Act, 1973 and the rules made thereunder (Annex-V).

4. AND WHEREAS, feeling aggrieved, the Appellants filed the service appeals (Annex-VI & VII) with the prayer that the impugned letter dated 27-11-2018 may be set aside and their name may be included in the seniority list of Computer Operators (BPS-16) of Establishment Department.

5. AND WHEREAS, in pursuance of the order of the Hon'ble Tribunal the case of the appellants was scrutinized in terms of their qualification for the post of Computer Operator, in light of the Service Rules (Annexure-VIII), in a meeting headed by Special Secretary (Estab) on 24.01.2024. It was highlighted in the meeting that the appellants are not Civil Servants because they were appointed as "Key Punch Operators" (BS-10) in the Governor's House under their own terms and conditions of

*[Handwritten signature and stamp]*

"E"  
23



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

~~1110~~ <sup>1267</sup> No.          /2024

Hameed Zia Khan

(APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

**VERSUS**


Gant

(RESPONDENT)  
(DEFENDANT)

I/We Hameed Zia Khan

Do hereby appoint and constitute **Noor Mohammad Khattak Advocate Supreme Court** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated.          /          /202



**CLIENT**

**ACCEPTED**

**NOOR MOHAMMAD KHATTAK  
ADVOCATE SUPREME COURT**

**WALEED ADNAN**

**UMAR FAROOQ MOHMAND**

**KHANZAD GUL**

**&**

**ABID ALI SHAH  
ADVOCATES**

**OFFICE:**  
Flat No. (TF) 291-292 3<sup>rd</sup> Floor,  
Deans Trade Centre, Peshawar Can\*tt.  
(0311-9314232)