


# FORM OF ORDER SHEET

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

**Appeal No.** 2158/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	25/10/2024	<p>The appeal of Mr. Niaz Muhammad presented today by Mr. Khaled Rehman Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 01.11.2024. Parcha Peshi given to counsel for the appellant.</p> <p>By order of the Chairman</p> <p> REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 2158 /2024

Niaz Muhammad..... Appellant

Versus

The Govt. of KPK and others..... Respondents

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Through

Appellant

*Khalid Rahman*  
ASC

&

*Muhammad Ghazanfar Ali*  
Advocate, High Court  
4-B, Haroon Mansion  
Khyber Bazar, Peshawar  
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Dated: 25 /10/2024

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 2158 /2024

Niaz Muhammad

Senior Clerk,

Surplus Pool, Establishment Department..... Appellant

Versus

1. The Govt. of Khyber Pakhtunkhwa  
through Chief Secretary,  
Civil Secretariat, Peshawar.
2. The Secretary  
Govt. of Khyber Pakhtunkhwa  
Administration Department  
Civil Secretariat, Peshawar.
3. The Secretary  
to Govt. of Khyber Pakhtunkhwa  
Establishment Department  
Civil Secretariat, Peshawar..... Respondents

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SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 21.06.2024 WHEREBY SERVICE OF APPELLANT WAS REGULARIZED WITH IMMEDIATE EFFECT AGAINST WHICH APPELLANT FILED DEPARTMENTAL APPEAL ON 15.07.2024 BEFORE RESPONDENT NO.1 BUT THE SAME WAS NOT DECIDED WITHIN THE STATUTORY PERIOD OF 90 DAYS.

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PRAYER:

On acceptance of the instant appeal, the impugned order dated 21.06.2024 may graciously be modified and the appellant be allowed regularization w.e.f. 04.01.2019 with pay protection of contractual service from 27.04.2015 to 31.12.2018 alongwith all consequential back benefits under the principle of consistency and equality before law as his other colleagues similarly placed have been granted the same benefits.

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Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-

1. That the Government of Khyber Pakhtunkhwa promulgated the Khyber Pakhtunkhwa Ehtesab Commission, Act 2014 (*Annex:-A*). Later on the Ehtesab Commission ("the defunct Commission") in various meetings duly approved the selection criteria (*Annex:-B*), pursuant to which appellant applied for one of the posts of Senior Clerks and went through the selection process and consequently, appellant

was initially appointed as Senior Clerk in the defunct Commission vide letter of appointment dated 27.04.2015 (*Annex:-C*) on contract basis. Owing to his performance contract of the appellant was extended from time to time.

2. **That** after the promulgation of Khyber Pakhtunkhwa Ehtesab Commission Employee Service Regulations 2017 (*Annex:-D*), appellant alongwith other employees were subjected to typing and Shorthand tests, wherein they appeared and as a result of which other employees were regularized, whilst appellant was invidiously left out on the score of being overage. It is important to add here that appellant's case was processed for age relaxation to Respondent No.3 but the same was disregarded arbitrarily.
3. **That** the Khyber Pakhtunkhwa Ehtisab Commission Act, 2014 was repealed vide the Khyber Pakhtunkhwa Ehtisab Commission (Repeal) Act, 2018 (*Annex:-E*), which became defunct and consequently appellant was terminated from service while other regularized employees were placed in the surplus pool vide Notification dated 14.05.2019 (*Annex:-F*).
4. **That** appellant being aggrieved of the termination order filed Writ Petition No.2566-P/2022 before the Hon'ble Peshawar High Court which was allowed vide judgment dated 25.01.2023 (*Annex:-G*). The relevant para of the judgment is reproduced hereinbelow:-

12. *"In such view of the matter, we accordingly allow this writ petition and direct the respondents to place the case of petitioner before the competent authority for their age relaxation within a period of two months positively and thereafter they be allowed regularization/ appointment and be treated alike alongwith their other colleagues / contract employees who were regularized / appointed and subsequently adjusted in other Provincial Departments."*

5. **That** since the judgment passed in Writ Petition No.2566-P/2022 was not acted upon therefore, appellant being discontented filed COC No.178-P/2023 before the Hon'ble High Court which was disposed of vide order dated 26.09.2023 (*Annex:-H*). In partial compliance of the ibid judgment Respondent No.3 accorded sanction in respect of upper age limit vide order dated 26.09.2023 (*Annex:-I*), subject to the final outcome of the CPLA while the issue of regularization was sidelined therefore, appellant filed another COC No.80-P/2024 wherein on 17.05.2024 (*Annex:-J*), the following order was passed:-

"2. *The respondents through an order dated 25.09.2023 has allowed age relaxation to the petitioners, however, the petitioners are yet to be regularized in service. In this regard,*

*it is contented by the respondents the parent department of the petitioners was Ehtisab Commission, however, the said commission has now been dissolved and the employees of the said commission are to be placed/parked in the surplus pool. The representative of the respondent seeks time to make further steps towards the regularization of the petition and then place in the surplus pool. Allowed. The said process shall be completed within a period of one month. Adjourned to a dated in office."*

6. That in compliance of the ibid judgment/order service of the appellant was provisionally regularized vide office order dated 21.06.2024 (*Annex:-K*) with immediate effect subject to the final outcome of the CPLA. Subsequently, appellant submitted his Arrival Report on 24.06.2024 (*Annex:-L*).
7. That since service of the appellant was regularized with immediate effect and not from the date when other colleagues of the appellant were regularized therefore, he filed COC No.80-P/2024 which was disposed of vide order dated 26.06.2024 (*Annex:-M*) the relevant para of the same is reproduced below:-

*"2. The worthy Assistant A.G at the very outset, has produced copy of order dated 21.06.2024, whereby pursuant to the judgment of this court, the services of both the petitioners have been regularized. It is contention of the learned counsel for the petitioner that regularization should have been given effect at least from the date of judgment. However, for that, the petitioners may approach the appropriate forum, at the moment, the judgment of this Court stands implemented. In the view of the above, this petition is disposed of accordingly.*

*3. In view of the above, this petition is disposed of accordingly."*

8. That other colleagues similarly placed had earlier approached this Hon'ble Tribunal for the purpose of counting their contractual service for the purpose of pay protection in Service Appeal No.384/2022 which was subsequently allowed vide judgment dated 09.08.2023 (*Annex:-N*) and as the case of the appellant is similar and identical, therefore, the appellant is also entitled to the same relief under the principle of consistency and equality before law.
9. That the appellant in compliance thereof, preferred a Departmental Appeal/Representation to Respondent No.1 on 15.07.2024 (*Annex:-O*) but the same was not disposed of within the statutory period of 90 days, hence this appeal inter-alia on the following grounds:-

**Grounds:**

- A. That Respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic

of Pakistan, 1973 and unlawfully issued the impugned order and refused to regularize service of appellant w.e.f the date when other colleagues of appellant were regularized which is unjust, unfair and hence not sustainable in the eye of law.

- B. That the refusal to the appellant of the same relief which has been granted to the other colleagues of the appellant is an act of utter discrimination in violation of Article-25 read of the Article-27 of the Constitution of the Islamic Republic of Pakistan-1973 and therefore cannot be maintained under the law of the land.
- C. That the appellant has not been treated fairly, justly as the Department turned the deaf ear to the request of regularization w.e.f the date when other similarly placed colleagues were allowed regularization without any solid grounds thus the classification was not based upon reasonable and intelligible differentia.
- D. That the *Objective Resolution* which has been made as substantive part of the Constitution under Article 2A thereof and is considered as sheet anchor of it provides for equality, social justice as enunciated by Islam and guarantees *Fundamental Rights* including equality in earnings social and economic justice and thus the very scheme of Constitution casts a bounden responsibility on all about the equality and equal protection of law, therefore, appellant is entitled under the law to be protected as far as his legal right of regularization w.e.f the due date is concerned.
- E. That this Hon'ble Tribunal in identical circumstances has allowed relief to similarly placed employees, therefore, appellant is also entitled to the same relief under the principle of consistency and equality before law as laid down in the cases of "*Hameed Akhtar Niazi ...Vs... The Secretary Establishment Division, Government of Pakistan and others*" reported in 1996 SCMR 1185 and in the case of "*Tara Chand and others...Vs... Karachi Water and Sewerage Board, Karachi and others*" reported in 2005 SCMR 499 and also "*Govt. of Punjab and others ..Vs.. Seema Parveen and others* reported in 2009 SCMR 1 and "*Bhasir Ahmad Badini, D&SJ Dera Alla Yar and others ..Vs.. The Chairman and Members of Administration and Promotion Committee of the High Court and Baluchistan and others*" 2022 PLC(CS) 610 wherein it has been laid down:-

*"When a Tribunal or Court decides a point of law relating to the terms of service of a civil servant which covered not only the case of the civil servants who litigated, but also of other civil servants, who might have not taken any legal proceedings, the dictates of justice and rules of good governance demand that the benefits of the decision be extended to the other civil servants, who might not be parties to the litigation instead of compelling them to approach the Tribunal or any other forum."*

- F. That similar matter came for discussion before this Service Tribunal in Service Appeal No.384/2022 which was subsequently allowed vide judgment dated 09.08.2023 and as the case of the appellant is similar and identical, therefore, the appellant is also entitled to the same relief under the principle of consistency and equality before law.
- G. That appellant would like to offer some other grounds during the course of arguments.

It is, therefore, humbly prayed that the instant appeal may graciously be accepted as prayed for above.

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

Through

Appellant

Khaled Rahman,  
Advocate, Supreme Court

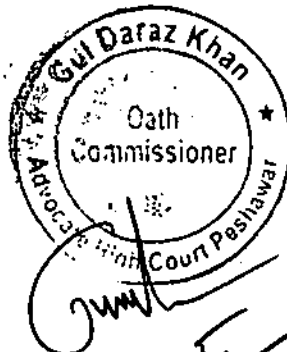
&

Muhammad Chazanfar Ali  
Advocate, High Court

Dated: 25/10/2024

Affidavit

I Niaz Muhammad, Senior Clerk, Surplus Pool, Establishment Department, Khyber Pakhtunkhwa, Peshawar, do hereby solemnly affirm and declare on oath that the contents of this Service Appeal are true and correct to the best of my knowledge, and nothing has been concealed from this Hon'ble Tribunal.



Deponent

(6)

THE KHYBER PAKHTUNKHWA EHTESAB COMMISSION ACT, 2014.

(KHYBER PAKHTUNKHWA ACT NO. I OF 2014)

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<sup>1</sup>Deleted vide Khyber Pakhtunkhwa Act No. XIII of 2017.

<sup>2</sup>Deleted vide Khyber Pakhtunkhwa Act No. XIII of 2017.

<sup>3</sup>Deleted vide Khyber Pakhtunkhwa Act No. XIII of 2017.

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<sup>1</sup>Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2015

<sup>2</sup>Deleted vide Khyber Pakhtunkhwa Act No. XXVII of 2014

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**THE KHYBER PAKHTUNKHWA EHITESAB COMMISSION ACT, 2014.**

**(KHYBER PAKHTUNKHWA ACT NO. I OF 2014)**

*[First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of Khyber Pakhtunkhwa (Extraordinary), dated the 13<sup>th</sup> January, 2014].*

AN

ACT

*to provide for the establishment of a the Khyber Pakhtunkhwa Ehtesab Commission, for good governance to create an effective institutional structure for the prevention of corruption and corrupt practices and to hold accountable all public office holders, accused of such practices.*

WHEREAS the Provincial Government of the Khyber Pakhtunkhwa is desirous to implement the Charter of Good Governance of the Provincial Government, in order to ensure the implementation of laws, safeguard of citizens' rights, and provide justice without delay and in a transparent manner under a system of good governance:

AND WHEREAS pursuant to Articles 37 and 38 of the Constitution of the Islamic Republic of Pakistan, all citizens have a right to the promotion of social justice and social and economic well-being through efficient, honest and effective management of public resources:

AND WHEREAS the Charter of Good Governance of the Provincial Government, requires the provision of a comprehensive redressal mechanism to address failure or misconduct on the part of public office holders, while misusing or abusing their powers or authority through corruption, corrupt practices, misappropriation of property, receiving kickbacks, commissions and for matters connected and ancillary or incidental thereto:

AND WHEREAS it is expedient to provide for a mechanism through which the recovery of Government money and other assets from Public Office Holders, who have misappropriated or received such money or assets through corruption, corrupt practices and misuse of power or authority can be achieved.

NOW, THEREFORE, it is expedient to establish an autonomous and accountable anti-corruption institution in the Province of the Khyber Pakhtunkhwa, in order to promote the integrity and accountability of public sector administration.

It is hereby enacted as follows:

1. Short title, application and commencement.—(1) This Act may be called the Khyber Pakhtunkhwa Ehtesab Commission Act, 2014.

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(2) It shall apply to all the public office holders, who are performing <sup>1</sup>[or have been performed] their functions, directly or indirectly, in connection with the affairs and the employment of Government funds in the Province of the Khyber Pakhtunkhwa and includes all those persons, who are involved and deals <sup>2</sup>[or have been involved or dealt] with the transaction and utilization of Government money.

<sup>3</sup>[(3) It shall come into force at once and shall be deemed to have taken effect from the 1st day of January, 2004:

Provided that all the amendments made in this Act till the commencement of the Khyber Pakhtunkhwa Ehtesab Commission (Amendment) Act, 2015, shall be deemed to have come in to force from the 1st day of January, 2004].

2. Definitions.--(1) In this Act, unless there is anything repugnant in the subject or context,-

- (a) "accused" means a person in respect of whom there are reasonable grounds to believe that he is or has been involved in the commission of any offence triable under this Act or is the subject of an investigation or inquiry by the <sup>4</sup>[Directorate General], or any other agency authorized by the Commission in this regard under this Act;
- (b) "assets" means any property owned or controlled by or belonging to an accused whether directly or indirectly or held benami in the name of his spouse or relatives or associates, whether within or outside Pakistan which he cannot reasonably account for or for which he cannot prove payment of full and lawful consideration;
- (c) "associates" means-
  - (i) any person who is or has been managing the affairs of or keeping accounts for the accused or who enjoys or has enjoyed any benefit from the assets;
  - (ii) any association of persons, body of individuals, partnership firm or private limited company within the meaning of the Companies Ordinance, 1984 (Ord. No. XLVII of 1984), of which the accused is or has been a member, partner or director or which has been promoted, floated, established or run by the accused, whether singly or jointly, with other persons;
  - (iii) a trustee of any trust declared by the accused, or of which the accused is also a trustee or a beneficiary; and

<sup>1</sup>Inserted vide Khyber Pakhtunkhwa Act No. XVI of 2015

<sup>2</sup>Inserted vide Khyber Pakhtunkhwa Act No. XVI of 2015

<sup>3</sup>Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2015

<sup>4</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

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- (iv) a benamidar;
- (d) "benamidar" means any person, who ostensibly holds or is in possession or custody of any property of an accused on his behalf for the benefit and enjoyment of the accused;
- (e) "Chief Minister" means the Chief Minister of the Province of the Khyber Pakhtunkhwa;
- (f) "Code" means the Code of Criminal Procedure, 1898 (V of 1398);
- (g) "Commission" means the Khyber Pakhtunkhwa Ehtesab Commission established under section 3;
- <sup>1</sup>[(h) "Commissioner" means a Commissioner appointed under section 4 of this Act;]
- (i) "complaint" means a written instrument submitted by the complainant, signed and verified on oath, having his detail particulars and copy of CNIC;
- (j) "corruption and corrupt practices" mean the offenses as specified under section 23 and are triable by the Court;
- (k) "Court" means an Ehtesab Court, established under section 41 to try offenses under this Act;
- (l) "Director General" means the Director General of the <sup>2</sup>[Directorate General], as appointed by the Commission under section 12;
- <sup>3</sup>[(la) "Directorate General" means the Directorate General of the Commission, established under section 3A of this Act.]
- (m) "family" means parents, spouse, children, brothers and sisters;
- (n) "Government" means the Government of the Khyber Pakhtunkhwa;
- <sup>4</sup>[Deleted]
- (p) "gratification" means-
- (i) money, donation, gift, loan, fee, reward, valuable security, property or interest in property, being property of any

<sup>1</sup>Substituted vide Khyber Pakhtunkhwa Act No. XIII of 2017

<sup>2</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>3</sup>Inserted vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>4</sup>Deleted vide Khyber Pakhtunkhwa Act No. XIII of 2017

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description whether movable or immovable, financial benefit or any other similar advantage;

- (ii) any office, dignity, employment, contract of employment or services, and agreement to give employment or render services in any capacity;
- (iii) any payment, release, discharge or liquidation of any loan, obligation or other liability, whether in whole or in part;
- (iv) any valuable consideration of any kind, any discount, commission, rebate, bonus, deduction or percentage;
- (v) any forbearance to demand any money or money's worth or valuable thing;
- (vi) any other service or favor of any description, including protection from any penalty or disability incurred or apprehended or from any action or proceedings of a disciplinary, civil or criminal nature, whether or not already instituted, and including the exercise or the forbearance from the exercise of any right or any official power or duty; and
- (vii) any offer, undertaking or promise, whether conditional or unconditional, of any gratification within the meaning of any of the preceding clauses;

<sup>1</sup>[Deleted]

- (r) "Order" means the Qanun-e-Shahadat Order, 1984 (X of 1984);
- (s) "Penal Code" means the Pakistan Penal Code, 1860 (XLV of 1860);
- (t) "prescribed" means prescribed by rules <sup>2</sup>[or regulations];
- (u) "Province" means the Province of the Khyber Pakhtunkhwa;

<sup>3</sup>[Deleted]

(w) "public office holder" means and includes-

- (i) a person, as defined under section 2 of the Prevention of Corruption Act, 1947 (Act No. II of 1947); or

<sup>1</sup>Deleted vide Khyber Pakhtunkhwa Act No. XIII of 2017

<sup>2</sup>Added vide Khyber Pakhtunkhwa Act No. XXXI of 2015

<sup>3</sup>Deleted vide Khyber Pakhtunkhwa Act No. XIII of 2017

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function, including for a public agency, public enterprise, foreign funded public program or any other person or entity utilizing public revenue of the Province; or provides a public service, as defined in any law for the time being in force; or

(iv) any other person or entity owned or controlled by Government directly or indirectly;

(x) "regulations" mean the regulations made under this Act;

(y) "reference" means a reference filed in the Court by the Director General, or an officer of the <sup>3</sup>[Directorate General] duly authorized by him, in the manner specified in section 36;

(z) "report" means the report prepared and submitted pursuant to section 17 of this Act;

(aa) "rules" mean the rules made under this Act;

(ab) "Schedule" means the Schedule appended to this Act;

<sup>4</sup>[(ac) "Selection Committee" means the Selection Committee constituted under section 6 of this Act;]

<sup>5</sup>[Deleted]

(ae) "section" means a section of this Act;

(af) "State" means a foreign state for purposes of this Act; and

(ag) "Wings" mean the Wings of the <sup>6</sup>[Directorate General], as provided in section 11.

<sup>1</sup>Inserted vide Khyber Pakhtunkhwa Act No. XVI of 2015

<sup>2</sup>Inserted vide Khyber Pakhtunkhwa Act No. XVI of 2015

<sup>3</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>4</sup>Substituted vide Khyber Pakhtunkhwa Act No. XIII of 2015

<sup>5</sup>Deleted vide Khyber Pakhtunkhwa Act No. XIII of 2015

<sup>6</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

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description whether movable or immovable, financial benefit or any other similar advantage;

- (ii) any office, dignity, employment, contract of employment or services, and agreement to give employment or render services in any capacity;
- (iii) any payment, release, discharge or liquidation of any loan, obligation or other liability, whether in whole or in part;
- (iv) any valuable consideration of any kind, any discount, commission, rebate, bonus, deduction or percentage;
- (v) any forbearance to demand any money or money's worth or valuable thing;
- (vi) any other service or favor of any description, including protection from any penalty or disability incurred or apprehended or from any action or proceedings of a disciplinary, civil or criminal nature, whether or not already instituted, and including the exercise or the forbearance from the exercise of any right or any official power or duty; and
- (vii) any offer, undertaking or promise, whether conditional or unconditional, of any gratification within the meaning of any of the preceding clauses;

<sup>1</sup>[Deleted]

- (r) "Order" means the Qanun-e-Shahadat Order, 1984 (X of 1984);
- (s) "Penal Code" means the Pakistan Penal Code, 1860 (XLV of 1860);
- (t) "prescribed" means prescribed by rules <sup>2</sup>[or regulations];
- (u) "Province" means the Province of the Khyber Pakhtunkhwa;

<sup>3</sup>[Deleted]

(w) "public office holder" means and includes-

- (i) a person, as defined under section 2 of the Prevention of Corruption Act, 1947 (Act No. II of 1947); or

<sup>1</sup>Deleted vide Khyber Pakhtunkhwa Act No. XIII of 2017

<sup>2</sup>Added vide Khyber Pakhtunkhwa Act No. XXXI of 2015

<sup>3</sup>Deleted vide Khyber Pakhtunkhwa Act No. XIII of 2017

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- (ii) a person holding <sup>1</sup>[or has been held] a legislative, executive or administrative position in exercising the authority of the Province, whether appointed or elected, permanent or temporary, paid or unpaid, irrespective of such person's seniority; or
- (iii) a person, who performs <sup>2</sup>[or have been performed] a public function, including for a public agency, public enterprise, foreign funded public program or any other person or entity utilizing public revenue of the Province, or provides a public service, as defined in any law for the time being in force; or
- (iv) any other person or entity owned or controlled by Government directly or indirectly;
- (x) "regulations" mean the regulations made under this Act;
- (y) "reference" means a reference filed in the Court by the Director General, or an officer of the <sup>3</sup>[Directorate General] duly authorized by him, in the manner specified in section 36;
- (z) "report" means the report prepared and submitted pursuant to section 17 of this Act;
- (aa) "rules" mean the rules made under this Act;
- (ab) "Schedule" means the Schedule appended to this Act;
- <sup>4</sup>[(ac) "Selection Committee" means the Selection Committee constituted under section 6 of this Act;]
- <sup>5</sup>[Deleted]
- (ae) "section" means a section of this Act;
- (af) "State" means a foreign state for purposes of this Act; and
- (ag) "Wings" mean the Wings of the <sup>6</sup>[Directorate General], as provided in section 11

<sup>1</sup>Inserted vide Khyber Pakhtunkhwa Act No. XVI of 2015

<sup>2</sup>Inserted vide Khyber Pakhtunkhwa Act No. XVI of 2015

<sup>3</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>4</sup>Substituted vide Khyber Pakhtunkhwa Act No. XIII of 2017

<sup>5</sup>Deleted vide Khyber Pakhtunkhwa Act No. XIII of 2017

<sup>6</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

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**PART-I**  
**KHYBER PAKHTUNKHWA**  
**EHTESAB COMMISSION**

3. Establishment of the Commission.—As soon as, after the commencement of this Act, Government shall establish a Commission, to be known as the Khyber Pakhtunkhwa Ehtesab Commission.

<sup>1</sup>[3A. Directorate General of the Commission.—(1) There shall be a Directorate General of the Commission to be headed by a Director General and shall consist of Prosecutor General and Directors of the various wings mentioned in section 11 of this Act and other employees working in connection with the affairs of the Commission.

(2) All actions by the Directorate General under this Act shall be taken by the name of the Commission.]

4. Composition of the Commission.—<sup>2</sup>(1) The Commission shall consist of two (02) Commissioners to be appointed by the Government on the recommendation of Selection Committee:

Provided that the existing Commissioners appointed before the commencement of the Khyber Pakhtunkhwa Ehtesab Commission (Second Amendment) Act, 2017, shall continue their function under this Act, till the expiration of their tenure and after expiration of the tenure, the Commission shall be re-constituted by appointing two (02) Commissioners in accordance with the provisions of this Act.]

<sup>3</sup>[Deleted]

(2) The Commissioners shall hold office for one non-extendable term of four (04) years from the day <sup>4</sup>[they enter their offices] and shall not be eligible for reappointment or reappointment for a second term:

<sup>5</sup>[(3) Whenever, the office of Commissioner falls vacant, before the completion of the term of the said Commissioner, the Government shall upon the recommendation of the Selection Committee, appoint a new Commissioner on the recommendation of Selection Committee for the term of four (04) years.]

(4) No act or proceedings of the Commission shall be invalid by reason of absence of a Commissioner or existence of any vacancy among its members.

(5) A person shall not be appointed as Commissioner unless he:

<sup>1</sup>Inserted vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>2</sup>Substituted vide Khyber Pakhtunkhwa Act No. XIII of 2017.

<sup>3</sup>Deleted vide Khyber Pakhtunkhwa Act No. XIII of 2017

<sup>4</sup>Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2015

<sup>5</sup>Substituted vide Khyber Pakhtunkhwa Act No. XIII of 2017

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- (a) is a citizen of Pakistan;
- (b) is the permanent resident of Khyber Pakhtunkhwa Province;
- (c) is an individual with reputation of high moral integrity and competency;
- (d) is sagacious, righteous, honest and a person with a good character;
- (e) is mentally and physically fit;
- (f) has a Bachelor's Degree and at least twenty (20) years of experience in the relevant field;
- (g) is minimum forty (40) years of age during the year of appointment or selection; and
- (h) declare his assets as per law.

(6) A Commissioner shall cease to hold office if he:

- (a) has been convicted of an offence involving moral turpitude;
- (b) has been adjudged insolvent;
- (c) has been declared by a Medical Board, constituted by Government to be physically or mentally unfit to carry out his functions as a Commissioner;
- (d) does not attend five (05) consecutive meetings of the Commission without leave of the Commission; or
- (e) is a defaulter of Government dues, utility expenses or a bank

(7) A Commissioner may, by writing under his hand addressed to the Governor, resign from his office

(8) A Commissioner shall not, at the time of appointment to the Commission.

- (a) hold any other office in the service of Pakistan or be the office bearer of a political party, unless he resigns such office one (1) year prior at the time of his appointment; or
- (b) occupy any other position carrying the right to remuneration for the rendering of services

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(9) A person who has held office as Commissioner shall not hold any office in the service of Pakistan before the expiration of two (02) years after he has ceased to hold that office.

(10) During his term in office, if a Commissioner has any interest in any matter to be discussed, inquired, investigated or decided by the <sup>1</sup>[Directorate General], he shall, prior to any discussion of the matter, disclose in writing to the <sup>2</sup>[Directorate General], the fact of his interest and the nature thereof.

Explanation.—For the purpose of this section, a Commissioner shall be deemed to have an interest in a matter if he has any interest, pecuniary or otherwise, in such matter which could reasonably be regarded as giving rise to a conflict between his duty to honestly perform his functions under this Act and such interest, so that his ability to consider and decide any question impartially or to give any advice without bias, may reasonably be regarded as impaired.

(11) A disclosure of interest under sub-section (10), shall be recorded in the minutes of meetings of the Commission, prior to any discussion of, or decision on, the matter and, after the disclosure, the Commissioner shall:

- (a) not take part nor be present in any deliberation or decision of the Commission; and
- (b) be disregarded for the purpose of constitution of a quorum of the Commission.

(12) In connection with the performance of functions under this Act, Government may allow such honoraria and allowances to the Commissioners, as it may determine.

<sup>3</sup>[Deleted]

<sup>4</sup>6. Constitution of Selection Committee.—(1) There shall be constituted a Selection Committee consisting of the Judges of the Administrative Committee of the High Court and the Advocate General for recommending suitable persons for each category to the Commission, for their appointment as Director General, Prosecutor General and Director Internal Monitoring and Public Complaints Wing, by inviting applications from the general public through advertisement:

Provided that in case of appointment of Commissioners, such recommendation shall be given to the Government:

Provided further that the recommendations given under this sub-section shall be binding on the Government.

<sup>1</sup>Substituted vide Khyber Pakhtunkhwa Act No. XIII of 2017  
<sup>2</sup>Substituted vide Khyber Pakhtunkhwa Act No. XIII of 2017  
<sup>3</sup>Deleted vide Khyber Pakhtunkhwa Act No. XIII of 2017  
<sup>4</sup>Substituted vide Khyber Pakhtunkhwa Act No. XIII of 2017

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(2) The procedure of selection shall be completed within a period of one hundred and twenty (120) days, when any position falls vacant, while the procedure for such selection shall be started within a period of seven (07) days, from the date when the position falls vacant.

(3) The criteria for evaluating the candidate shall be such as the Selection Committee may determine in this behalf; provided that before giving recommendation to the Government or the Commission, as the case may be, for appointment, comments and objections of general public may be obtained with respect to eligible candidate.

(4) Within fifteen (15) days of the receipt of recommendations of the Selection Committee, the Government or the Commission, as the case may be, shall appoint the person on the vacant position and shall issue notification accordingly.

(5) The Selection Committee shall also-

- (a) inquire into allegation of abuse of authority or misconduct by the Commissioners, Director General, Prosecutor General and Director Internal Monitoring and Public Complaints Wing and after giving an opportunity to be heard in person, if found guilty, may recommend to the Government or the Commission, as the case may be, for removal and such recommendation shall have binding effect;
- (b) oversee the overall performance of the Director General and its officers and employees without interfering in day to day administrative matters; and
- (c) inquire into allegations of corruption and the corrupt practices within the Directorate General or any other officer or employee of the Directorate General and recommend competent authority for necessary action in accordance with rules and regulations.]

<sup>1</sup>[Deleted]

<sup>2</sup>[Deleted]

9. Powers and functions of the Commission.—The Commission shall have the power to:

<sup>3</sup>[Deleted]

<sup>1</sup>Deleted vide Khyber Pakhtunkhwa Act No. XIII of 2017

<sup>2</sup>Deleted vide Khyber Pakhtunkhwa Act No. XIII of 2017

<sup>3</sup>Deleted vide Khyber Pakhtunkhwa Act No. XIII of 2017

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(2) The procedure of selection shall be completed within a period of one hundred and twenty (120) days, when any position falls vacant, while the procedure for such selection shall be started within a period of seven (07) days, from the date when the position falls vacant.

(3) The criteria for evaluating the candidate shall be such as the Selection Committee may determine in this behalf, provided that before giving recommendation to the Government or the Commission, as the case may be, for appointment, comment and objections of general public may be obtained with respect to eligible candidate.

(4) Within fifteen (15) days of the receipt of recommendations of the Selection Committee, the Government or the Commission, as the case may be, shall appoint the person on the vacant position and shall issue notification accordingly.

(5) The Selection Committee shall also-

- (a) inquire into allegation of abuse of authority or misconduct by the Commissioners, Director General, Prosecutor General and Director Internal Monitoring and Public Complaints Wing and after giving an opportunity to be heard in person, if found guilty, may recommend to the Government or the Commission, as the case may be, for removal and such recommendation shall have binding effect.
- (b) oversee the overall performance of the Director General, its officers and employees without interfering in day to day operational matters; and
- (c) inquire into allegations the corruption and the corrupt practices within the Directorate General or any other officer or employee of the Directorate General and recommend competent authority for necessary action in accordance with rules and regulations.]

<sup>1</sup>[Deleted]

<sup>2</sup>[Deleted]

9. Powers and functions of the Commission.—The Commission shall have the power to:

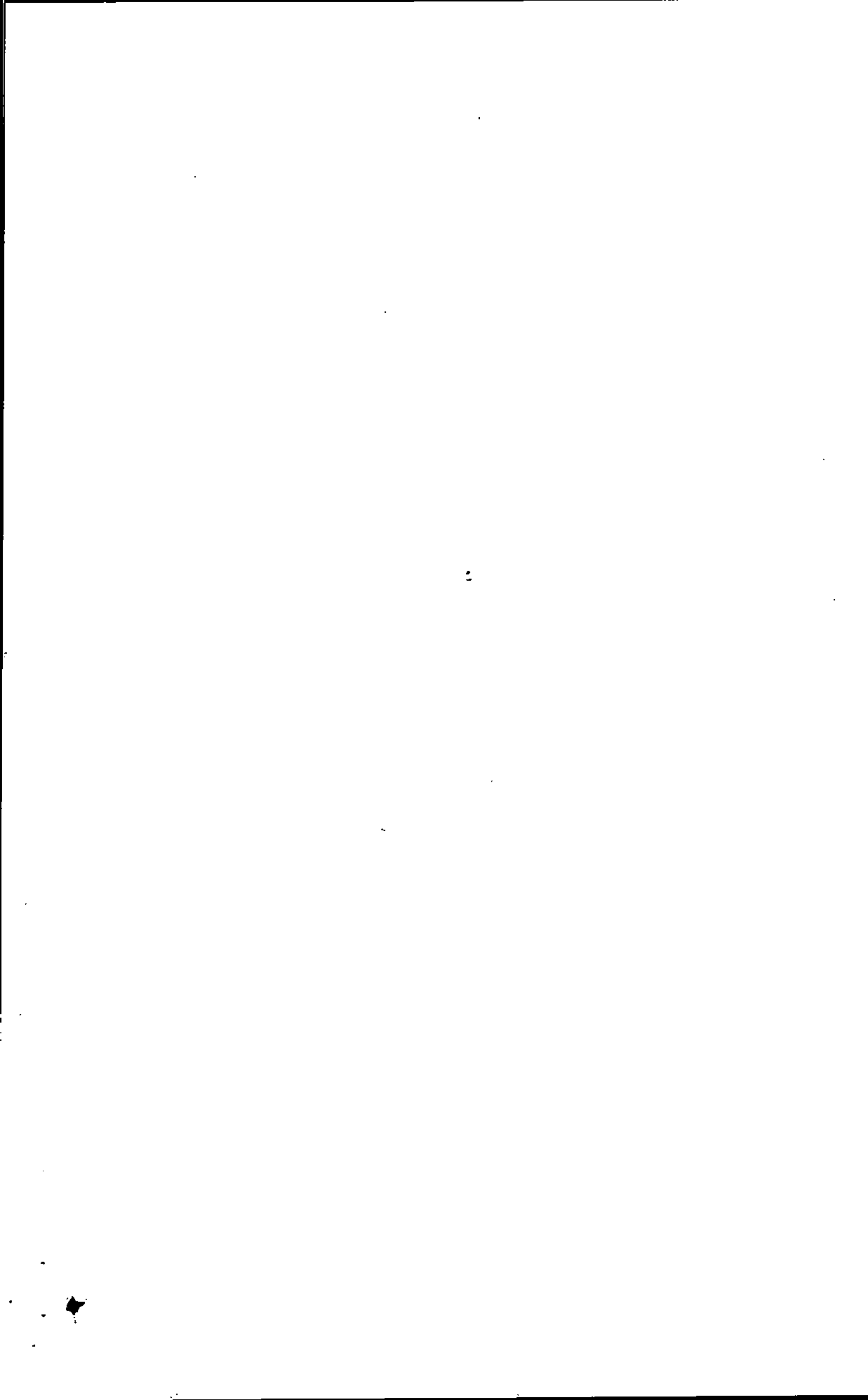
<sup>3</sup>[Deleted]

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<sup>1</sup>[Deleted] vide Khyber Pakhtunkhwa Act No. XIII of 2017

<sup>2</sup>[Deleted] vide Khyber Pakhtunkhwa Act No. XIII of 2017

<sup>3</sup>[Deleted] vide Khyber Pakhtunkhwa Act No. XIII of 2017



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(b) approve organizational structure and positions to be filled in by employees appointed in accordance with sub-section (4) of section 11 and any creation or deletion of such positions;

<sup>1</sup>[(c) approve annual budget of the Commission, Directorate General and Ehtesab Courts;]

(d) approve regulation required to be made under this Act;

(e) issue policy guidelines for the <sup>2</sup>[Directorate General], its officers and employees;

<sup>3</sup>[Deleted]

(g) delegate such of their powers and functions to the officers of the <sup>4</sup>[Directorate General], as it may consider necessary for the efficient implementation of this Act;

(h) prescribe <sup>5</sup>[except for the Investigation and Prosecution Wings, the] terms and conditions of service of employees and approve the human resource policy of the Commission;

<sup>6</sup>[Deleted]

(j) exercise such powers and authority as are granted to it under this Act.

10. Meetings of the Commission.—(1) The Commission may meet, once in a month, <sup>7</sup>[or when required], for the effective performance of its functions.

<sup>8</sup>[Deleted]

<sup>9</sup>[(3) All decisions of the Commission shall be taken by consensus.]

(4) The Commission shall in the prescribed manner, determine the procedure of meetings, recording of minutes and other ancillary matters in this respect.

<sup>10</sup>[(5) The Directorate General shall provide secretariat support to the Commission.]

<sup>1</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>2</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>3</sup>Deleted vide Khyber Pakhtunkhwa Act No. XIII of 2017

<sup>4</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>5</sup>Inserted vide Khyber Pakhtunkhwa Act No. V of 2017

<sup>6</sup>Deleted vide Khyber Pakhtunkhwa Act No. XIII of 2017

<sup>7</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>8</sup>Deleted vide Khyber Pakhtunkhwa Act No. XIII of 2017

<sup>9</sup>Substituted vide Khyber Pakhtunkhwa Act No. XIII of 2017

<sup>10</sup>Added vide Khyber Pakhtunkhwa Act No. X of 2016

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11. Organizational structure of the <sup>1</sup>[Directorate General].—(1) The Directorate General of the Commission shall comprise of the following Wings:

- (a) the Information and Data Processing Wing;
- (b) the Investigation Wing;
- (c) the Prosecution Wing;
- (d) the Finance and Audit Wing;
- (e) the Internal Monitoring and Public Complaints Wing; and
- (f) the Human Resource Wing.

<sup>2</sup>[(2) Each Wing shall be headed by a Director who shall be appointed in the prescribed manner.]

<sup>3</sup>[(2A) Notwithstanding anything contained in this Act regarding appointment of officers and staff of the Directorate General, the eligibility criteria and method of appointment of the officers and staff of the Investigation Wing and Prosecution Wing shall be such as may be prescribed by rules.

Provided that for the purpose of appointment of the officers and staff of the Investigation Wing, due regard shall be given to person having expertise in the legal and investigation matters;

Provided further that in case of Prosecution Wing, appointment shall be made on contract basis and due regard shall be given to persons having expertise in the legal and prosecution matters.]

(3) The Director of each Wing shall be responsible for oversight, advocacy, training and recommending policy measures for the effective management and functioning of his respective Wing

<sup>4</sup>[(4) Unless otherwise provided in this Act, the officers, staff and other employees, including Advisors and Consultants, shall be appointed by the Director General, in a transparent manner, subject to the eligibility criteria and method of appointment laid down in the terms and conditions of service prescribed:

Provided that all persons appointed in the Directorate General, before the commencement of the Khyber Pakhtunkhwa Ehtesab Commission (Amendment) Act, 2017, shall be examined by a Committee, to be headed by the Directorate General, as he may

<sup>1</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2017

<sup>2</sup>Substituted vide Khyber Pakhtunkhwa Act No. V of 2017

<sup>3</sup>Added vide Khyber Pakhtunkhwa Act No. V of 2017

<sup>4</sup>Substituted vide Khyber Pakhtunkhwa Act No. V of 2017

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deem appropriate, in accordance with the qualification and other terms and conditions of service, prescribed under this Act.]

(5) The officers, staff and employees of the Commission employed in each Wing shall be entitled to such salary, allowances and other terms and conditions of service as the Commission, may prescribe.

(6) Notwithstanding anything contained herein contrary or in any law for the time being in force, the Director General shall not be required to consult the Khyber Pakhtunkhwa Public Service Commission for making appointments and on matters related to qualifications of persons for such appointments and method of their recruitment and the criteria of eligibility for recruitment shall be such as prescribed by the Commission.

12. Director General.—<sup>1</sup>[(1) The Commission on the recommendation of Selection Committee shall appoint Director General to fulfill such duties and responsibilities as specified in this Act.]

(2) The Director General shall hold office for one non-extendable term of four (04) years from the day he enters his office and shall not be eligible for re-appointment for a second term.

(3) The Director General shall cease to hold office if he:

- (a) has been convicted of an offence involving moral turpitude;
- (b) has been adjudged insolvent;
- (c) has been declared by a Medical Board constituted by Government, to be physically or mentally unfit; or
- (d) is a defaulter of Government dues, utility or a bank expenses; or

<sup>2</sup>[Deleted]

(4) A person shall not be appointed as Director General unless he:

- (a) is a citizen of Pakistan preferably from Khyber Pakhtunkhwa;
- (b) is an individual with reputation of high moral integrity;
- <sup>3</sup>[(c) falls within one of the following categories:

<sup>1</sup>Substituted vide Khyber Pakhtunkhwa Act No. XIII of 2017

<sup>2</sup>Deleted vide Khyber Pakhtunkhwa Act No. XIII of 2017

<sup>3</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

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- (i) is a retired Government officer in BPS 20 or above having master degree with fifteen (15) years administrative experience including three (03) years experience in [senior administrative position or] investigation in a leadership position; or
- (ii) is a retired <sup>2</sup>[confirmed] judge of the High Court; or
- (iii) a lawyer with fifteen (15) years practice in prosecution; <sup>3</sup>[Deleted]

<sup>4</sup>[Deleted].

- (d) is not less than forty and more than sixty-five (65) years of age at the time of selection; and
- (e) declare his assets as per law.

(5) The Director General shall not:

- (a) hold any other office of profit in the service of Pakistan or be the office bearer of a political party, unless he resigns such office at the time of his appointment; or
- (b) occupy any other position carrying the right to remuneration for the rendering of services; or
- (c) pursue his profession while being Director General.

(6) During his term in office, if the Director General has any interest in any matter to be inquired, investigated or decided by the <sup>5</sup>[Directorate General], he shall disclose in writing, to the Commission, the fact of his interest and the nature thereof, and the Commission shall pass appropriate instructions for exercise of any authority under this Act in relation to such matter.

**Explanation.**—For the purpose of this section, the Director General shall be deemed to have an interest in a matter if he has any interest, pecuniary or otherwise, in such matter which could reasonably be regarded as giving rise to a conflict between his duty to honestly perform his functions under this Act and such interest, so that his ability to consider and decide any question impartially or to give any advice without bias, may reasonably be regarded as impaired.

<sup>1</sup>Substituted vide Khyber Pakhtunkhwa Act No. V of 2017

<sup>2</sup>Inserted vide Khyber Pakhtunkhwa Act No. XIII of 2017

<sup>3</sup>Deleted vide Khyber Pakhtunkhwa Act No. XIII of 2017

<sup>4</sup>Deleted vide Khyber Pakhtunkhwa Act No. XIII of 2017

<sup>5</sup>Substituted vide Khyber Pakhtunkhwa Act No. XIII of 2017

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(7) A person who has held office as Director General shall not hold any office in the service of Government before the expiration of two (02) years after he has ceased to hold that office.

(8) The Director General may, by writing under his hand addressed to the <sup>1</sup>[Commission], resign from his office.

<sup>2</sup>(9) Whenever the post of Director General falls vacant, before completion of his term due to any reason which requires the appointment of regular Director General, the <sup>3</sup>[Commission] shall appoint or designate temporarily an officer amongst the senior officers of Directorate General any person or officer as Director General; to look after the office of Director General till the appointment of regular Director General.

(10) Notwithstanding anything contained in this section, the Acting Director General already designated before coming in force of this Act, shall be deemed to have been validly designated under this Act, with effect from the date of his so designated till the appointment of a regular Director General under this Act.]

13. Powers and functions of the Director General.—<sup>4</sup>[(1)] The Director General shall be responsible for the day to day operation and administration of the <sup>5</sup>[Directorate General], unless otherwise provided in this Act, and in performance of his duties shall exercise the following powers on behalf of the <sup>6</sup>[Directorate General]:

- (a) the Director General, or an officer of the <sup>7</sup>[Directorate General] duly authorized by him, may seek full and complete assistance and call for all or any documents and information relevant to or in connection with any matter or inquiry or investigation pending before the <sup>8</sup>[Directorate General], or disposal of any property surrendered to or seized by the <sup>9</sup>[Directorate General], from any department of Government, the Federal Government, local authority, bank, financial institution, person or any authority and institution or department in the public sector or the private sector as he may deem it fit and proper to demand or require; provided that in any case in which a question of secrecy is involved or is raised at any time, the decision of the Director General shall be final;

<sup>1</sup>Substituted vide Khyber Pakhtunkhwa Act No. XIII of 2017

<sup>2</sup>Added vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>3</sup>Substituted vide Khyber Pakhtunkhwa Act No. XIII of 2017

<sup>4</sup>Numbered vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>5</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>6</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>7</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>8</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>9</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

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(b) the Director General, or an officer of the <sup>1</sup>[Directorate General] duly authorized by him, may, during the course of an inquiry or investigation of an offence under this Act,-

- (i) call for information from any person for the purpose of determining whether there has been any contravention of the provisions of this Act or any rule or order made thereunder;
- (ii) require any person to produce or delivery any document or item useful or relevant to the inquiry or investigation being carried out;
- (iii) direct the relevant department to examine any person acquainted with the facts and circumstances of the case being investigated;
- (iv) where there is reasonable suspicion that any person is involved in or is privy to an offence under this Act, the Director General may, with the prior written authorization of a Court, seek the aid and assistance of any investigation or intelligence agency to conduct the surveillance of that person and the information so collected may be used as evidence in a trial under this Act

Provided that the Court shall grant such authorization without notice to the person who is to be subjected to surveillance only if the <sup>2</sup>[Directorate General] establishes a prima facie case for reasonable suspicion against such person:

Provided further that the information received or evidence collected pursuant to such surveillance shall be kept confidential and shall not be used for any purpose other than for legal proceedings under this Act.

(c) the Director General, or an officer of the <sup>3</sup>[Directorate General] duly authorized by him, may seek the assistance of law enforcement agencies in the Province for purposes of ensuring that proper investigation and prosecution, if initiated by the <sup>4</sup>[Directorate General], is carried out against an accused;

(d) the Director General, or an officer of the <sup>5</sup>[Directorate General] duly authorized by him, may request a Foreign State through the Federal

<sup>1</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>2</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>3</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>4</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>5</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

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Government of Pakistan to extend his support for the arrest of the accused and recovery of assets from such accused.

Provided that notwithstanding anything contained in the Order or any other law for the time being in force, all evidence, documents or any other material transferred to Pakistan by a Foreign Government shall be admissible as evidence in legal proceedings under this Act.

- (e) the Director General may, on the recommendation of the Prosecutor General and the Director of the Finance and Audit Wing, for purposes of an inquiry, investigation or prosecution, seek a declaration of assets and details of taxes filed by an accused;
- (f) the Director General may, on the recommendation of the Prosecutor General and the Director of the Investigation Wing, if there appear reasonable grounds for believing that the accused has committed an offence under this Act, order the freezing of his property or any part thereof, whether in his possession or in the possession of any relative, associate or benamidar in accordance with section 27 of this Act; [and]
- (g) the Director General, or an officer of the <sup>2</sup>[Directorate General] duly authorized by him, may, following a proper and transparent investigation, trial and conviction of an accused under this Act, make a recommendation for the suspension of service of such public office holder from his office and such recommendation shall be given serious consideration for implementation by the department such public office holder is employed in <sup>3</sup>[.]

<sup>4</sup> Deleted]

<sup>5</sup> Deleted]

<sup>6</sup>[(2) Subject to the provisions of this Act, where any record has been provided to or ceased by the Commission for the purpose of any inquiry or investigation, from any Department of Government, the Federal Government, local authority, bank, financial institutions, persons or any authority and institutions or department in the public or the private sector, as the case may be, shall be returned in original to the concerned institution, as soon as possible but not later than thirty (30) days:

Provided that copy of record may also be provided to the accused upon request within thirty (30) days.]

<sup>1</sup>Added vide Khyber Pakhtunkhwa Act No. X of 2016  
<sup>2</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016  
<sup>3</sup>Replaced vide Khyber Pakhtunkhwa Act No. X of 2016  
<sup>4</sup>Deleted vide Khyber Pakhtunkhwa Act No. X of 2016  
<sup>5</sup>Deleted vide Khyber Pakhtunkhwa Act No. X of 2016  
<sup>6</sup>Added vide Khyber Pakhtunkhwa Act No. X of 2016

  
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**14. Appointment of Prosecutor General.**-- <sup>1</sup> [(3) The Commission on the recommendation of Selection Committee shall appoint Prosecutor General to fulfill such duties and responsibilities as specified in this Act.]

(2) The Prosecutor General shall hold such office on a full time basis for a non-extendable period of four (04) years and shall not hold any other office concurrently during such term.

(3) The Prosecutor General shall not be removed from office unless he:

- (a) has been convicted of an offence involving moral turpitude; or
- (b) has been adjudged insolvent; or
- (c) has been declared by a registered physician appointed by Government to be physically or mentally unfit; or
- (d) is a defaulter of Government dues, a bank or utility expenses; or

<sup>2</sup>[Deleted]

(4) The Prosecutor General may, by writing under his hand addressed to the Commission, resign from his office.

**15. Powers and functions of Prosecutor General.**--(1) The Prosecutor General shall give advice to the Commissioners and the Director General upon such legal matters and perform such other duties of a legal character as may be referred or assigned to him by the Director General and in the performance of his duties, he shall have the right of audience in all Anti-Corruption Courts and all other Courts including the High Courts and the Supreme Court.

(2) The Prosecutor General shall make recommendations to the Director General of candidates for the posts of Special Prosecutors who shall be appointed by the Director General in accordance with the terms and conditions of service.

(3) The Prosecutor General shall head the Prosecution Wing and shall be responsible for overseeing the performance of Special Prosecutors who have been appointed to conduct prosecutions of cases and advocates that have been appointed to institute or defend cases, appeals, petitions, applications and all other matters before any Court or Tribunal including the High Courts and Supreme Court in matters arising out of or relating to proceedings under this Act.

<sup>1</sup>Substituted vide Khyber Pakhtunkhwa Act No. XIII of 2017

<sup>2</sup>Deleted vide Khyber Pakhtunkhwa Act No. XIII of 2017

(4) For purposes of this Act, the Special Prosecutors, employed by the Commission, shall be deemed to be Public Prosecutors within the meaning of section 492 of the Code and the provisions of the Code shall mutatis mutandis apply to such Special Prosecutors accordingly.

16. Director, Internal Monitoring and Public Complaints Wing.— [(1) The Commission on the recommendation of Selection Committee shall appoint Director Internal Monitoring and Public Complaints Wing to fulfill such duties and responsibilities as specified in this Act.]

<sup>2</sup>[(1A) No person shall be appointed as Director Internal Monitoring and Public Complaints Wing, unless he has at least second class master degree or equivalent qualification from a recognized university with fifteen (15) years experience with monitoring or investigation and intelligence.]

(2) The Director of the Internal Monitoring and Public Complaints Wing shall head the Wing responsible for internal monitoring of the performance of officers of the <sup>3</sup>[Directorate General] and receipt of complaints of misconduct from any citizen against any officers of the <sup>4</sup>[Directorate General].

17. Powers and functions of the Director, Internal Monitoring and Public Complaints Wing.—The Director, Internal Monitoring and Public Complaints Wing shall administer and oversee the preparation of report and ensure that the following measures are implemented for the effective accountability of the <sup>5</sup>[Directorate General] and its officers and employees:

- (a) the Internal Monitoring and Public Complaints Wing shall at all times maintain a detailed credible record of the investigations and prosecutions initiated and carried out by the <sup>6</sup>[Directorate General], including a record of complaints received for which investigations and prosecutions were for whatever reason not initiated;
- (b) the Internal Monitoring and Public Complaints Wing shall maintain a record of any complaints received from the general public against an officer of the <sup>7</sup>[Directorate General], regardless of his seniority in the <sup>8</sup>[Directorate General];

<sup>1</sup>Substituted vide Khyber Pakhtunkhwa Act No. XIII of 2017

<sup>2</sup>Inserted vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>3</sup>Substituted vide Khyber Pakhtunkhwa Act No. V of 2017

<sup>4</sup>Substituted vide Khyber Pakhtunkhwa Act No. V of 2017

<sup>5</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>6</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>7</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>8</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

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- (c) the Internal Monitoring and Public Complaints Wing may investigate allegations of misconduct against officers of the <sup>1</sup>[Directorate General] and submit its report to the <sup>2</sup>[Selection Committee] for necessary action;
- (d) based on the records mentioned in clauses (a), (b) and (c) above, there shall be prepared a report analyzing and setting out in detail the performance of the <sup>3</sup>[Directorate General] in discharging its statutory obligations under this Act;
- (e) the report shall be communicated to the <sup>4</sup>[Directorate General] directly by the Director, Internal Monitoring and Public Complaints Wing; and
- <sup>5</sup>(f) the Directorate General shall, within sixty (60) days following the end of every calendar year, submit to the Provincial Assembly, through the office of the Governor, a report on the activities of the Directorate General including report relating to the performance of the officers of the Directorate General and upon its publication copy shall be provided to the public on reasonable cost.]

**18. Financial Autonomy.**—(1) The remuneration payable to the Commissioners, Director General, Directors, other employees, staff and administrative expenses of the <sup>6</sup>[Directorate General] shall be an expenditure charged upon the Provincial Consolidated Fund.

(2) The Director General shall be the Principal Accounting Officer of the <sup>7</sup>[Directorate General].

(3) The Director General may, <sup>8</sup>[Deleted] re-appropriate funds from one head to another head of account or sanction expenditure from within the budget allocated to the <sup>9</sup>[Directorate General].

**19. Maintenance and annual statement of accounts.**—(1) The <sup>10</sup>[Directorate General] shall maintain complete and accurate books of accounts in such forms as may be prescribed by it.

<sup>1</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>2</sup>Substituted vide Khyber Pakhtunkhwa Act No. XIB of 2017

<sup>3</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>4</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>5</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>6</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>7</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>8</sup>Deleted vide Khyber Pakhtunkhwa Act No. V of 2017

<sup>9</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>10</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

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(2) In the month of March every year, the <sup>1</sup>[Directorate General] shall submit to Government a statement for the estimated receipts and expenditure in respect of the next financial year.

20. Audit.—The accounts of the <sup>2</sup>[Directorate General] shall be audited every year by the Auditor General of Pakistan.

21. Measures for the prevention of corruption and corrupt practices.—The Director General shall, from time to time, as he may deem fit, constitute committees comprising officers of the <sup>3</sup>[Directorate General] or other persons or organizations from the private or public sectors. Such committees may make recommendation to:

- (a) educate and advise public authorities, public office holders and the community at large on measures to combat corruption and corrupt practices;
- (b) develop, arrange, supervise, participate in or conduct educational and media awareness campaigns, and generally to disseminate information on the detrimental effects of corruption and corrupt practices and the importance of maintaining the integrity of public administration;

22. Reporting of public contracts.—The <sup>4</sup>[the Director General or any officer of the Directorate General duly authorized, as the case may be,] may call for information of any contract entered into by a Department of Government and its attached departments, statutory corporations or authorities established by Government and Public Office Holders, when required and the concerned authority shall provide the requisite information within a period of fifteen (15) days after its receipt to the <sup>5</sup>[the Director General or any officer of the Directorate General duly authorized, as the case may be].

**PART -II**  
**OFFENCES AND MATTERS**  
**CONNECTED THEREWITH**

23. Corruption and corrupt practices.—(1) A public office holder, Officers and employees of the <sup>6</sup>[Directorate General], or any other person, is said to commit or to have committed the offence of corruption and corrupt practices, if he-

- (a) accepts or obtains from any person or offers any gratification directly or indirectly, other than legal remuneration, as a motive or reward such as is specified in section 161 of the Penal Code for doing or forbearing to do any official act, or for showing or forbearing to

<sup>1</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016  
<sup>2</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016  
<sup>3</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016  
<sup>4</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016  
<sup>5</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016  
<sup>6</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

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show, in the exercise of his official functions, favours or disfavours to any person, or for rendering or attempting to render any service or disservice to any person; or

- (b) accepts or obtains or offers any valuable thing without consideration, or for a consideration which he knows to be inadequate, from any person whom he knows to have been, or likely to be, concerned in any proceedings or business transacted or about to be transacted by him, or having any connection with his official functions or from any person whom he knows to be interested in or related to the person so concerned; or
- (c) dishonestly or fraudulently misappropriates or otherwise converts for his own use, or for the use of any other person, any property entrusted to him, or under his control, or willfully allows any other person to do so; or
- (d) by corrupt, dishonest, or illegal means, obtains or seeks to obtain for himself, or for his spouse or dependents or any other person, any property, valuable thing, or pecuniary advantage; or
- (e) or any of his dependents or benamidar owns, possesses, or has acquired right or title in any assets or holds power of attorney in respect of any assets or pecuniary resources disproportionate to his known sources of income, which he cannot reasonably account for or maintains a standard of living beyond that which is commensurate with his sources of income; or
- (f) exercises his authority other than on considerations on merit to gain any benefit or favour for himself or any other person or otherwise or willfully fails to exercise his authority as required under law [rules, regulations, bye-laws, directives or instructions, issued from time to time] to confer an undue benefit or favour upon another which ought to have been prevented by lawful exercise of authority; or
- (g) has issued any directive, policy or any other order which grants or attempts to grant any undue concession or benefit in any matter so as to benefit himself or any dependent or relative or a benamidar or any other person; or
- (h) aids, assists, abets, attempts or acts in conspiracy with a person or a public office holder, accused of an offence as provided in clauses (a), (b), (c), (d), (e) and (f) above.

(20)

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(2) A Commissioner shall be deemed to have committed the offence of corruption or corrupt practices, if he attempts to engage directly or indirectly with an accused or other party involved with a complaint or otherwise influence the conduct of an investigation or prosecution being undertaken by the <sup>1</sup>[Directorate General]<sup>2</sup>].

<sup>3</sup>[Deleted].

<sup>4</sup>[(3) All offences under this Act shall be non-bailable and no Court shall have jurisdiction to grant bail to any person accused of an offence under this Act.]

24. **Punishment for corruption and corrupt practices.**—(1) A Public Office Holder, Commissioner or any other person, including any officer and employee of the <sup>5</sup>[Directorate General], who commits the offence of corruption and corrupt practices shall be punishable with rigorous imprisonment for a term which may extend to fourteen (14) years and with fine, and such of the assets and pecuniary resources of such public office holder, Commissioner, officer of <sup>6</sup>[Directorate General] or person, as are found to be disproportionate to the known sources of his income or which are acquired by money obtained through corruption and corrupt practices, whether in his name or in the name of any of his dependents, or benamidar, shall be forfeited to the appropriate Government or other entity to which the assets belong, as the case may be.

(2) The offences specified in the Schedule to this Act shall be punishable in the manner specified therein.

<sup>7</sup>[(3) Notwithstanding anything to the contrary contained in any other law for the time being in force, an accused, convicted by the Court for an offence under this Act, shall not be entitled to any remission in his sentence.]

25. **Imposition of fine.**—Where an accused found guilty of an offence punishable under this Act is sentenced to pay a fine, the amount of the fine shall in no case be less than the gain derived by the accused or any dependent or associate by the commission of the offence.

26. **Recovery of amount of fines, etc. as arrears of land revenue.**—Any fine or other sum due under this Act, or as determined due by a Court, shall be recoverable as arrears of land revenue.

27. **Freezing of property.**—(1) The Director General, on the recommendation of the Prosecutor General and the Director of the Investigation Wing or the Court itself while trying an accused for any offence as specified under this Act may, at any time, if there appear reasonable grounds for believing that the accused has committed such an offence,

<sup>1</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>2</sup>Replaced vide Khyber Pakhtunkhwa Act No. XIII of 2017

<sup>3</sup>Deleted vide Khyber Pakhtunkhwa Act No. XIII of 2017

<sup>4</sup>Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2015

<sup>5</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>6</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>7</sup>Added vide Khyber Pakhtunkhwa Act No. XXXI of 2015

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temporarily order the freezing of his assets, or any part thereof, whether in his possession or in the possession of any relative, associate, or benamidar:

Provided that any order of temporary seizure, freezing, attachment or any prohibitory order by the Director General shall remain in force for a period not exceeding thirty (30) days unless confirmed by the Court seized of the matter through an interlocutory order, failing which the assets shall stand released.

(2) If the property ordered to be frozen under sub-section (1) is a debt or other movable property, the freezing may be made:

- (a) by seizure; or
- (b) by appointment of receiver; or
- (c) by prohibiting the delivery of such property to the accused or to anyone on his behalf; or
- (d) by all or any of such or other methods, the Director General, on the recommendation of the Prosecutor General and Director of the Investigation Wing or the Court, as the case may be.

(3) If the assets ordered to be frozen are immovable property, the freezing shall, in the case of land paying revenue, be made through the Collector of the district in which the land is situated, and in all other cases:

- (a) by taking possession; or
- (b) by appointment of receiver; or
- (c) by prohibiting the payment of rent or delivery of property to the accused or to benamidar; or
- (d) by all or any of such or other methods, as the Director General, on the recommendation of the Prosecutor General and the Director of the Investigation Wing or the Court, as the case may be [directs]:

Provided that notwithstanding anything to the contrary contained herein, that the order of the Court or the Director General shall be effective from the time of passing thereof or proclamation thereof in a newspaper, widely circulated and dispatched at the last known address of the accused either by registered post or courier service or electronic media as the Court may deem proper having regard to the facts and circumstances of the case.

(21)

*[Handwritten signature]*

(4) If the assets ordered to be frozen consist of livestock or are of perishable nature, the Court or the Director General, as the case may be, if it may deem proper and expedient, order the immediate sale thereof and the proceeds of the sale shall be deposited in the Government exchequer.

(5) The powers, duties and liabilities of a receiver, if any, appointed under this section shall be the same as those of a receiver appointed under Order XL of the Code of Civil Procedure, 1908 (Act V of 1908).

(6) Once confirmed by the Court, any order of freezing made under this section shall remain operative until the final disposal of the case against the accused by the Court, and in the event of the acquittal of the accused, shall stand revoked immediately, whereafter it shall be subject to an order by the Court in which an appeal, if any, is filed.

28. **Claim or objection against freezing of property.**—(1) Notwithstanding the provisions of any law for the time being in force, the Court shall have exclusive jurisdiction to entertain and adjudicate upon all claims or objections filed against the freezing of any assets under section 28. Such claims or objections shall be made before the Court within fourteen (14) days from the date of the order freezing such assets.

(2) The Court may, for sufficient cause, extend the time for filing such claims or objections for a period not exceeding an additional fourteen (14) days.

(3) The accused or any other aggrieved party, whose claim or objection against freezing of assets has been dismissed by the Court, may, within ten (10) days file an appeal against such order before the High Court.

29. **Transfer of property void.**—(1) Notwithstanding anything contained in any other law for the time being in force, after an inquiry or investigation has been initiated into any suspected offence under this Act, alleged to have been committed by an accused, the accused, any of his dependent, relative, associate or a benamidar, shall not transfer by any means whatsoever, or create a charge on any property owned by him or in his possession, while the inquiry, investigation or legal proceedings are pending before the [Directorate General] or the Court, and any transfer of any right, title or interest or creation of a charge on such property shall be void.

(2) Any person who transfers, or creates a charge on assets in contravention of sub-section (1), shall be punishable with rigorous imprisonment for a term which may extend to three (03) years and shall also be liable to a fine not exceeding the value of the assets involved:

Provided that transfer of any right, title or interest or creation of a charge on such assets shall not be void if made with the approval of the Court, subject to such terms and conditions as the Court may deem fit.

<sup>1</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

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**30. Declaration of properties and liabilities.**—(1) When the Director General on the recommendation of the Prosecutor General and the Director of the Investigation Wing, on receipt of information and after making such enquiries, as are required under this Act, is satisfied that any Public Office Holder, or any other person on his behalf, is in possession of pecuniary resources or assets disproportionate to the known sources of income of such public office holder, it may, by order, require such public office holder or other person to furnish in the prescribed manner and within the prescribed time a statement of his property and liabilities and such information relating thereto as may be required by such order.

(2) If such Public Office Holder or person—

- (a) upon being so required by an order under sub-section (1), fails to furnish the statement or information or furnishes a statement or information which he knows or has reasonable cause to believe to be false or not true in any material particular; or
- (b) makes in any book, account, record, declaration, return or other document, which he is required by an order under sub-section (1), to furnish, any statement which he knows or has reasonable cause to believe to be false or not true in any material particular;

he shall be punishable with imprisonment for a term which may extend to three (03) years and shall also be liable to fine.

**31. Contempt of Court.**—The Court shall have the power to punish for contempt of Court with imprisonment for a term which may extend to six (06) months and with fine which may extend to one million rupees any person who:

- (a) abuses, interferes with or obstructs the process of the Court in any way or disobeys any order or direction of the Court; or
- (b) does anything which tends to prejudice the determination of a matter pending or most likely to come up before the Court.

**32. Prohibition to hamper investigation.**—(1) Notwithstanding anything contained in any other law for the time being in force, if any person concerned with the inquiry, investigation or prosecution of a case consciously, deliberately and with malice compromises, hampers, misleads, jeopardizes or defeats an inquiry or investigation of a suspected offence under this Act under way before the [Directorate General] or any concerned agency or authority or the Court or any other court, he shall be guilty of an offence under this Act punishable with rigorous imprisonment for a term which may extend to ten (10) years.

(22)

(2) No person shall be proceeded against under this section except with the sanction of a Committee comprising the Director General and the Prosecutor General [Deleted].

33. Absconding to avoid service of warrants.—(1) Whoever absconds in order to avoid being served with any process issued by any Court or any other authority or officer under this Act or in any manner prevents, avoids or evades the service on himself of such process or conceals himself to screen himself from the proceedings or punishment under this Act shall be guilty of an offence under this Act punishable with imprisonment which may extend to three (03) years.

(2) It shall not be necessary to file a reference under this section in cases where a reference is pending before the Court.

34. Disqualification to contest elections or to hold public office.—(1) Where an accused is convicted of an offence under section <sup>2</sup>[24], he shall forthwith cease to hold public office, if any, held by him and shall be deemed to have committed the offence of moral turpitude for purposes of Article 63 of the Constitution of the Islamic Republic of Pakistan.

(2) Any person convicted of an offence under section 23 shall not be allowed to apply for or be granted or allowed any financial facilities in the form of any loan or advances or other financial accommodation by any bank or financial institution owned or controlled by Government for a period of five (5) years from the date of his conviction for such offence.

<sup>1</sup> Deleted vide Khyber Pakhtunkhwa Act No. XXXI of 2015

<sup>2</sup> Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2015

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**PART III**  
**INVESTIGATION AND PROSECUTION**  
**CONFERENCE**

35. Jurisdiction.—(1) The Director General, may, on complaint or information received or on the recommendation of the Prosecutor General and the Director of the Investigation Wing, as the case may be, order an inquiry or investigation into any incident or an act or omission of a person or accused, that reasonably appears to constitute an offence under this Act<sup>1</sup> [:]

<sup>2</sup>[Provided that the Directorate General shall exercise its jurisdiction with respect to a project only when it involves an amount of rupees fifty (50) million and above and if, in course of inquiry, it is found that the project is less than fifty (50) million, the matter shall be referred to the Anti-Corruption Establishment for further inquiry and investigation:

Provided further that the inquiry shall be completed within a period of sixty (60) days followed by investigation which shall be completed within ninety (90) days and where before the completion of sixty (60) days, fixed for the inquiry, sufficient evidence has been collected, the inquiry shall be converted into investigation with the approval of the Director General:

Provided further that where the inquiry or investigation is not completed within the required period, the Director General, on the request of the Inquiry Officer, may extend the period of inquiry or investigation for a further period of sixty (60) and ninety (90) days respectively, after giving reasons in writing:

Provided also that the decision shall be made within a period of seven (07) days and reference shall be filed in the Court within a period of seven (07) days.

<sup>3</sup>[Deleted]

<sup>4</sup>[(1A) The Directorate General shall not take action in matters involving pure procedural lapses<sup>5</sup> [and in ongoing schemes of Government from current budget or developmental budget as the case may be]. It shall only monitor the ongoing schemes of Government and intimate the Department about any procedural lapses and recommend corrective measures in such a manner that it shall not affect the running of ongoing projects.]

(2) The Director General, may, on the recommendation of the Prosecutor General and the Director of the Investigation Wing, order that the inquiry or investigation be conducted with the aid or assistance of any other agency of Government or Federal Government.

<sup>1</sup>Replaced vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>2</sup>Added vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>3</sup>Deleted vide Khyber Pakhtunkhwa Act No. V of 2017

<sup>4</sup>Inserted vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>5</sup>Substituted vide Khyber Pakhtunkhwa Act No. V of 2017

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(3) If jurisdiction over the inquiry or investigation of a suspected offence is assumed by an agency of the Federal Government, the Director General shall meet with the relevant officers of such agency and determine whether the <sup>1</sup>[Directorate General] or such agency has proper jurisdiction over the matter, provided that in making such determination, the Director General shall take into regard the following factors:

- (a) the stage of inquiry or investigation being conducted by the <sup>2</sup>[Directorate General] at the time of assumption of jurisdiction by Federal agency;
- (b) territorial location from where evidence has been collected during the inquiry or investigation; and
- (c) place of residence of prosecution witnesses who are to testify against the accused.

(4) Following a determination based on the factors mentioned in sub-section (3), the Director General shall make a recommendation to such agency of the Federal Government with regard to exercise of jurisdiction over the matter in the interest of effective prosecution and crime prevention and the decision of the agency of the Federal Government in the matter shall be final and binding.

<sup>3</sup>[(5) Subject to sub-section (2), the Anti-Corruption Establishment established under the West Pakistan Anti-Corruption Establishment Ordinance, 1961 (W.P. Ord. No. XX of 1961), shall in addition to its functions under the Act *ibid*, also act in aid or assistance of the <sup>4</sup>[Directorate General]:

Provided that where the <sup>5</sup>[Directorate General] assumed jurisdiction over the inquiry or investigation of a suspected offence, the Anti-Corruption Establishment will have no jurisdiction in the matter and the decision of the <sup>6</sup>[Directorate General] in the matter shall be final and binding.]

36. Cognizance of offences.—(1) The Court shall not take cognizance of any offence under this Act except on a reference made by the Director General or an officer of the <sup>7</sup>[Directorate General] duly authorized by him.

(2) A reference under this Act shall be initiated by the <sup>8</sup>[Directorate General] on:

- (a) a <sup>1</sup>[matter] received from Government or a public office holder; or

<sup>1</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016  
<sup>2</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016  
<sup>3</sup>Added vide Khyber Pakhtunkhwa Act No. XXVII of 2014  
<sup>4</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016  
<sup>5</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016  
<sup>6</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016  
<sup>7</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016  
<sup>8</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

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- (b) receipt of a complaint from the general public; or
- (c) of its own accord:

Provided that if the reference is being initiated under sub-clause (b), the identity of the complainant shall be kept confidential and disclosure on the part of an employee of the <sup>2</sup>[Directorate General] shall entail disciplinary proceedings against such employee:

Provided further that if the reference is being initiated under sub-clause (c), such reference shall only be valid if made by the Director General <sup>3</sup>[under intimation to the Commission].

(3) Where the Director General or an officer of the <sup>4</sup>[Directorate General] duly authorized by him, is of the opinion that it is, or may be, necessary and appropriate to initiate proceedings against any person, he shall refer the matter for inquiry or investigation.

(4) The responsibility for inquiry into and investigation of an offence alleged to have been committed under this Act shall rest on the <sup>5</sup>[Court] to the exclusion of any other agency or authority of the Provincial <sup>6</sup>[Directorate General]; unless any such agency or authority is required to do so by the Director General.

(5) The Director General and such members, officers or servants of the <sup>7</sup>[Directorate General] shall have and exercise, for purposes of an inquiry or investigation, the power to arrest any person <sup>8</sup>[with the permission of Court], and all the powers of an officer-in-charge of a police station under the Code, and for that purpose may cause the attendance of any person, and if and when the assistance of any agency, police officer or any other official or agency, as the case may be, is sought by the <sup>9</sup>[Directorate General], such official or agency shall render such assistance.

Provided that no person shall be arrested without the permission of the <sup>10</sup>[Court].

(6) Any inquiry or investigation carried out under this Act shall be completed within a period of ninety (90) days from the date the <sup>11</sup>[matter is referred] for such inquiry or investigation was made, failing which reasons for any delay shall be recorded in writing and presented to the <sup>12</sup>[Directorate General] through the office of Director of Internal Monitoring and Public Complaints Wing.

<sup>1</sup>Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2015

<sup>2</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>3</sup>Substituted vide Khyber Pakhtunkhwa Act No. V of 2017

<sup>4</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>5</sup>Substituted vide Khyber Pakhtunkhwa Act No. V of 2017

<sup>6</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>7</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>8</sup>Inserted vide Khyber Pakhtunkhwa Act No. V of 2017

<sup>9</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>10</sup>Substituted vide Khyber Pakhtunkhwa Act No. V of 2017

<sup>11</sup>Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2015

<sup>12</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

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(7) For the purposes of carrying out an inquiry or investigation regarding a suspected offence under this Act, the duly authorized officers and employees of the <sup>1</sup>[Directorate General] shall have, throughout the Province, such powers relating to search, arrest of persons and seizure of assets as the officers of a Provincial Police have in relation to the investigation of offences under the Code.

<sup>2</sup>[36A. Inquiry, investigation or proceedings in respect of imprudent bank loans, etc.— Notwithstanding anything contained in this Act or any other law for the time being in force, no inquiry, investigation or proceedings in respect of imprudent loans, defaulted loans or rescheduled loans shall be initiated or conducted by the Commission against any person, company or financial institution without reference from Governor, State Bank of Pakistan.]

37. Prosecution conference.—(1) Upon completion of the inquiry or investigation there shall be scheduled a prosecution conference, <sup>3</sup>[presided by the Director General,] to be attended by the relevant investigation officers and Special Prosecutors assigned to the matter, to determine if charges should be framed and the matter referred to the Court for initiation of legal proceedings against the accused.

(2) The investigation officers and Special Prosecutors shall appraise the material and evidence collected and shall prepare a joint report for the Director General with a recommendation supporting the filing of a reference before the Court or opposing the filing of a reference or proposing further investigation; provided that in case of lack of consensus, the investigation officers and Special Prosecutors shall make independent recommendations that shall be presented to the Director General for further action.

(3) If it is recommended upon conclusion of the prosecution conference that material evidence collected is insufficient to make out a prima facie case and further investigation is inadvisable in view of the facts of the case, the Director General may order further investigation or close the investigation and seek the release of the accused from Court, if in custody.

(4) If a complaint is investigated by the <sup>4</sup>[Directorate General] and it is concluded at the prosecution conference that the complaint was prima facie frivolous or has been filed with the intent to harass, malign or defame any person, the duly authorized officer of the <sup>5</sup>[Directorate General] may file charges against the complainant, and the complainant, if found guilty by the Court, shall be punishable with imprisonment for a term which may extend to one (01) year, or with fine, or with both.

38. Arrest.—(1) The Director General, or an officer of the <sup>6</sup>[Directorate General] duly authorized by him, <sup>7</sup>[with previous permission of the Court] shall have the power, to direct

<sup>1</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>2</sup>Inserted vide Khyber Pakhtunkhwa Act No. V of 2017

<sup>3</sup>Inserted vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>4</sup>Substituted vide Khyber Pakhtunkhwa Act No. V of 2017

<sup>5</sup>Substituted vide Khyber Pakhtunkhwa Act No. V of 2017

<sup>6</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>7</sup>Inserted vide Khyber Pakhtunkhwa Act No. V of 2017

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that an accused may be arrested, if such arrest is necessary to facilitate effective investigation or if the accused refuses to join the investigation.

(2) If the Director General, or an officer of the <sup>1</sup>[Directorate General] duly authorized by him, decides to refer the case to the Court, such reference shall contain the substance of the offence or offences alleged to have been committed by the accused and <sup>2</sup>[Deleted] reference shall be filed with the Court <sup>3</sup>[Deleted], and another copy shall be delivered to the accused.

(3) The provision of sub-section (1), shall also apply to cases that have already been referred to the Court.

(4) Notwithstanding anything contained in the Code, where a public office holder or any other person accused of an offence under this Act is arrested by order of the <sup>4</sup>[Court], <sup>5</sup>[Court], the <sup>6</sup>[Directorate General] shall, as soon as may be, inform him of the grounds and substance on the basis of which he has been arrested and produce him before the Court within a period of twenty-four (24) hours from arrest, excluding the time necessary for the journey from the place of arrest to the Court, and the accused shall, having regard to the facts and circumstances of the case, be liable to be detained in the custody of the <sup>6</sup>[Directorate General] for the purpose of inquiry or investigation for a period not exceeding forty-five (45) days and the Court may remand an accused to custody not exceeding fifteen (15) days at a time and for every subsequent remand, the Court shall record reasons in writing for the grant and extension of such remand.

<sup>7</sup>[(5) Government may, declare any place to be a police station for the purposes of this Act, in terms of clause (s) of sub-section (1) of section 4 of the Code:

Provided that in exigencies, which requires immediate action, the Director General, or an officer duly authorized by him, may declare and notify any place to be a police station or a sub-jail, for the purpose of arrest or efficient investigation, in the interest of justice:

Provided further that the places under this sub-section shall not be symbol of prestige and authority of other state institutions.)

#### PART IV TRIAL

39. Jurisdiction over trial.—Notwithstanding anything contained in section 41 of this Act, if, in respect of any case related to an offence triable under this Act, the Director General, or an officer of the <sup>8</sup>[Directorate General] duly authorized by him, files a reference

<sup>1</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>2</sup>Deleted vide Khyber Pakhtunkhwa Act No. XXXI of 2015

<sup>3</sup>Deleted vide Khyber Pakhtunkhwa Act No. XXXI of 2015

<sup>4</sup>Substituted vide Khyber Pakhtunkhwa Act No. V of 2017

<sup>5</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>6</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>7</sup>Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2015

<sup>8</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

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before a Court established anywhere in the Province, such Court shall have the jurisdiction to try the same.

40. **Policy objectives for trial of offences.**—The trial for any offence suspected to have been committed under this Act shall be carried out keeping in mind the following policy objectives:

- (a) that the accused has the right to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;
- (b) that the accused has the right to adequate time for the preparation of his defence;
- (c) that the accused has the right to defend himself in person or through a pleader of his own [choice], or if he does not have sufficient means to pay for legal representation, to be given the same for free where the interests of justice so requires;
- (d) that the accused has the right to be heard by the Court, for the purposes of the trial against the accused; and
- (e) that the accused has the right to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him.

41. **Ehtesab Courts.**— (1) Within thirty (30) days of the commencement of this Act, Government shall take necessary steps to establish as many Ehtesab Courts as may be necessary to ensure expeditious trial of offenses under this Act with territorial areas as specified by the Peshawar High Court and dispensation of justice within prescribed time as specified by the National Judicial Policy from time to time and in relation to each offence committed in an area of the Province shall be tried by the Court exercising territorial jurisdiction in relation to such area.

(2) Where more Courts than one have been established in any area, the Peshawar High Court shall designate a Judge of any such Court to be an Administrative Judge and a case triable under this Act shall be filed before the Court of the Administrative Judge who may either hear the case himself or assign it for trial by any Court established at that place at any time prior to the framing of the charge.

(3) In respect of a case assigned to a Court under sub-section (2), all orders made or proceedings taken before the assignment shall be deemed to have been made or taken by the Court to which the case has been assigned.

<sup>1</sup>Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2015

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(4) Where the number of references filed or cases pending before a Court exceeds fifty (50), Government shall immediately establish a new Court and provide it all related facilities, to ensure dispensation of justice within prescribed time schedules and each new Court shall sit at such place as Government may, in consultation with the Peshawar High Court, specify.

(5) A Court shall consist of a Judge, being a person who is a District and Sessions Judge or a Senior Additional District and Sessions Judge.

(6) Government shall, after consultation with the Peshawar High Court, appoint a Judge of each Court.

(7) A Judge shall hold office unless he sooner resigns or is transferred to another Court upon direction of the Peshawar High Court or is removed from office in accordance with sub-section (8) below.

(8) A Judge shall not be removed from office unless, on information from any source, the Administrative Committee of Peshawar High Court conducts an inquiry and concludes that the Judge may be incapable of properly performing the duties of his office by reason of physical or mental incapacity or may have been guilty of misconduct:

Provided that no Judge shall <sup>1</sup>[Delete:] be removed from office without affording him the right to be heard.

<sup>2</sup>[(9) The Administrative Judge of the Court may, when he himself is unavoidably absent or on leave or incapable of acting, confer his duties of urgent nature to the next senior judge of Court:

Provided that if all judges of Court are unavoidably absent or on leave or incapable of acting, the Administrative Judge of Court may confer duties of urgent nature to Sessions Judge having territorial jurisdiction.]

<sup>3</sup>[42. Procedure for trial.—(1) Notwithstanding anything contained in any other law for the time being in force, each matter brought before the Court under this Act, shall be disposed of within three (03) months from the date of reference being made.

(2) After framing of charge for the trial of an accused, the Court shall hear the case on day to day basis.

(3) Notwithstanding anything contained in any other law for the time being in force, unless there is anything inconsistent with the provisions of this Act, the provisions of the Code, shall mutatis mutandis, apply to all the proceedings under this Act.

<sup>1</sup>Deleted vide Khyber Pakhtunkhwa Act No. XXXI of 2015

<sup>2</sup>Added vide Khyber Pakhtunkhwa Act No. XXXI of 2015

<sup>3</sup>Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2015

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(4) Subject to the provisions of this Act, Chapter XXII-A of the Code shall apply to trials under this Act.

(5) Notwithstanding anything contained in this Act, or in any law for the time being in force, the Court may, for reasons to be recorded, follow such procedure as it may deem fit in the circumstances of the case.

(6) The Court shall not grant any party more than one adjournment during the pendency of a matter from the filing of reference till its disposal.

(7) It shall be the responsibility of the [Directorate General] and the accused to arrange legal representation and presence of its attorney or pleader on each hearing, failing which the Court shall proceed in the absence of an attorney or pleader:

Provided that under no circumstances shall the Court grant adjournment of more than seven (07) days:

Provided further that once fixed the date for commencement of trial shall not be altered and during trial the Court shall not grant adjournment of more than seven (07) days.

(8) A person accused of more offences than one of the same kind committed during the space of any number of years, from the first to the last of such offences, may be charged with and tried at one trial for any number of such offences.]

43. **Presumption against accused accepting gratification.**—(1) Where in any trial of an offence under clauses (a), (b), (c) and (d) of sub-section (1) of section 23, it is proved that an accused has accepted or obtained, or has agreed to accept or attempted to obtain, for himself or for any other person any gratification, other than legal remuneration, or any valuable thing, or any pecuniary advantage from a person or any agent of a person, for any favor shown or promised to be shown by the accused, it shall be presumed, unless the contrary is proved, that he accepted or obtained, or agreed to accept or attempted to obtain, that gratification or that valuable thing or pecuniary advantage for himself or some other person, as the case may be, as a motive or reward such as is specified in sections 161, 162 and 163 of the Penal Code or, as the case may be, without consideration, or for a consideration which he believed to be inadequate.

(2) Where in any trial of an offence punishable under section 165A of the Penal Code, it is proved that any gratification, other than legal remuneration or any valuable thing has been given, or offered to be given, or attempted to be given, by any accused, it shall be presumed, unless the contrary is proved, that he gave or offered to give, or attempted to give that gratification or that valuable thing, as the case may be, as a motive or a reward such as is specified in sections 161, 162 and 163 of the Penal Code or, as the case may be, without consideration or for a consideration which he believed to be inadequate.

<sup>1</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

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(3) In any trial of an offence punishable under clause (e) of sub-section (1) of section 23, the fact that the accused or any other person on his behalf is in possession of assets or pecuniary resources disproportionate to his known source of income, or that such person has, at or about the time of the commission of the offence with which he is charged, obtained an accretion to his pecuniary resources or property for which he cannot satisfactorily account, the Court shall presume, unless the contrary is proved, that the accused is guilty of the offence of corruption and corrupt practices and his conviction therefore shall not be invalid by reason only that it is based solely on such a presumption.

44. Appeal.—(1) Any person convicted or the Prosecutor General, if so directed by the Director General, aggrieved by the final judgment and order of the Court under this Act may, within twenty (20) days of the final judgment and order of the Court prefer an appeal to the Peshawar High Court:

Provided that no appeal<sup>1</sup> [or revision] shall lie against any interlocutory order of the Court.

(2) All appeals against the final judgment filed before the Peshawar High Court shall be heard by a Judge, designated as the Ehtesab Judge by the Peshawar High Court and shall be finally disposed of no later than sixty (60) days of the filing of the appeal:

<sup>2</sup>[Provided that where a person is honourably acquitted by the final Court of appeal, he may be fully compensated.]

45. Accused to be competent witness.—(An accused shall be a competent witness for<sup>3</sup> [his defence] and may give evidence on oath in disproof of the charges made against him:

Provided that the accused shall not be compelled to be a witness against himself:

Provided further that where an accused appears as a witness<sup>4</sup> [on his choice] and refuses to answer any question, the Court may draw such adverse inference from such refusal as it may think proper.

46. False evidence.—(1) Notwithstanding anything to the contrary contained in this Act or any other law for the time being in force, on pronouncement of judgment after a trial for an offence committed under this Act, the Court shall have the jurisdiction and power to take cognizance of an offence committed in the course of inquiry, investigation or trial of a case by any officer, or any witness, including an expert, who has tendered false evidence in the case, whether he deposed in Court or not, or any other person, under sections 176 to 182 or sections 191 to 204, or sections 211 to 223, or section 225A of the Penal Code, or under any other law for the time being in force, related to false evidence and offences against public justice, and to summarily try him and award punishment provided for the offence under the law.

<sup>1</sup>Inserted vide Khyber Pakhtunkhwa Act No. XXXI of 2015

<sup>2</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>3</sup>Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2015

<sup>4</sup>Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2015

(27)

(2) For the purposes of trial under sub-section (1), the Court may, as nearly as may be, follow the procedure specified in Chapter XXII of the Code.

(3) The proceedings under sub-section (1), may be initiated by the Court on its own accord at any time after the decision of the trial for an offence committed under this Act or, in the event that there is an appeal, after the decision thereof, or on an application made by the prosecution or the accused tried by the Court, within a period of thirty (30) days.

47. **Withdrawal from prosecution.**—The Prosecutor General may, with the consent of the Court, in the interests of justice for reason of insufficient evidence, withdraw from the prosecution of any accused generally or in respect of any one or more of the offences for which he is tried and upon such withdrawal:

- (a) if it is made before a charge has been framed, the accused shall be discharged in respect of such offence or offences; and
- (b) if it is made after a charge has been framed, he shall be acquitted in respect of such offence or offences, as the case may be.

48. **Protection of witnesses.**—The Director General or the Court may, given the facts and circumstances of a case, take such measures as may be considered necessary for the safety, security and protection of witnesses and their families.

49. **Favorable sentencing.**—Where at any time after the authorization of investigation, before or after the commencement of the trial or during the pendency of an appeal, the accused offers to return to the [Directorate General] the assets or gains acquired or made by him in the course, or as a consequence, of any offence under this Act, the Court may, after taking into consideration the facts and circumstances of the case, look favorably upon such return at the time of sentencing or pronouncement of judgment.

#### PART -V MISCELLANEOUS

<sup>2</sup>[50. **Power to make rules.**—Government may, by notification in the official Gazette, make rules not in consistent with the provisions of this Act, within 15 days of notification of this Act in the official Gazette.]

<sup>3</sup>[51. **Power to make regulations.**—The Commission may, by notification in the official Gazette, make regulations not inconsistent with the provisions of this Act and rules made thereunder, within one month of notification of rules in the official Gazette.]

<sup>1</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>2</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>3</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

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**ATTESTED**

52. **Delegation of powers.**—The Director General may, by an order in writing, delegate any of his powers to and authorize performance of any of his functions by an officer of the [Directorate General] as may be prescribed.

53. **Indemnity.**—No suit, prosecution, or any other proceedings shall lie against the Government, the Commissioners, Director General or any other member, officer or staff of the [Directorate General] or any person exercising any power or performing any function under this Act or the rules made hereunder for any act or thing which has been done in good faith or intended to be done under this Act or the rules thereof.

**Explanation:** The word "good faith" shall have the same meaning as given to it in section 52 of the Penal Code.

54. **Commissioners, Offices and employees deemed to be public servants.**— Every Commissioner, officer and employee of the [Directorate General] including the Director General and Directors shall be deemed to be a public servant within the meaning of section 21 of the Penal Code and shall be subject to all the relevant provisions of sections 161 to 169 of the Penal Code.

55. **Removal of difficulties.**—If any difficulty arises in giving effect to any provision of this Act, the Commission may make such order, not inconsistent with the provisions of this Act, as may appear to it to be necessary for the purpose of removing such difficulty within one (1) year.

56. **Harmonious interpretation with other laws.**—An effort shall be made to interpret this Act harmoniously with other Federal laws on the subject; provided that in the event of a conflict between this Act and a Federal law, the provisions of the Federal law shall prevail.

[57. Deleted]

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<sup>1</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>2</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>3</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>4</sup>Deleted vide Khyber Pakhtunkhwa Act No. XXVII of 2014

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SCHEDULE

**PUNISHMENT FOR OFFENCES**

[See section 24(2)]

S.No.	Offence.	Punishment.
1.	Any person who refuses to answer questions, or to provide information to any <sup>1</sup> [officers of the <sup>2</sup> [Directorate General]] or any other agency when required to do so.	Rigorous imprisonment for a term which may extend to five (05) years.
2.	Giving false information or fabricating false evidence during inquiry into or investigation of an offence by the <sup>3</sup> [Directorate General] or any agency authorized by the <sup>4</sup> [Directorate General] in this regard when given by:  (a) a complainant, witness or an accused or any inquiry officer; and  (b) the investigator of the <sup>5</sup> [Directorate General] or concerned agency.	Rigorous imprisonment for a term which may extend to five (05) years.  Rigorous imprisonment for a term which may extend to ten (10) years.
3.	Misuse of authority or power in committing any offence specified above, by a public office holder including any offence under sections 161 to 165A of the Penal Code.	Rigorous imprisonment for a term which may extend to fourteen (14) years.

<sup>1</sup>Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2015

<sup>2</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>3</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>4</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

<sup>5</sup>Substituted vide Khyber Pakhtunkhwa Act No. X of 2016

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**OFFICE OF THE EHTESAB COMMISSION,  
KHYBER PAKHTUNKHWA**

*Annex D*

In the 9<sup>th</sup> meeting of Khyber Pakhtunkhwa, Ehtesab Commission, held on 28-11-2014, the Commissioners unanimously prescribed and approved the following criteria for the posts to be filled-in on contract basis:-

S.No	Post Nomenclature	Prescribed Qualification/Experience	Age Limit
1	Director Investigation	A graduate having served in Grade-20 or in Grade-17 and above for 17 years in any government department with at least 5 years experience in relevant field.	Maximum 60 years extendable upto 63 years in case of exceptional service record.
2	Additional Director Investigation	A graduate having served in Grade-19 or in Grade-17 and above for 12 years in any government department with at least 5 years experience in relevant field.	Maximum 60 years extendable upto 63 years in case of exceptional service record.
3	Deputy Director Investigation	A graduate having served in Grade-18 or above in any government department with 5 years experience in investigation.	Maximum 60 years extendable upto 62 years in case of exceptional service record.
4	Assistant Director Investigation /I.O	Served in Grade-16 or above in any government department with 7 years experience in investigation.	Maximum 60 years extendable upto 62 years.
5	PSO to Director General	A graduate having served in Grade-18 or above in any government department/armed forces.	Maximum 55 years extendable upto 62 years in case of exceptional service record.
6	Director Finance & Audit	Masters Degree holder preferably MBA (Finance) with 15 years experience in Audit and Finance.	Maximum 62 years.
7	Additional Director Finance & Audit	Not considered at present due to the expected work load.	
8	Deputy Director Finance & Audit	Masters Degree holder preferably MBA (Finance) with 10 years experience in Audit and Finance.	Maximum 55 years.
9	Assistant Director Finance & Audit	Masters Degree holder preferably MBA (Finance) having 5 years experience in Audit and Finance.	Maximum 40 years.
10	Director Internal Monitoring	Masters Degree holder/Law Graduate having:- a. Served on administrative position in Grade-20 or Grade-18 and above for 15 years in any government organization. or b. Worked in private sector /international organization for 20 years in the relevant field.	Maximum 62 years.
11	Additional Director Internal Monitoring	Not considered for the time being due to the expected work load	
12	Deputy Director Internal Monitoring	Masters Degree holder/Law Graduate having served in Grade-18 in any government department with 5 years experience in investigation or 10 years experience in administrative capacity.	Maximum 60 years extendable upto 62 years in case of exceptional service record.

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13	Assistant Director Internal Monitoring	Served in Grade-17 in any government department with 5 years experience in investigation or 07 years experience in administrative capacity.	Maximum 60 years extendable upto 62 years in case of exceptional service record.
14	Director Information & Data Processing	Masters Degree holder in I.T/Computer Science or equivalent with 15 years relevant experience.	Maximum 55 years.
15	Additional Director Information & Data Processing.	Not considered at present due to expected workload.	
16	Deputy Director Information & Data Processing.	Masters Degree in I.T/Computer Science or equivalent with 10 years relevant experience.	Maximum 55 years.
17	Assistant Director Information & Data Processing.	A graduate having Networking specialization with 5 years experience in Net-Working Trouble Shooting.	Maximum 40 years.
18	Deputy Prosecutor General	<ul style="list-style-type: none"><li>a. Enrolled as advocate of High Court with 15 years experience in criminal cases. Experience in Anti-Corruption and financial crime cases may be considered as additional qualification.</li><li>b. Enrolment as Advocate of Supreme Court may be given preference.</li><li>c. Candidate shall have at least 10 reported cases (Not Bail Matters) conducted in the High Court and 20 successfully conducted criminal cases in the Trial Court.</li></ul>	Maximum 55 years.
19	<del>Special Prosecutor</del>	<ul style="list-style-type: none"><li>a. Enrolled as Advocate of High Court with at least 10 years experience including that of Criminal trials. Experience in Anti-corruption and financial crime cases may be considered as additional qualification.</li><li>b. Shall have at least 5 reported cases of High Court and 15 successfully conducted criminal trials.</li></ul>	Maximum 55 years
20	Law Officers	<ul style="list-style-type: none"><li>a. Enrolled as Advocate of High Court with at least 5 years experience including that of criminal trials. Experience in Anti-corruption and financial crime cases may be considered as additional qualification.</li><li>b. Having conducted successfully at least 10 criminal trials.</li></ul>	Maximum 45 years
21	Director Human Resource	<ul style="list-style-type: none"><li>a. MBA in HR having 15 years experience in relevant field,</li><li>or</li><li>b. Masters Degree holder with 20 years Human Resource experience in Govt./private sector/International Organization.</li></ul>	Maximum 62 years.
22	Additional Director HR	Not considered at present due to expected workload.	

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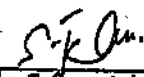
58

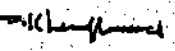
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23	Deputy Director HR	a. MBA in HR having 10 years experience in relevant field, or b. Masters Degree holder with 15 years Human Resource experience in Govt./Private Sector/International Organization.	Maximum 62 years
24	Assistant Director HR	a. MBA in HR having 5 years experience in the relevant field, or b. Masters Degree holder with 10 years Human Resource experience in Govt./Private Sector/International Organization.	Maximum 40 years
25	Assistant Director (Admn)	A graduate with at least 5 years experience in Administration in Govt./reputable Private Sector/International Organization.	Maximum 40 years.
26	Land Revenue Expert	Served in Govt. Organization having 20 years experience in Land Revenue matters.	Maximum 65 years
27	Legal Expert	Advocate of High Court having 15 years practical experience or an ex-judicial officer having retired as Sessions Judge or Additional Session Judge.	Maximum 65 years
28	Technical Expert	Civil Engineer having graduated from a recognized University with minimum 20 years experience in supervising construction of roads, buildings, bridges etc. in a Govt./Semi Govt./reputable Private Organization.	Maximum 65 years
29	Private Secretary	BA/BSc with knowledge of computer	Maximum 40 years.
30	Computer Operator	FA/FSc & Diploma in IT.	Maximum 30 years
31	Driver	Literate having valid Driving license and shall qualify the prescribed driving test.	18-35 years
32	Naib Qasid	Literate	18-35 years
33	Mall	---	25-40 years
34	Sweeper	---	18-35 years
35	Chowkidar	---	18-35 years

  
Justice (R) Hamid Farooq Durrani  
Chief Ehtesab Commissioner.

  
Col (R) Abdul Wahid Jan Abbasi  
Ehtesab Commissioner-I

  
Syeda Sarwat Jehan  
Ehtesab Commissioner-II

  
Sahibzada Khurshid Ahmad  
Ehtesab Commissioner-IV

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EHTESAB COMMISSION  
KHYBER PAKHTUNKHWA

Minute Sheet



No. 1

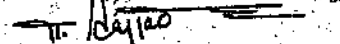
Date: 23-04-2015

Subject: Eligibility Criteria for Various Positions

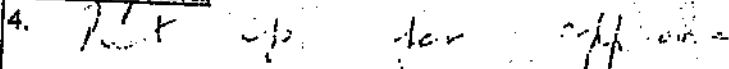
- With reference to the 9th, 17th meetings of the Ehtesab Commission, and this office letter no. DGEC/1-1/2015 dated 20-04-2015 along with Chief Commissioner's remarks on the same.
- The proposed eligibility criteria against all such post is as under:

S. No	Position	Eligibility Criteria
1	Deputy Director Forensic Accounting	MBA / ACCA with 10 years post qualification relevant experience in the fields of Finance & Audit Age up to 55 years
2	Assistant Director (Internal Monitoring)	Served in BPS-17 in any Government Department with 05 years experience in Investigation or MBA with 07 years experience in administrative capacity Age: Max age 60 years, Extendable up to 62 years in case of exceptional service record
3	Assistant Director Finance / Audit Procurement	MBA with 05 years post qualification relevant experience in the fields of Finance & Accounts Age up to 50 years
4	Assistant Director Software Development	MSC/ MCS / MIT / BCS (HON), with 05 years experience in the field of software development application, testing and implementation Age up to 50 years
5	Assistant Director Web Development	MSC/ MCS / MIT / BCS (HON), with 05 years experience in the field of Web development application and Data bases Age up to 50 years
6	Accountant	MBA with 03 years post qualification relevant experience in the fields of Finance & Accounts Age up to 40 years, Extendable up to 02 years in case of exceptional service record
7	Private Secretary / Senior Scale Stenographer	Graduate with 05 years working knowledge of Computer Age up to 40 years, Extendable up to 02 years in case of exceptional service record
8	Junlor Investigation Officer	Graduate with 05 years experience in the relevant field Max age 60 years, Extendable up to 02 years in case of exceptional service record
9	Field Operator	FA / FSC with 03 years experience in the Field Work Max age 45 years, Extendable up to 02 years in case of exceptional service record

- Submitted for your kind perusal and approval please.

  
Director Human Resource

Director General

- 

Chief Commissioner

- The Commission is presently short of any support staff to record the minutes of meeting in respect of

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In with

19. Put up after addressing the observations  
Director General

enclosed

11. Minutes of 20th meeting of Commission are

Signature  
CIC  
28/4/15

Signature  
28/4

Director General

28/4

Signature  
28/4

9. For info please

App to do the needful  
Chief Commissioner office on 29th

operator has been deployed to report to  
8. AD administrator along with the one computer

Director Human Resource

7. Director General

Signature  
28/4

office to do the needful

6. Case be sent when someone is deployed to this

The matter is hand

Date: 27-04-2015

No. 9

Minute Sheet

KHYBER PAKHTUNKHWA  
EHTESAB COMMISSION

(33)





(34)

EHTESAB COMMISSION  
KHYBER PAKHTUNKHWA

Minute Sheet



Date: 18-05-2015

No. 3

With reference to the minutes of 20th meetings of the Commission

13. In Para 04 of the subject minutes, it is stated that 'eligibility criteria for the position of Dy. Director Forensic Accounting, Assistant Director (IM & PC) and Private Secretary / Senior Scale Stenographer already stood approved previously'.
14. As the criteria for Dy. Director Forensic Accounting was proposed in the Organogram prepared and discussed by the respective Wing Directors with the Commissioners. This further substantiates that the Organogram approved by the Commission includes the Criteria given against each position.
15. With regards to eligibility criteria along with age limits proposed against S. No. 3 to 6 were suggested / recommended by the concerned Wing Directors, keeping in view the job descriptions of these positions and to attract professionally qualified applicants with the relevant experience.
16. After the establishment of Ehtesab Courts, the Ehtesab Commission is fully functional and there are number of cases at the final stages of investigation, few references are already finalized and a large number of cases are in the pipe line. There is an acute shortage of staff in the Ehtesab Commission. Therefore timely recruitment of staff against the vacant posts would help the Ehtesab Commission to function smoothly and efficiently. It is recommended that Case may be forwarded to the Commission for Ex-post facto approval of the advertised eligibility criteria for the positions mentioned at S. No. 3-6.

*[Signature]*  
Director Human Resource

Director General

17. Para 5 of the minutes will be taken care of for permanent employees, as and when 'Terms & Conditions of Service' are prepared by the Commission.
18. Re submitted for consideration please -

*[Signature]*  
Chief / Commissioner

99. The proposals/recommendations contained in Para-16 are approved.

*[Signature]*  
21/05/15

*[Signature]*  
21/5

*[Signature]*  
21/5

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OFFICE OF THE EHTESAB COMMISSION,  
KHYBER PAKHTUNKHWA

MINUTES OF THE 13<sup>TH</sup> MEETING OF KHYBER PAKHTUNKHWA EHTESAB  
COMMISSION HELD ON 13<sup>TH</sup> & 16<sup>TH</sup> JANUARY, 2015.

The following agenda items necessitated a meeting of the Commission for consideration and approval which was held on 13.01.2015 and was concluded on 16.01.2015:-

The meeting was attended by the following:-

- |   |   |
|---|---|
| 1. Justice (R) Hamid Farooq Durrani<br>Chief Ehtesab Commissioner | In Chair                                |
| 2. Colonel Abdul Wahid Jan Abbasi (Retired),                      | Ehtesab Commissioner-I.                 |
| 3. Syeda Sarwat Jehan,  | Ehtesab Commissioner-II.                |
| 4. Mr. Mumtaz Ali Khan,   | Ehtesab Commissioner-III.               |
| 5. Sahibzada Khurshid Ahmad,                                      | Ehtesab Commissioner-IV.                |
| 6. Lt. Gen (R) Mohammad Hamid Khan,                               | Director General,<br>Ehtesab Commission |

Agenda item # 1  
(Progress of the Commission made so far)

At the outset, the Director General Ehtesab Commission after a welcome note, apprised the Commission regarding the progress made in pursuance to efforts undertaken. It was informed that he met the Chief Minister, Khyber Pakhtunkhwa while the concerned ministers and Administrative Secretaries were also present. Issues, including the grant of Ehtesab Commission Budget, Courts, Police Station as well as improvements to be brought about in the Khyber Pakhtunkhwa Ehtesab Commission Act, 2014 requiring amendment of the Act, were discussed in the meeting. The Chief Minister gave requisite instructions to the concerned administrative secretaries for doing the needful. The Director General also informed that:-

- Budget of Ehtesab Commission stood released
- Regarding posting of the Ehtesab Judges, the Prosecutor General Ehtesab Commission was in contact with the Registrar, Peshawar High Court.
- Police Station for the Commission was notified and there was likelihood of attachment of personnel shortly.
- The Establishment Department had required Peshawar Development Authority to provide land measuring 20 kanals for the construction of building for Ehtesab Commission.
- In order to make the KP Ehtesab Commission Act more effective certain amendments were suggested to the Government.

**ATTESTED**

**ATTESTED**

(36)

- 68

- d. The Director General had reservations regarding the contents of para-5.13 (Review of selection process) and after some discussion the matter was deferred due to non-availability of Prosecutor General, Ehtesab Commission to be taken up on 16.01.2015.
- e. In para-5.14 the period of probation was approved to be 3 months extendable to 6 months by the competent authority instead of 6 months and 12 months, respectively.
- f. In para-5.15 and thereafter the word "supervisor" shall be substituted by the word "superior".
- g. In Chapter 8 (Employees' Training) the name of Commissioners shall be expunged since the Commissioners were not employees of the Commission. Similarly, in para-4 at page-17 the word Commissioners shall be deleted, however, the requisite information shall be provided to the Commissioners as and when required.
- h. In the last para at page-17 "The Commission's Internal Audit and Monitoring Wing" shall be corrected to "the Commission's Finance and Audit Wing".
- i. Para-2 at page-18 in Chapter-9 (Disciplinary Issues) shall be redrafted as "The administration of overall discipline except that of Director Internal Monitoring and Public Complaints Wing shall be the responsibility of Director General, whereas, the HR Wing will be fully empowered and competent to take disciplinary action against the staff for all practical purposes in accordance with law. The Director Internal Monitoring and Public Complaints shall be answerable to the Commission with regard to his discipline."

**Agenda Item # 3**

(To discuss and approve Terms and Conditions of Service of employees)

Deferred

**Agenda Item # 4**

(Review of qualification/service conditions)

Agenda item number-4 was discussed. However, no change/amendment therein was considered necessary.

**Agenda Item # 5**

(Reconsidering the grades of various posts)

In respect of agenda item number-5 regarding reconsidering the grades of approved posts in the Commission in comparison to the Government grades for the purpose of deputation, it was decided that since presently all the employees were on contract basis, thus did not require deliberation till the time regular staff was inducted or the contract employees were regularized. However, if any Government servant was requisitioned or joined the Commission on deputation, standard Government rules would apply.

**Agenda Item # 6**

(Creation of new posts)

Deferred

**ATTESTED**

**ATTESTED**

(37)

-64

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**Agenda Item # 7**

**(Approval of Monogram)**

While discussing the agenda item number-7 the Monogram appearing at serial number-7 was unanimously selected and approved.

**Agenda Item # 8.**

**(Interpretation of Section 36(6) of the Act)**

The Provisions of Section-36 (6) of Ehtesab Commission Act, 2014 were interpreted unanimously as "It is 90 days for Inquiry or 90 days for Investigation and in case Inquiry is converted into Investigation there will be available another period of 90 days".

The Commission as well as the Director General re-assembled on 16.01.2015 to deliberate upon the deferred items.

The Director General at the outset informed the Commission that additional charge of Director HR was given to the Principal Staff Officer till the appointment of incumbent for whom requisite advertisement had already been made.

**Agenda Item # 2**

**(Para 5.13 of HR Policy)**

There was considerable discussion regarding agenda item number-2 (HR Policy-5.13). Regarding this part of HR Policy, the Director General and Prosecutor General contended that Director Internal Monitoring did not have any role in selection process as finalized by the Commission. Prosecutor General was of the opinion that the contents of draft para in the proposed policy authorized the Director Internal Monitoring and Public Complaints Wing to carry out a review of selection for appointments without there being any complaint. It was beyond the parameter of powers and functions of said Director, because it was exceeding his mandate prescribed in Section 16 and 17 of the Act. He elucidated Section-17(d) of the Act which authorized the Director Internal Monitoring and Public Complaints Wing to analyze the performance of the Commission but the same sub-section restricted it to the details given in the Sub-section (a), (b) and (c) of Section 17 read with Section 16(2), by confining his area of activity to the matters in relations to "Investigation", "Prosecution", "Complaints that remained uninvestigated/unprosecuted", as well as the "Complaints against officers of the Commission and Investigation therein".

The Commissioners did not subscribe to the contention of the Prosecutor General in respect of interpretation of provisions contained in Section 16 and 17 of the Act. They were of the view that the mandate accorded to the Director Internal Monitoring and Public Complaints Wing through Section 16(2) of the Act was wide enough to include the Monitoring of Selection Process as well.

**ATTESTED**  
**ATTESTED**

(38)

This part of statute, in view of the Commissioners, required the Director Internal Monitoring and Public Complaints Wing to head the Wing responsible for Internal Monitoring of the performance of officers of Commission. The performance of officers of the Commission safely included the performance of officers in the selection process also. As the Commissioners were also mandated by the law not only to issue policy guidelines for the Commission, its officers and employees, but were duty bound to oversee their overall performance which could most suitably be carried out through the Internal Monitoring and Public Complaints Wing.

It was therefore; approved that para- 5.13 (review of selection process) be rephrased in the following terms "The Director Internal Monitoring and Public Complaints Wing shall conduct the review of entire selection process and relevant evidence. If any candidate is found ineligible in any respect under the rules or in case the recruitment process is found to have been violated, his/her candidature/appointment will be reported to the Director General and in case of appointment of officers, to the Commission for appropriate action".

**Agenda Item # 6**

(Creation of new posts)

While deliberating upon agenda item number-6 the following changes were approved by the Commissioners:-

- a. Administrative Officer: The requirement of 3 years' experience was enhanced to 5 years, while age limit was enhanced from 35 years to 40 years.
- b. Public Relations Officer: Requirement of Bachelor's Degree in Journalism was changed to Graduation with 5 years relevant experience in any government/private organization.
- c. Administrative Officer (Transport): FA/FSc preferably with diploma in automobiles from recognized institution was approved.
- d. Accountant: It was approved that maximum age limit shall be 60 years extendable upto 63 years.
- e. Senior Clerk: Maximum age limit of 55 years was approved.
- f. Telephone Operator: Required experience was enhanced from 3 years to 5 years. Maximum age limit was enhanced from 35 years to 40 years.

**Agenda Item # 9**

(Approval of organogram)

The Organogram for Investigation Wing was discussed; however the Commissioners were of the view that it should be deferred till the appointment of Director Investigation Wing.

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ATTESTED

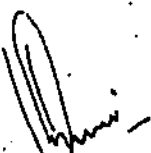
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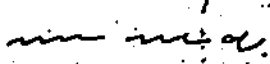
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The Commissioners approved that the following incumbents would work under the Assistant Director Administration.

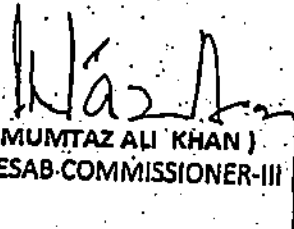
- a. Administrative Officer
- b. Administrative Officer (Transport)
- c. Public Relation Officer
- d. Office Superintendent
- e. Accountant

The meeting ended with a vote of thanks.

  
(JUSTICE (R) HAMID FAROOQ DUR)  
CHIEF EHTESAB COMMISSIONER

  
(COL (R) ABDUL WAHID JAN ABBASI)  
EHTESAB COMMISSIONER-I

  
(SYEDA SARWAT JEHAN)  
EHTESAB COMMISSIONER-II

  
(MUMTAZ ALI KHAN)  
EHTESAB COMMISSIONER-III

  
(SAHIBZADA KHURSHID AHMAD)  
EHTESAB COMMISSIONER-IV

ATTESTED

ATTESTED

(40)

OFFICE OF THE EHTESAB COMMISSION,  
KHYBER PAKHTUNKHWA

MINUTES OF THE 15<sup>TH</sup> MEETING OF KHYBER PAKHTUNKHWA EHTESAB  
COMMISSION HELD ON 26<sup>TH</sup> JANUARY, 2015.

The 15<sup>th</sup> meeting of Ehtesab Commission, Khber Pakhtunkhwa was held on 26.01.2015, which was attended by the following:-

- |   |                           |
|---|---------------------------|
| 1. Justice (R) Hamid Farooq Durrani<br>Chief Ehtesab Commissioner | In Chair                  |
| 2. Colonel Abdul Wahid Jan Abbasi (Retired),                      | Ehtesab Commissioner-I.   |
| 3. Syeda Sarwat Jehan,  | Ehtesab Commissioner-II.  |
| 4. Mr. Mumtaz Ali Khan,   | Ehtesab Commissioner-III. |
| 5. Sahibzada Khurshid Ahmad,                                      | Ehtesab Commissioner-IV.  |

2. The Commissioners considered the proposal of Director General, Ehtesab Commission in respect of number of posts and approval of respective salary packages for different slots to be advertised for recruitment.

3. The Commissioners unanimously approved the number of posts as proposed by the Director General, while the salary package against each post was approved in the following manner:-

- |                                       |              |
|---------------------------------------|--------------|
| 1. Administrative Officer             | Rs. 60,000/- |
| 2. Public Relations Officer           | Rs. 60,000/- |
| 3. Administrative Officer (Transport) | Rs. 60,000/- |
| 4. Accountant                         | Rs. 45,000/- |
| 5. Senior Clerk                       | Rs. 35,000/- |
| 6. Junior Clerk                       | Rs. 25,000/- |
| 7. Superintendent                     | Rs. 45,000/- |
| 8. Telephone Operator                 | Rs. 25,000/- |

(JUSTICE (R) HAMID FAROOQ DURRANI)  
CHIEF EHTESAB COMMISSIONER

(COL(R) ABDUL WAHID JAN ABBASI)  
EHTESAB COMMISSIONER-I

(SYEDA SARWAT JEHAN)  
EHTESAB COMMISSIONER-II

(MUMTAZ ALI KHAN)  
EHTESAB COMMISSIONER-III

(SAHIBZADA KHURSHID AHMAD)

ATTESTED ATTESTED



(41)

**OFFICE OF THE EHTESAB COMMISSION,  
KHYBER PAKHTUNKHWA**

MINUTES OF THE 17<sup>TH</sup> MEETING OF KHYBER PAKHTUNKHWA EHTESAB  
COMMISSION HELD ON 16<sup>TH</sup> MARCH 2015.

The 17<sup>th</sup> meeting of Khyber Pakhtunkhwa Ehtesab Commission was held on 16<sup>th</sup> March, 2015 to consider and decide the proposed Organigram submitted by the office of Director General Ehtesab Commission pertaining to Investigation Wing, Human Resource Wing, Finance & Audit Wing and Information and Data Processing Wing of Ehtesab Commission.

The meeting was attended by the following:-

- |   |                           |
|---|---------------------------|
| 1. Justice (R) Hamid Farooq Durrani<br>Chief Ehtesab Commissioner | In Chair                  |
| 2. Colonel Abdul Wahid Jan Abbasi (Retired),                      | Ehtesab Commissioner-I.   |
| 3. Syeda Sarwat Jehan,  | Ehtesab Commissioner-II.  |
| 4. Mr. Mumtaz Ali Khan,   | Ehtesab Commissioner-III. |
| 5. Sahibzada Khurshid Ahmad,                                      | Ehtesab Commissioner-IV.  |

2. The proposed strength of officers in the Investigation Wing comprised of 01 Director, 05 Additional Directors, 10 Deputy Directors, 31 Assistant Directors, 36 Junior Investigation Officers and 15 Field Operators besides the personnel of support staff. The explanatory note prepared by the Additional Director Investigation (as Acting Director) reflected financial implication of the salaries of proposed posts in the Organigram, except the Junior Investigation Officers and Field Operators, accumulatively to Rs. 89,100,000/- for one year. As the Commission has not prescribed the remuneration for Junior Investigation Officers and Field Operators, therefore, the impact of their salaries was not included in the figures and the financial implication was calculated on the basis of contract appointments only.

3. The proposed Organigram for Directorate of Information and Data Processing comprised of 01 Director and 03 Assistant Directors on contract basis with salary impact of Rs. 81,00,000/- for one year. The Director Finance and Audit proposed an organization for the Wing including 01 Director, 02 Deputy Directors, 06 Assistant Directors and 02 Accountants.

4. Acting Director Human Resource has proposed 01 Director and 02 Assistant Directors. The financial impact of salaries of the officers amounts to Rs. 1,88,40,000 for the next financial year.

5. The Additional Director Investigation attempted to compare the proposed strength of Investigation Wing with that of regional NAB as well as Anti-Corruption Establishment of KP in his explanatory notes dated 09.03.2015. It was, however, distinctly noticed that the finances involved in the quantum of salaries of officers of the said two departments was not indicated in the note. It, therefore, could not be considered as justifiable comparison also keeping in view the volume of work being disposed of by the referred departments as well as the revenue recovered by them.

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6. The Commissioners, after in-depth deliberation and discussion, reached the conclusion that the strength of officers and staff proposed through the case in hand may be "approved as proposed" while the Commissioner-I, was of the view that in the proposed Organigram of Investigation Wing the nature of duties assigned to the Field Operators were not commensurate with the aim of the Commission. Their duties should be entirely investigation eccentric and also job assigned to such operators should not have overlaps with the job of Internal Monitoring Wing.

7. Commissioner-II, was of the view that the preparation of individual Organigram by concerned Directors was in isolation and lacked coordinated effort which resulted in consumption of extra time and energy of the Commission. She was also of the view that in none of the Organigram strength of support staff was noted.

8. The Commissioners, however, approved the proposed strength as mentioned in the Organigram. It was decided that in order to reduce the financial burden on the public exchequer and to enable the Ehtesab Commission to stand on its feet, there was dire need for recruitment of permanent staff instead of contract employees. The Commissioners also fully understood that a new Organization required experienced officers to start with, therefore, the entire Organization could not be recruited on regular basis in the first instance. It was unanimously decided that vacancies in the proposed Organogram of each Directorate may be filled up on contract basis but to a maximum of 50%. On the remaining posts permanent staff shall be employed who, in turn, would acquire expertise and training for shouldering the responsibilities of Commission in a manner which could meet the spirit and requirement of law. Following pay scales were approved for different cadres in the Commission:-

1. Director BPS-20
2. Additional Director BPS-19
3. Deputy Director BPS-18
4. Assistant Director BPS-17
5. Superintendent BPS-17
6. Assistant BPS-16
7. Senior Clerk BPS-14
8. Junior Clerk BPS-11
9. Accountant BPS-16
10. Computer Operator BPS-12
12. Senior Scale Stenographer BPS-16
13. Junior Scale Stenographer BPS-14
14. Driver BPS-5
15. Qasid BPS-4
16. N/Qasid BPS-4
17. PA/PS BPS-16
18. Junior Investigation Officers BPS-16 (Rs.45000/- per month in case of contract employment)
19. Field Operator BPS-14 (Rs.35000/- per month in case of contract employment)

(Special Allowance may be added to the salary of basic pay scales with the approval of the Commission.)

9. The Commissioners also decided to include the approved Organigrams for Internal Monitoring & Public Complaints Wing as well as the Commissionerate. The strength of IM&PC Wing comprises of 01 Director, 01 Deputy Director, 02 Assistant Directors, 02 Stenographers, 02 Computer Operators, 02 Senior Clerks, 01 Driver and 04 N/Qasids while the staff of Commissionerate is to include 01 Secretary to Commission (BPS-17), 01 Senior Clerk, 01 Senior Scale Stenographer, 01 Computer Operator, 05 Drivers, 02 Chowkidars, 03 N/Qasids, 01 Mali and 01 Sweeper which shall be communicated to the office of Director General, Ehtesab Commission for necessary action and budget propose.




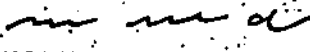
ATTESTED ATTESTED

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(JUSTICE (R) HAMID FAROOQ DURRANI)  
CHIEF EHTESAB COMMISSIONER

  
(COL (R) ABDUL WAHID JAN ABBASI)  
EHTESAB COMMISSIONER-I

  
(SYEDA SARWAT JAHAN)  
EHTESAB COMMISSIONER-II

  
(MUMTAZ ALI KHAN)  
EHTESAB COMMISSIONER-III

  
(SAHIBZADA KHURSHID AHMAD)  
EHTESAB COMMISSIONER-IV

ATTESTED

  
ATTESTED



(44)

EHTESAB COMMISSION  
KHYBER PAKHTUNKHWA



No. DGE/1-1/2015

Date: 20-04-2015

To

The Chief Commissioner,  
Ehtesab Commission,  
Khyber Pakhtunkhwa.

**Subject: Eligibility Criteria / Qualification for Various Positions**

With reference to the 17th meeting of the Commission, eligibility criteria / qualifications of various position of each wing was discussed with respective Directors and approved by the Commission.

Organogram of the Internal Monitoring wing was designed and approved by the Commission but no eligibility criteria / qualifications was written against these approved positions. However, in the 9th meeting of the Commission following eligibility criteria / qualification was approved for the position of Assistant Director.

'Served in BPS-17 in any Government Department with 05 years experience in Investigation or 07 years experience in administrative capacity'

Before publication of Jobs advertisement, the subject matter was discussed with all the wing Directors including Director Internal Monitoring & Public Complaints. Director Internal Monitoring & Public Complaints suggested certain changes in the eligibility criteria of Assistant Director Internal Monitoring. However, the undersigned advised the Director that he may discuss these changes with the Commissioners for their approval.

Director Internal Monitoring & Public Complaints informed the undersigned that subject matter has been discussed with the Commissioners and as a result of that following changes has been agreed to for the position of Assistant Director.

Proposed Eligibility Criteria:

'Served in BPS-17 in any Government Department with 05 years experience in Investigation or MBA with 07 years experience in administrative capacity.'

In addition to above few details like the age limit and explanation of experience type were not mentioned in the approved Organogram. These details have been however added in line with the corresponding approved positions.

Submitted for your kind perusal and approval please.

*In the 17th meeting of Commission the strength proposed in the organogram was approved vide para-8 while the introduced eligibility criteria is*

Director Human Resource

**ATTESTED ATTESTED**


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yet to be sent to the Commission for  
consideration and approval in terms reflected  
in the advertisement dtd. 10/04/2015.

The eligibility standards against all  
such posts be proposed and sent by means  
of a single Summary preferably through  
the office of Director General F.C.

  
Chief Ehtesab Commissioner  
Khyber Pakhtunkhwa &c.

Director Human Resource

  
ATTESTED

ATTESTED



(46) 73 52  
OFFICE OF THE EHTESAB COMMISSION

KHYBER PAKHTUNKHWA

PESHAWAR 73

Subject: Minutes Of The 20<sup>th</sup> Meeting Of Ehtesab Commission Held On 30-04-2015.

The 20<sup>th</sup> meeting of Ehtesab Commission Khyber Pakhtunkhwa was held today (30-04-2015) to discuss and deliberate upon the proposed criteria for various positions as submitted by Director HR through the Director General Ehtesab Commission. The meeting was chaired by Chief Ehtesab Commissioner and was attended by the followings:-

1. Col (R) Abdul Wahid Jan Abbasi Ehtesab Commissioner (I)
2. Syeda Sarwat Jahan Ehtesab Commissioner (II)
3. Sahibzada Khurshid Ahmad Ehtesab Commissioner (IV)

2) The Commissioners, at the outset, observed with concern that the illegality committed on the occasion of issuance of first advertisement dated: 22-10-2014 for recruitment to various posts has been repeated through the advertisement dated: 14-04-2015 inviting applications for recruitment to the posts noted in the instant proposal. The said act necessitated, at that juncture, a legal opinion from the Prosecutor General Ehtesab Commission which was returned in un-equivocal terms on 28-10-2014 and was circulated amongst all concerned. Despite this, the legal position was again disregarded by issuing advertisement containing eligibility criteria not as prescribed by Commission under section 11 (4) of the Act. This factum may warrant proceedings of misconduct against those responsible for delinquency.

3) It transpired that the posts/positions mentioned at Sr No. 3 to 5 of the proposal under consideration required the eligibility criteria which is not in accordance with the criteria prescribed by the Commission in its 9<sup>th</sup> meeting held on 28-11-2014 with regard to maximum age limit for the posts of Assistant Director Finance (2) and Assistant Director Information and Data Processing Wing. Similarly, the post of Accountant mentioned at Sr No. 6 of the proposal required maximum age limit of 60-63 years as decided in 13<sup>th</sup> meeting held on 13 and 16 January 2015. The Commissioners, therefore, unanimously decided not to subscribe to or approve the proposal to the extent of above mentioned posts in the present form.

Ehtesab Commissioner (II)

ATTESTED

ATTESTED

(47)

**OFFICE OF THE EHTESAB COMMISSION  
KHYBER PAKHTUNKHWA  
PESHAWAR**

**Subject: Minutes Of The 20<sup>th</sup> Meeting Of Ehtesab Commission Held On 30-04-2015.**

The 20<sup>th</sup> meeting of Ehtesab Commission Khyber Pakhtunkhwa was held today (30.04.2015) to discuss and deliberate upon the proposed criteria for various positions as submitted by Director HR through the Director General Ehtesab Commission. The meeting was chaired by Chief Ehtesab Commissioner and were attended by the followings:

1. Col (R) Abdul Wahid Jan Abbasi                      Ehtesab Commissioner (I)
2. Syeda Sarwat Jahan                                      Ehtesab Commissioner (II)
3. Sahibzada Khurshid Ahmad                          Ehtesab Commissioner (IV)

2) The Commissioners, at the outset, observed with concern that the illegality committed on the occasion of issuance of first advertisement dated: 22-10-2014 for recruitment to various posts has been repeated through the advertisement dated: 14.04.2015 inviting applications for recruitment to the posts noted in the instant proposal. The said act necessitated, at that juncture, a legal opinion from the Prosecutor General Ehtesab Commission which was returned in un-equivocal terms on 28 \_\_\_\_\_ amongst all concerned. Despite thus, the legal position was again disregarded by issuing advertisement containing eligibility criteria you to the prescribed by Commission under section 11 (4) of the Act. This factum may warrant proceedings of misconduct against those responsible for delinquency.

3) It transpired that the posts/positions mentioned at Sr No. 3 to 5 of the proposal under consideration required the eligibility criteria which is not in accordance with the criteria prescribed by the Commission in its 9 meeting held on 28-11-2014 with regard to maximum age limit for the posts at Assistant Director Finance (2) and Assistant Director Information and Data Processing Wing. Similarly, the post of Accountant mentioned at Sr No. 6 of the proposal required maximum age limit of 60-63 years as decided in 13 meeting held on 13 and 16 January 2015. The Commissioners, therefore, unanimously decided not to subscribe to or approve the proposal to the extent of above mentioned posts in the present form.

(48)

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4) It was also observed that the eligibility criteria as noted in the proposal in hand for the position of Deputy Director <sup>Finance</sup> Accounting, Assistant Director Internal Monitoring, Private Secretary/Senior Scale Stenographer already stood approved previously. The proposed criteria for Junior Investigation Officer and Field Operator is approved with the only modification that the required experience of the field operator shall be in the RELEVANT FIELD.

5) The Commissioners also emphasized the need for conducting the requisite written test of the candidates through NTS / Independent Agency as already approved by the Commission through the Human Resource Policy dated: 16-01-2015.

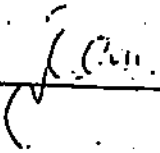
Chief Ehtesab Commissioner

  
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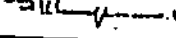
Ehtesab Commissioner (I)

  
\_\_\_\_\_

Ehtesab Commissioner (II)

  
\_\_\_\_\_

Ehtesab Commissioner (IV)

  
\_\_\_\_\_

**ATTESTED**

**ATTESTED**



(49)

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4) It was also observed that the eligibility criteria as noted in the proposal in hand for the position of Deputy Director Finance Accounting, Assistant Director Internal Monitoring, Private Secretary/Senior Scale Stenographer already stood approved previously. The proposed criteria for Junior Investigation Officer and Field Operator is approved with the only modification that the required experience of the field operator shall be in the RELEVANT FIELD.

5) The Commissioners also emphasized the need for conducting the requisite written test of the candidates through NT57 Independent Agency as already approved by the Commission through the Human Resource Policy dated: 16-01-2015.

Chief Ehtesab Commissioner Sd/-

Ehtesab Commissioner (I) Sd/-

Ehtesab Commissioner (II) Sd/-

Ehtesab Commissioner (IV) Sd/-



(50) EHTESAB COMMISSION  
KHYBER PAKHTUNKHWA



No.EC/HR/2-1/4-2015

Dated: 27/04/2015

From: Director General,  
Ehtesab Commission,  
Khyber Pakhtunkhwa, Peshawar

To: Niaz Muhammad S/O Sher Muhammad

Subject: **SELECTION OF NIAZ MUHAMMAD S/O SHER MUHAMMAD FOR APPOINTMENT AS SENIOR CLERK ON LUMP SUM CONTRACT BASIS IN KHYBER PAKHTUNKHWA EHTESAB COMMISSION PESHAWAR**

1. This is to inform you, that you have been selected for appointment as senior clerk on lump sum contract basis in Khyber Pakhtunkhwa Ehtesab Commission Peshawar on the following terms and conditions:-

<u>Post:</u>	Senior Clerk
<u>Place of Posting:</u>	Khyber Pakhtunkhwa Ehtesab Commission, Peshawar (Transferable)
<u>Period of Contract:</u>	Two Years w.e.f the date of joining
<u>Probation Period</u>	Three months w.e.f the date of joining, however the said period may be extended to further three months if required so.
<u>Remuneration :</u>	Rs. 35,000/- Per Month
<u>Traveling Allowance/Daily Allowance</u>	TADA as per instructions.
<u>Accommodation</u>	Accommodation will not be provided.
<u>Pension:-</u>	The services rendered under the present contract shall not qualify for a pension or gratuity.
<u>General Provident Fund:</u>	You shall not be required to contribute to General Provident Fund.
<u>Leave:</u>	20 days leave per year with full pay.
<u>Termination of Contract:</u>	This appointment of your contract shall be liable to termination on one month's advance notice or one month's total remuneration in lieu thereof by the either side.
<u>Discipline</u>	The appointment of contract shall be liable to termination without any further notice in case the charge of misconduct proved against you.

Continued overleaf

EHTESAB COMMISSION KHYBER PAKHTUNKHWA

House # 21, Street 2, Sector G2, Phase 2, Hayatabad Peshawar, Khyber Pakhtunkhwa, Pakistan

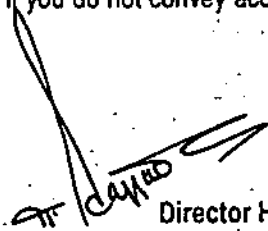
*[Handwritten signature]*  
27/04/2015

(51)

<u>Other Matters:</u>	<ol style="list-style-type: none"><li>i. You will not accept any brief against Khyber Pakhtunkhwa Ehtesab Commission for one year after termination of this contract. Further you will also not accept brief in those cases in which you remained associated during the course of duty with Ehtesab Commission (for Advocates etc.).</li><li>ii. In respect of other matters not specified in this contract, you will be governed by the rules/regulations/SOP's framed and issued by the Khyber Pakhtunkhwa Ehtesab Commission from time to time.</li><li>iii. During the period of this contract, you shall not be entitled to hold any other office or occupy any other position carrying the rights to remuneration.</li></ol>
-----------------------	--

2. If you accept the above terms and conditions of appointment, please convey your acceptance within 7 days of the date of issue of this contract and report to place of posting.

3. This offer of appointment will be treated as cancelled if you do not convey acceptance thereof within the time specified in para-2 above.

  
Director HR,  
Ehtesab Commission,  
Khyber Pakhtunkhwa.

(52)



**NOTIFICATION**

Peshawar, dated: June 09, 2017

In exercise of the powers conferred by section 9 (d) read in section 51 of the Khyber Pakhtunkhwa Ehtesab Commission Act, 2014 (Khyber Pakhtunkhwa Act No. 1 of 2014) the Commission is pleased to make the following regulations namely:

**KHYBER PAKHTUNKHWA EHTESAB COMMISSION**  
**EMPLOYEES SERVICE REGULATIONS, 2017**

1. Short title, application and commencement:—(1) These regulations may be called the Khyber Pakhtunkhwa Ehtesab Commission Employees Service Regulations, 2017

(2) These regulations shall apply to all the employees of Directorate General of the Commission except the Investigation and Prosecution Wings, save as otherwise provided by these regulations.

(3) These regulations shall come into force at once.

2. Definitions:—In these regulations unless the subject or context otherwise requires, the following expressions shall have the meanings as assigned to them hereunder:

- (a) "Act" means the Khyber Pakhtunkhwa Ehtesab Commission Act, 2014 (Khyber Pakhtunkhwa Act No. 1 of 2014);
- (b) "Appendix" means the Appendix appended to these regulations;

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- (c) "Directorate General" means the Directorate General of the Commission established under section 3-A of the Act;
- (d) "employee" means an employee of the Directorate General appointed on regular basis including the Ehtesab Courts staff;
- (e) "Initial recruitment" means appointment made otherwise than by promotion or transfer;
- (f) "Selection and Promotion Board" means the Selection and Promotion Board constituted under these regulations;

3. Method of Appointment.—(1) Appointment to various posts in the Directorate General shall be made by Initial recruitment, promotion or by transfer in the manner as specified in Appendix-I.

(2) The qualification and other conditions applicable to a post shall be such as specified in the Appendix.


(3) The qualification requisite experience and basic pay scales of Ehtesab Court staff shall be as specified in Appendix-II

4. Appointing Authority.—Save as otherwise provided in the Act, the Director General shall be the Appointing Authority for the purpose of appointment to various posts in the Directorate General including the Ehtesab Court staff on the recommendation of Selection and Promotion Board.

5. Status of existing employees in the Directorate General.—(1) The Committee constituted under sub-section (4) of section 11 of the Act shall scrutinize the existing employees of the Directorate General for their suitability for appointment on regular basis under these regulations. ✓

(2) If an employee of the Directorate General is found eligible in accordance with the provisions of these regulations the Committee may recommend his name for appointment on regular basis under these regulations.



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6. Selection and Promotion Board.—(1) There shall be a Selection and Promotion Board for the purpose of initial recruitment, promotion and transfer of all employees.

(2) The Selection and Promotion Board shall consist of—

- (a) Director HR Wing. Chairman
- (b) Additional Secretary, Establishment Department Govt. of Khyber Pakhtunkhwa. Member
- (c) Two Directors to be nominated by the Commission (one shall be from the Concerned Wing); and Members
- (d) Assistant Director, Human Resource Wing. Secretary

Provided that in case of appointment of Director HR Wing the Board shall be chaired by a Director to be nominated by the Commission. Provided further that in case of initial recruitment, promotion and transfer of Ehtesab Court staff the senior amongst the Ehtesab Court's Judges shall be the chairman of the Board instead of Director HR Wing.

7. Seniority.—(1) The appointing Authority shall maintain proper seniority lists of the employees of Directorate General and shall notify the same once in every calendar year, preferably in the month of January.

(2) The inter-se seniority of the employees in the various Wings shall be determined:-

- (a) In the case of persons appointed by initial recruitment in accordance with the order of merit assigned by the Selection and Promotion Board under these regulations provided that persons selected for appointment in an earlier selection shall rank senior to the persons selected in a later selection; and

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(b) In the case of persons appointed other than by initial recruitment, with reference to the dates of their continuous regular appointment to the post; provided that persons selected for promotion to a higher post in one batch shall, on their promotion to the higher post, retain their inter-se seniority as in the lower post.

(3) Seniority inter-se of the employees appointed by initial recruitment vis-à-vis those appointed otherwise shall be determined with reference to the dates of their appointment to a post in a Wing; provided that if the two dates are the same, the person appointed by promotion shall rank senior to the one appointed by initial recruitment.

8. Age relaxation.— The Commission may relax the upper age limit according to Government Policy.

Provided that no relaxation in qualification and experience shall be admissible in any circumstances.

9. Eligibility.—(1) A candidate for appointment shall be a citizen of Pakistan and bonafide resident of the Khyber Pakhtunkhwa.

(2) No person, who has been married with a foreign national or has dual nationality, shall be appointed to a post under these regulations.

(3) No person, not already in Government service, shall be appointed to a post unless he produces a certificate of character from the principal academic officer of the academic institution last attended and also certificate of character from two responsible persons, not being his relatives, who are well acquainted with his character and antecedents.

(4) No candidate shall be appointed to a post unless he is found, after such medical examination as per Government rules in vogue, to be in good mental and bodily health and free from physical defect/s likely to affect in the efficient discharge of his duties.

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(5) Where a person appointed by initial recruitment to a post under these regulations not having Matric qualification to produce any documentary proof regarding his age, the Commission may send him to its medical officer or to any other Registered Medical Practitioner, selected by the Commission for his purpose and his opinion with regard to the age of the employee shall be final. Age of the employee as registered at the time of his employment shall be recorded as final and shall not be questioned by the employee.

(6) No person, who has been dismissed from service or terminated from service on ground of misconduct or inefficiency from any Government, Semi-Government, Autonomous Body or Organization or his contract of services terminated or not extended on these grounds shall be appointed to a post under these regulations.

10. Retirement.— An employee of the Directorate General shall retire from service on attaining the sixtieth year of his age.

11. Probation.— (1) A person appointed to a post in Directorate General shall remain on probation for a period of two years, if appointed by initial recruitment and for a period of one year, if appointed otherwise, provided that if his work or conduct during the period of probation has, in the opinion of appointing authority, not been found satisfactory, the appointing authority may notwithstanding that the period of probation has not expired,

- (a) dispense with his services, if he has been appointed by initial recruitment; or
- (b) revert him to his former post, if he has been appointed otherwise or if there will be no such post, dispense with his services; or
- (c) extend the period of probation for a period not exceeding one year in all and during or on the expiry of such extended period, pass such orders as it could have passed during or on the expiry of the initial probationary period.

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(5) Where a person appointed by initial recruitment to a post under these regulations not having Matric qualification to produce any documentary proof regarding his age, the Commission may send him to its medical officer or to any other Registered Medical Practitioner, selected by the Commission for the purpose and his opinion with regard to the age of the employee shall be final. Age of the employee as registered at the time of his employment shall be recorded as final and shall not be questioned by the employee.

(6) No person, who has been dismissed from service or terminated from service on ground of misconduct or inefficiency from any Government, Semi-Government, Autonomous Body or Organization or his contract of services terminated or not extended on these grounds shall be appointed to a post under these regulations.

10. Retirement.— An employee of the Directorate General shall retire from service on attaining the sixtieth year of his age.

11. Probation.—(1) A person appointed to a post in Directorate General shall remain on probation for a period of two years, if appointed by initial recruitment, and for a period of one year, if appointed otherwise, provided that if his work or conduct during the period of probation has, in the opinion of appointing authority, not been found satisfactory, the appointing authority may notwithstanding that the period of probation has not expired,—

- (a) dispense with his services, if he has been appointed by initial recruitment; or
- (b) revert him to his former post, if he has been appointed otherwise or if there will be no such post, dispense with his services; or
- (c) extend the period of probation for a period not exceeding one year in all and during or on the expiry of such extended period, pass such orders as it could have passed during or on the expiry of the initial probationary period.



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Explanation.—Officiating service or service spent on transfer to a corresponding or a higher post may be allowed to count towards the period of probation.

(2) If no orders have been made by the day following the completion of the initial probationary period, the period of probation shall be deemed to have been extended, and if no orders have been made by the day on which the maximum period of probation expires, the employee shall be deemed to have satisfactorily completed his period of probation.

12. Confirmation.—On satisfactory completion of the probationary period, an employee shall be confirmed against a regular post.

13. Resignation.—(1) An employee may resign from the service of the Commission after giving one month prior notice in writing to the Appointing Authority, failing which he shall be liable to pay an amount equal to one month's salary in lieu of the notice.

(2) In case the services of an employee are to be dispensed with for any reason, the Directorate General shall give one month's prior notice or one month's pay in lieu of the notice.

14. Other matters.—(1) In all other matters not specifically provided for in these regulations the rules made by Government on those matters for civil servants shall be deemed to apply, mutatis mutandis to the employees.

(2) All employees except those in the Prosecution Wing shall be entitled to special Ehtesab Allowance at the rate of 50% of the corresponding Government pay scale of the year 2015 while the employees of Investigation Wing shall be entitled to an additional allowance of 40% to be calculated in the same manner.

(3) All posts required to be filled by initial recruitment or contract appointment shall be duly advertised in at least three leading daily newspapers in their combined additions and uploaded on the website.



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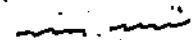
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(4) A candidate for initial recruitment to a post must possess the qualification and experience and must be within the age limit as specified in the Appendices I and II.

(5) A tentative merit list of the candidate shall be displayed on the website and notice board of the Directorate General accessible to the candidates for reasonable time.


(6) The marking system for appointment to regular posts in the Directorate General shall be such as provided in Appendix-III which shall be strictly followed.

  
Justice (R) Hamid Farooq Durrani  
Chief Ehtesab Commissioner

  
Col. Abdul Wahid Jan Abbasi (R)  
Commissioner-I

  
Ms. Syeda Sarwat Jehan  
Commissioner-II

  
Mumtaz Ali Khan  
Commissioner-III

  
Sahibzada Khurshid Ahmed  
Commissioner-IV

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APPENDIX-I

Human Resource Wing				
A	B	C	D	E
Sr. No.	Position Title	BPS	Eligibility Criteria	Method of Appointment
1	Director	20	Edu: At least 2nd Class Master's Degree in Business Administration (HR), Public Administration from recognized University Exp: 15 years of Human Resource Management experience in Govt / Private Sector (reputed) / International Organization. Age: 40-50 Years	By promotion on the basis of seniority cum fitness from amongst Deputy Director having at least 12 year service as Deputy Director and Assistant Director. Provided that if no suitable officer is available for promotion, by initial recruitment or by transfer of Government officer in BPS-19, having relevant experience
2	Deputy Director	18	Edu: At least 2nd Class Master's Degree in Business Administration (HR), Public Administration from recognized University Exp: 07 years human resource experience in the Government/ private sector (reputed)/ International organization. Age: 30-40 Years	By promotion, on the basis of seniority cum fitness from amongst Assistant Directors (HR) having at least 05 years service as such: Provided that if no suitable officer is available for promotion, by initial recruitment or by transfer of Government officer in BPS-18 having relevant experience
3	Assistant Director	17	Edu: At least 2nd Class Master's Degree in Business Administration (HR), Public Administration from recognized University. Age: 21-30 Years	By Initial recruitment
4	Assistant Director (Admin)	17	Edu: At least 2nd Class Master's Degree in Public Administration from a recognized University Exp: 03 years experience in administration in Government/ reputable private sector/ International organization. Age: 21-30 Years	By promotion, on the basis of seniority cum fitness from amongst Admin Officers / Superintendents / Private Secretaries having at least 05 years service as such: Provided that if no suitable officer is available for promotion, by initial recruitment or by transfer of Government officer in BPS-17 having relevant experience.

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Finance & Audit Wing				
A	B	C	D	E
Sr. No.	Position Title	BPS	Eligibility Criteria	Method of Appointment
1	Director	20	Edu: At least 2nd Class Master's Degree in Business Administration (Finance) or ACMA/CA or its equivalent from recognized University / Institute Exp: 15 years experience in Audit, Accounts and Finance in Govt. / reputable private audit / Accountancy Firms / International organization Age: 40-50 Years	By promotion on the basis of seniority cum fitness from amongst Deputy Directors having at least 17 years service as Deputy Director and Assistant Director. Provided that if no suitable officer is available for promotion, by initial recruitment or by transfer of Government officer in BPS-20 having relevant experience.
2	Deputy Director Finance	18	Edu: At least 2nd Class Master's Degree in Business Administration (Finance) or its equivalent qualification from recognized University/Institute Exp: 07 years experience in the field of finance and accounts. Age: 30-40 Years	By promotion, on the basis of seniority cum fitness from amongst the Assistant Directors (B&A/Audit/Procurement/Payment) having at least 05 years service as such. Provided that if no suitable officer is available for promotion, by initial recruitment or by transfer of Government officer in BPS-18 having relevant experience.
3	Deputy Director Forensic Accounting	18	Edu: At least 2nd Class Master's Degree in Business Administration (Finance) / ACCA / CA or its equivalent qualification from recognized University/Institute Exp: 07 years experience in the field of finance and accounts. Age: 30-40 Years	By Initial recruitment
4	Assistant Director Audit	17	Edu: At least 2nd Class Master's Degree in Business Administration (Finance), ACCA / CA or its equivalent qualification from recognized University/Institute Exp: 02 years relevant experience in the field of audit and accounts. Age: 21-30 Years	By Initial recruitment or by transfer from Auditor General Office
5	Assistant Director Procurement/Budget &	17	Edu: At least 2nd Class Master's Degree in Business Administration (Finance) or Commerce or its equivalent qualification from a	By Initial recruitment

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	Accounts/ Payments		recognized University/Institute Exp: 02 years relevant experience in the field of audit and accounts. Age: 21-30 Years	
6	Accountant	16	Edu: 2nd Class Master's Degree in Business Administration (Finance) or Commerce or ACCA or its equivalent qualification from a recognized University/Institution. Age: 21-30 Years	By Initial recruitment
7	Auditor	16	Edu: 2nd Class Master's Degree in Business Administration (Finance) or Commerce or ACCA or its equivalent qualification from a recognized University/Institution. Age: 21-30 Years	By Initial recruitment

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Information & Data Processing Wing				
A	B	C	D	E
Sr. No.	Position Title	BPS	Eligibility Criteria	Method of Appointment
1	Director	20	Edu: At least 2nd Class Master's Degree in Information Technology, Computer Science or its equivalent from a recognized University Exp: 15 years experience in relevant field. Age: 40-50 Years	By Initial recruitment or by transfer of Govt. officer in BPS-19 having relevant experience.
2	Assistant Director (Web / Software / Networks)	17	Edu: At least 2nd Class Master's Degree in Computer Science, Information Technology, or BS (Computer Science 03 years) or its equivalent from a recognized University/Institute Age: 23-30 Years	By Initial recruitment

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Internal Monitoring & Public Complaints Wing				
A	B	C	D	E
Sr. No.	Position Title	BPS	Eligibility Criteria	Method of Appointment
1	Director	20	Edu: Master's Degree or equivalent qualification from a recognized University with (15) years experience with monitoring or investigation and intelligence. Age: 40-50 Years	By Initial recruitment
2	Deputy Director	18	Edu: At least 2nd Class Master's Degree or its equivalent qualification from a recognized University Exp: 07 years experience in Investigation Age: 30-40 Years	By promotion, on the basis of seniority cum fitness from amongst the Assistant Directors having at least 05 years service as such: Provided that if no suitable officer is available for promotion then by initial recruitment or by transfer of Government officer in BPS-18 having relevant experience.
3	Assistant Director	17	Edu: At least 2nd Class Master's Degree or its equivalent qualification from a recognized University. Age: 21-30 Years	By Initial recruitment
4	Monitoring Operator	14	Edu: At least 2nd class graduation from a recognized University. Age: 21-30 Years	By Initial recruitment

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APPENDIX-I

Internal Monitoring & Public Complaints Wing				
A	B	C	D	E
Sr. No.	Position Title	BPS	Eligibility Criteria	Method of Appointment
1	Director	20	Edu: Master's Degree or equivalent qualification from a recognized University with (15) years experience, with monitoring or investigation and intelligence. Age: 40-50 Years	By Initial recruitment
2	Deputy Director	18	Edu: At least 2nd Class Master's Degree or its equivalent qualification from a recognized University Exp: 07 years experience in investigation Age: 30-40 Years	By promotion, on the basis of seniority cum fitness from amongst the Assistant Directors having at least 05 years service as such:  Provided that if no suitable officer is available for promotion then by initial recruitment or by transfer of Government officer in BPS-18 having relevant experience.
3	Assistant Director	17	Edu: At least 2nd Class Master's Degree or its equivalent qualification from a recognized University. Age: 21-30 Years	By initial recruitment
4	Monitoring Operator	14	Edu: At least 2nd class graduation from a recognized University. Age: 21-30 Years	By Initial recruitment



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Miscellaneous Staff				
A	B	C	D	E
Sr. No.	Position Title	BPS	Eligibility Criteria	Method of Appointment
1	Admin Officer	16	Edu: At least 2nd class Bachelor's Degree from a recognized University. Age: 21-30 Years	By promotion, on the basis of seniority cum fitness from amongst the Senior Clerks having at least 05 years experience or By Initial recruitment if no suitable official is available.
2	Public Relations Officer	16	Edu: At least 2nd class Bachelor's Degree (preferably in Journalism / Mass Communication) from a recognized University. Age: 21-30 Years	By Initial recruitment
3	Transport Supervisor	16	Edu: At least FA/FSc in "C" grade from a recognized Board with DAE (Mechanical) from a recognized Institution. Age: 22-30 Years	By Initial recruitment
4	Private Secretary/ Stanographer	16	Edu: At least 2nd Class Bachelor's Degree or its equivalent qualification from a recognized University (i) Knowledge of MS Office (ii) Shorthand speed: at least 90 words per minute. Age: 21-30 Years	By promotion, on the basis of seniority cum fitness from amongst the Senior Clerks having at least 05 years experience or by Initial recruitment
5	Superintendent	16	Edu: At least 2nd Class Bachelor's Degree or its equivalent qualification from a recognized University Age: 21-30 Years	By promotion, on the basis of seniority cum fitness from amongst the Senior Clerks having at least 05 years experience or by Initial recruitment
6	Computer Operator	16	Edu: At least 2nd Class Bachelor's Degree in Computer Science, Information Technology or BCS/BIT (04 years) from a recognized University/Institute; OR Bachelor degree from a recognized University with one year Diploma in Information Technology from a recognized Board of Technical	By Initial recruitment



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			Education. Exp: at least 30 words per minute typing speed. Age: 21-30 Years	
7	Senior Clerk	14	Edu: At least 2nd Class Bachelor's Degree from a recognized University. At least 30 words per minute typing speed in English. Age: 21-30 Years	By promotion, on the basis of seniority cum fitness from amongst Junior Clerks having at least 05 years service as such.  Provided that if no suitable official is available, by Initial recruitment.
8	Junior Clerk	11	Edu: At least "C" grade in FA/FSc from a recognized Board. At least 30 words per minute typing speed. Age: 18-25 Years	By Initial recruitment
9	Telephone Operator	11	Edu: At least "C" grade in FA/FSc from a recognized Board with knowledge of Computer. Age: 18-25 Years	By Initial recruitment
10	Photostat Machine Operator cum Binder	7	Edu: At least "C" grade in FA/FSc from a recognized Board with relevant knowledge. Age: 18-30 Years	By Initial recruitment
11	Electrician/ Technician	7	Edu: At least "C" grade in FA/FSc from a recognized Board + diploma holder from recognized institution. Age: 18-30 Years	By Initial recruitment
12	Drivers	5	Edu: Literate. Having a valid driving license and shall qualify the driving test conducted by the Commission. Age: 21-40 Years	By Initial recruitment
13	Naib Qasid	1	Edu: Literate Age: 18-40 Years	By Initial recruitment
14	Cook	1	Edu: Literate having relevant experience Age: 18-40 Years	By Initial recruitment
15	Mall	1	Edu: Literate having relevant experience Age: 18-40 Years	By Initial recruitment
16	Sweeper	1	Edu: Literate Age: 18-40 Years	By Initial recruitment
17	Chowkidar	1	Edu: Literate Age: 18-40 Years	By Initial recruitment

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APPENDIX

Investigation Wing				
	B	C	D	E
	Position Title	BPS	Eligibility Criteria	Method of Appointment
	Director	20	At least 2 <sup>nd</sup> Class LL.B or Master Degree in Criminology from recognized University or Institution with fifteen (15) years post academic experience in inquiries, investigations and legal matters, in which preference shall be given to persons having ten (10) years experience in inquiries, investigations and legal matters in government sector organization / Institution. Age: 40 to 50 years	By promotion, on the basis of seniority cum fitness from amongst the Additional Directors with at least seventeen (17) years service: Provided that if no suitable officer is available for promotion then by initial recruitment.
	Additional Director	19	At least 2 <sup>nd</sup> Class LL.B or Master Degree in Criminology from recognized University or Institution with ten (10) years post academic experience in inquiries, investigations and legal matters, in which preference shall be given to persons having eight (08) years experience in inquiries, investigations and legal matters in government sector organization / Institution. Age: 40 to 50 years	By promotion, on the basis of seniority cum fitness from amongst the Deputy Directors with at least twelve (12) years service: Provided that if no suitable officer is available for promotion then by initial recruitment.
	Deputy Director	18	At least 2 <sup>nd</sup> Class LL.B or Master Degree in Criminology from recognized University or Institution with eight (08) years post academic experience in inquiries, investigations and legal matters, in which preference shall be given to persons having five (05) years experience in inquiries, investigations and legal matters in government sector organization / Institution. Age: 35 to 45 years	By promotion, on the basis of seniority cum fitness from amongst the Assistant Directors with at least seven (07) years service: Provided that if no suitable officer is available for promotion then by initial recruitment.
	Assistant Director	17	At least 2 <sup>nd</sup> Class LL.B or Master Degree in Criminology from recognized University or Institution with three (03) years post academic experience in inquiries, investigations and legal matters, in which preference shall be given to persons having two (02) years experience in inquiries, investigations and legal matters in government sector organization / Institution. Age: 25 to 30 years	By promotion, on the basis of seniority cum fitness from amongst the Assistant Directors with at least three (03) years service: Provided that if no suitable officer is available for promotion then by initial recruitment.

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5	Junior Investigation Officer	16	At least 2 <sup>nd</sup> Class LLB from a recognized University. Age: 25 to 30 years	By Initial Recruitment.
6	Field Operator	14	At least 2 <sup>nd</sup> Division FA or its equivalent with Economics, Commerce or Business Studies as one of the subjects from a recognized University. Age: 21 to 25 years	By Initial Recruitment.

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APPENDIX-II  
Ehtesab Court Staff

A	B	C	D
Sr. No.	Position Title	BPS	Eligibility Criteria
1	Registrar	18	LLB. A judicial officer working in grade-18 or has been judicial officer for atleast 05-years or has the experience of being a registrar with any court or tribunals.
2	Superintendent	17	LLB having experience of atleast 10-years in the courts or having experience of 02-years as a superintendent. The candidate must have diploma in computer and sufficient experience in MS office and other programs related to job.
3	Account officer	17	MBA or M.Com having experience of atleast 05-years as accountant or account assistant, preference will be given to the candidates who worked in the court accounts.
4	Reader/Assistant	16	B.A having atleast 10-years experience in the court work.
5	Senior Scale Stenographer	16	Bachelors degree from a recognized university and speed of 100 words per minute in short hand and 40 words per minute in typing in English preference will be given to the candidates having experience of work in the courts and knowledge of MS office and other computer programs relevant to the field.
6	Senior Clerk	14	By promotion out of junior clerk
7	KPO	14	I. FA/ F.Sc Intermediate with Statistics/ Economics / Math's / Physics as one of the subjects and II. A minimum speed of ten thousand key operations per hour for punching data entry/ verification.
8	Junior Clerk	11	FA/ F.Sc 30 w.p.m candidates having experience in dealing with court record shall be preferred.

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9	Record Keeper	11	F.A / F.Sc 30 w.p.m candidates having experience in dealing with court record shall be preferred.
10	Driver		On strength of HR Wing
11	Naib Qasid		
12	Chowkidar		
13	Sweeper		

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APPENDIX-III

MARKING SYSTEM FOR REGULAR POSTS IN THE HTESAB COMMISSION

1. Marking in the case of posts to be filled through screening test (BPS-7 to BPS-17) will be made out of 100 marks to be distributed between the academic achievements of the candidates and the interview as follow:-

i)	Academic Record	30
ii)	Distinction for standing first in requisite qualification	02
iii)	Higher Relevant Qualification Marks	03
iv)	Experience (If applicable)	15
v)	Additional Relevant Experience (If applicable)	10
vi)	Interview	40

2. Minimum passing standard in the interview is 60%. In case experience is not a laid down qualification for any category of posts, the 10 marks allocated for experience shall be added to interview marks.
3. Academic scoring shall be based on the last two, three or four Board or University examinations, as the case may be, on the basis of percentage to 40 marks reserved for academic record and not on division wise basis. For example, if a candidate obtains 2150 marks out of 3650 marks in two, three or four examinations his credit will come to 23.56 marks out of 40. So in such cases the candidate will be entitled to 24 marks. In case of GPA system (where obtained and total marks are not shown in transcript) CGPA obtained and the total GPA both shall be multiplied with 100 to have uniformity in calculation of CGPA credit and marks obtained in conventional marking system. For example if a candidate has obtained 3.5 GPA out of total of 4, he will be considered to have secured 350 marks out of 400.
4. Decimal fraction of 0.5 and above shall be considered one mark while less than that shall be ignored. To elaborate, a candidate securing 19.5 marks shall be considered to have secured 20 marks.
5. In cases where the candidate fails to provide the proof of secured marks in a particular examination, he shall be deemed to have passed in parts and with the lowest passing marks.
6. Distinction marks shall be allowed only for standing first in Board/ University in the requisite qualification examination prescribed for the post. The entitlement of distinction marks shall be further subject to the condition that the examination was passed by obtaining 60% (Grade-B) and above marks.

  
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APPENDIX-III

7. The marks reserved for higher relevant qualification, shall be awarded at the rate of one mark for each higher relevant Diploma or Degree.
8. Experience marks shall be awarded only in those cases where experience forms part of the requisite qualifications. While awarding experience marks, the period of minimum requisite experience shall be deducted and thereafter one mark per year shall be awarded for additional relevant experience upto five years.
9. The fraction of experience less than one complete year shall be ignored.
10. The marks obtained in screening test / ability test shall be counted only for shortlisting purpose.
11. For posts in BPS-18 to EPS-20 the above noted marking system shall be followed, however, screening test / ability test shall not be the criterion for short listing of candidates.

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FOR THE EXTRAORDINARY GAZETTE ISSUE OF  
THE KHYBER PAKHTUNKHWA

PROVINCIAL ASSEMBLY SECRETARIAT  
KHYBER PAKHTUNKHWA

*Amir P.*

NOTIFICATION

Dated Peshawar, the 04/01/2019.

No. PA/Khyber Pakhtunkhwa/Bills-9/2019/ 694 The Khyber Pakhtunkhwa Ehtesab Commission (Repeal) Bill, 2018 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 28<sup>th</sup> December, 2018 and assented to by the Governor of the Khyber Pakhtunkhwa on 4<sup>th</sup> January, 2019 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

THE KHYBER PAKHTUNKHWA EHTESAB COMMISSION (REPEAL) ACT, 2018.  
(KHYBER PAKHTUNKHWA ACT NO. {V OF 2019})

(First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa, (Extraordinary), dated the 04/01/2019).

(Here print as in the accompaniment).

*Amir P.*  
SECRETARY,

Provincial Assembly of Khyber Pakhtunkhwa.

No. and date (as per notification above):

A copy of the above notification with the accompaniment is forwarded to the Manager, Government Stationery and Printing Department, Peshawar, with the request to publish the same in the extraordinary issue of the Khyber Pakhtunkhwa Government Gazette of today's date and distribute copies thereof immediately in accordance with the list given overleaf.

Proof should be sent to this Secretariat before publication.

*Amir P.*  
SECRETARY,

Provincial Assembly of Khyber Pakhtunkhwa

E.No. PA/Khyber Pakhtunkhwa /Bills-9/2018/ 695-97 Dated 04/01/2019

A copy of the above is forwarded to :-

1. The Principal Secretary to Governor, Khyber Pakhtunkhwa.
2. The Secretary to Government of Khyber Pakhtunkhwa, Law Department.
3. The Director Information, Khyber Pakhtunkhwa.
4. The Secretary to Government of Khyber Pakhtunkhwa, Establishment Department.
5. The Director I.T/ Special Secretary Provincial Assembly of Khyber Pakhtunkhwa.

*Amir P.*  
SECRETARY,

Provincial Assembly of Khyber Pakhtunkhwa

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(75)

AN  
ACT

to repeal the Khyber Pakhtunkhwa  
Ehtesab Commission Act, 2014.

(112)

WHEREAS it is expedient to repeal the Khyber Pakhtunkhwa  
Ehtesab Commission Act, 2014 (Khyber Pakhtunkhwa Act No. 1 of  
2014), for the purposes hereinafter appearing;

It is hereby enacted as follows:

1. Short title and commencement—(1) This Act may be called the  
Khyber Pakhtunkhwa Ehtesab Commission (Repeal) Act, 2018.

(2) It shall come into force at once.

2. Definitions—In this Act, unless the context otherwise requires,—

(a) "Anti-Corruption Establishment" means the Anti-Corruption Establishment established under the West Pakistan Anti-Corruption Establishment Ordinance, 1961 (W.P. Ordinance No. XX of 1961);

(b) "asset" means anything of the value includes but is not limited to property whether tangible or intangible, cash, investments, accounts receivable, loans granted, interests, vehicles, furniture, plant and machinery, which is under the administrative control of the Ehtesab Commission before the commencement of this Act;

(c) "Department" means the Establishment and Administration Department of the Government;

(d) "Ehtesab Commission" means the Khyber Pakhtunkhwa Ehtesab Commission established under the repealed Act;

Secretary  
Government of Khyber Pakhtunkhwa  
Islamabad

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**AN  
ACT**

*to repeal the Khyber Pakhtunkhwa  
Ehtesab Commission Act, 2014.*

**WHEREAS** it is expedient to repeal the Khyber Pakhtunkhwa Ehtesab Commission Act, 2014 (Khyber Pakhtunkhwa Act No. I of 2014), for the purposes hereinafter appearing.

It is hereby enacted as follows:

1. **Short title and commencement.**—(1) This Act may be called the Khyber Pakhtunkhwa Ehtesab Commission (Repeal) Act, 2018.

(2) It shall come into force at once.

2. **Definition.**—In this Act, unless the context otherwise requires,—

(a) "Anti-Corruption Establishment" means the Anti-Corruption Establishment, established under the West Pakistan Anti-Corruption Establishment Ordinance, 1961 (W.P Ordinance No. XX of 1961);

(b) "asset" means anything of the value includes but is not limited to property whether tangible or intangible, cash, investments, accounts receivables, loans granted, inventory, vehicles, furniture, plant and machinery, which is under the administrative control of the Ehtesab Commission before the commencement of this Act;

(c) "Department" means the Establishment and Administration Department of the Government;

(d) "Ehtesab Commission" means the Khyber Pakhtunkhwa Ehtesab Commission established under the repealed Act;

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(1) all complaints received by the Ethics Commission, on which the inquiries and investigations have not been initiated under the repealed Act, shall stand

2. Transfer of inquiries, investigations and references relating to the repealed Act, on commencement of this Act,

3. The Government shall, on commencement of this Act, transfer to the Commission, all records, documents, books, accounts, registers, ledgers, diaries, inventories, lists, reports, minutes, notes, transactions, proceedings, transcripts, certificates, deeds, instruments, diaries, logs, inventory lists, analogues, case studies, or otherwise anything that may be determined by Government to be record of the Ethics Commission; and

4. The Government shall, on commencement of this Act, transfer to the Commission, all records, documents, books, accounts, registers, ledgers, diaries, inventories, lists, reports, minutes, notes, transactions, proceedings, transcripts, certificates, deeds, instruments, diaries, logs, inventory lists, analogues, case studies, or otherwise anything that may be determined by Government to be record of the Ethics Commission; and

5. The Government shall, on commencement of this Act, transfer to the Commission, all records, documents, books, accounts, registers, ledgers, diaries, inventories, lists, reports, minutes, notes, transactions, proceedings, transcripts, certificates, deeds, instruments, diaries, logs, inventory lists, analogues, case studies, or otherwise anything that may be determined by Government to be record of the Ethics Commission; and

(1) "record" means any information, documents, ledgers, books, accounts, data, dossiers, files, reports, archives, notes, minutes, transactions, proceedings, transcripts, certificates, deeds, instruments, diaries, logs, inventory lists, analogues, case studies, or otherwise anything that may be determined by Government to be record of the Ethics Commission; and

(c) "Government" means the Government of the Khyber Pakhtunkhwa;

Attest  
Secretary  
Government  
Khyber Pakhtunkhwa

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(e) "Government" means the Government of the Khyber Pakhtunkhwa;

(f) "record" means any information, documents, ledgers, books, accounts, data, dossiers, files, reports, archives, notes, minutes, transactions, proceedings, transcripts, certificates, deeds, instruments, diaries, logs, inventory catalogues, case files, case studies, or otherwise anything that may be determined by Government to be record of the Ehtesab Commission; and

(g) "repealed Act" means the Khyber Pakhtunkhwa Ehtesab Commission Act, 2014 (Khyber Pakhtunkhwa Act No. 1 of 2014), a repealed under section 3 of this Act.

3. Repeal. The Khyber Pakhtunkhwa Ehtesab Commission Act, 2014 (Khyber Pakhtunkhwa Act No. 1 of 2014), is hereby repealed and as a corollary thereof, the Ehtesab Commission established thereunder, shall stand dissolved.

4. Transfer of assets and liabilities, record and matters ancillary thereto. On coming into force of this Act, all assets, liabilities, bank accounts, properties, debts, obligations, claims, proceedings before judicial forums, alongwith all necessary record of the Ehtesab Commission, shall be deemed to be assets, liabilities, bank accounts, properties, debts, obligations, claims, proceedings etc. of the Government.

5. Transfer of inquiries, investigation and references.---  
Notwithstanding the repeal of the repealed Act, on commencement of this Act,

(i) all complaints received by the Ehtesab Commission, on which the inquiries and investigations have not been initiated under the repealed Act, shall stand



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transferred to the Anti-Corruption Establishment and shall be further inquired and investigated under the Prevention of Corruption Act, 1947 (II of 1947) and the West Pakistan Anti-Corruption Establishment Ordinance, 1961 (W.P. Ordinance No. XX of 1961);

*Asst. Secy. Genl. Govt. of Punjab, Lahore*

(ii) all the pending inquiries and investigations, initiated by the Directorate General of the Ehtesab Commission, shall stand transferred to the Anti-Corruption Establishment and shall be further inquired and investigated under the Prevention of Corruption Act, 1947 (II of 1947) and the West Pakistan Anti-Corruption Establishment Ordinance, 1961 (W.P. Ordinance No. XX of 1961);

(iii) all references pending adjudication before Ehtesab Courts shall stand transferred to Anti-Corruption Courts for further examination in accordance with the provisions of the repealed Act; and

(iv) all appeals and revisions, except those of the employees of Ehtesab Commission, pending before the High Court shall be examined in accordance with the provisions of the repealed Act.

6. Status of the employees.—Notwithstanding anything contained in any law for the time being in force, on the commencement of this Act,

(a) the services of contractual employees of the Ehtesab Commission shall stand terminated;

(b) the regular employees of the Ehtesab Commission and Ehtesab Courts shall be given an option either to continue their services as surplus employees or

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transferred to the Anti-Corruption Establishment and shall be further inquired and investigated under the Prevention of Corruption Act, 1947 (II of 1947) and the West Pakistan Anti-Corruption Establishment Ordinance, 1961 (W.P. Ordinance No. XX of 1961);

(ii) all the pending inquiries and investigations, initiated by the Directorate General of the Ehtesab Commission, shall stand transferred to the Anti-Corruption Establishment and shall be further inquired and investigated under the Prevention of Corruption Act, 1947 (II of 1947) and the West Pakistan Anti-Corruption Establishment Ordinance, 1961 (W.P. Ordinance No. XX of 1961);

(iii) all references pending adjudication before Ehtesab Courts shall stand transferred to Anti-Corruption Courts for further examination in accordance with the provisions of the repealed Act; and

(iv) all appeals and revisions except those of the employees of Ehtesab Commission, pending before the High Court shall be examined in accordance with the provisions of the repealed Act

6. Status of the employees. Notwithstanding anything contained in any law for the time being in force, on the commencement of this Act,

(a) the services of contractual employees of the Ehtesab Commission shall stand terminated;

(b) the regular employees of the Ehtesab Commission and Ehtesab Courts shall be given an option either to continue their services as surplus employees or

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accept the golden hand shake, offered by the Government, as per its policy:

- (c) the employees, who opt for the continuation of their services as surplus, shall be deemed to have been declared surplus and placed in the surplus pool of the Department:

Provided that a Scrutiny Committee shall be constituted by the Department to verify that-

(i) the employees were appointed against those posts which fall in the initial quota;

(ii) the employees possess such qualifications and experience as prescribed for the posts against which they were appointed on regular basis; and

(iii) the employees were appointed after observance of all usual formalities; and

(d) the option under clause (b) shall be exercised within a period of thirty (30) days and once exercised, shall stand to be final.

7. **Removal of difficulties** - If any difficulty arises in giving effect to any of the provisions of this Act, the Chief Minister may pass any order, not inconsistent with the provisions of this Act, as may be deemed necessary for the purpose of removing such difficulty.

8. **Bar of jurisdiction** - No Court shall have jurisdiction to entertain any proceedings, grant any injunction or make any order in

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accept the golden hand shake, offered by the Government, as per its policy:

- (c) the employees, who opt for the continuation of their services as surplus, shall be deemed to have been declared surplus and placed in the surplus pool of the Department:

Provided that a Scrutiny Committee shall be constituted by the Department to verify that

- (i) the employees were appointed against those posts which fall in the initial quota;
- (ii) the employees possess such qualifications and experience as prescribed for the posts against which they were appointed on regular basis; and
- (iii) the employees were appointed, after observance of all codal formalities? and

- (d) The option under clause (b) shall be exercised within a period of thirty (30) days and once exercised, shall deem to be final.

7. Removal of difficulties.---If any difficulty arises in giving effect to any of the provisions of this Act, the Chief Minister may pass any order, not inconsistent with the provisions of this Act, as may be deemed necessary for the purpose of removing such difficulty.

8. Bar of jurisdiction.---No Court shall have jurisdiction to entertain any proceedings, grant any injunction or make any order in

relation to anything done in good faith or purported to have been done or intended to be done under this Act.

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BY ORDER OF MR. SPEAKER  
PROVINCIAL ASSEMBLY OF KHYBER  
PAKHTUNKHWA

---

(NASRULLAH KHAN KHATTAK)  
Secretary  
Provincial Assembly of Khyber Pakhtunkhwa

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relation to anything done in good faith or purported to have been done or intended to be done under this Act.

BY ORDER OF MR. SPEAKER  
PROVINCIAL ASSEMBLY OF KHYBER  
PAKHTUNKHWA

---

(NASRULLAH KHAN KHATTAK)  
Secretary  
Provincial Assembly of Khyber Pakhtunkhwa



(85)

**GOVERNMENT OF KHYBER PAKHTUNKHWA**  
**ESTABLISHMENT DEPARTMENT**  
(Establishment Wing)

PH# 091-9213457 FAX# 091-9210447 Email:sectionofficerv@gmail.com

**NOTIFICATION**

Dated Peshawar, the MAY 14, 2019

**No. SOE-V(E&AD)14-25/W.EC/2018:** In pursuance of exercise of their option under Section 6. (c) of Khyber Pakhtunkhwa Ehtesab Commission (Repeal) Act, 2018, the following employees of defunct Ehtesab Commission are hereby declared as "Surplus" with effect from the date of promulgation of the ibid Act i.e 04-01-2019 and will be adjusted as per prevailing Surplus Policy of the Provincial Government:-

S#	Name	Designation with BPS
1)	Akbar Zaman	Director I&DP (BS-20)
2)	Imran Ullah Khan	Assistant Director HR (BS-17)
3)	Muhammad Junaid	Assistant Director Web (BS-17)
4)	Zia-ur-Rehman	Assistant Director Software (BS-17)
5)	Muhammad Farooq Khan	Assistant Director HR (BS-17)
6)	Fahad Imtiaz	Admin Officer (BS-17)
7)	Inayat Ullah	Accounts Officer (BS-17)
8)	Jamil Ahmad Qureshi	Superintendent (BS-16)
9)	Muhammad Sohail Younis	Superintendent (BS-16)
10)	Amjad Khan	Accountant (BS-16)
11)	Muhammad Ibrahim Durrani	Accountant (BS-16)
12)	Qaisar Hussain	Senior Scale Stenographer (BS-16)
13)	Nadeem Khan	Senior Scale Stenographer (BS-16)
14)	Aslam Gul	Reader/Assistant (BS-16)
15)	Noor Ullah	Reader/Assistant (BS-16)
16)	Syed Adil Ali Abid	Computer Operator (BS-16)
17)	Fahad Rauf Jan	Computer Operator (BS-16)
18)	Naeem Ullah	Computer Operator (BS-16)
19)	Fawad Saeed	Computer Operator (BS-16)
20)	Abdullah	Computer Operator (BS-16)
21)	Shabeer Ahmad	Computer Operator (BS-16)
22)	Yasir Ali Khalil	Computer Operator (BS-16)
23)	Abdul Basit	Computer Operator (BS-16)
24)	Yousaf Ali	Computer Operator (BS-16)
25)	Tariq Nawab	Computer Operator (BS-16)
26)	Hamid Jan	Computer Operator (BS-16)
27)	Tahseen Ullah	Computer Operator (BS-16)
28)	Adil Nawaz	Record Keeper (BS-11)
29)	Faiz ul Haq	Junior Clerk (BS-11)

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30)	Asad Ali Siddiqui	Junlor Clerk (BS-11)
31)	Muhammad Jawad	Junlor Clerk (BS-11)
32)	Faqir Muhammad	Junlor Clerk (BS-11)
33)	Fayaz Ahmad	Junlor Clerk (BS-11)
34)	Abdul Baseer	Junlor Clerk (BS-11)
35)	Mehboob Alam	Junlor Clerk (BS-11)
36)	Muhammad Aftab	Driver (BPS-05)
37)	Yasir Ali	Driver (BPS-05)
38)	Younas	Driver (BPS-05)
39)	Habib ur Rehman	Driver (BPS-05)
40)	Ali Akbar	Driver (BPS-05)
41)	Amanullah	Driver (BPS-05)
42)	Arsalan Ali Khan	Driver (BPS-05)
43)	Ashiq Hussain	Driver (BPS-05)
44)	Mubarak Said	Driver (BPS-05)
45)	Junaid Ali	Driver (BPS-05)
46)	Bakht Muhammad	Driver (BPS-05)
47)	Muhammad Yasir	Driver (BPS-05)
48)	Sajjad Khan	Driver (BPS-05)
49)	Azmat Shah	Driver (BPS-05)
50)	Mamraiz Khan	Driver (BPS-05)
51)	Noor ul Basar	Driver (BPS-05)
52)	Raheem Khan	Driver (BPS-05)
53)	Mufeed Jan	Driver (BPS-05)
54)	Adil Khan	Driver (BPS-05)
55)	Faisal Sadiq	Driver (BPS-05)
56)	Waqar Ahmad	Driver (BPS-05)
57)	Gul Habib	Driver (BPS-05)
58)	Taimoor Khan	Naib Qasid (BPS-01)
59)	Muhammad Rashid	Naib Qasid (BPS-01)
60)	Muhammad Bilal Jan	Naib Qasid (BPS-01)
61)	Muhammad Zubair	Naib Qasid (BPS-01)
62)	Ismail	Naib Qasid (BPS-01)
63)	Abdul Nazir	Naib Qasid (BPS-01)
64)	Ismail Khan	Naib Qasid (BPS-01)
65)	Hazrat Hilal	Naib Qasid (BPS-01)
66)	Awal Shah	Naib Qasid (BPS-01)
67)	Naseeb ur Rehman	Naib Qasid (BPS-01)
68)	Faheemullah	Naib Qasid (BPS-01)
69)	Muhammad Mushtaq	Naib Qasid (BPS-01)
70)	Muhammad Kamran	Naib Qasid (BPS-01)
71)	Sheraz Akhtar	Naib Qasid (BPS-01)
72)	Muhammad Diyar	Naib Qasid (BPS-01)
73)	Zamin Khan	Naib Qasid (BPS-01)
74)	Ikramullah	Naib Qasid (BPS-01)
75)	Hamdullah	Naib Qasid (BPS-01)

S. No. 80



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76)	Muhammad Arsalan	Naib Qasid (BPS-01)
77)	Nazar Ali	Naib Qasid (BPS-01)
78)	Mushtaq Ahmad	Naib Qasid (BPS-01)
79)	Yasin Khan	Naib Qasid (BPS-01)
80)	Muhammad Touseef Khan	Naib Qasid (BPS-01)
81)	Naseer Muhammad	Naib Qasid (BPS-01)
82)	Shahid Khan	Naib Qasid (BPS-01)
83)	Muhammad Adnan	Naib Qasid (BPS-01)
84)	Amir Mahmood	Naib Qasid (BPS-01)
85)	Abdul Latif	Naib Qasid (BPS-01)
86)	Akhtar Hussain	Naib Qasid (BPS-01)
87)	Fahim Ullah	Naib Qasid (BPS-01)
88)	Amjad Khan	Mali (BPS-01)
89)	Shoukat Khan	Mali (BPS-01)
90)	Shafiqur Rehman	Mali (BPS-01)
91)	Ghuncha Gul	Mali (BPS-01)
92)	Zubair Ahmad	Mali (BPS-01)
93)	Imran Khan	Chowkidar (BPS-01)
94)	Sajid Ali	Chowkidar (BPS-01)
95)	Tariq Khan	Chowkidar (BPS-01)
96)	Muhammad Kamran	Chowkidar (BPS-01)
97)	Zahid Shah	Chowkidar (BPS-01)
98)	Muhammad Kamran	Chowkidar (BPS-01)
99)	Faisal Tanveer	Sweeper (BPS-01)
100)	Irfan Munir	Sweeper (BPS-01)
101)	Danish Sultan	Sweeper (BPS-01)
102)	Waqas Sabir	Sweeper (BPS-01)
103)	Humair Amjad	Sweeper (BPS-01)
104)	Samina Aslam Gill	Sweeper (BPS-01)

2. Whereas, the following employees of defunct Ehtesab Commission, who have opted for acceptance of golden handshake policy, will draw their salaries from surplus pool till finalization of Golden handshake policy:-

S#	Name	Designation with BPS
1)	Arshad Khan	Naib Qasid (BPS-01)
2)	Wisal Nawaz	Sweeper (BPS-01)

3. Furthermore, after issuance of this Notification, no employee shall be allowed to further change his / her option.

SECRETARY ESTABLISHMENT  
GOVT. OF KHYBER PAKHTUNKHWA

Page 3 of 4

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Endst.No. and date even.

Copy forwarded to the:-

1. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
2. Principal Secretary to Governor, Khyber Pakhtunkhwa.
3. PSO to Chief Secretary, Khyber Pakhtunkhwa.
4. Section Officer (E-III), Establishment Department alongwith Personal Files of all the aforesaid surplus employees (in original) for further necessary action under prevailing Surplus Policy of the Provincial Government accordingly.
5. PS to Secretary, Establishment Department.
6. PA to Deputy Secretary (Estt), Establishment Department.
7. Master File.

  
(Shahab Muhammad Khan)  
SECTION OFFICER (E-V)

(89)

BEFORE PESHAWAR HIGH COURT, PESHAWAR



25667

Writ Petition No. \_\_\_\_\_ / 2022.

1. NIAZ MUHAMMAD;  
Ex-Senior Clerk,  
The defunct Ehtisab Commission,  
Khyber Pakhtunkhwa Peshawar.  
R/o Garhi Inayatbad, Gul Bahar No. 2, Peshawar.
  2. BILAL AHMAD,  
Ex-Junior Clerk,  
The defunct Ehtisab Commission,  
Khyber Pakhtunkhwa Peshawar.  
R/o Mohallah Sagharkhel, Parang, Tehsil & district Charsadda.
- ..... Petitioners

RE-FILED TODAY

Deputy Registrar

07 JUL 2022

VERSUS

1. GOVERNMENT OF KHYBER PAKHTUNKHWA,  
Through Chief Secretary,  
Civil Secretariat, Peshawar.
2. SECRETARY,  
Government of Khyber Pakhtunkhwa,  
Establishment Department, Civil Secretariat, Peshawar.
3. SECRETARY,  
Government of Khyber Pakhtunkhwa,  
Finance Department, Civil Secretariat, Peshawar.
4. SECRETARY,  
Law, Parliamentary Affairs & Human Rights Department,  
Government of Khyber Pakhtunkhwa,  
Establishment Department, Civil Secretariat, Peshawar.

FILED TODAY

Deputy Registrar

05 JUL 2022

..... Respondents

ATTES  
EXAMINER  
Peshawar High Court

(90)

3

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

Respectfully Sheweth,

Short facts, giving rise to present Writ Petition, are as under: -

1. That, Petitioner No. 1 holds M. Com Degree and has also done Typing, Shorthand and Computer Courses while Petitioner No. 2 holds Master Degree in Islamiyat as well as Diploma in Information Technology.
2. That, way back In the year 2014, the Government of Khyber Pakhtunkhwa promulgated the Khyber Pakhtunkhwa Ehtesab Commission Act, 2014 (hereinafter to be referred as "Act of 2014"), copy of the Act of 2014 is attached as Annexure A.
3. That, under Section-9(e) of the Act, the Commission also formulated a Human Resource Policy, copy of the Human Resource Policy issued by the Ehtisab Commission is attached as Annexure B.
4. That, later on the Commission in various meetings duly approved the selection criteria / qualification / eligibility and other requirements (Annexure-C) for the posts pursuant to which, various advertisements (Annexure-D) were published in the National Dailies inviting applications for various posts including that of Junior Clerk and Senior Clerk. Petitioners applied for the same, went through the selection process and accordingly were appointed as Senior Clerk / Junior Clerk on contract basis after observing all the codal formalities vide letters dated 27.04.2015 and 29.07.2015 (Annexure-E). The contract period was subsequently extended on satisfactory performance as is evident from the office orders dated 22.11.2016, 30.03.2017 and 27.06.2018 (Annexure-F).

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Deputy Registrar

5 JUL 2022

That, on 30.01.2017, an amendment (Annexure-G) was introduced to the Act of 2014; pursuant to which the Commission formulated The Khyber Pakhtunkhwa Ehtesab Commission Employees Service Regulations, 2017 vide Impugned Notification / Regulations dated 09.06.2017 (Annexure-H). Since the criteria as laid down in the new Regulations was different from that under which most of the employees were selected under the erstwhile dispensation, therefore, various Writ Petitions were filed including W.P. No.2639-P/2017

ATTES  
EXAMINER  
Peshawar High Court

(91)

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- (Annexure-I) wherein the Petitioners and others claimed regularization. This Honorable Court was pleased to grant an interim relief by way of restraining the Respondents from taking any adverse action against the Petitioners (Order Sheets Annexure-I).
6. That, again the Petitioners and others were subjected to Typing and Shorthand tests wherein Petitioners appeared successfully as is evident from the letter dated 08.08.2017 (letter dated 08.08.2017 and other related documents Annexure-K), however, other colleagues were regularized vide orders dated 01.08.2017, 30.08.2017 (Annexure-L) under Section-11(4) of the Act of 2014 as amended in 2017 whereas Petitioners were left out on the ground that they were overage. It is relevant to add here that one of the colleagues of the Petitioners namely Inayatullah was initially appointed as Assistant Director (Procurement) on contract basis vide order dated 09.06.2015 (Annexure-M) and on the basis of the new selection criteria he was overage by 16 years yet he was regularized (Comparative Statement of selection criteria Annexure-N). Moreover, Muhammad Farooq, Muhammad Sohalb Younas, Adil Nawaz, Fahad Imtiaz and Muhammad Zubair Ahmad were also not eligible under the new Regulations yet they were regularized.
7. That, finally the Act of 2014 was repealed by the Khyber Pakhtunkhwa Ehtesab Commission (Repeal) Act, 2018 (Annexure-O). Under Section-6 (a), the Petitioners and other contract employees were terminated in spite of the stay order granted by this Honorable Court while under Section-6 (b) the regular employees were placed in the Surplus Pool vide Notification dated 14.05.2019 (Annexure-P). Thus the Petitioners filed another Writ Petition No. 440 / 2019 (Annexure-Q) challenging the vires of the Repeal Act, 2018 on the point of discrimination.
8. That, all the Writ Petitions were disposed of by this Honorable Court vide consolidated order dated 08.10.2019 (Annexure-R) by treating the same as Representations before the competent authority, however, the Representations were rejected / regretted and communicated to the Petitioners vide impugned letter dated 07.04.2020 (Annexure-S) without assigning any reason. The other colleagues of Petitioners were subsequently adjusted in other Departments as is evident from the Notification dated 21.06.2019, 18.07.2019, 31.07.2019 & 27.06.2019 (Annexure-T). Moreover, in identical cases, relaxation has already

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05 JUL 2022

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EXAMINER  
Peshawar High Court

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been accorded by the Government which is evident from the office orders dated 13.11.2017 & 24.06.2019 (*Annexure-U*).

9. That, the case of Petitioners was also processed for the age relaxation as is evident from the Minute Sheet dated 21.08.2017 (*Annexure-V*) which was finally referred to the Provincial Government, Establishment Department for opinion which was replied vide letter dated 07.12.2017 (*Annexure-W*) with the observation that the Commission may relax the age at its own level in the light of Regulation-8 but still the matter was not positively considered. It is also worth mentioning here that Abdul Wali Khan University Mardan, which too is an autonomous body, has fixed maximum 35 year age for the UDC with further relaxation as per Statutes as is evident from the Advertisement No.48 of 2015 (*Annexure-X*) and similar Advertisement published by the Khyber Pakhtunkhwa Revenue Authority (*Annexure-Y*) also described the same age limit.
10. That, Petitioners, being aggrieved of the acts and actions of Respondents and the impugned letter dated 07.04.2020 and impugned Notification/ Regulations dated 09.06.2017 based on amended Act of 2017 and Section-6(a) & Section-8 of the Khyber Pakhtunkhwa Ehtesab Commission (Repeal) Act, 2018 (Act No.V of 2019), approached this Honorable Court In Writ Petition No. 2574 / 2020, copy of the Writ Petition No. 2574-P / 2020 is attached as *Annexure Z*.
11. That, Writ Petition No. 2574-P / 2020 was heard by the Honorable Bench High Court, Peshawar and was disposed of on 09.12.2021 with the direction to the Respondents to send the case of the Petitioner for age relaxation to the Respondent No. 2 i.e. Establishment Department, Government of Khyber Pakhtunkhwa for its further placement before the Competent Authority i.e. Chief Minister for necessary Age Relaxation, copy of the Order / Judgment dated 09.12.2021 is attached as *Annexure AA*.
12. That, due to delaying and reluctant stance of the Respondents, the Petitioner filed Contempt of Court Petition No. 64-P / 2022 which was disposed of vide Order dated 22.06.2022 due to submission of Compliance Report in shape of a summary sent to the Honorable Chief Minister which was infact not approved, copy of the Order dated 22.06.2022 in COC No. 64-P / 2022 and Impugned Summary /

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Compliance Report is attached as Annexure BB, hence this Writ Petition on the following amongst other grounds as the Petitioners have no other adequate and efficacious remedy, except to approach this Honorable Court in Constitutional Petition; -

Grounds: -

- A. That, Respondents have not treated Petitioners in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully refused to relax the age and regularize the Petitioners on the basis is unjust, unfair and hence not sustainable in the eye of law.
- B. That, the Respondent No. 2 i.e. Secretary Establishment has malafidely sent a biased summary to the Worthy Chief Minister in which no option was given to the Honorable Chief Minister except the one with the intention to obtain rejection of the summary.
- C. That, the Honorable Chief Minister should have approved the summary sent to him if the same was sent generously however the Departmental Secretaries played a crucial role with the pre-determination that the Honorable Chief Minister would be incapacitated to extend a lenient view.
- D. That, bare reading of summary sent to the Chief Minister shows that the same has been sent just to get rid of the Contempt of Court Petition submitted by the Petitioners.

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That the summary sent to the Honorable Chief Minister is the best example of shrewd and clever words which makes it impossible for the Worthy Chief Minister to play any role except to disapprove the same.

- F. That Petitioners were appointed under the duly approved selection criteria by the Commission and the performance of the Petitioners remained satisfactory throughout, therefore, neither under the garb of the new Rules nor under the Repeal Act of 2018, Petitioners can be deprived from their legal right of regularization, therefore, the same are in violation of Article-2A,

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4, 9, 25, 27 & 38(e) of the Constitution of the Islamic Republic of Pakistan, 1973.

- G. That a large number of employees/colleagues similarly appointed along with the Petitioners with similar span of service have been regularized by the Respondents whereas for Petitioners distinct principles were applied and they were knocked out on the basis of untenable grounds. Thus by a Policy of cherry picking the Respondents have regularized other colleagues of the Petitioners while Petitioners have been singled out which is a naked discrimination with the Petitioners.
- H. That in a judgment reported as PLD 2016 Peshawar 57, this august Court held, any person can challenge the vires of law enacted in contravention of fundamental rights. Thus various paragraphs, rules, notifications of law impugned there-in was struck down with the directions to the Respondents to take an appropriate measures to bring the impugned enactment/law in conformity with the Constitution.
- I. That in another case reported as PLD 2012 SC 681, the august Supreme Court of Pakistan has held that laws inconsistent with or in derogation of fundamental rights to be void and while referring to the Articles 2A, 17 & 25 of the Constitution declared the various Provisions of election laws as offensive to Constitution and fundamental rights guaranteed therein.
- J. That similarly in another judgment reported as 2015 SCMR 456 the august Supreme Court of Pakistan has held when in impugned legislative instruments was violative of the Constitution and the fundamental rights the same could not be sustained.
- K. That also in a case reported as 2018 SCMR 1218 similar situation was taken up by the Honorable Supreme Court of Pakistan and it was observed that any kind of law/rules if in contravention of guaranteed fundamental rights the same could not survive and further held that even the legislative bodies have no powers to pass any law which is basically in contravention of the fundamental rights and spirit of the Constitution.

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05 JUL 2022

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- L. That the Government promulgated Khyber Pakhtunkhwa Ehtesab Commission Act in 2014 and established the same by spending huge amount of money from public exchequer but at the time of dissolving the same through the impugned Act, no means prescribed therein for ascertaining the reasons of failure and to point out the responsible persons for causing huge loss to public exchequer.
- M. That the august Court has the jurisdiction to examine and adjudicate upon the issue of impugned action on the touchstone of violation of fundamental rights because no law could be passed in violation of Article 2A, 4, 9, 25 & 38 of the Constitution of the Islamic Republic of Pakistan, 1973.

For the aforesaid reasons, it is therefore, humbly prayed that on acceptance of this writ petition, this Honorable Court may graciously be pleased to:-

- a) Declare that Impugned action of rejection of summary is biased, malafide and an act of bad governance hence the same may please be rejected and the Summary sent to The Chief Minister may please be treated as approved.
- b) Declare the impugned letter dated 07.04.2020 and impugned Notification/Regulations dated 09.06.2017 based on amended Act of 2017 and Section-6(a) & Section-8 of the Khyber Pakhtunkhwa Ehtesab Commission (Repeal) Act, 2018 (Act No.V of 2019) as unconstitutional, violative of fundamental rights guaranteed under Article-2A, 4, 9, 25, 27 & 38(e) of the Constitution of the Islamic Republic of Pakistan, 1973 and hence ineffective upon the rights of Petitioners.
- c) Strike down the impugned letter dated 07.04.2020 and Impugned Notification/Regulations dated 09.06.2017 based on amended Act of 2017 and Section-6(a) & Section-8 of the Khyber Pakhtunkhwa Ehtesab Commission (Repeal) Act, 2018 (Act No.V of 2019) being discriminatory, arbitrary and unconstitutional.

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- d) Direct the Respondents to act in the matter in accordance with law and by reinstating / regularizing the Petitioners into service with all back benefits treat the Petitioners being contractual employees at par with other colleague employees similarly placed and to regularize them like their other colleagues being eligible and validly appointed as per the settled criteria by the Commission at the time of appointment with effect from the due date with all consequential back benefits.
- e) Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to petitioners.

Petitioners

Through:

BILAL AHMAD KAKAIZAI

(Advocate Supreme Court of Pakistan)

213, Sunehri Masjid Road, Near HBL

Nothia Branch, Peshawar Cantt.


0300-9020098

CERTIFICATE:

Certified that as per information furnished by my client, no such like Writ Petition on the subject has earlier been filed by the Petitioners in this Honorable Court.

LAW BOOKS:

- 1) Constitution of Islamic Republic of Pakistan, 1973.
- 2) Khyber Pakhtunkhwa ESTACODE.
- 3) Manual of Service Laws.

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Deputy Registrar  
05 JUL 2022

ATTESTED  
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(10)

BEFORE PESHAWAR HIGH COURT, PESHAWAR.

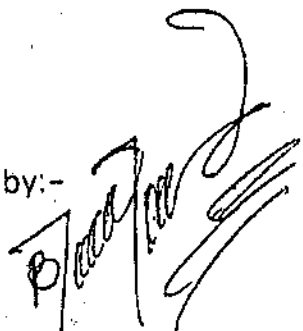
Writ Petition No. 2566 / 2022.

NIAZ MUHAMMAD & ANOTHER VERSUS Government of KP etc

AFFIDAVIT

I, NIAZ MUHAMMAD, Ex-Senior Clerk, The defunct Ehtisab Commission, Khyber Pakhtunkhwa Peshawar. R/o Garhi Inayatbad, Gul Bahar No. 2, Peshawar, Petitioner No. 1, do hereby on oath affirm and declare that the contents of the Writ Petition are true and correct to the best of my knowledge and belief and nothing has been kept secret from this Honourable Court.

Identified by:-



BILAL AHMAD KAKAIZAI  
(Advocate, Supreme Court of Pakistan)



Deponent.

03005931171

Chie 17301-1457807-2

13717

FILED TODAY

Deputy Registrar

05 JUL 2022

CERTIFIED TO BE TRUE COPY

Peshawar High Court, Peshawar  
Authorized Under Act  
The Qanun-e-Shahadaat

01 FEB 2023

... that the above was verified on solemn  
affirmation before me in office, this...  
of July 2022  
Ex: Senior Clerk Niaz Muhammad  
Peshawar  
Bilal Ahmad Kakaizai  
05/07/22

(98)

**JUDGMENT SHEET**  
**PESHAWAR HIGH COURT, PESHAWAR**  
**JUDICIAL DEPARTMENT**



**W.P. No.2566-P/2022**

**Niaz Muhammad and another**

**Vs.**

**The Government of Khyber Pakhtunkhwa through  
Chief Secretary, Peshawar and others**

Date of hearing: **25.01.2023**  
Petitioner(s) by: **Mr. Bilal Ahmad Kakaizai, Advocate.**  
Respondent(s) by: **Mr. Mujabid Ali Khan, AAG.**

\*\*\*\*\*

**JUDGMENT**

\*\*\*\*\*

**IJAZ ANWAR, J.** This writ petition has been filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, with the following prayer:-

- “It is, therefore, humbly prayed that on acceptance of this writ petition, this Hon’ble Court may graciously be pleased to:-
- a) Declare that impugned action of rejection of summary is biased, malafide and an act of bad governance hence the same may please be treated as approved.
  - b) Declare the impugned letter dated 07.04.2020 and impugned Notification/Regulations dated 09.06.2017 based on amended Act of 2017 and Section 6(a) & Section 8 of the Khyber

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Pakhtunkhwa Ehtesab Commission (Repeal) Act, 2018 (Act No.V of 2019) as unconstitutional, violative of fundamental rights guaranteed under Article 2A, 4, 9, 25, 27 and 38(e) of the Constitution of Islamic Republic of Pakistan, 1973 and hence ineffective upon the rights of the petitioners.

- c) Strike down the impugned letter dated 07.04.2020 and impugned Notification/Regulations dated 09.06.2017 based on amended Act of 2017 and Section 6(a) & Section 8 of the Khyber Pakhtunkhwa Ehtesab Commission (Repeal) Act, 2018 (Act No.V of 2019) being discriminatory, arbitrary and unconstitutional.
- d) Direct the respondents to act in the matter in accordance with law and by reinstating/regularizing the petitioners into service with all back benefits treat the petitioners being contractual employees at par with other colleague employees similarly placed and to regularize them like their other colleagues being eligible and validly appointed as per the settled criteria by the Commission at the time of appointment with effect from the due date with all consequential benefits/
- e) Any other relief as deemed appropriate in the circumstances of the case not specifically asked for, may also be granted to the petitioners".

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2. In essence, petitioners were initially appointed against the posts of Senior Clerk and Junior Clerk respectively vide letters dated 27.04.2015 and 29.07.2015 on contract basis in the Ehtesab Commission (hereinafter to be referred as "the Commission"). The said contract was extended from time to time, however, after the promulgation of the Khyber Pakhtunkhwa Ehtesab Commission Employees Service Regulations, 2017 (hereinafter to be referred as "the Regulations"), as per its criteria, petitioners and other employees were again subjected to typing and shorthand tests, wherein, they appeared and as a result of which, other employees were regularized, however, petitioners were left out on the ground of overage. In this regard, their case for age relaxation was also processed and referred to the Provincial Government, Establishment Department who replied that "the Commission" may relax the age at its own level, however, the same was not considered. Later, the Khyber Pakhtunkhwa Ehtesab

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Commission Act, 2014 (hereinafter to be referred as "the Act") was repealed vide the Khyber Pakhtunkhwa Ehtesab Commission (Repeal) Act, 2018 (hereinafter to be referred "the Repeal Act") and petitioners were terminated while the regular employees were placed in the "Surplus Pool". In this regard, writ petitions filed by the petitioners and others were disposed of by this Court vide judgment dated 08.10.2019 by treating the same as representations before the Competent Authority, however, the same were rejected vide letter dated 07.04.2020. Against the impugned letter, the petitioners earlier filed W.P No. 2574-P/2020 in this court which was disposed of vide order dated 09.12.2021 with direction to send the case of petitioner for age relaxation to respondent No.2 i.e. Establishment Department, Government of Khyber Pakhtunkhwa for its further placement before the Competent Authority i.e. Chief Minister. A summary

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was prepared for Chief Minister, however, the same was not approved, hence this writ petition.

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

4. Arguments heard and record perused.

5. Since, earlier the issue was regarding the fact that at the time of appointment, the petitioners were overage, besides applicability of the Khyber Pakhtunkhwa Initial Appointment to Civil Posts (Relaxation of Upper Age limit Rules) 2008 was disputed, as such, after detailed discussion, the writ petitioner filed by the petitioner No. 2574-P/2020 was allowed in the following manner:

“Though, in Regulation 8, “the Commission” has been empowered to relax the upper age limit as per the Government policy, however, when the case of petitioners was referred to the Provincial Government for age relaxation vide letter dated 07.12.2017, the case was returned to “the Commission” with the observations that the case of age relaxation may be dealt

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with at its own level in the light of Regulation 8 of "the Regulations". We understand that as per the age relaxation policy of the Government, the Appointing Authority is empowered to relax the age limit upto two years but beyond that, it is the prerogative of the worthy Chief Minister. We when sought assistance of the learned AAG, representing the respondents, he conceded that beyond two years, age relaxation cannot be granted by the Appointing Authority. He suggested that the case of the petitioners may be forwarded to the Establishment Department, Government of Khyber Pakhtunkhwa for its placement before the Competent Authority. Learned counsel for the petitioners agreed to such suggestion and gave his no objection on the disposal of this writ petition on such ground."

6. Record transpires that petitioners have already filed an appeal before the apex Court but no further information whether any leave was granted in the said case and the petition is still pending, albeit the respondents reluctantly prepared a summary for the worthy Chief Minister, Khyber Pakhtunkhwa for implementation of the order of this Court but

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interestingly again misconceived objections were incorporated therein which were accordingly approved and thereby request of the petitioner for age relation was again declined.

7. It is pertinent to mention here that on perusal of the summary, it appears that in order to wriggle out of the effect of the judgement of this Court and to submit compliance report in the Contempt of Court proceedings initiated against the respondents, again the same objections were referred clearly mentioning that the age relaxation cannot be granted; besides the objection that the Khyber Pakhtunkhwa Initial Appointment to Civil Posts (Relaxation of Upper Age limit Rules) 2008 are inapplicable to the case of petitioners. In para 8 of the summary, the following main objections were raised:-



- i. Both the contractual employees at time of their contractual appointment were overage.
- ii. In terms of Section 3 of the Khyber Pakhtunkhwa Ehtesab Commission (Repeal) Act, 2018, the Ehtesab Commission stood dissolved and in terms of

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Section 6(A) of the Repeal Act  
ibid both the contractual  
employees stood terminated  
from service.

- iii. Now, neither defunct Ehtesab  
Commission does exist nor the  
post against which both the  
contractual terminated  
employees seeking age  
relaxation exist."

Interestingly, most of these objections  
were earlier discussed by this Court in its earlier  
judgement dated 09.12.2021 passed in W,P No. 2574-  
P/2020. It appears that earlier, after the Khyber  
Pakhtunkhwa Ehtesab Commission (Repeal) Act,  
2018, the petitioners alongwith other employees were  
again subjected to typing and shorthand test which  
they duly qualified, however, they were not allowed  
regularization on the ground that at the time of their  
appointment, they were overage and when their case  
for age relaxation was taken up with the Provincial  
Government, it was responded by the Establishment  
Department with an objection that "the Commission  
may handle the case of age relaxation at its own level  
in light of the Regulation 8 of the Khyber

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Pakhtunkhwa Ehtesab Commission Employees Service Regulations 2017 which provides that the Commission may relax upper age limit according to Government Policy". Thus, at the initial stage, the respondent department was cognizant of the fact that the Ehtesab Commission was having the powers within the meaning of Regulations to relax the upper age limit. For the purpose of convenience, Regulation 8 of the Khyber Pakhtunkhwa Ehtesab Commission Employees Service Regulations 2017 is reproduced as under:-

**"8. Age relaxation:-** The Commission may relax the upper age limit according to Government Policy. Provided that no relaxation in qualification and experience shall be admissible in any circumstances."

Similarly, Regulation 14 provides as

follows:

**"14. Other matters.—(1).** In all other matters not specifically provided for in these regulations the rules made by the Government on those matters for civil servants shall

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be deemed to apply mutatis mutandis to the employees.”

Regulation 8 specifically empowers Ehtesab Commission to relax the upper age limit in terms of the Government Policy, however, the Khyber Pakhtunkhwa Initial Appointment to Civil Posts (Relaxation of Upper Age limit Rules) 2008 provides for upper age limit relaxation up to two years by the Appointing Authority, exceeding two years up to five years by the Establishment Department and beyond that by the Chief Minister of province. Thus, admittedly, beyond two years, the Ehtesab Commission was not competent to relax the upper age limit.

8. The Khyber Pakhtunkhwa Ehtesab Commission Act, 2014 was repealed vide Khyber Pakhtunkhwa Ehtesab Commission (Repeal) Act, 2018. Section 6 deals with the status of the existing employees of the Ehtesab Commission. It being relevant is reproduced as under:-

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14  
6. Status of the employees.---  
Notwithstanding anything  
contained in any law for the  
time being in force, on the  
commencement of this Act.

(a) the services of contractual  
employees of the Ehtesab  
Commission shall stand  
terminated;

(b) the regular employees of  
the Ehtesab Commission and  
Ehtesab Courts shall be given  
an option either to continue  
their services as surplus  
employees or accept the golden  
hand shake, offered by the  
Government, as per its policy;

(c) the employees, who opt for  
the continuation of their  
services as surplus, shall be  
deemed to have been declared  
surplus and placed in the  
surplus pool of the  
Department:

Provided that a Scrutiny  
Committee shall be constituted  
by the Department to verify  
that-

(i) the employees were  
appointed against those posts  
which fall in the initial quota;

(ii) the employees possess such  
qualifications and experience as  
prescribed for the posts against  
which they were appointed on  
regular basis; and

(iii) the employees were  
appointed after observance of  
all codal formalities; and

(d) the option under clause (b)  
shall be exercised within a  
period of thirty (30) days and  
once exercised, shall deem to be  
final."

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9. It is pertinent to mention here that in terms of the Amendment Act, 2018, the services of contractual employees were though terminated, however, against those termination orders, the petitioner approached this Court in W.P No. 2639-P/2017 and this Court granted interim relief by restraining the respondents from taking any adverse action against them. During this process, the petitioners were again subjected to typing and shorthand test wherein the petitioners remained successful and most of their colleagues were regularized vide different orders dated 01.8.2017 and 30.8.2017 duly notified in the official gazette but the petitioners were left out on the ground that they were overage.

10. We understand that at the time of their appointment, the petitioners were having all the eligibility as prescribed in the advertisement and thus were appointed and performed their duties. Similarly, again when the process was initiated for their

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regularization/re-appointment, again they remained successful in the selection process by fulfilling the requisite criteria except the age limit. Thus, in such circumstances, it was a case of extreme hardship and that's why when this Court confronted the learned AAG in the earlier round of litigation, he conceded that for age relaxation beyond two years, the case can be forwarded to the Establishment Department for placing before the Competent Authority and on such statement, the case of petitioners was disposed of vide order dated 09.12.2021. Thus the objection so raised in the summary has no footing, because it was the respondents themselves that they reinitiated the process and subjected the contract employees to written test and thus most of the contract employees were allowed regularization. To this effect, a Committee was constituted in terms of section 11(4) of the Khyber Pakhtunkhwa Ehtesab Commission Act, 2014 consisting of 06 senior officers. When they themselves opted for allowing the petitioners to

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undergo the selection process, then the objection so raised has no footing to stand upon. The mere fact that the defunct Ehtesab Commission does not exist is no ground to deny age relaxation to the petitioners on the ground that earlier the regular employees of Ehtesab Commission were declared surplus and the subsequently terminated employees were reconsidered afresh for appointment through the selection process, therefore, it appears that the case of petitioners was not dealt with in accordance with law.

11. Alongwith the writ petition, petitioners have placed on record numerous orders whereby the staff members of the defunct Ehtesab Commission were adjusted in different provincial departments. Similarly, they have placed on file numerous other orders whereby age relaxation beyond 05 years was granted by the Chief Minister of the Province.

12. In such view of the matter, we accordingly allow this writ petition and direct the respondents to place the case of petitioners before the competent.

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Authority for their age relaxation within a period of two months positively and thereafter they be allowed regularization/ appointment and be treated alike alongwith their colleagues/contract employees who were regularized/appointed and subsequently adjusted in other provincial departments.

*Man*  
Judge

Announced.  
Dated. 25.01.2023

*SA*  
Judge

(DB) Hon'ble Justice Musarrat Hilali and Hon'ble Mr. Justice Ijaz Anwar

~~CERTIFIED TO BE TRUE COPY~~  
High Court, Peshawar  
Authorised Under Article 175-A  
The Qanun-e-Shahadat Order-1984  
01 FEB 2023

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Date of Presentation of Application..... 23 = 1-23  
No of Pages..... 24-8  
Copying fee.....  
Total..... 96  
Date of Preparation of Copy..... 1-2-23  
Date of Delivery of Copy..... 1-2-23  
Received by..... *[Signature]*

(113)

**BEFORE PESHAWAR HIGH COURT, PESHAWAR.**

COC Application No. \_\_\_\_\_ / 2023  
 Writ Petition No. 2566-P / 2022.



1. NIAZ MUHAMMAD,  
 Ex-Senior Clerk, The defunct Ehtisab Commission, Khyber  
 Pakhtunkhwa Peshawar.  
 R/o Garhi Inayatnabad, Gul Bahar No. 2, Peshawar.
  2. BILAL AHMAD,  
 Ex-Junior Clerk, The defunct Ehtisab Commission, Khyber  
 Pakhtunkhwa Peshawar.  
 R/o Mohallah Sagharkhel, Parang, Tehsil & district Charsadda.
- ..... Applicants / Petitioners

**VERSUS**

1. NADEEM ASLAM CHAUDRY,  
 Chief Secretary,  
 Government of Khyber Pakhtunkhwa,  
 Civil Secretariat, Peshawar.
2. ZULFIQAR ALI SHAH,  
 Secretary Establishment,  
 Government of Khyber Pakhtunkhwa,  
 Establishment Department, Civil Secretariat, Peshawar.
3. MUHAMMAD AYAZ,  
 Secretary Finance,  
 Government of Khyber Pakhtunkhwa,  
 Finance Department, Civil Secretariat, Peshawar.

**FILED TODAY**  
 Deputy Registrar  
 29 MAR 2023

MASOOD AHMAD,  
 Secretary Law, Parliamentary Affairs & Human Rights Department,  
 Government of Khyber Pakhtunkhwa,  
 Establishment Department, Civil Secretariat, Peshawar.

..... Respondents

**ATTESTED**  
 EXAMINER  
 Peshawar High Court

(114) 2

**APPLICATION FOR INITIATING CONTEMPT OF COURT PROCEEDINGS  
AGAINST THE RESPONDENTS / JUDGMENT DEBTORS FOR NOT  
IMPLEMENTING / COMPLYING WITH ORDER DATED 25.01.2023.**

Respectfully Sheweth,

Short facts, giving rise to present Writ Petition, are as under: -

1. That, Applicants / Petitioners approached this Honorable Court In Writ Petition No. 2566-P / 2022 against the rejection of summary of Age Relaxation in perpetrated manner whereby the Age Relaxation case of the Applicants / Petitioners was imperfectly placed before the Worthy Chief Minister, who later on approved the para of not granting the Age Relaxation.
2. That, vide Order / Judgment dated 25.01.2023, the Writ Petition No. 2566-P / 2022 was allowed by this Honorable Court and It was directed to the Respondent to place the case of the Applicants / Petitioners before the Competent Authority for their Age relaxation within a period of two months positively and thereafter they be allowed regularization / appointment and be treated alike along with their colleagues / contract employees who were regularized / appointed and subsequently adjusted in other provincial departments, copies of the Memo of Writ Petition No. 2566-P / 2022 along with Order / Judgment dated 25.01.2023 are attached as Annexure A.

**FILED TODAY** That, despite lapse of about 2 months period, no concrete steps have been taken by the Respondents towards the implementation of the Order of this Honourable Court, hence contempt of authority of this Honorable Court has been committed.

Deputy Registrar

29 MAR 2023


4. That, Applicants / Petitioners also approached the Respondents and requested for the implementation of Court Order dated 25.01.2023 but the Respondents purposely put deaf ear on the requests of the Applicants / Petitioners, copy of the Applications dated 02.02.2023 is attached as Annexure B.
5. That, the Respondents, deliberately and intentionally, are not complying with the directions / orders of this Honourable Court.

**ATTESTED**  
EXAMINER  
Peshawar High Court

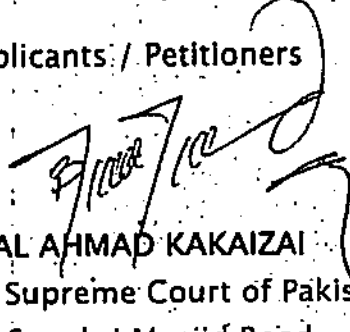
(115) ③


6. That, Respondents are purposefully not obeying the orders of this Honorable Court and are bent upon to flout the spirit of judgment dated 01.12.2022, which amounts to contempt of authority of this Honourable Court.
7. That, justice delayed is justice denied.


It is, therefore, requested that subject Application be accepted, Order / Judgment dated 25.01.2023 be implemented in its letter & spirit and Respondents be punished under the Contempt of Court Act for not obeying the lawful orders of this Honourable Court with such other relief as may deem fit in the circumstances of the case may also be granted.

  
Applicants / Petitioners

Through,

  
BILAL AHMAD KAKAIZAI  
(Advocate, Supreme Court of Pakistan)  
213, Sunehri Masjid Road,  
Peshawar Cantt.  
0300-9020098.

FILED TODAY  
  
Deputy Registrar  
29 MAR 2023

  
ATTESTED  
EXAMINER  
Peshawar High Court

(116)  
④

**BEFORE PESHAWAR HIGH COURT, PESHAWAR.**

COC Application No. \_\_\_\_\_ / 2023  
Writ Petition No. 2566-P / 2022.

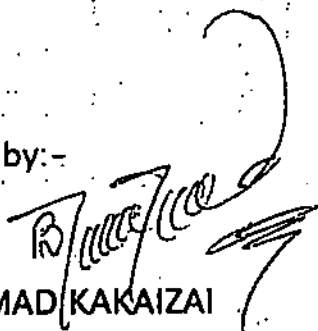
**NIAZ MUHAMMAD & ANOTHER VERSUS Government of KP etc.**

**AFFIDAVIT**

I, NIAZ MUHAMMAD, Ex-Senior Clerk, The defunct Ehtisab Commission, Khyber Pakhtunkhwa Peshawar, R/o Garhi Inayatabad, Gul Bahar No. 2, Peshawar, Applicant / Petitioner No. 1, do hereby on oath affirm and declare that the contents of the Contempt of Court Application are true and correct to the best of my knowledge and belief and nothing has been kept secret from this Honourable Court.

  
Deponent.

Identified by:-

  
BILAL AHMAD KAKAIZAI  
(Advocate, Supreme Court of Pakistan)

17301-1457807-1  
03005931171

FILED TODAY

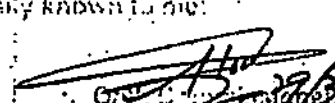
  
Deputy Registrar

CERTIFIED TO BE TRUE COPY 29 MAR 2023

EXAMINER  
Peshawar High Court, Peshawar  
Authorized Under Article 8.7 of  
the Oath-e-Shahadat Act 1984  
27 SEP 2023

34789



I, the undersigned, have verified on oath the  
information before me in office, this 29  
day of March 23, Niaz Muhammad  
No. Sher Muhammad Peshawar  
who was identified by Bilal Ahmad  
Who is personally known to me:

  
29/3/2023  
Peshawar High Court Peshawar

(117)

**PESHAWAR HIGH COURT, PESHAWAR**  
**ORDER SHEET**



Date of Order of Proceedings	Order of other Proceedings with Signature of Judge(s).
1	2
26.09.2023	<p><b><u>COC No.178-P/2023 in W.P. No.2566-P/2022</u></b></p> <p>Present: Mr. Bilal Ahmad Kakaizai, Advocate, for the petitioners.</p> <p>M/s. Amir Javed, Advocate General, Khyber Pakhtunkhwa and Mubashir Manzoor, Additional Advocate General, for the respondents.</p> <p>*****</p> <p><b><u>IJAZ ANWAR, J.</u></b> The worthy Advocate General, Khyber Pakhtunkhwa, representing the official respondents, at the very outset, produced a copy of Order dated 25,09.2023 issued by Section Officer (E-III), Government of Khyber Pakhtunkhwa, Establishment &amp; Administration Department, Peshawar and stated that the grievance of the petitioners has been redressed by granting them age relaxation in upper age limit.</p> <p>2. In view of the above, since the order of this Court has duly been complied with, as such, this COC petition stands disposed of. Notices issued to the respondents are hereby withdrawn.</p> <p><b><u>Announced</u></b> <b><u>Dt:26.09.2023</u></b></p> <p style="text-align: right;"> <b>JUDGE</b></p> <p style="text-align: right;"> <b>JUDGE</b></p>

(Dharmadatta) (DB) Hon'ble Mr. Justice Ijaz Anwar and Hon'ble Mr. Justice Shateel Ahmad

10743

Date of Presentation of Application 27-09-2023

No of Pages 5-P

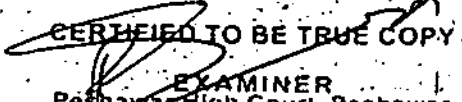
Copying fee 20-00

Total 20-00

Date of Preparation of Copy 27-09-2023

Date of Delivery of Copy 27-09-2023

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**EXAMINER**  
Peshawar High Court, Peshawar  
Authorized Under Article 8, 7 of  
the Oath-taking Statute Act 1984

**27 SEP 2023**

GOVERNMENT OF KHYBER PAKHTUNKHWA  
 ESTABLISHMENT & ADMINISTRATION  
 DEPARTMENT  
 (ESTABLISHMENT WING)  
 Email: soeiii@kpa.gov.pk



(118)

Dated Peshawar the 25<sup>th</sup> September 2023

091-9210524

**ORDER**

No. SOE-II (EAD) 1-3/2023/EHC. In pursuance of the judgement of the Peshawar High Court, Peshawar, in Writ Petition No. 2566-P/2022 titled Niaz Muhammad & others vs Govt. of Khyber Pakhtunkhwa & others, dated 25-01-2023 and Order in C.O. No. 178-P/2022, dated 07-09-2023, the Competent Authority (Chief Minister, Khyber Pakhtunkhwa) is pleased to accord sanction under Rule-3(iii) read with Rule-5 of the Khyber Pakhtunkhwa Initial Appointment to Civil Posts (Relaxation of Upper Age Limit) Rules, 2008 (Amended), to the grant of relaxation in upper age limit to the following post-holders, subject to the final outcome of CPLA.

S#	Name & Address	Name of Post	Required Age Relaxation
1	Mr. Niaz Muhammad	Ex-Senior Clerk (BPS-14)	08 Years, 10 Months & 16 Days
II	Mr. Bilal Ahmad	Ex-Junior Clerk (BPS-11)	05 Years, 11 Months & 03 Days

CHIEF SECRETARY  
 KHYBER PAKHTUNKHWA

Enst. No. SOE-II (EAD) 1-3/2023/EHC

Dated Peshawar the 25<sup>th</sup> September 2023

Copy forwarded to the

1. PS to Secretary, Establishment Department.
2. Master file

(SHEER BAZ KHAN) 25/9/23  
 SECTION OFFICER (E-III)

10

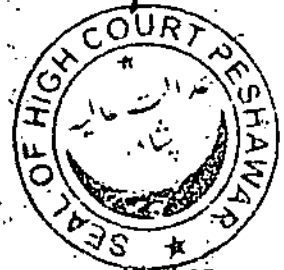


(119)

~~2~~

**BEFORE PESHAWAR HIGH COURT, PESHAWAR.**

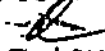
COC Application No. \_\_\_\_\_ / 2024  
Writ Petition No. 2566-P / 2022.



1. NIAZ MUHAMMAD,  
Ex-Senior Clerk, The defunct Ehtisab Commission, Khyber  
Pakhtunkhwa Peshawar.  
R/o Garhi Inayatabad, Gul Bahar No. 2, Peshawar.
  2. BILAL AHMAD,  
Ex-Junior Clerk, The defunct Ehtisab Commission, Khyber  
Pakhtunkhwa Peshawar.  
R/o Mohallah Sagharkhel, Parang, Tehsil & district Charsadda.
- ..... Applicants / Petitioners

**VERSUS**

1. NADEEM ASLAM CHAUDRY,  
Chief Secretary,  
Government of Khyber Pakhtunkhwa,  
Civil Secretariat, Peshawar.
  2. SHAHIDULLAH,  
Secretary Establishment,  
Government of Khyber Pakhtunkhwa,  
Establishment Department, Civil Secretariat, Peshawar.
  3. AMER SULTAN TAREEN,  
Secretary Finance,  
Government of Khyber Pakhtunkhwa,  
Finance Department, Civil Secretariat, Peshawar.
  4. AKHTAR SAEED TURK,  
Secretary Law, Parliamentary Affairs & Human Rights Department,  
Government of Khyber Pakhtunkhwa,  
Establishment Department, Civil Secretariat, Peshawar.
- ..... Respondents

FILED TODAY  
  
Deputy Registrar  
06 FEB 2024

**ATTESTED**  
EXAMINER  
.....

7 J

(120)

③

**APPLICATION FOR INITIATING CONTEMPT OF COURT PROCEEDINGS  
AGAINST THE RESPONDENTS / JUDGMENT DEBTORS FOR NOT  
IMPLEMENTING / COMPLYING WITH ORDER DATED 25.01.2023.**

Respectfully Sheweth,

Short facts, giving rise to present Writ Petition, are as under: -

1. That, Applicants / Petitioners approached this Honorable Court in Writ Petition No. 2566-P / 2022 against the rejection of summary of Age Relaxation whereby the case of Age Relaxation of Applicants / Petitioners was defectively placed before the Worthy Chief Minister, who later on approved the para of not granting the Age Relaxation.
2. That, vide Order / Judgment dated 25.01.2023, the Writ Petition No. 2566-P / 2022 was allowed by this Honorable Court and it was directed to the Respondent to place the case of the Applicants / Petitioners before the Competent Authority for their Age relaxation within a period of two months positively and thereafter they be allowed regularization / appointment and be treated alike along with their colleagues / contract employees who were regularized / appointed and subsequently adjusted in other provincial departments, copies of the Memo of Writ Petition No. 2566-P / 2022 along with Order / Judgment dated 25.01.2023 are attached as Annexure A.
3. That, after lapse of 2 months from the date of Order / Judgment dated 25.01.2023, since no concrete steps towards implementation were taken by the Respondents, therefore, Petitioner approached this Honorable Court in Contempt Application, copy of the 1<sup>st</sup> Contempt of Court Application is attached as Annexure B.
4. That, 1<sup>st</sup> Contempt of Court Application was disposed of by this Honorable Court on submission of Order dated 25.09.2023 whereby Age Relaxation was granted to the Petitioners, copy of the Order dated 25.09.2023 and Court Order dated 26.09.2023 are attached as Annexure C & D.
5. That, as per Age Relaxation Order dated 25.09.2023 read with Court Order in Writ Petition No. 2566-P / 2022 dated 25.01.2023,

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Deputy Registrar

06 FEB 2024

**ATTESTED**  
EXAMINER  
PESHAWAR HIGH COURT

(121)

④

when Petitioners approached the Department for doing the needful, they were verbally informed that "since the Contempt Application has been disposed of hence no Order is in field for implementation in your favour", copy of the Applications of the Petitioners are attached as Annexure E.

6. That, at the time of submission of Order dated 25.09.2023 in Court on 26.09.2023, it was agreed that the process of Appointment of Petitioners would be initiated through proper channel after submission of the Order dated 25.09.2023 in the Department by the Petitioners.
7. That, the Respondents, deliberately and intentionally, are not complying with the directions / orders of this Honourable Court and are playing deceitful tactics with the Petitioners.
8. That, Respondents are purposefully not obeying the orders of this Honourable Court and are bent upon to flout the spirit of Judgment dated 25.01.2023, which amounts to contempt of authority of this Honourable Court.
9. That, justice delayed is justice denied.

It is, therefore, requested that subject Application be accepted, Order / Judgment dated 25.01.2023 be implemented in its letter & spirit and Respondents be punished under the Contempt of Court Act for not obeying the lawful orders of this Honourable Court with such other relief as may deem fit in the circumstances of the case may also be granted.

Applicants / Petitioners

Through,

BILAL AHMAD KAKAIZAI  
(Advocate, Supreme Court of Pakistan)  
213, Sunehri Masjid Road, Near HBL  
Nothla Branch, Peshawar Cantt.  
0300-9020098.

FILED TODAY  
Deputy Registrar  
06 FEB 2024

ATTESTED  
EXAMINER  
Peshawar HBL Court

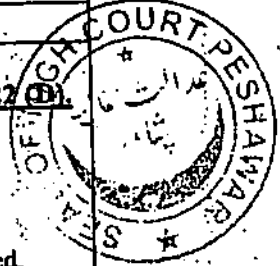


(123)

PESHAWAR HIGH COURT, PESHAWAR

ORDER SHEET

Date of Order or Proceedings	Order or other Proceedings with Signature of Judge
1	2
17.05.2024	<p><b>C.O.C No.80-P/2024 in W.P No.2566-P/2022 (D)</b></p> <p>Present: Mr. Bilal Ahmad Kakaizai, Advocate, for the petitioners.</p> <p>Mr. Muhammad Bashir Naveed, Addl. A.G, for the respondents alongwith Mr. Arshad Kamal, SO (Lit-II), Establishment Department.</p> <p>*****</p> <p>Through this petition, the petitioners seek implementation of the judgment of this Court dated 25.01.2023, whereby directions were issued to the respondents to first consider the relaxation of age of the petitioners for the appointment and secondly, to allow regularization to the petitioners as his other colleagues were already regularized.</p> <p>2. The respondents through an order dated 25.09.2023 has allowed age relaxation to the petitioners, however, the petitioners are yet to be regularized in service. In this regard, it is contended by the respondents that the parent department of the petitioners was Ehtisab Commission, however, the said Commission has now been dissolved and the employees of the said Commission are to be placed/</p>



(D.B) (Hon'ble Mr. Justice Syed Arshad Ali & Hon'ble Mr. Justice Wiqar Ahmad)  
\*A.Ali\*

**ATTESTED**

EXAMINER  
PESHAWAR HIGH COURT

(124)

parked in the surplus pool. The representative of the respondents seeks time to make further steps towards the regularization of the petitioners and then placed them in the surplus pool. Allowed. The said process shall be completed within a period of one month. Adjourned to a date in office.

JUDGE

JUDGE

CERTIFIED TO BE TRUE COPY  
EXAMINER  
Peshawar High Court, Peshawar  
Authorized Under Article 5, 7 of  
the Qanun-e-Shahadat Act 1984  
26 JUN 2024

92722  
 26-06-2024  
 Date of Presentation of Application 6-  
 No of Pages P  
 Copying fee 24-00  
 Total 26-06-2024  
 Date of Preparation of Copy 26-06-2024  
 Date of Delivery of Copy  
 By W. I. G.



(125)

GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT & ADMINISTRATION  
DEPARTMENT  
(ESTABLISHMENT WING)  
Email: soeiiisection@gmail.com

091-9210524

Dated Peshawar the 21<sup>st</sup> June, 2024

**ORDER**

**No. SOE-III(E&AD)1-3/Eh.C/2024:** In pursuance of the Judgement of the Peshawar High Court, Peshawar passed, in Writ Petition No. 2566-P/2022 titled "Niaz Muhammad & Others Vs Govt. of Khyber Pakhtunkhwa", dated 25-01-2023, followed by Order in CoC No.178-P/2022, dated 07-09-2023 and in CoC No.80-P/2024, dated 17-05-2024, the Competent Authority (Secretary Establishment Department) under Rule-4(3)(b)(ii) of the Khyber Pakhtunkhwa Civil Servants (APT) Rules, 1989, is pleased to provisionally regularize services of the following petitioners in the erstwhile Khyber Pakhtunkhwa Ehtisab Commission with the ensuant effect of their placement in the Surplus Pool of Establishment & Administration Department, with immediate effect, subject to the final outcome of CPLA pending adjudication before the Supreme Court of Pakistan, Islamabad:

S#	Name & Address	Designation	BPS
i	Mr. Niaz Muhammad	Senior Clerk	14
ii	Mr. Bilal Ahmad	Junior Clerk	11

2. Consequent upon the above, these employees are directed to report to office of the undersigned, along with their service record, for further necessary action under Surplus Pool Policy, 2001.

SECRETARY TO GOVERNMENT OF  
KHYBER PAKHTUNKHWA ESTABLISHMENT  
DEPARTMENT

**Endst: No. SOE-III (E&AD)1-3/Eh.C/2024**

Dated Peshawar the 21<sup>st</sup> June, 2024

Copy forwarded to the:

1. Deputy Secretary (Admin), Administration Department.
2. Section Officer (Budget), Establishment & Administration Department, with the request to take up a case with Finance Department for creation of posts for the mentioned employees of Ehtisab Commission in the Surplus Pool of Establishment & Administration Department.
3. PS to Secretary, Establishment Department.
4. Master file

SECTION OFFICER (E-III)

21/06/24

(126)


FORM T.R.I  
(See Rule 44)

**ARRIVAL REPORT**

In pursuance of Secretary to Government of KPK Establishment & Administration Department order No. SOE-III(E&AD)1-3/Eh/C/2024 dated 21.06.2024 hereby submit my arrival report as Senior Clerk (BS-14) w.e.f. 21.06.2024 in the surplus pool of Establishment and Administration Department (under protest).

STATION:


Dated: 24/06/2024

  
(NIAZ MUHAMMAD)  
Senior Clerk (BS-14)

Copy to:-

- 1. The Deputy Secretary (Admin), Administration Department, KPK
- 2. The Section Officer (E-III), Establishment & Administration Department, KPK
- 3. The Section Officer (Budget), Establishment & Administration Department, KPK
- 4. The AG Office, KPK
- 5. Bill Clerk (Local)
- 6. Personal File.

  
24/06/24

  
(NIAZ MUHAMMAD)  
Senior Clerk (BS-14)



(127)

2

BEFORE PESHAWAR HIGH COURT, PESHAWAR.




COC Application No. \_\_\_\_\_ / 2024  
Writ Petition No. 2566-P / 2022.

1. NIAZ MUHAMMAD,  
Ex-Senior Clerk, The defunct Ehtsab Commission, Khyber  
Pakhtunkhwa Peshawar.  
R/o Garhi Inayatnabad, Gul Bahar No. 2, Peshawar.
  2. BILAL AHMAD,  
Ex-Junior Clerk, The defunct Ehtsab Commission, Khyber  
Pakhtunkhwa Peshawar.  
R/o Mohallah Sagharkhel, Parang, Tehsil & district Charsadda.
- ..... Applicants / Petitioners

VERSUS

1. NADEEM ASLAM CHAUDRY,  
Chief Secretary,  
Government of Khyber Pakhtunkhwa,  
Civil Secretariat, Peshawar.
2. SHAHIDULLAH,  
Secretary Establishment,  
Government of Khyber Pakhtunkhwa,  
Establishment Department, Civil Secretariat, Peshawar.
3. AMER SULTAN TAREEN,  
Secretary Finance,  
Government of Khyber Pakhtunkhwa,  
Finance Department, Civil Secretariat, Peshawar.
4. AKHTAR SAED TURK,  
Secretary Law, Parliamentary Affairs & Human Rights Department,  
Government of Khyber Pakhtunkhwa,  
Establishment Department, Civil Secretariat, Peshawar.

FILED TODAY  
  
Deputy Registrar  
06 FEB 2024

..... Respondents

**ATTESTED**  
EXAMINER  
Peshawar High Court



(128)

3

APPLICATION FOR INITIATING CONTEMPT OF COURT PROCEEDINGS  
AGAINST THE RESPONDENTS / JUDGMENT DEBTORS FOR NOT  
IMPLEMENTING / COMPLYING WITH ORDER DATED 25.01.2023.

Respectfully Sheweth,

Short facts, giving rise to present Writ Petition, are as under: -

1. That, Applicants / Petitioners approached this Honorable Court in Writ Petition No. 2566-P / 2022 against the rejection of summary of Age Relaxation whereby the case of Age Relaxation of Applicants / Petitioners was defectively placed before the Worthy Chief Minister, who later on approved the para of not granting the Age Relaxation.
2. That, vide Order / Judgment dated 25.01.2023, the Writ Petition No. 2566-P / 2022 was allowed by this Honorable Court and it was directed to the Respondent to place the case of the Applicants / Petitioners before the Competent Authority for their Age relaxation within a period of two months positively and thereafter they be allowed regularization / appointment and be treated alike along with their colleagues / contract employees who were regularized / appointed and subsequently adjusted in other provincial departments, copies of the Memo of Writ Petition No. 2566-P / 2022 along with Order / Judgment dated 25.01.2023 are attached as Annexure A.
3. That, after lapse of 2 months from the date of Order / Judgment dated 25.01.2023, since no concrete steps towards implementation were taken by the Respondents, therefore, Petitioner approached this Honorable Court in Contempt Application, copy of the 1<sup>st</sup> Contempt of Court Application is attached as Annexure B.
4. That, 1<sup>st</sup> Contempt of Court Application was disposed of by this Honorable Court on submission of Order dated 25.09.2023 whereby Age Relaxation was granted to the Petitioners, copy of the Order dated 25.09.2023 and Court Order dated 26.09.2023 are attached as Annexure C & D.
5. That, as per Age Relaxation Order dated 25.09.2023 read with Court Order in Writ Petition No. 2566-P / 2022 dated 25.01.2023,

FILED TODAY

Deputy Registrar

06 FEB 2024

ATTESTED  
EXAMINER  
Sindh High Court

(129)

④

when Petitioners approached the Department for doing the needful, they were verbally informed that *"since the Contempt Application has been disposed of hence no Order is in field for Implementation in your favour"*, copy of the Applications of the Petitioners are attached as Annexure E.

6. That, at the time of submission of Order dated 25.09.2023 in Court on 26.09.2023, it was agreed that the process of Appointment of Petitioners would be initiated through proper channel after submission of the Order dated 25.09.2023 in the Department by the Petitioners.
7. That, the Respondents, deliberately and intentionally, are not complying with the directions / orders of this Honourable Court and are playing deceitful tactics with the Petitioners.
8. That, Respondents are purposefully not obeying the orders of this Honourable Court and are bent upon to flout the spirit of Judgment dated 25.01.2023, which amounts to contempt of authority of this Honourable Court.
9. That, Justice delayed is Justice denied.

It is, therefore, requested that subject Application be accepted, Order / Judgment dated 25.01.2023 be implemented in its letter & spirit and Respondents be punished under the Contempt of Court Act for not obeying the lawful orders of this Honourable Court with such other relief as may deem fit in the circumstances of the case may also be granted.

Applicants / Petitioners

Through,

BILAL AHMAD KAKAIZAI

(Advocate, Supreme Court of Pakistan)  
213, Sunehri Masjid Road, Near HBL  
Nothia Branch, Peshawar Cantt.  
0300-9020098.

FILED TODAY

Deputy Registrar

06 FEB 2024

ATTESTED  
EXAMINER  
Supreme Court

(130)

5

BEFORE PESHAWAR HIGH COURT, PESHAWAR.

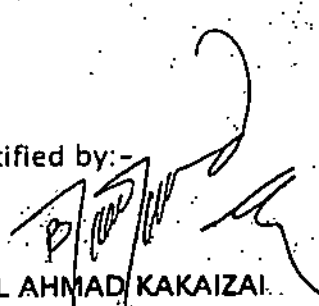
COC Application No. \_\_\_\_\_ / 2024  
Writ/Petition No. 2566-P / 2022.

NIAZ MUHAMMAD & ANOTHER VERSUS Government of KP etc

AFFIDAVIT

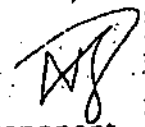
I, NIAZ MUHAMMAD, Ex-Senior Clerk, The defunct Ehtisab Commission, Khyber Pakhtunkhwa Peshawar, R/o Garhi Inayatbad, Gul Bahar No. 2, Peshawar, Applicant / Petitioner No. 1, do hereby on oath affirm and declare that the contents of the Contempt of Court Application are true and correct to the best of my knowledge and belief and nothing has been kept secret from this Honourable Court.

Identified by:-



BILAL AHMAD KAKAIZAI.  
(Advocate, Supreme Court of Pakistan).

Deponent.



03005931171

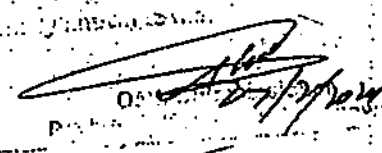
17301-1457807-1

FILED TODAY

Deputy Registrar

06 FEB 2024

3859  
24 Feb  
sher muhammad Peshawar  
Blat Ahmad



COC80-2024 NIAZ MUHAMMAD VS GOVT OF PESHAWAR

CERTIFIED TO BE TRUE COPY  
EXAMINER  
Peshawar High Court, Peshawar  
Authorized Under Article 0.7 of  
the Qanun-e-Shahadat Act 1984

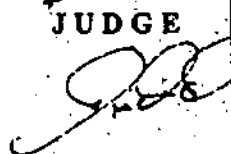
28 JUN 2024

(131)

PESHAWAR HIGH COURT, PESHAWAR

ORDER SHEET



Date of Order or Proceedings	Order or other Proceedings with Signature of Judge
1	2
26.06.2024	<p><b>C.O.C.No.80-P/2024 in W.P No.2566-P/2022 (D).</b></p> <p>Present: Mr. Bilal Ahmad Kakaizai, Advocate, for the petitioners.</p> <p>Mr. Rahmat Ali, Assistant A.G, for the respondents alongwith Mr. Arshad Kamal, Section Officer (Lit-II), Establishment Department.</p> <p>*****</p> <p><b>SYED ARSHAD ALI, J.-</b> The petitioners have filed the instant petition for initiation of Contempt of Court proceedings against the respondents on account of violation of the judgment of this Court dated 25.01.2023 passed in W.P No.2566-P/2022.</p> <p>2. The worthy Assistant A.G, at the very outset, has produced copy of order dated 21.06.2024, whereby pursuant to the judgment of this Court, the services of both the petitioners have been regularized. It is the contention of the learned counsel for the petitioner that the said regularization should have been given effect at least from the date of judgment. However, for that, the petitioners may approach the appropriate forum, at the moment, the judgment of this Court stands implemented.</p> <p>3. In view of the above, this petition is disposed of accordingly.</p> <p style="text-align: right;">JUDGE  JUDGE</p>

(D.B) (Hon'ble Mr. Justice Syed Arshad Ali & Hon'ble Mr. Justice Sahibzada Asadullah) \*A.All\*

92723  
Date of Presentation of Application..... 26-06-2024  
No of Pages..... 5  
Copying fee.....  
Total..... 20/-  
Date of Preparation of Copy..... 28-06-2024  
Date of Delivery of Copy..... 28-06-2024

CERTIFIED TO BE TRUE COPY  
EXAMINER  
Peshawar High Court, Peshawar  
Authorized Under Article 87 of  
the Danoope-Shahadat Act 1984  
28 JUN 2024

(132)

4

Annex A

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



Appeal No. 384 /2022

1. Muhammad Junaid, (Assistant Director) S/O Muhammad Saeed, R/O House No 156, new colony Jahangir abad Tehkal Bala Peshawar.
2. Zia ur Rehman (Assistant Director) S/O Muhammad Yousaf R/O Zubair Colony Pakha Ghulam Dalazak Road Peshawar

(Appellants)

VERSUS

1. Govt of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa Peshawar.
2. The Secretary, Establishment Department Khyber Pakhtunkhwa Civil Secretariat Peshawar.
3. Govt of Khyber Pakhtunkhwa through Secretary Industries, and Commerce Khyber Pakhtunkhwa Peshawar.

(Respondents)

Service Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against not counting of contractual service for the purpose of pay fixation, and against which the appellants filed departmental appeal dated 25.11.2021, which is not yet responded despite the lapse of 90 days statutory period.

Prayer in appeal

On acceptance of this appeal the contractual service of the appellants followed by regularization may kindly be counted for the purpose of pay fixation, any other relief which may not asked specifically may also be awarded in favour of the appellants.

ATTESTED  
  
Registrar  
Khyber Pakhtunkhwa Service Tribunal  
Peshawar

(133) S ANNED B

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR



Service Appeal No. 384/2022

BEFORE: MRS. RASHIDA BANO ... MEMBER (J)  
MR. MUHAMMAD AKBAR KHAN ... MEMBER (E)

Muhammad Junaid, (Assistant Director) S/O Muhammad Saeed R/O House  
No. 156, New Colony Jahangir Ababad Tehkal Bala Peshawar.  
(Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa, Peshawar.
  2. Government of Khyber Pakhtunkhwa through Secretary Establishment Civil Secretariat, Peshawar.
  3. Government of Khyber Pakhtunkhwa through Secretary Industries, and Commerce Khyber Pakhtunkhwa, Peshawar.
- .... (Respondents)

Mr. Zartaj Anwar  
Advocate

For appellant

Mr. Muhammad Jan  
District Attorney

For respondents

Date of Institution.....15.03.2022  
 Date of Hearing.....31.07.2023  
 Date of Decision.....09.08.2023

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:

“On acceptance of this appeal the contractual service of the appellant followed by regularization may kindly be counted for the purpose of pay fixation, any other relief which may not ask specifically may also be awarded in favor of appellant.”

TESTED  
MEMBER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

(134)

2. Brief facts of the case, as given in the memorandum of appeal, are that appellant was appointed as Assistant Director Software (BPS-17) in the Khyber Pakhtunkhwa Ehtesab Commission on contract basis vide order dated 23.06.2015. He was performing his duty with zeal and zest and up to the entire satisfaction of his superiors. Later on, services of the appellant was regularized vide order dated 01.08.2017. The Khyber Pakhtunkhwa Ehtesab Commission became defunct and the regular employees of the commission kept in the surplus pool under section 6 of the Khyber Pakhtunkhwa Ehtesab Commission Service Regularization Act, 2019. Appellant was adjusted and posted as Assistant Director in the Director General of Industries & Commerce of Khyber Pakhtunkhwa vide order dated 27.06.2019. He filed departmental appeal on 25.11.2021 for counting of contractual service for the purpose of pay fixation which was not responded within a statutory period, hence instant service appeal.

3. Respondents were put on notice who submitted written replies/comments on the appeal. We have heard the learned counsel for the appellant as well as the learned District Attorney and perused the case file with connected documents in detail.

4. Learned counsel for the appellant argued that appellant has not been treated in accordance with law and his right secured and guaranteed under the law has been violated. He further contended that appellant performed his duties in the respondent department without any break and regularly, but not allowing pay fixation to the appellants is illegal, against the law and judgments of Apex court. He, therefore, requested for acceptance of instant service appeal.

ATTENDED

Signature  
Secretary  
2022/09/27



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5. The learned District Attorney contended that the appellant has been treated strictly in accordance with Khyber Pakhtunkhwa Ehtesab Commission (Repeal) Act, 2018, Surplus Pool Policy, 2001 and other law governing rights of the appellant. He further contended that was in surplus pool under Section 6(b) & 6(c) of the Khyber Pakhtunkhwa Ehtesab Commission (Repeal) Act, 2018 and were further adjusted under para 5(c) of the Surplus Pool Policy, 2001 which states that adjustment shall be made on vacant post pertaining to initial recruitment quota from those in the surplus. Lastly he submitted that Notification of Finance Department was about pay protection to gazetted contract employees whose services were regularized and not about employees of Surplus Pool.

6. Perusal of record reveals that appellant was appointed as Assistant Director Software (BPS-17) in the Khyber Pakhtunkhwa Ehtesab Commission on contract basis vide order dated 23.06.2015. Services of the appellant was regularized vide order dated 01.08.2017 under Section 5 of Khyber Pakhtunkhwa Ehtesab Commission Employees Service Regularization Act 2017. The Khyber Pakhtunkhwa Ehtesab Commission became defunct and the regular employees of the commission kept in the surplus pool under section 6 of the Khyber Pakhtunkhwa Ehtesab Commission Service Regulation Act 2019. He was posted as Assistant Director (BPS-17) in the Directorate General of Industries & Commerce of Khyber Pakhtunkhwa vide order dated 27.06.2019. Appellant requested respondent vide departmental appeal dated 25.11.2021 for considering their contractual service for the purpose of pay fixation which was not responded.

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ATTESTED

  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar




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their pay protection. Apex court in 2008 SCMR 144 and CPC NO.39 of 2021 has granted such like relief of protection of pay fixation to the public servants.

8. As a sequel to above discussion, we allow the appeal of the appellant as prayed for. Costs shall follow the event. Consign.


9. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 9<sup>th</sup> day of August, 2023.

  
(MUHAMMAD AKBAR KHAN)  
Member (E)

  
(RASHIDA BANO)  
Member (J)

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Certified to be true copy

  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Presentation of Application 15/2/24  
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Urgent 5/-  
Total 30/-  
Name of Dep.  
Date of Dep. 15/2/24  
Date of 15/2/24

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PS/C.S Khyber Pakhtunkhwa  
Diary No. 2715 (w/e) P  
Date 18-07-2024

To

The Worthy Chief Secretary,  
Govt. of Khyber Pakhtunkhwa

*[Signature]*  
18/07/2024

Subject:

**Departmental Appeal against the order dated 21.06.2024 whereby the services of the appellant have been regularized with immediate effect instead of 04.01.2019 the date on which other colleagues of the appellant were adjusted as per the Surplus Pool Policy of the Provincial Government.**

Respected Sir,

1. That the appellant being qualified and eligible was appointed as Senior Clerk (BPS-14) on 27.04.2015 in the then Ehtisab Commission, Khyber Pakhtunkhwa.
2. That the Commission ibid, was subsequently abolished under the Khyber Pakhtunkhwa Ehtisab Commission (Repeal Act, 2018) whereafter the appellant and his other colleagues employees of the Commission were laid off.
3. That other colleagues who were serving on regular basis were adjusted in the Surplus Pool Policy w.e.f. 04.01.2019 vide Notification dated 14.05.2019 whereas the appellant being contract employee was not so adjusted.
4. That for the purpose of regularization and adjustment, the appellant filed Writ Petition No.2566-P/2022 before the Peshawar High Court, Peshawar which was allowed vide judgment 25.01.2023.
5. That the Department was not implementing the judgment, therefore, on the basis of directions in COCs, the appellant was granted age relaxation and then regularized vide order dated 21.06.2024 but with immediate effect instead of the due date.
6. That the appellant being partially aggrieved of the order ibid, files this Departmental Appeal for indulgence of your good-self inter-alia on the following grounds:-

Grounds:

- A. That the order dated 21.06.2024 to the extent of regularization with immediate effect is not according to law and therefore, requires modification to be made effective from 04.01.2019.
- B. That other colleagues who were also serving in the same Department and rendered surplus, were later on adjusted in the Surplus Pool w.e.f. 04.01.2019, therefore, the dictates of justice and equality demand that similar treatment should also be extended to the appellant under the principle of equality and equal protection of law.
- C. That under Article-25 of the Constitution, 1973, all are equal before law, therefore, discrimination is prohibited.
- D. That it is in the interest of justice to grant the relief to the appellant to equalize his position with his other colleagues to save him from financial setback.

It is, therefore, humbly requested that on acceptance of this departmental appeal, the impugned order dated 21.06.2024, may graciously be modified by making it effective from 04.01.2019 with pay protection/fixation of his contractual service alongwith consequential back benefits.

Yours faithfully

*[Signature]*  
Niaz Muhammad,  
Senior Clerk (BPS-14),  
Surplus Pool, Establishment Department

Dated: 15/07/2024

*[Signature]* N

WAKALAT NAMA

IN THE COURT OF KP Service Tribunal

Niaz Muhammad Appellant(s)/Petitioner(s)

VERSUS

Govt of KP Respondent(s)

I/We \_\_\_\_\_ do hereby appoint  
Mr. Khaled Rehman, Advocate, Supreme Court & Mr. Muhammad  
Ghazanfar Ali, Advocates in the above mentioned case, to do all or any  
of the following acts, deeds and things.

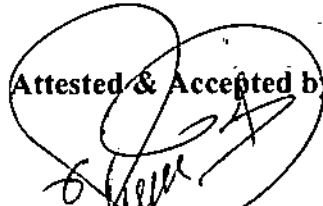
1. To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal in which the same may be tried or heard and any other proceedings arising out of or connected therewith.
2. To sign, verify and file or withdraw all proceedings, petitions, appeals, affidavits and applications for compromise or withdrawal or for submission to arbitration of the said case, or any other documents, as may be deemed necessary or advisable by them for the conduct, prosecution or defence of the said case at all its stages.
3. To receive payment of, and issue receipts for, all moneys that may be or become due and payable to us during the course of proceedings.

AND hereby agree:-

- a. That the Advocate(s) shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fee remains unpaid.

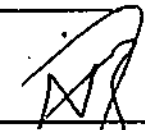
In witness whereof I/We have signed this Wakalat Nama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this \_\_\_\_\_

Attested & Accepted by

  
Khaled Rahman,  
Advocate,  
Supreme Court of Pakistan

&

  
Muhammad Ghazanfar Ali  
Advocate, High Court

  
Signature of Executants

4-B, Haroon Mansion  
Khyber Bazar, Peshawar  
Off: Tel: 091-2592458