

**BEFORE THE HONORABLE KHYBER PAKHATUNKHWA
SERVICE TRIBUNAL PESHAWAR.**

Service Appeal No: 1287/2024

Muhammad Javid, Lab Attendant (BPS-03), GHS Foerst College, District Peshawar
.....Appellant

VERSUS

The Government of Khyber Pakhtunkhwa through the Chief Secretary &
others.....Respondents.

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29-07-24


SAMINA ALTAF
DIRECTOR

E&SE Department Khyber
Pakhtunkhwa, Peshawar.

①

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

Service Appeal No: 128/2024

Muhammad Javid, Lab Attendant (BPS-03), GHS Foerst College, District Peshawar
.....Appellant

VERSUS

The Government of Khyber Pakhtunkhwa through the Chief Secretary &
others.....Respondents.

JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS No: 2 to 5.

Respectfully Sheweth,

The Respondents No. 1 to 5 submit as under:-

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 14542

Dated 28-7-24

PRELIMINARY OBJECTIONS.

- 1 That the Appellant has got no cause of action/locus standi to file instant appeal.
- 2 That the appellant is not an aggrieved person within the meaning of Section-4 Khyber Pakhtunkhwa Service Tribunal Act 1974 read with Article-212 of the constitution of Islamic Republic of Pakistan 1973.
- 3 That the matter in hand is badly time barred under the law of limitation Act, 1908.
- 4 That the appellant has not come to this Honorable Tribunal with clean hands & has also concealed material facts from the ambit of this Honorable tribunal in the titled appeal.
- 5 That the appeal in hand is based on mala fide intentions for gaining illegal service benefits from the Department in violation of the Rules.
- 6 That the appeal in hand is bad for mis-joinder and non-joinder of the necessary parties.
- 7 That the impugned Notification dated 08-01-2023 is legal, whereunder, the appellant is not entitled for promotion to the post of Lab Assistant in BPS-07 under the rules.

ON FACTS.

- 1 That Para-1 pertains to the service record of the appellant against the Lab Attendant in BPS-03 inducted on dated 16-12-2016 with his adjustment at GHS Forest College Peshawar. (Annex-A).
- 2 That Para-2 is incorrect as the appellant being a civil Servant is bound to do his duty against the said post in lieu of salary & benefits drawing from the Govt: treasury.

- 3 That Para-3 is also incorrect because the Notification dated 28-01-2013 is not applicable upon the case of the appellant as these service rules have been framed & notified for the ministerial staff, however, the appellant can avail the benefit of 40% reserved quota notified on dated 18-07-2019 for promotion from the class-IV/Lab Attendant post to the post of Junior Clerk subject to his seniority cum fitness in view of the seniority list dated 31-12-2022 regarding the said cadre by the DEO (M) Peshawar U/S -8 of KP Civil Servant Act, 1973 read with Rule-17 of APT Rules, 1989 being a competent authority in the titled matter but not made Respondent by the appellant on mala-fide. *Copies of the seniority & Policy dated 18-07-2019 are Annex-B & C.*
- 4 That Para-4 is incorrect, in terms of the promotion policy dated 18-07-2019 which says that 40% by promotion in view of seniority cum fitness from the said cadre with two years regular service with FA, F.Sc or its equivalent qualification from the BISE concerned with further prayer that 60% quota has been allocated for initial recruitment for the said post
- 5 That Para-5 is incorrect, the appellant is an employee of KP Govt: & is liable to be treated under the Rules & policy of the Provincial Govt: instead of the Federal Government. Furthermore, a WP No.2045/2022 case titled Muhammad Javed VS Govt: has also been dismissed by the Honorable Court on dated 04-10-2023 in favor of the Department, hence, his plea deserves rejection. *Attached as Annex-D.*
- 6 That Para-6 is incorrect, no departmental appeal against the service rules dated 28-01-2013 & 31-10-2018 has been filed by the appellant, hence, got final under the rules in vogue against the appellant.
- 7 That Para-7 is also incorrect as the appellant is not an aggrieved person ^{and} ~~nor~~ the Judgments reported as 2006 SCMR-1630 case titled PIAC VS Seema Masood & PLD 2005 SC.831 are not applicable upon the case of the appellant.
- 8 That Para-8 is correct that a WP No.2045/2022 case titled Muhammad Javed VS Govt: has also been dismissed by the Honorable Court on dated 04-10-2023 in favor of the Department, hence, his plea deserves rejection.
- 9 That para-9 is incorrect, the appellant is not aggrieved from the service rules dated 28-01-2013 & 31-10-2018, hence, forgoing in view it is further submitted that the appellant is not an aggrieved person within the meaning of Section-4 Khyber Pakhtunkhwa Service Tribunal Act 1974 read with Article-212 of the constitution of Islamic Republic of Pakistan 1973 has got no cause of action to approached this Honorable Tribunal in the titled appeal against the Respondents, therefore, the case in hand is liable to dismissed on the following grounds inter alia: -

ON GROUNDS.

- A. Incorrect & not admitted, the appellant has been treated as per law & rules by the Department, hence, the claim of the appellant is illegal.
- B. Incorrect & not admitted. The stand of the appellant is against the facts & legal proposition as agitated by the Department; hence, the plea of the appellant is liable to be rejected.
- C. Incorrect & not admitted, the appellant has been treated as per law & rules by the Department, hence, the claim of the appellant is illegal.

- D. Incorrect & not admitted. The act of the Respondent Department with regard to the afore-said rules is legal.
- E. Incorrect & not admitted. The act of the Department with regard to the cited rules is legal.
- F. Incorrect & not admitted. Both the afore cited are legal, hence, the tilted appeal is badly time barred & liable to be rejected.
- G. Incorrect & not admitted. The stand of the appellant is illegal as the act of the Department with regard to the cited rules is legally competent & even in accordance with the provision of Article, 38 (e) of the constitution of 1973.
- H. Incorrect & not admitted. the appellant is not an aggrieved person within the meaning of Section-4 Khyber Pakhtunkhwa Service Tribunal Act 1974 read with Article-212 of the constitution of Islamic Republic of Pakistan 1973 However, the Respondents also seek leave to this Learned Bench to submit additional grounds record & case law at the time ~~on date~~ of hearing.

Therefore, in view of the above made submissions, the appeal in hand may kindly be dismissed in favor of the Respondent Department in the interest of justice.

Samina Altaf
SAMINA ALTAF
 DIRECTOR

E&SE Department Khyber
 Pakhtunkhwa, Peshawar.
 (Respondent No: 5)

MASOOD AHMAD
 SECRETARY

Masood Ahmad

AUTHORIZED OFFICER
ABDUL AKRAM
ADDITIONAL SECRETARY (G)
 E&SE Department Khyber
 Pakhtunkhwa, Peshawar.
 (Respondent No: 4)

Muhammad Zubair Khan

(Muhammad Zubair Khan)
SECRETARY ESTABLISHMENT
 Through

KALEEM ULLAH BALOCH
SPECIAL SECRETARY ESTABLISHMENT
 (Respondents No: 2)

M. Amir
(AMER SULTANTAREEN)
SECRETARY

Govt; of Khyber Pakhtunkhwa,
 Finance Department
 (Respondents No: 3)

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

Service Appeal No: 1287/2024


Muhammad Javid, Lab Attendant (BPS-03), GHS Foerst College, District Peshawar
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others.....Respondents

AFFIDAVIT

I, Samina Altaf, Director E&SE Department Khyber Pakhtunkhwa, do hereby solemnly affirm & declare on oath that the contents of the instant para wise Comments are true & correct to the best of my knowledge & belief. It is further stated on oath that in this appeal the answering Respondents have neither been placed Ex-Parte nor their defense has been struck off/cost.


DEPONENT
SAMINA ALTAF
DIRECTOR
E&SE Khyber Pakhtunkhwa
Peshawar


11/7/2024



**DIRECTORATE ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA, PESHAWAR.**

AUTHORITY LETTER

I, Samina Altaf, Director (E&SE) Khyber Pakhtunkhwa Peshawar do hereby authorized Mr. Muhammad Rizwan, Assistant Director Litigation-II of this Directorate for submission of Joint Parawise Comments in Service Appeal No. 128/2024 case titled **Muhammad Javeed Lab Attendant District Peshawar Vs Government of Khyber Pakhtunkhwa & others**, hence, an authority letter is hereby issued in favor of the above-named officer.


(Samina Altaf)
DIRECTOR

E&SE Department Khyber
Pakhtunkhwa, Peshawar

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ANNEXURE 1A

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) PESHAWAR

TO BE SUBSTITUTED WITH THIS OFFICE NOTIFICATION BEARING SAME NO. & DATE

Admitt is Peshawar No 19

NOTIFICATION:

Consequent upon the approval of the District Selection Committee, the competent authority has been pleased to appoint the following candidates as Class IVs against vacant posts on regular basis in BPS-03 of the basic pay scale @ Rs. 80-10-325-17790 plus usual allowances as admissible under the rules in the school mentioned against each their names on the terms and conditions given below with effect from their date of taking over charge.

(Retired employees Sons quota)

S.#	Name	Father's Name	Date of Retirement of Employee	Designation	Appointed / posted at School given below
1.	Muhammad Imran	Shad Muhammad	30/9/1992	Chowkidar	GHS Sarbad Peshawar
2.	Said Rahim	Muhammad Rahim	31/01/2000	Sweeper	GMS Mushitarzai Peshawar
3.	Ghulam Murtaza	Ghulam Sadiq	23/7/2000	Sweeper	GHS Dabgari Gate Peshawar / upper age relaxed by 3 months and 14 days
4.	Rabiullah	Saida-Gul	31/08/2000	Chowkidar	GHS Shagahli Pawan Peshawar
5.	Zaqian Gul	Rahman Gul	7/2/2002	Chowkidar	GPS Kas Koroomi Peshawar / Upper age relaxed by 8 months and 28 days
6.	Kamil Shah	Fazal Shah	20/10/2003	Sweeper	GHSS Hayat Abdul Peshawar
7.	Amwar Bezaad	Abdul Wahid	30/6/2004	Chowkidar	GPS Khodim Abad Peshawar
8.	Hussain Shah	Sultan Shah	31/12/2004	Work Shop Attendant	GTHSS Gul Bahar Peshawar
9.	Qazi Zain-ul-Abideen	Qazi Dedar Gul	30/9/2005	N.Q	GHSS Turnah Farni Peshawar
10.	Shahid	Waris Khan	20/10/2005	N.Q	GHSS Urmar Bula Peshawar
11.	Riaz Khan	Said Khan	19/12/2005	Chowkidar	GPS Mushitarzai No.2, Peshawar
12.	Zahid Gul	Hayat Gul	7/2/2006	Chowkidar	GPS Larami Peshawar
13.	Najeem Khan	Jan Khan	2/12/2006	Chowkidar	GHSS Daag Peshawar

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(Minority Quota)

S#	Name	Father's Name	Designation	Appointed /posted at School given below
1	Sunail Ishaq	Ishaq Maseeh	Sweeper	GHS Regi
2	Bobi Maseeh	Iqbal Maseeh	Sweeper	GHS Charpariza

(Disable Quota)

S#	Name	Father's Name	Designation	Appointed /posted at School given below
1	Gul Rehman	Sharif Khan	Chowkidar	GPS Umar Talab Umar Miana

(Fresh /Land Donor)

S#	Name of Applicant	Father's Name	Designation	Appointed /posted at School given below
1.	Sardar Afridi	Laiq Khan	Naib Qasid	GMS Mohallah Hidayat Shah
2.	Farhan Tanveer Orazkai	Tanveer Ahmad Khan Orazkai	Chowkidar	GPS New Garhi Bakishi Pul
3.	Ijlikhar Ahmad	Jamil Khan	Naib Qasid	GMS Yousaf Abad
4.	Ali Muhammad	Pir Muhammad	Sweeper	GMS Yousaf Abad
5.	Mir Alam	Adam Khan	Chowkidar	GPS No.3 Zaryab Colony
6.	Asad Ali	Masoud-ul-Hasan	Lab Attendant	GCMHSS No 2 Peshawar city
7.	Umar Gul	Juma Gul	Naib Qasid	GMS Gunj Mauli Peshawar
8.	Khan Wali	Rasool Khun	Naib Qasid	GMS Andur sher Peshawar
9.	Sikandar Khan	Gulab Khan	Naib Qasid	Office of the District Education Officer (Male) Peshawar
10.	Muhammad Sajid	Muhammad Ayaz	Chowkidar	GPS No.1 Jogiware Peshawar
11.	Subhan ullah Khan	Abdul Majeed	Naib Qasid	GMS Saitur Shah Colony
12.	Aurangzeb	Ibrahim	Chowkidar	GHSS No.3 Peshawar City

ATTESTED

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13.	Sajid Ali	Gul Shah	Naib Qasid	GHS Bela Mianmandan Peshawar
14.	Muhammad Bilal Hassan	Muhammad Iqbal	Naib Qasid	GHS Manak Rao Peshawar
15.	Muhammad Javeed	Raza Muhammad	Chowkidar	GHSS No1 Peshawar Cantt
16.	Zafar Iqbal	Shoukat Khalil	Sweeper	GHS Nadeh Payan Peshawar
17.	Muhammad Zubair	Rehman Wali	Chowkidar	GHS Nadeh Payan Peshawar
18.	Naik Muhammad	Khalr Muhammad Khan	Chowkidar	GHS Forest College Peshawar
19.	Muhammad Javeed	Muhammad Aslam	Lab Attendant	GHS Forest College Peshawar
20.	Niaz Ali	Inzar Gul	Chowkidar	GPS No1 Regi Lalama Peshawar
21.	Tehsinullah Khalil	Aminullah Khan	Chowkidar	GPS Palosi Maghdarzal Peshawar
22.	Khalid Khan	Irshad Ahmad	Chowkidar	GPS Tehkal Bala Peshawar
23.	Malik Khan Faraz	Mumtaz Khan	Lab Attendant	GHSS Hazar Khawani Peshawar
24.	Muhammad Imran	Bora Khan	Chowkidar	GHS Pishkohara Bala Peshawar
25.	Fazl-e-Amin	Fazl-e-Rubbi	Sweeper	GHS Hazar Khawani Peshawar
26.	Wali Muhammad	Niaz Muhammad	Chowkidar	GPS Tala Ghar Sarband Peshawar
27.	Hashmat Khan	Sardar Khan	Chowkidar	GPS No1 Hazarkhawani Peshawar
28.	Akhtar zaib	Saba Sher	Chowkidar	GPS Meru Sufaid Sing Peshawar
29.	Syed Jalal-ud-Din	Muhammad Saeed Shah	Chowkidar	GPS Kochign Peshawar
30.	Shahid Khan	Nemroz Khan	Chowkidar	GPS Ghari Chundou Peshawar
31.	Imdad Khan	Shamsher Khan	Chowkidar	GPS Bilal Abail Charpariza Peshawar /upper age relaxed by 4 months & 26 days

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32.	Iqbal Hussain	Khadim Hussain	Chowkidar	GPS Noor Gurh Peshawar
33.	Wasim Ullah	Farid Ullah	Chowkidar	GHS Ghari Chandun Daudzai Peshawar
34.	Nasir Khan	Yaqoob Khan	Sweeper	GMS Gul Abad Peshawar
35.	Hashim Khan	Jalal Khan	Naib Qasid	GMS Gul Abad Peshawar/upper age relaxed by 1 year, 10 months and 28 days
36.	Bacha Hayat	Dilaram Khan	Lab Attendant	GHS Shaghali Payan Peshawar
37.	Gul Roiz	Mumin Khan	Naib Qasid	GHS Shaghali Payan Peshawar
38.	Wasiullah	Shanisur Rahman	Lab Attendant	GHSS Haryana Bala Peshawar
39.	Khalid Zaman	Gul Zaman	Chowkidar	GHSS Haryana Bala Peshawar
40.	Fazal Zaman	Gul Zaman	Naib Qasid	GPS Shagai Bala Peshawar
41.	Miskeen Jan	Khaista Khan	Chowkidar	GPS Takhi Koroana Peshawar
42.	Sadam Hussain	Haider Khan	Chowkidar	GPS Ghari Imran Peshawar
43.	Hamid Khan	Dil Shad Khan	Chowkidar	GPS Daang Lakhta Bala Peshawar
44.	Ayaz Khan	Waliyar Khan	Chowkidar	GPS Takhi Abad Peshawar
45.	Hasan Mahmood	Nisar Ahmad	Chowkidar	GPS Piri Pryan Peshawar
46.	Mazhar Ali Shah	Abdullah Shah	Chowkidar	GPS Qilla Abidul Jilid Peshawar/upper age relaxed by 5 months & 10 days.
47.	Khan Zameen	Gul Zameen	Chowkidar	GHS Mian Gajar Peshawar
48.	Nasr-e-ul-Haq	Fazl-e-Haq	Sweeper	GHSS Pakha Ghulam Peshawar
49.	Said Rasool	Miskeen Khan	Lab Attendant	GHSS Pakha Ghulam Peshawar
50.	Muhammad Asif	Bahadar Khan	Naib Qasid	

ATTESTED

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73.	Hamidullah	Abdullah Jinn	Chowkidar	GPS Mashaggar No. 2 Peshawar
74.	Rahmat Ali	Yasin Khan	Chowkidar	GPS Sheikhan Mera Peshawar
75.	Muhammad Ayaz	Mukaram Khan	Chowkidar	GPS No. 1 Musazai Peshawar
76.	Haji Gul	Raj Wali Khan	Chowkidar	GPS Urmar Miana Peshawar
77.	Mamraiz Khan	Muhammad Islam	Lab Attendant	GHSS Urmar Bala Peshawar
78.	Sher Ali	Muhammad Islam	Chowkidar	GHSS Urmar Bala Peshawar

TERMS & CONDITIONS:

- 1 They will be governed by such rules and regulations as prescribed by the Govt. from time to time for the category of government servants to which they belong.
- 2 In case of resignation, one month prior notice should be given by the official concerned otherwise one month pay, will be forfeited in lieu thereof.
- 3 Their services will be liable to termination at any stage if their testimonials, CNIC, Domicile etc were found fake. FIR will also be lodged against them.
- 4 They should take charge of their post within one month after the issuance of this notification.
- 5 Charge report should be submitted to all concerned.
- 6 They will produce health fitness and age certificate from the concerned civil surgeon.

Note:

Appointment order shall be verified by the concerned Drawing and Disbursing officers personally from the office of the undersigned before handing over charge to the official.

(ROZ WALI KHAN KHATTAK)
DISTRICT EDUCATION OFFICER
(MALE) PESHAWAR

Endst: No. 18712-516/ Appointment File/ DSC 19/11/2016, Dated 16-12-2016

- Copy for information and necessary action to:
- 1 Accountant General (Cyber Pakhtunkhwa Peshawar.
 - 2 Director Elementary & Secondary Education (Cyber Pakhtunkhwa Peshawar.
 - 3 Deputy Commissioner Peshawar.
 - 4 District Nazim Peshawar
 - 5 District Monitoring Officer Peshawar.
 - 6 Principals/Head Masters/SDEO (M) Peshawar concerned.
 - 7 P.A to District Education Officer (Male) Peshawar.
 - 8 Cashier Concerned
 - 9 Officials concerned.
 - 10 Master File.

DI: DISTRICT EDUCATION OFFICER
(MALE) PESHAWAR

ATTESTED

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DISTRICT EDUCATION OFFICER (MALE) PESHAWAR
CLASS-IV TENTATIVE SENIORITY LIST CORRECTED UPTO 31/12/2022

S.NO	Office/School	Name	Father/Husband Name	CNIC #	Personnel #	Working Designation	Date of Birth	ACADEMIC QUALIFICATION	Date of 1st Apptt:	Current Posting Date	Appointment Quota
1	2	3	4	5	7	8	9	10	11		12
1	GHS PALOSI MAGHDARZAI PESHAWAR	ZAHIR KHAN	LAKHAKAR KHAN	17301-6813722-3	20673	SWEeper (BPS-4)	10-Sep-1964	NIL	10-Oct-1974	01-Dec-2015	OPEN
2	GHSS NO. 3 PESHAWAR CITY	AKHBARULLAH	MUHAMMAD SAEED	17301-4746059-1	20545	NAIB QASID (BPS-4)	26-Dec-1963		27-Dec-1982	27-Dec-1982	OPEN
3	GMS ACHINI PAYAN, PESHAWAR	NAEEM SHAH	MALAK DARA SHAH	17301-4814981-1	20670	NAIB QASID (BPS-4)	01-Jan-1964		01-Jan-1983	01-Jul-2015	OPEN
4	GHS SUFAID DHERI	HIDAYATULLAH KHAN	SHOKAT HUSSAIN	17301-1530192-1	23931	LAB ATTENDANT (BPS-3)	01-Jan-1966	PRIMARY	15-May-1983	25-Oct-2018	OPEN
5	GPS ACHINI PAYAN	MISAL KHAN	ROSHAN KHAN	17301-4259868-5	0020669	CHOWKIDAR (BPS-4)	01-Jan-1966		12-Sep-1983	12-Sep-1983	OPEN
6	GPS RAILWAYS QUARTERS NO.1	NAWAZ KHAN	UMARA KHAN	17301-3768364-3	21423	NAIB QASID (BPS-4)	15-Oct-1963		05-Dec-1983	24-Apr-1990	OPEN
7	GHS BELA BARAMAD KHEL PESHAWAR	TAHSEEN ULLAH	NAQEEB KHAN	17301-6070237-7	00023582	LAB ATTENDANT (BPS-3)	01-Dec-1965		03-Oct-1984	03-Oct-1984	OPEN
8	GHS DABGARI GATE	RAB NAWAZ	ABDUL GHANI	17101-1714513-9	00023929	CHOWKIDAR (BPS-4)	01-Mar-1965		13-Feb-1985	01-Sep-2004	OPEN
9	GHSS SHEIKHAN	MUHAMMAD NASEER	HAZRAT GUL	17301-5437244-9	23730	SWEeper (BPS-4)	18-Mar-1965		19-Mar-1985	01-Jul-2015	OPEN
10	GHS GULSHAN REHMAN COLONY	IKRAMULLAH	GULAB SHAH	17301-9272150-9	24192	SWEeper (BPS-4)	03-Dec-1963		22-Apr-1985	02-Sep-2016	CLASS-IV SON
11	GHSS NO. 4 PESHAWAR CITY	KAKI JAN	ZIARAT GUL	17101-0264923-5	36343	MALI (BPS-4)	18-Mar-1965		03-Aug-1985	03-Aug-1985	OPEN
12	GMS TARNAB FARM	TAJ MUHAMMAD	MUHAMMAD IBRAHIM	17301-8482301-9	24644	NAIB QASID (BPS-4)	01-Jan-1965		04-Sep-1985	03-Jan-2010	OPEN
13	GPS KHUDDAD	SEDAN GUL	NAFEER AHMAD	17301-3513634-5	00024237	CHOWKIDAR (BPS-4)	03-Jan-1965		01-Oct-1985	13-Feb-2007	OPEN
14	GHS MATHRA	WAHEED ULLAH	MUHAMMAD YOUSAF	17301-5018753-1	20480	LAB ATTENDANT (BPS-3)	01-Jan-1967		01-Oct-1985	11-Apr-2014	DECEASED
15	GMS GUL BAHAR	TASLEEM KHAN	AYUB KHAN	17301-1268647-9	00021493	NAIB QASID (BPS-4)	05-Sep-1965		07-Oct-1985	12-Jun-2014	OPEN
16	GPS ZAHIR ABAD	IQBAL SHER	SAHIB JAN	17301-1628870-1	21246	CHOWKIDAR (BPS-4)	20-Mar-1966		21-Oct-1985	21-Oct-1985	OPEN
17	GHSS ZAHIR ABAD	SARDAR HUSSAIN	GHULAM SARWAR	17301-5497195-9	21247	NAIB QASID (BPS-4)	01-Jan-1965		22-Dec-1985	02-Jan-2000	OPEN
18	GHSS GUL BELA	SHER ALAM	WALI MUHAMMAD	17301-5361373-7	24143	CHOWKIDAR (BPS-2)	25-Apr-1963		28-Apr-1986	28-Apr-1986	OPEN
19	GSAETHSS GUL BAHAR, PESHAWAR	HAMESH GULAB	HAZRAT GULAB	17101-3825413-9	00023953	WORKSHOP ATTENDANT (BPS-4)	07-Sep-1967		01-Sep-1986	01-Sep-1986	OPEN
20	GPS NO 1 DIN BAHAR COLONY	MAHIR KHAN	ATLAS KHAN	17101-0257516-5	21629	CHOWKIDAR (BPS-4)	22-Mar-1968		13-Sep-1986	02-Dec-2002	OPEN
21	GHSS ADEZAI	INAMULLAH	ATLAS KHAN	17301-1461513-3	38328	LAB ATTENDANT (BPS-4)	17-Apr-1968		14-Sep-1986	14-Sep-1986	OPEN
22	GHSS NO. 1 PESHAWAR CITY	MUHAMMAD HAROON	ABDUL JALIL	17301-1605245-7	00039093	MALI (BPS-3)	21-Sep-1968		23-Sep-1986	01-Jul-2017	OPEN
23	GHS SUFAID DHERI	FARID ULLAH	MOMIN KHAN	17301-1668118-1	24173	MALI (BPS-4)	01-Nov-1968	MIDDLE	27-Sep-1986	27-Sep-1986	OPEN

ATTESTED

S.NO	Office/School	Name	Father/Husband Name	CNIC #	Personnel #	Working Designation	Date of Birth	ACADEMIC QUALIFICATION	Date of 1st Apptt:	Current Postng Date	Appointment Quota	
1	2	3	4	5	7	8	9	10	11	12	12	
1080	GCMHSS PESHAWAR CITY	GHULAM BILAL	NASEER AHMAD	17301-1365808-3	768557	NAIB QASID (BPS-3)	01-Mar-1982			19-Aug-2015	19-Aug-2015	CLASS-IV SON
1081	GPS NASRULLAH KHAN KOROOONA	SAIF ULLAH	MUHAMMAD EZHAN	17301-9183639-1	749728	CHOWKIDAR (BPS-3)	01-Nov-1973			21-Dec-2015	21-Dec-2015	OPEN
1082	GPS MILITARY FARM JABA IHEEL	AMJAD ALI	AYUB KHAN	17301-3959279-3	00762953	CHOWKIDAR (BPS-3)	01-Jul-1986			04-Feb-2016	31-May-2016	OPEN
1083	GHSS GHARI GHULAM SHAH	SAIL KHAN	IMTLAZ AHMAD	17301-6671268-5	829353	LAB ATTENDANT (BPS-3)	01-Jan-1989			16-Feb-2016	16-Dec-2016	OPEN
1084	GHSS URMAR BALA	SHER ALI	MUHAMMAD ISLAM	17301-7714249-5	837252	CHOWKIDAR (BPS-3)	15-Apr-1984			22-Feb-2016	22-Dec-2016	OPEN
1085	GHSS URMAR BALA	MUMRAIZ KHAN	MISLAM	17301-5982071-7	837834	LAB ATTENDANT (BPS-3)	01-Feb-1978			22-Feb-2016	22-Dec-2016	OPEN
1086	GHSS URMAR BALA	SHAHID	WARIS KHAN	17301-4077228-5	831774	NAIB QASID (BPS-3)	01-Jan-1986			23-Feb-2016	01-Nov-2016	CLASS-IV SON
1087	GHSS HARYANA BALA	WASI ULLAH	SHAMS UR REHMAN	17301-9583982-1	830021	LAB ATTENDANT (BPS-3)	01-Aug-1983	B.A (1st Division)		01-Sep-2016	19-Dec-2016	OPEN
1088	GCMHSS NAHAQI	QAZI ZAIN UL AABIDEEN	QAZI DIDAR GUL	17301-7764318-3	840617	NAIB QASID (BPS-3)	02-Mar-1982			22-Nov-2016	01-Apr-2020	DECEASED
1089	GHSS HARYANA BALA	KHALID ZAMAN	GUL ZAMAN	17301-2151373-7	841655	CHOWKIDAR (BPS-3)	01-Jan-1993			01-Dec-2016	19-Dec-2016	OPEN
1090	GMS ASIA PARK	MUHAMMAD ZAHIR	MUHAMMAD WAZIR	17301-7704056-3	830022	NAIB QASID (BPS-3)	01-Jan-1998			07-Dec-2016	01-Dec-2017	DECEASED
1091	GPS NISAR KILLI	MALIK RAMID KHAN	MALIK IRSHAD KHAN	17301-7752306-1	835714	CHOWKIDAR (BPS-3)	20-Apr-1998			08-Dec-2016	08-Dec-2016	DECEASED
1092	GCMHSS PESHAWAR CITY	MUBEEN SABIR	GHULAM SABIR	17301-0921304-6	835806	CHOWKIDAR (BPS-3)	20-Dec-1995			13-Dec-2016	13-Dec-2016	DECEASED
1093	GCMHSS PESHAWAR CITY	ASAD ALI	MASOOD UL HASSAN	17301-0428174-1	835807	LAB ATTENDANT (BPS-3)	02-Apr-1989			13-Dec-2016	13-Dec-2016	OPEN
1094	GPS GUL BAHAR NO.4	ISRAR AHMAD	ITBAR KHAN	17301-5684366-5	835717	CHOWKIDAR (BPS-3)	23-Apr-1994			13-Dec-2016	13-Dec-2016	DECEASED
1095	GPS TOUR BABA	ASAD JAN	HAYAT KHAN	17301-4621809-3	857454	CHOWKIDAR (BPS-3)	01-Apr-1996			13-Dec-2016	13-Dec-2016	DECEASED
1096	GMS RASHID GHARI	ABDUL AZIZ	REHMAN JAN	17301-8496430-7	841661	SWEEPER (BPS-3)	10-Apr-1990			15-Dec-2016	15-Dec-2016	DECEASED
1097	GPS MALOGO	MUHAMMAD ZUBAIR KHAN	MEER ZAMAN	17301-5769330-5	842096	CHOWKIDAR (BPS-3)	11-Apr-1991			15-Dec-2016	15-Dec-2016	DECEASED
1098	GOVT. HAIDER AMIN SHAHEED HIGH SCHOOL	MUHAMMAD SADEEQ	FARID KHAN	17301-1331727-5	827135	NAIB QASID (BPS-3)	06-Dec-1978			15-Dec-2016	15-Dec-2016	DECEASED
1099	GHSS HAYAT ABAD	KAMIL SHAH	FAZAL SHAH	17301-5129881-1	833216	SWEEPER (BPS-3)	03-Mar-1977			16-Dec-2016	16-Dec-2016	OPEN
1100	GHS POLICE COLONY	MUHAMMAD JAVED	MUHAMMAD ASLAM	17301-9195691-5	00830783	LAB ATTENDANT (BPS-3)	14-Apr-1990			16-Dec-2016	09-Aug-2019	OPEN
1101	GHS YOUSAF ABAD	ALI MUHAMMAD	PIR MUHAMMAD KHAN	17301-6002745-7	831174	SWEEPER (BPS-3)	01-Jan-1996			16-Dec-2016	16-Dec-2016	OPEN
1102	GHS DABGARI GATE	GHULAM MURTAZA	GHULAM SADIQ	17301-6307068-3	00827344	SWEEPER (BPS-3)	15-Aug-1976			16-Dec-2016	19-Dec-2016	DECEASED
1103	GMS HAZAR KHAWANI	FAZAL AMIN	FAZAL RABI	17301-8897719-3	840413	SWEEPER (BPS-2)	20-Apr-1994			16-Dec-2016	16-Dec-2016	OPEN

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S.N.	Office/School	Name	Father/Husband Name	CNIC #	Personnel #	Working Designation	Date of Birth	ACADEMIC QUALIFICATION	Date of 1st Apptt:	Current Posting Date	Appointment Quota
1	2	3	4	5	7	8	9	10	11		12
1354	SDEO (M) TOWN III PESHAWAR	MUHAMMAD KASHIF	WASI ULLAH	17301-6109337-9	1002712	NAIB QASID (BPS-3)	4/2/1989	B.A ARTS/ DIT	4/28/2022		OPEN
1352	GHS GARHI CHANDAN DA	MUHAMMAD SAHIL	MUHAMMAD ZAHIR	17301-4759892-3	1007785		3/1/1992	B.A ARTS	4/28/2022		
1350	GMS GUNJ MAN, PESHAWAR	IMRAN ALI	MANZOOR JAN	17301-7621146-3		NAIB QASID (BPS-3)	4/30/1994	SSC	4/28/2022		OPEN
1348	GHSS SHEIKHAN	INAM ULLAH	NOSHAD KHAN	17301-4905530-3	1009644		2/15/1995	B.A	4/28/2022		
1346	GMS GUL BAHAR	FARHAN ULLAH	FAZAL-E-AALA	17301-2542104-1		SWEEPER (BPS-3)	7/30/1997	F.A	4/28/2022		OPEN

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GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Peshawar, dated the 28th January, 2013

NOTIFICATION

No.SO(PE)/1-10/SSRC/Ministerial Staff/2013:- In pursuance of the provisions contained in sub rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, and in supersession of all rules issued in this behalf to the extent of the Elementary and Secondary Education Department the (E&SE Department) in consultation with the Establishment Department and Finance Department hereby lays down the method of recruitment, qualifications and other conditions specified in Column 3 to 5 of the Appendix to this Notification which shall be applicable to the posts borne on the ministerial establishment in the Elementary and Secondary Education Department specified in Column No.2 of the said Appendix.

APPENDIX

S. NO	NOMENCLATURE	MINIMUM QUALIFICATION AND EXPERIENCE FOR INITIAL APPOINTMENT OR BY TRANSFER	AGE LIMIT	METHOD OF RECRUITMENT (EXISTING)
1	2	3	4	5
1.	Deputy Director (Finance and Accounts) / Deputy Director (Administration) (SPS-18)			By promotion on the basis of seniority-cum-fitness from amongst the Assistant Directors (Finance and Accounts) & Assistant Directors (Administration) with at least five years service as such.
2.	Assistant Director (Finance and Accounts) / Assistant Director (Administration) (RPS-17)			By promotion on the basis of seniority cum fitness from amongst the Budget and Accounts Officers with at least two years service as such.
3.	Budget and Accounts Officer (RPS-16)			By promotion on the basis of seniority cum fitness from amongst the Superintendents with at least two years service as such.
4.	Superintendent (RPS-16)			By promotion on the basis of seniority cum fitness amongst the holders of the posts of Assistants and Senior Scale Stenographers with at least five years service as such.
5.	Senior Scale	(i) At least Second Class Bachelor's Degree or equivalent	20 to 30	By promotion on the basis of seniority cum

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ANNEXURE "B" 11

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(14) *in the cadre*
for the cadre
Descriptive of level = 12-

	Stenographers (BPS-16)	qualification from a recognized University; (ii) Speed of Seventy words per minute in shorthand in English and Forty Five words per minute in typing; and (iii) Knowledge of Computer in using MS words and MS Excel.	Years	fitness from amongst the Junior Scale Stenographers (BPS-14) with at least five years service as such.
6.	Assistant (BPS-14)	At least Second Class Bachelor's Degree from a recognized University	20 to 30 Years	(a) Seventy five per cent by promotion, on the basis of seniority-cum-fitness from amongst the Senior Clerks with at least five years service as such; and (b) Twenty five per cent by initial recruitment
7.	Junior Scale Stenographers (BPS-14)	(i) Intermediate or equivalent qualifications from a recognized Board; (ii) Speed of Fifty words per minute in shorthand in English and Thirty Five words per minute in typing; and (iii) Knowledge of Computer in using MS words and MS Excel.	18 to 30 Years	By Initial recruitment.
8.	Senior Clerks (BPS-09)			By promotion on the basis of seniority cum fitness from amongst the Junior Clerks, Assistant Store Keepers and Laboratory Assistants with at least two years service as such.
9.	Junior Clerk/Assistant Store Keeper/Laboratory Assistant (BPS-07)	(i) For Junior Clerk / Assistant Store Keepers having at least Second Division in Secondary School Certificate or equivalent qualifications from a recognized Board and a speed of twenty five words per minute in typing; (ii) For Laboratory Assistants having at least Second Division in Secondary School Certificate or equivalent qualifications from a recognized Board with Science.	18 to 30 Years	(a) Thirty Three per cent by promotion, on the basis of seniority-cum-fitness from amongst the Dastaries, G/Operators, Qasids and Naib Qasids including other equivalent posts in the attached department/offices/institutions with at least Two years service as such and having qualification mentioned in column No. 5. (b) Sixty Seven per cent by initial recruitment Note: For the purpose of promotion, there shall be maintained a joint seniority list of Dastaries, Gestetner Operators, Qasids, Naib Qasids etc including other equivalent posts in the attached department/offices/institutions with reference to the dates of their regular appointment or acquiring Secondary School Certificate whichever is later.

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10.	Driver-(DPS-04)	Having valid Driving License and preferably Literate.	18 to 32 Years	By Initial recruitment
11.	Naib Qasid /Chowkidar/ Behshi/Cook/Beorer/ Shop Attendant/ Laboratory Attendants etc	Preferably Literate	18 to 30 Years	By Initial recruitment

SECRETARY TO GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Endst : of even No & date:

1. The Secretary to Government of Khyber Pakhtunkhwa, Establishment and Administration Department Peshawar.
2. The Secretary to Government of Khyber Pakhtunkhwa, Finance Department Peshawar.
3. The Secretary to Government of Khyber Pakhtunkhwa, Law Department Peshawar.
4. The Secretary Khyber Pakhtunkhwa, Public Service Commission Peshawar.
5. The Accountant General Khyber Pakhtunkhwa Peshawar.
6. The Director, Elementary and Secondary Education Department Khyber Pakhtunkhwa Peshawar.
7. The Director of Education (FATA) Peshawar.
8. The Director, Curriculum and Teacher Education Khyber Pakhtunkhwa Abbottabad.
9. The Director, (PITE) Khyber Pakhtunkhwa Peshawar.
10. The Director, ESRU Elementary and Secondary Education Department Khyber Pakhtunkhwa Peshawar.
11. Manager Government Printing Press Khyber Pakhtunkhwa Peshawar.
12. The Deputy Director, EMIS (S&SE) Department Khyber Pakhtunkhwa Peshawar.
13. All District Education Officer (M&F) in Khyber Pakhtunkhwa Peshawar.
14. All District Account Officer in Khyber Pakhtunkhwa.
15. All Agency Education Officer in FATA.
16. All Agency Account Officer in FATA.
17. PS to Governor Khyber Pakhtunkhwa Peshawar.
18. PS to Chief Minister Khyber Pakhtunkhwa Peshawar.
19. PS to Chief Secretary Khyber Pakhtunkhwa Peshawar.

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- 20. PS to Minister E&SE Khyber Pakhtunkhwa. Peshawar
- 21. PS to Secretary E&SE Khyber Pakhtunkhwa. Peshawar.
- 22. Master file

[Signature]
22-2-2015
SECTION OFFICER (Primary)

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[Signature]

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Judgment Sheet
**PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT.**

W.P.No.2045-P/2022

Muhammad Javed

Versus

**The Govt: of KPK through Chief Secretary
Khyber Pakhtunkhwa and others.**

Date of hearing 04.10.2023

**Petitioner by: Mr. Noor Muhammad Khattak,
advocate.**

Respondent (s) by: Mr. Junaid Zaman, AAG

JUDGEMENT

IJAZ ANWAR, J:- The instant writ petition has

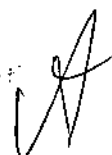
been filed under Article 199 of the Constitution of

Islamic Republic of Pakistan, 1973 with the

following prayer:

**“It is humbly prayed that
on acceptance of the
instant writ petition the
impugned Notification
dated 28.01.2023 may
very kindly be
modified/rectified to the
extent of S.No.09 Column
No. 5 by including the
CADRE of Laboratory
Attendant in the ibid
column for the purpose of**

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promotion to the post of Laboratory Assistant (BPS-07). Any other remedy which this august Court deems fit that may also be awarded in favour of the petitioner."

2. In essence, the grievance of the petitioner who is serving in the respondent Department as Lab Attendant (BPS-03) is that vide Notification dated 28.01.2013 service rules/structure for different posts has been laid down, however, no channel of promotion has been provided to the post of Lab Attendant BPS-03.

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3. Comments were called from the respondents which were submitted accordingly wherein the issuance of the desired writ has been opposed.

4. Arguments of learned counsel for the parties heard and record perused.

5. Petitioner has challenged the vires of the service rules notified Vide Notification dated

28.1.2013 on the ground that no structure has been provided therein for the post of Lab Attendant (BPS-3) for promotion to the post of Lab Assistant BPS-07.

6. Though the petitioner has earlier approached the Service Tribunal for the same relief pertaining to vires of the rules, however his petition has been dismissed on the ground of jurisdiction.

We feel that in view of the judgements of the superior Courts rendered in "I.A Sharwani case "1991 SCMR 1041" and Mubin ul Salam case "2006 SCMR 602", the rules pertaining to promotion, seniority etc being foremost terms and condition of service, as such can only be questioned before the Service Tribunal established under the Service Tribunal Act, 1974. Besides, in terms of Article 212 of the Constitution of Islamic Republic of Pakistan, 1973, the jurisdiction of this court is barred.

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7. For what has been discussed above,
this writ petition is dismissed for want of
jurisdiction.

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JUDGE

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7. For what has been discussed above,
this writ petition is dismissed for want of
Announced on;
Dated. 04.10.2023
jurisdiction.

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JUDGE

D.B. Hon'ble Mr. Justice Ijaz Anwar and Hon'ble Mr. Justice Syed Muhammad Attique Shah

[Handwritten signature]

JUDGE

Announced on;
Dated. 04.10.2023

D.B. Hon'ble Mr. Justice Ijaz Anwar and Hon'ble Mr. Justice Syed Muhammad Attique Shah

Announced on;
Dated. 04.10.2023