BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

s.A. No. 1488 /2018

Dimy 196 16 71

Mashal Khan S/o Sarwar Khan

VERSUS

- Govt of KPK through Secretary Communication & Works
 Deptt Civil Secretariat Peshawar.
- 2. Deputy Director (Coordination) PMU C&W Deptt Civil Secretariat Peshawar
- 3. Project Director PMU, C&W Deptt Civil Secretariat Peshawar.

.....RESPONDENTS

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL ACT 1974 AGAINST THE OFFICE ORDER NO. 7119/JICA-5, DATED 01.08.2018 WHEREBY THE APPELLANT HAS BEEN TERMINATED FROM HIS SERVICE AND AGAINST WHICH THE DEPARTMENTAL APPEAL OF THE APPELLANT DATED: 10.09.2018 WAS NOT ADJUDICATED UPON BY THE RESPONDENTS NO. 1

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PRAYER

ON ACCEPTANCE OF THIS APPEAL OFFICE ORDER NO. 7119/JICA-5 DATED 1.08.2018,

Mind Palchemid was Service Tribunal.

18,06,2019

Appellant with counsel and Mr. Zia Ullah learned Deputy District Attorney present. Arguments heard. To come up for order on 21.06.2019 before D.B.



Member



21.06.2019

Learned counsel for the appellant present. Mr. Zia Ullah learned Deputy District Attorney present. Vide separate/common judgment of today of this Tribunal placed on file of service appeal No.1487/2018 filed by Sarfaraz Khan, copy of departmental appeal of the appellant available on file be sent to the appellate authority i.e. respondent No.1 who is directed to decide the same through speaking order within 30 days of the receipt of this judgment. Parties are left to bear their own costs. File be consigned to the record room.

(Hussain Shah) Member

(Muhammad Hamid Mughal)
Member

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	<u>ANNOUNCE</u>	Date of Presentation of Application	
Service Interest	21.06.2019	Number of Werds 600	
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		BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUN
	·	Service Appeal No. 1487/2018
		Date of Institution 23.11.2018 Date of Decision 21.06.2019
.	•	
!		Sarfaraz Khan S/o Haji Shahzada R/o Mohallah Tarikhel Village Adizai Tehsil and District Peshawar.
		Appellant
		Versus
	•	1. Government of Khyber Pakhtunkhwa through Secretary
		Communication & Works Department Peshawar.
		2. Deputy Director (Coordination) PMU C&W Department Peshawar.
		3. Project Director PMU, C&W Department Peshawar.
		Respondents
	21.06.2010	Mr. Muhammad Hamid MughalMember(J) Mr. Hussain ShahMember(E)
	21.06.2019	JUDGMENT
		MINIAMONAD HANNE MICHAEL MEDICAL
		MUHAMMAD HAMID MUGHAL, MEMBER: - Learned
		counsel for appellant and Mr. Zia Ullah learned Deputy District
	A	Attorney present.
		2. This Single/common judgment/order in the above captioned
		service appeal shall also dispose of appeal bearing No.1488/2018 filed
1	MIESTE	Mashal Khan (Ex-Naib Qasid) and appeal bearing No. 1489/2018
		filed by Fayaz Muhammad (Ex-Naib Qasid) being identical in nature in
		that similar questions of law and facts are involved therein.
	Poshawar	3. The appellant (Ex-Driver) has filed the present appeal against the
	•	

order dated 03.08.2018 whereby his services were terminated w.e.f 31.08.2018 on the ground that he was adjusted and having drawn salary in the project "JICA Assisted Khyber Pakhtunkhwa Emergency Rural Roads Rehabilitation Project Loan No. PK-P-62" and most of the road projects have been completed, therefore, his services were no more required.

- 4. Arguments of Learned counsel for the appellant and learned Deputy District Attorney heard. File perused.
- 5. Needless to mention that the Hon'ble Peshawar High Court Peshawar vide its judgment dated 07.11.2018 passed in Writ Petition No.5163-P/2018 filed by the appellants, observed that by virtue of Section 4 of Khyber Pakhtunkhwa Act No.10 of 2018, the services of all project employees stand regularized w.e.f the date of commencement of the said Act i.e. 07.03.2018.
- 6. Learned counsel for the appellant pleaded that against the original impugned order of termination of services, the appellant filed departmental appeal but the same was not responded. On the other hand in their joint reply the respondents have pleaded that the appellant has not preferred departmental appeal to the higher authority but annexed the copy only to fill up the formalities.
- 7. In view of the above scenario, copy of departmental appeals of the appellants available on files be sent to the appellate authority i.e. respondent No.1 who is directed to decide the same through speaking order within 30 days of the receipt of this judgment.
 - 8. The present service appeal and the connected service appeals as

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ATTESTED

Khyber Py Mandowa Service Tribunal, Poshswar

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	mentioned in para-2 of this judgment are disposed of accordingly.
	Parties are left to bear their own costs. File be consigned to the record
	room.
	They Dan
	(Hussain Shah) (Muhammad Hamid Mughal)
	Member Member

ANNOUNCED. 21.06.2019

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

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s.a.No. 1488 /2018

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Dana 23/11/20/8

Mashal Khan S/o Sarwar Khan

VERSUS

- Govt of KPK through Secretary Communication & Works
 Deptt Civil Secretariat Peshawar.
- 2. Deputy Director (**¢**oordination) PMU C&W Deptt Civil Secretariat Peshawar.
- 3. Project Director PMU, C&W Deptt Civil Secretariat Peshawar.

....RESPONDENTS

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL ACT 1974 AGAINST THE OFFICE ORDER NO. 7119/JICA-5, DATED 01.08.2018 WHEREBY THE APPELLANT HAS BEEN TERMINATED FROM HIS SERVICE AND AGAINST WHICH THE DEPARTMENTAL APPEAL OF THE APPELLANT DATED: 10.09.2018 WAS NOT ADJUDICATED UPON BY THE RESPONDENTS NO. 1

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23/11/12

and filed.

PRAYER

ON ACCEPTANCE OF THIS APPEAL OFFICE ORDER NO. 7119/JICA-5 DATED 1.08.2018,

ATTESTED

Khyber Pakitunkhwa

Service Tribenal,

Peshawar

WHEREBY THE APPELLANT WAS TERMINATED FROM HIS SERVICE BY THE RESPONDENTS, HIS DEPARTMENTAL APPEAL WAS NOT BEEN ADJUDICATED UPON BY THE RESPONDENTS, MAY KINDLY BE ADJUDICATED NULL & VOID AND WITHOUT ANY LAWFUL AUTHORITY MAYBE SET ASIDE AND THE APPELLANT MAY VERY KINDLY BE REINSTATED, BE CONSIDERED AS REGULAR EMPLOYEE SINCE HIS APPOINTMENT ON HIS RESPECTIVE POSITION WITH ALL BACK BENEFITS.

Respectfully Sheweth;

Brief facts of the case are as under:-

- 1) That the appellant was appointed as a Naib Qasid on 10.07.1995 vide appointment order NO. 161/1-1/E in the Communication and Works Department, Peshawar. (Copies of appointment order service book and details of allowances are attached as annexure A, A/1 to A/2).
- 2) That since his appointment appellant performed his duty honestly and whole heartedly to the best of his ability and to the entire satisfaction of his high-ups, and during his service, the appellant never ever given a chance of complaint/ blame etc to his high ups. It is worth mentioning here that the appellant has got a stainless service record in the C&W deptt.
- 3) That to the utter surprise of the appellant OFFICE ORDER NO. 7119/JICA-5 DATED 1.08.2018, without adopting codal formalities, their own rules and regulations the respondents terminated the services of the appellant w.e.f 31.8.2018 feeling aggrieved of which the appellant preferred his departmental appeal on the basis of grounds mentioned therein which has

ATTESTED

Khyber Pakhamkhwa
Service Tribunal,
Peshawar

not been adjudicated upon by the respondents. Resultantly the appellant instituted a writ petition before the Honourable Peshawar High Court Peshawar on the basis of grounds mentioned therein wherein the writ petition of the appellant was dismissed with observation "however the petitioners are at liberty to impugned there termination before the competent forum but within due time", hence, the appellant approaches before this Honourable Tribunal on the following grounds amongst others. (Copies of termination order, departmental appeal and writ petition alongwith order of Peshawar High Court are attached as annexure B, B/1 & C C/1.

GROUNDS

- A. That the impugned terminations order is illegal, unlawful, without any legal authority and is ineffective against the precious rights of the appellant which is subject to be set aside.
- B. That the appellant was appointed on temporary basis in the C&W department and he kept on carrying out his respective duties for more than 24 years and without following the codal formalities, straight away the impugned termination order was illegally passed without serving any prior notice to the appellant.
- C. That every termination letter is supposed to contain the reasons of termination but the impugned termination order is completely silent about any reason for the termination of the appellant.
- D. That the appellant has served the deptt for the last 24 years which is quite evident, that the appellant has spent a huge portion/ spin of his life in the C& W department as a result of which he has reached to such stage of his life, who

ATTESTED

Khyber Pakhtunkhwa

Service Tribunal,

Peshawar

as per law is over aged for any governmental services, therefore the appellant no longer fit for any other employment, the respondents should have to consider the same and let the appellant to serve on his part keeping in view the said huge portion/ spin of his services, the respondents should have to regularize the appellant instead of terminating him but unfortunately this very fact was completely ignored by respondents while passing the impugned order.

- E. That while passing the impugned order the respondents did not bother to give the appellant a right of personal hearing, rather all the rules of natural justice were also violated by them.
- F. That other employees in the same status were regularized by the respondent's department and unfortunately the appellant was not treated at par with those employees who were regularized which clearly shows that the appellant has been dealt with discrimination which is not permissible in the eyes of law. (Copies of documents showing details of employees regularized in the same project also attached as annexure D & D/1).
- G. That as per section 4 of the regularization Act 2018, the appellant was supposed to have been regularized by the respondents but unfortunately the aforementioned law was also not kept in consideration and instead of regularization the poor appellant who is the sole bread earners of his family was handed over the impugned termination letter which shows that the respondents have a made state within a state and they do not have any respect and regard for the laws enacted. (Copy of Regularization Act 2018 is attached as annexure E).

ATTESTED

EXAMINER

Khyber Pakhunkhwa
Service Tribunal,
Peshawar

- H. That the appellant was not project employee at all, rather he was regular employee of the C& W deptt since his appointment and the respondents were not warranted to have terminated the appellant in the mode and manner adopted by them. It is worth mentioning here that the appellant has been taking all the incentives taken by the regular employees and GP fund, benevolent fund and group insurance grant were also being deducted from his salary, which makes the fact crystal clear that the appellant was a regular employee of the respondent deptt. (Copies of GP Fund benevolent fund and group insurance deduction slips are attached as Annexure F, F/1 to F/2).
- I. That being regular employee the appellant was upgraded by the respondent's deptt and in the circumstances even if the appellant had to be terminated the respondents were supposed to have adopted all the legal procedures for the termination of the appellant.
- J. That the respondents on one hand terminated the **services** of the present appellant, and on the other hand he has referred the case of all the project employees, including that of the present appellant for the regularization of their services, keeping in view the Regularization Act 2018 passed. (Copies of the letters alongwith list of employees PMU are attached as Annexure G).

It is therefore, most humbly prayed that On acceptance of this Service Appeal Office order No. 7119/JICA-5 dated 01.08.2018, whereby the appellant was terminated from his services w.e.f 31.08.2018 by the respondents, may be adjudicated null & Void, without any lawful authority may be set aside and the appellant may very kindly be reinstated, and be considered as regular

ATTESTED

Khyber akhturkhwa
Service Tribanal,
Peshawar

employees since their appointment on his respective position with all back benefits.

Dated:20.11.2018

Through

Appellant

Umar Ali Shah Utmankhel

Khyber Pakhninkhwa Service Tribanal, Peshawar

Jawad Khan

Advocate High Court

Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

S.A.No	/2018	
Mashal Khan	•••••••••••••••••••••••••••••••••••••••	Appellant
	VERSUS	
Govt of KPK etc		Respondents
•		

APPLICATION FOR INTERIM RELIEF SUSPENSION OF THE OPERATION OF IMPUGNED ORDER DATED 01.08.2018 2018 TILL THE FINAL DECISION OF INSTANT APPEAL.

Respectfully Sheweth;

Appellant state as under:-

- 1) That the above titled appeal is being filed before this **Ho**n'ble Tribunal in which no date of hearing has been fixed so far.
- 2) That the applicant has got a prima facie case.
- That balance of convenience also hereby leans in favour of the appellant and there is every likelihood of the success of the case.
- 4) That the applicant/ appellant will suffer irreparable loss if the operation of impugned order is not suspended.

EMNER Khybor Pakhtankhwa Service Tribunal, Peshawar

All



It is, therefore, prayed that on acceptance of this application, operation of impugned order dated 01.08.2018 may graciously be suspended till the final decision of instant appeal.

through

Umar Ali Shah Utmankhe

Jawad Khan

Advocate High Court

Peshawar

Khyber Pakhtankinya Service Tribunal, Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

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S.A.No	/201	8		• .		
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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

S.A.No. /488 /2018



Mashal Khan S/o Sarwar Khan

VERSUS

- 1. Govt of KPK through Secretary Communication & Works
 Deptt Civil Secretariat Peshawar.
- 2. Deputy Director (Coordination) PMU C&W Deptt Civil Secretariat Peshawar.
- 3. Project Director PMU, C&W Deptt Civil Secretariat Peshawar.

....RESPONDENTS

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS No.1, 2 & 3

Respectfully Sheweth:

brvice Inbanal,

PRELIMINARY OBJECTIONS:

- a. That the Appellant has got no locus standi file the instant petition.
- b. That the appeal is time barred.
 - That the appellants is estopped by his own conduct to file the instant petition.
 - d. That the appellant had concealed the actual facts from this Hon'ble Tribunal.
 - e. That the present petition is liable to be dismissed for

ON FACTS:

- 1. Para No.1 pertain to record, hence needs no comments.
- Para No.2 as stated in incorrect, the appellant has attached nothing in this respect.
- 3. Para No.3 is also incorrect. The respondents had adopted and fulfilled the requisite requirement while terminating the appellant from service. No such appeal has been preferred in this regard to the higher authorities, but annexed a copy only to fill up the formalities, hence the appeal is liable to be dismissed.

GROUNDS:

- a) Para-a as stated in incorrect. The service of the appellant were terminated as per law and rules adopting the codal formalities.
- b) Para-b is also incorrect, pertains to record, however detail reply has also been given in the above referred Paras.
- c) Para-c is incorrect, the competent authority has got the powers to terminate the services of the appellant without assigning any reason.

Kayber Pakhtuakhwa Service Tribunal,

ATTESTED

- d) Para-d pertains to record. The appellant has served in the department for the last 24 years; the remaining para needs no reply, hence denied.
- e) Para-e is incorrect. The replying respondents have adopted all codal formalities while passing the impugned order.
- f) Para-f is incorrect. No such employee has been regularized nor any discriminations has been shown in respect of the appellant.
- g) Para-g is legal, hence need no comments.
- h) Para-h is incorrect. This Para also pertains to record.
- 1&J Para-1 & J is also incorrect. Detailed reply has been given in the preceding Paras.

It is, therefore humbly prayed that on acceptance of this Parawise comments the appeal may kindly be dismissed with cost.

Deputy Director,

Coordination PMU,

C&W Department, Peshawar

Deputy Director (Coordination)

Project Management Unit

C&W Department Poshawar

Secretary/Project Director

wallah

C&WiDepartment

Peshawar

Certification cons

18.06.2019

Appellant with counsel and Mr. Zia Ullah learned Deputy District Attorney present. Arguments heard. To come up for order on 21.06.2019 before D.B.

Member

Member

21.05.2019

Learned counsel for the appellant present. Mr. Zia Ullah learned Deputy District Attorney present. Vide separate/common judgment of today of this Tribunal placed on file of service appeal No.1487/2018 filed by Sarfaraz Khan, copy of departmental appeal of the appellant available on file be sent to the appellate authority i.e. respondent No.1 who is directed to decide the same through speaking order within 30 days of the receipt of this judgment. Parties are left to bear their own costs. File be consigned to the record room.

(Hussain Shah) Member

(Muhammad Hamid Mughal) Member

<u>ANNOUNCED</u> 21.06.2019 Appellant with counsel present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Fayyaz Chamkani, Legal Advisor for respondents present. Written reply not submitted. Requested for adjournment. Adjourned. Case to come up for written reply/comments on 21.03.2019 before S.B.

Member (Ahmad Hassan)

21.03.2019

Appellant in person present. Mr. Kabirullah Khattak learned Addl; AG alongwith Mr. Fayyaz Chamkani, legal Advisor for the respondents present. Written reply not submitted. Requests for adjournment. Adjourned. To come up for written reply/comments on 19.04.2019 before S.B.

19.04.2019

Junior to counsel for the appellant present. Fayaz Chamkani Legal Advisor present. Written reply/comments submitted. To come up for rejoinder/arguments on 16.05.2019 before D.B.

Member

16.05.2019 Counsel for the appellant and Addl: AG for respondents present. Counsel for the appellant seeks adjournment. Adjourned. Case to come up for rejoinder and arguments on 18.06.2019 before D.B.

(Ahmad Hassan)
Member

(M. Amin Khan Kundi)
Member

02.01.2019

the appellant Mashal Khan present. Preliminary arguments heard. It was contended by learned counsel for the appellant that the appellant was serving in C&W Department. It was further contended that the appellant was terminated from service by the competent authority i.e Project Director PMU vide order dated 01.08.2018 with effect from 31.08.2018 on the allegation that he was adjusted and have been drawing salary in the project JICA Assisted Khyber Pakhtunkhwa Emergency Rural Roads Rehabilitation Project Loan No. PK-P-62 and most of the road projects have been completed therefore, the services of the appellant were no more required. It was further contended that the impugned order was communicated on 31.08.2018, the appellant filed departmental appeal on 10.09.2018 but the same was not responded. It was further contended that the appellant filed Writ Petition before the worthy High Court which was decided vide order dated 07.11.2018 and it was observed that by virtue of Section-4 of the Khyber Pakhtunkhwa Act 10 of 2018, the service of all project employee stand regularized with effect from the date of communication of the said Act i.e 07.03.2018 and thereafter, termination from service, in the month of August, 2018 of a regular employee of the Government, is to be challenged before the Service Tribunal and the writ petition was disposed of. Learned counsel for the appellant contended that since after the enforcement of the Project Employees Act the appellant became civil servant and the respondent-department could not terminate the appellant without regular inquiry or showcause notice therefore, it was contended that the appellant was condemned unheard and the impugned order is illegal and liable to be set-aside.

The contention raised by the learned counsel for the appellant needs consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days, thereafter, notice be issued to the respondents for written reply/comments for 25.02.2019 before S.B.

Appellant nanneiled Security process Fee

> (Muhammad Amin Khan Kundi) Member

Form- A

FORM OF ORDER SHEET

Court of	 	
Case No	 1488 /2018	

	Case No	1488/2018		
S.No.	Date of order proceedings	Order or other proceedings with signature of judge		
1	2 .	3		
1-	14/12/2018	The appeal of Mr. Mashal Khan resubmitted today by Mr. Umar Ali Shah Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.		
		Jone Wi		
	1 1	REGISTRAR		
2-	24/12/2018.	This case is entrusted to S. Bench for preliminary hearing to be put up there on $\frac{02/01/2019}{}$.		
		Mi.		
		CHAIRMAN		
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This is an appeal filed by Mr. Mashal Khan today on 23/11/2018 against the order dated 01.08.2018 against which he preferred/made departmental appeal/ representation on 10.09.2018 the period of ninety days is not yet lapsed as per section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, which is premature as laid down in an authority reported as 2005-SCMR-890.

As such the instant appeal is returned in original to the appellant. The appellant would be at liberty to resubmit fresh appeal after maturity of cause of action.

No. 72) 5/ST,

REGISTRAR 23 \N | 15 SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Mr.Umar Ali Shah Adv. Pesh.

Resubmitted of

10/12/18.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

s.a.no. 1488 /2018

Mashal Khan	Appellant
	ersus
Govt of KPK etc	Respondents
· · IN	IDEX

S.No.	Description of documents.	Annexure	Pages.
1.	Civil Appeal		1-6
2.	Application for Suspension alongwith Affidavit.		7-9
3.	Addresses of the parties.		10
4.	Copies of appointment order service book details of allowances	A,A/1,A/2	11-41
5.	Copies of Termination orders and departmental appeals and writ petition alongwith order	B, B/1 C C/1	42-47
6.	Copies of documents showing details of employees regularized, employed in the same project	D, D/1	48-49
7.	Regularization Act 2018	Е	50-57
8.	Copies of GP Fund benevolent fund and group insurance deduction slips	F, F/1, F/2	58-60
9.	Copies of the letters alongwith list of employees PMU	G	61-64
10.	Wakalatnama		65

Through

Appellants

Umar Ali Shah Utmankhel

Jawad Khan

Advocates High Court Peshawar

Mob: 0332-9808066

Add: T-29, Bilour Plaza Saddar

Road Peshawar Cantt.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

s.a.No. 1488 /2018

Ethyber Pakhtukhwa Bervico Tribunal

Diary No. 167

Dated 2/3/11/2018

Mashal Khan S/o Sarwar Khan

VERSUS

- Govt of KPK through Secretary Communication & Works
 Deptt Civil Secretariat Peshawar.
- Deputy Director (Coordination) PMU C&W Deptt Civil Secretariat Peshawar.
- 3. Project Director PMU, C&W Deptt Civil Secretariat Peshawar.

.....RESPONDENTS

SERVICE APPEAL UNDER SECTION 4 OF
THE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL ACT 1974 AGAINST THE OFFICE
ORDER NO. 7119/JICA-5, DATED 01.08.2018
WHEREBY THE APPELLANT HAS BEEN
TERMINATED FROM HIS SERVICE AND
AGAINST WHICH THE DEPARTMENTAL
APPEAL OF THE APPELLANT DATED:
10.09.2018 WAS NOT ADJUDICATED UPON
BY THE RESPONDENTS NO. 1

Registrar 23/11/13

Re-submitted to -day and filed.

Registrar

PRAYER

ON ACCEPTANCE OF THIS APPEAL OFFICE ORDER NO. 7119/JICA-5 DATED 1.08.2018,

WHEREBY THE APPELLANT WAS TERMINATED FROM HIS SERVICE BY THE RESPONDENTS, HIS DEPARTMENTAL APPEAL WAS NOT BEEN ADJUDICATED UPON BY THE RESPONDENTS, MAY KINDLY BE ADJUDICATED NULL & VOID AND WITHOUT ANY LAWFUL AUTHORITY MAYBE SET ASIDE AND THE APPELLANT MAY VERY KINDLY BE REINSTATED, BE CONSIDERED AS REGULAR EMPLOYEE SINCE HIS APPOINTMENT ON HIS RESPECTIVE POSITION WITH ALL BACK BENEFITS.

Respectfully Sheweth;

Brief facts of the case are as under:-

- 1) That the appellant was appointed as a Naib Qasid on 10.07.1995 vide appointment order NO. 161/1-1/E in the Communication and Works Department, Peshawar. (Copies of appointment order service book and details of allowances are attached as annexure A, A/1 to A/2).
- 2) That since his appointment appellant performed his duty honestly and whole heartedly to the best of his ability and to the entire satisfaction of his high-ups, and during his service, the appellant never ever given a chance of complaint/ blame etc to his high ups. It is worth mentioning here that the appellant has got a stainless service record in the C&W deptt.
- 3) That to the utter surprise of the appellant OFFICE ORDER NO. 7119/JICA-5 DATED 1.08.2018, without adopting codal formalities, their own rules and regulations the respondents terminated the services of the appellant w.e.f 31.8.2018 feeling aggrieved of which the appellant preferred his departmental appeal on the basis of grounds mentioned therein which has



not been adjudicated upon by the respondents. Resultantly the appellant instituted a writ petition before the Honourable Peshawar High Court Peshawar on the basis of grounds mentioned therein wherein the writ petition of the appellant was dismissed with observation "however the petitioners are at liberty to impugned there termination before the competent forum but within due time", hence, the appellant approaches before this Honourable Tribunal on the following grounds amongst others. (Copies of termination order, departmental appeal and writ petition alongwith order of Peshawar High Court are attached as annexure B, B/1 & C C/1.

GROUNDS

- A. That the impugned terminations order is illegal, unlawful, without any legal authority and is ineffective against the precious rights of the appellant which is subject to be set aside.
- B. That the appellant was appointed on temporary basis in the C&W department and he kept on carrying out his respective duties for more than 24 years and without following the codal formalities, straight away the impugned termination order was illegally passed without serving any prior notice to the appellant.
- C. That every termination letter is supposed to contain the reasons of termination but the impugned termination order is completely silent about any reason for the termination of the appellant.
- D. That the appellant has served the deptt for the last 24 years which is quite evident, that the appellant has spent a huge portion/ spin of his life in the C& W department as a result of which he has reached to such stage of his life, who

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as per law is over aged for any governmental services, therefore the appellant no longer fit for any other employment, the respondents should have to consider the same and let the appellant to serve on his part keeping in view the said huge portion/ spin of his services, the respondents should have to regularize the appellant instead of terminating him but unfortunately this very fact was completely ignored by respondents while passing the impugned order.

- E. That while passing the impugned order the respondents did not bother to give the appellant a right of personal hearing, rather all the rules of natural justice were also violated by them.
- by the respondent's department and unfortunately the appellant was not treated at par with those employees who were regularized which clearly shows that the appellant has been dealt with discrimination which is not permissible in the eyes of law. (Copies of documents showing details of employees regularized in the same project also attached as annexure D & D/1).
- G. That as per section 4 of the regularization Act 2018, the appellant was supposed to have been regularized by the respondents but unfortunately the aforementioned law was also not kept in consideration and instead of regularization the poor appellant who is the sole bread earners of his family was handed over the impugned termination letter which shows that the respondents have a made state within a state and they do not have any respect and regard for the laws enacted. (Copy of Regularization Act 2018 is attached as annexure E).



- H. That the appellant was not project employee at all, rather he was regular employee of the C& W deptt since his appointment and the respondents were not warranted to have terminated the appellant in the mode and manner adopted by them. It is worth mentioning here that the appellant has been taking all the incentives taken by the regular employees and GP fund, benevolent fund and group insurance grant were also being deducted from his salary, which makes the fact crystal clear that the appellant was a regular employee of the respondent deptt. (Copies of GP Fund benevolent fund and group insurance deduction slips are attached as Annexure F, F/1 to F/2).
- I. That being regular employee the appellant was upgraded by the respondent's deptt and in the circumstances even if the appellant had to be terminated the respondents were supposed to have adopted all the legal procedures for the termination of the appellant.
- J. That the respondents on one hand terminated the services of the present appellant, and on the other hand he has referred the case of all the project employees, including that of the present appellant for the regularization of their services, keeping in view the Regularization Act 2018 passed. (Copies of the letters alongwith list of employees PMU are attached as Annexure G).

It is therefore, most humbly prayed that On acceptance of this Service Appeal Office order No. 7119/JICA-5 dated 01.08.2018, whereby the appellant was terminated from his services w.e.f 31.08.2018 by the respondents, may be adjudicated null & Void, without any lawful authority may be set aside and the appellant may very kindly be reinstated, and be considered as regular



employees since their appointment on his respective position with all back benefits.

Dated:20.11.2018

Through

Umar A

Advocate High Court

Peshawar



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

5.A.No/2018
Mashal KhanAppellant
VERSUS
Govt of KPK etcRespondents
APPLICATION FOR INTERIM RELIEF
SUSPENSION OF THE OPERATION OF
IMPUGNED ORDER DATED 01.08.2018
2018 TILL THE FINAL DECISION OF
INSTANT APPEAL.

Respectfully Sheweth;

Appellant state as under:-

- That the above titled appeal is being filed before this Hon'ble
 Tribunal in which no date of hearing has been fixed so far.
- 2) That the applicant has got a prima facie case.
- 3) That balance of convenience also hereby leans in favour of the appellant and there is every likelihood of the success of the case.
- 4) That the applicant/ appellant will suffer irreparable loss if the operation of impugned order is not suspended.



It is, therefore, prayed that on acceptance of this application, operation of impugned order dated 01.08.2018 may graciously be suspended till the final decision of instant appeal.

Applicant

through

Umar Ali Shah Utmankhel

Jawad Khan

Advocate High Court

Peshawar



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL <u>PESHAWAR</u>

S.A.No/2018	_
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Mashal Khan	Appellant
VERS	SUS
Govt of KPK etc	Respondents

AFFIDAVIT

I, Mashal Khan S/o Sarwar Khan R/o Mohallah Wanda Lughman P.O Sari Gambela District Lakki Marwat do hereby affirm and declare on oath that the contents of the accompanying Application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

DEPONENT

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

S.A.No/20	18
Mashal Khan	Appellant
•	Versus
Govt of KPK etc	Respondents

ADDRESSES OF THE PARTIES

APPELLANT:

Mashal Khan S/o Sarwar Khan
 R/o Mohallah Wanda Lughman P.O Sari Gambela District
 Lakki Marwat.

RESPONDENTS:

- 1. Govt of KPK through Secretary Communication & Works Deptt Civil Secretariat Peshawar.
- 2. Deputy Director (Coordination) PMU C &W Deptt Civil Secretariat Peshawar.
- 3. Project Director PMU, C&W Deptt Civil Secretariat Peshawar.

Through

Umar Ah Shah Utmankho

Jawad Khan

Selve W

Advocate High Court

Peshawar

Annex A

OFFICE OF THE DEPUTY DIRECTOR-II "FARM TO MARKET ROADS" (PROJECT CELL) COMMUNICATION AND WORKS DEPARTMENT N.W.F.P PESHAWAR:

No. 161 /11-E

Dated Peshawar the 10/7/9)

OFFICE ORDER

Mr. Mashal Khan S/O Sarwar Khan Mohallah Haider Shah Town City Railway Station Peshawar is here-by appointed as Naib Qasid in (BPS-1) (Rs:1245-35-1770) against the newly created post in the interest of public service with immediate effect on the following terms and conditions:

- 1- His appointment is purely temporary and his services are liable to be terminated without assigning any reason.
- 2- His service will be governed by such Rules and orders as may be issued by Government from time to time.
- 3- He will have to produce Medical Fitness Certificate from Medical Superintendent Civil Hospital Peshawar.
- 4- He will join duty at his own expenses.

He is directed to report for duty to the Office of the Deputy Director-II (Project Cell) "Farm to Market Roads" Communication and Works Department N.W.F.P Peshawar.

DEPUTY DIRECTOR-II (PROJECT CELL)
"FARM TO MARKET ROADS" NWFP
C&W DEPARTMENT PESHAWAR:

cc:

- 1- The Project Director Foreign Aided Projects Peshawar.
- 2- The Accountant General NWFP Peshawar.
- 3- The Divisional Accountant FMR-II Peshawar.
- 4- Mr. Mashal Khan S/O Sarwar Khan Mohallah Haider Shah Town City Railway Station Peshawar.

DEPUTY DIRECTOR-II (PROJECT CELL)
"FARM TO MARKET ROADS" NWFP
C&W DEPARTMENT PESHAWAR:

ATTESTAL

MEDICAL CERTIFICATE.

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10. Signature and designation of the Hend of the Office, or other Attesting Officer.

Date

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Government of Khyber Pakhtunkhwa Communication & Works Department, Peshawar

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Statement of Salary in Respect of the following Staff of Project Director Project Management Unit, C&W Department Peshawar for the Month of August 2018

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SI	Name of Engloyee	Designation	Basic Pay 001 2016	HFA 1001	CA 1210	PA 1544	MA 1300	Personal Pay / Audit /Qualificati on/	Washing Allowance	Dress Allowance	Deputation/ Addl, Charge Allowance 20%	Adhoc Relief All.2017 10%	Adhoc Rellef All, 2013 (5%)	Adhoc Reflef Alt. 2015 (2.5%)	Adhec Relief All. 2016 (10%)	Adhoc Relief All. 2018 (10%)	Pension Contributi on	Arteurs	Gr
1	Muhammad Ayaz	Administrative Officer	74,070	6,648	5,000	30,000	3,075	_	-		12,000	7,407	1,640	1,100	5,632	7,407	17,790		+-
2	Sahibzada Qasim Noor	Manager Finance		-	-	30,000		-		<u> </u>	-				-	1,401	17,790	2.2.2.2	
3	Fayaz Khan Chamkani	Legal Advisor	144,000	-	-		 						· .			· 	-	240,000	-
1	Muhammad Fayaz Khan	Assistan	95,000			 	 			- -									1
ـــر ـــا	- Utiliammad (rtan	Ausisten,	82,500					-							·				
6	Sticular havid	" Saniter Aiden in	96,000				f-=												
7	litikhar Hussain	Senior Augitor	96,000	· j			j - -								: <u>-</u> -			<u></u>	
8	Arshad lobal	Computer Operator	96,000			· -													
9	Muhammad Fahim	Computer Operator	96,000	-		· · · · · ·									*- *				, -
10	Tanzeem ur Rasool	Junior Clerk BPS-11	23,130	2,777	2,856	8,000	.1.500		2,		4 626	2,313	530	362	1,865	2,313			
11	. Salman Parhid	funior Auditor	49,000								- :				7,000	2,313			
12	Said Kasoor Driver	Univer bris-i	25,850	2,255	1,932	4,000	1,500	300	-		5,370	2,685	690	490	2,197	2.685		-	
13	Mir Ahmad Shah	Driver BPS-7	21,970	2,255	1,932	4,000	. 1,500	300			4,394	2,197	543	416	1 789	2,197			
14	Sarturaz Khan -	Eniver BPS-7	17,090	2 255	1,032	4,000	- rej	300.	[2,414	1,769	415	312	1.00	1,100	, <u>, , , , , , , , , , , , , , , , , , </u>		
15	Gul Nawaz	Driver BPS-7	20,140	2,255	1,932	4,000	1,500	300	-		4,025	2,014	491	374	1;636	2,014			
16	Muhammad Fayaz S/o Zamin Khan	Driver BPS-5	33,000	-	-	-	-			· j						2,511			-
17	Matang Khan	-Driver BPS-5	33,000																
17	Amin Jan S/o Ghulam Jan	Driver BPS-5	33,000		-						.: -								3
18	Tahir Shah	Driver BPS-5	33,000	*-	-			-			-						'		
19	Taimur Khan s/o Mehammad Aslam Khan	Oriver BPS-5	33,000	-	-	-	-				- -	_ †	-	-			-		3

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		• '																	
`~ 20	Ashlaq Khan	Naib Casid BPS,4	-16,500	7 200			:	<u> </u>		"		·// .	٠٠.	٠.		• ·		•	
الم الم	Mashal Khan	The Contract of the Contract o	16.500			2,000			, ,,,,	100	3,300	1,650	407	7	····	 -			: "
22	Fayaz Mohammad	Naib Qasid BPS-4	17,380				1,500	i 300	100	• 5100	(3.300			+		1,000			33,003
23-	Zia ur Rehman	Naib Qasid BPS-4	14,300		1,785			300	100			1,738		7. 73 318		° ≥ § 1,650			. 33,003
24	Saleem Khan	Chowkldar BPS-4	16,500	2,048	1,785		1	300	100	100	2,860	1,430	+	266	1,420		-		34 341
25	Munal Khan	Chowkidar BPS-4	16,500	2.048	1,785	2,000	1,500	300	100	100	3,300	1,650	407	318	1,161	1,430		<u> </u>	29,626
26	Mohammad Javed	Chowkidar BPS-4	14,300	2,048	1,785	2,000	1,500	300	100	100	3,300	1,650	407	318	1,346	1,650	 -	 	33,003
27	Inamullah Khan	Naib Oasid	25,600		1,100	2,000	1,500	300	100	100	2,860	1,430	347	266	1,161	1,650	 	<u> </u>	33 003
28	Muhammad Arif	Naib Qasid	25,600													1,430	 -		29,626
39	Norman Massood	biseD disM	25,600																25,600
31	EA-Massar AS	N=15 Casta	25,606		!		 -												25,600
	Fahim Shah	Naih Qasid	25,600								Ì								25.500
32	Muhammad Shiraz	Nati Oasid	25,600		ŀ			· !	[.			j	Ī	1		- *** ** .		!	25 500
33	Shahzad Khan	Naib Oasid	25,600	 -		 -					[-·j		ا إــــــــــــــــــــــــــــــــــــ	25 =00

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(See para. 252, Audit Manual)

Name of Subscribe Opening Balance	Deposits during the year	Particulars of mi of previous yes during the	ssing credits	Intere	st for the year	withdrawals during the year .	Balance (1)+(2)+(4)+ (6)+(7)	Months of the current year for which credits have not been included in column (2)		
,		Months and	Amount adjusted	Rate	Amount		<u> </u>	<u></u>		
		3	4	5	, 6.	2.41		9 .		
Rs.	Rs.		Rs.	,	Rs.	Rs.	Rs.			
			;							
1,0212	3457		Lar .	12.75	5724		49443/			
			J	/	-			JAMI /		

NOTE: 1.— The subscriber is requested to state whether he desires to make any alteration in any nomination made under the rules of the Fund.

2.— In case where the subscriber had made no nomination in favour of member of his family owing to his having with a the time but acquired

a family thereafter the fact should be reported to the Accounts Officer forthwith together with a formal nomination.

3.- The subscriber is requested to satisfy himself as to the correctness of the statement and to bring errors, if any, to the notice of the Accounts

Officer, within three months from the date of its receipt.

PCPPI-1010(08) A. G. Pesh-31-7-2008-100,000.





OFFICE OF THE PROJECT DIRCTOR PROJECT MANAGEMENT UNIT Communication & Works Department Khyber Pakhtunkhwa House No.08-BC, Park Road, Fouwara Chowk University Town, Pesnawar. Phone No.91-9216991, Fax: 091-9216949 Email pdpmujica@email.com

No. 7-1 19 /JICA-5

Dated: Peshawar the _0/ / 3 ___/2018

To

Mr. Mashal Khan, Naib Cas d PMU, C& W Department, Peshawar.

Subject:

TERMINATION OF SERVICE

Since you were adjusted and have been drawing salary in the project "JICA Assisted Khyber Pakhtunkhwa Emergency Rural Roads Rehabilitation Project Loan No. PK-P-62" aric most of the road projects have been completed, therefore, your services are no incre-required in this office. You are informed that your services are hereby terminated v. e.f. 31-08-2018.

PMU C&W Department Poshawar

C.C.

Secretary to Gover of KPK Communication & Works Department Penhavier. 1-

Deputy Director (Coord) PMU CWD Poshawar. 2-

Finance Manage: PMU CWD Peshawar.

Project Director

Trove copy

The Secretary to Govt. of Khyber Pakhtunkhwa, Communication & Works Department Peshawar.

Subject:-

DEPARTMENTAL APPEAL / REPRESENTATION AGAINST THE ORDER NO.7119/JICA-5, DATED 01-08-2018 WHERE AS THE APPELLANT HAS BEEN REMOVED / TERMINATED FROM SERVICE.

Respected Sir,

With due respect it is humbly submitted, that services of few employees including the undersigned have been terminated by Project Director Project Management Unit C&W Department Peshawar vide order No.7119/JICA-5, dated 01-08-2018.

- In this regard it is submitted that the undersigned was appointed as Naib Qasid in BPS-I Rs.1245-35-1770 plus usual allowances against existing vacancy sanctioned vide Secretary to Govt. of NWFP C&W Department letter No.21-Bud/94-95/SNE @/1485, dated 03-08-1994, vide office order No.161/1/1-E, dated 10-07-1995, (Annex-I).
- In response to appointment order, I, obtained medical fitness certificate from 3. Civil Hospital Peshawar (Annex-II).
- In response to my appointment order and medical fitness certificate. I 4. submitted my arrival report in office of Deputy Director-II (Project Cell) Farm to Market Roads, C&W Department Peshawar and since then I am performing my duties as a regular employee. (Copy of service book enclosed Annex-III).
- It is worth mentioned here that the Department granted me Annual 5. Increment and up gradation from time to time as recorded in Service book and presently I am drawing my salary in BPS-4. (Copy enclosed Annex-IV.). Thomas COPY





- 6. Furthermore I am a regular subscriber of G.P.Fund and Accountant General Office issue me G.P.Fund balance sheet from time to time vide G.P.Fund Account No.IV-IRR-18538. Similarly Benovlent Fund, Group Insurance is being deducted regularly from my pay as per prescribed Govt. Rates. (Annex-V).
- 7. That the order of Termination from service is being illegal, unlawful, without jurisdiction, based on malafide intention of the concerned authorities is liable to be set aside on the following grounds.
 - a. That the undersigned was served with no show cause notice, charged sheet, and illegally removed from service without assigning any reason.
 - b. That the appellant was just handed over the impugned order of termination without adopting the legal and lawful procedure laid down by the code.
 - c. That the appellant has neither being heared in person nor provided proper chance to defance and was condemned un-heared.
 - d. That the impugned order is not only against the essence of Justice but such practice is highly discourage by the apex Courts of Law.
- 8. It is therefore requested that by accepting my instant appeal, my services may please be restored w.e.f. the date of termination i.e. (31-08-2018).

Yours sincerely

Dated 10-09-2018

11-9-18

Mashal Khan
Naib Qasid
JICA C&W Department
Peshawar

DENV NO: 8 0 1 Secretary Cavy Depri

Page 2

ATTES TENDUE

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BEFORE THE PESHAWAR HIGH COURT,

COURT. PESHA WAR CULLAND COURT. PESHA WAR CULL

V.P.No.______/201

- Fayaz Muhammad S/o Taj Muhammad,
 R/o Mohallah Sadrikhel, Village Pirpai District Nowshera.
- Mashal Khan S/o Sarwar Khan
 R/o Mohallah Wanqa Lughman P.O Sari Gambela District Lakki Marwat.
- 3. Sarfaraz Khan S/o Haji Shahzada
 R/o Mohallah Tarikhel Village Adizai Tehsil And District
 Peshawar

..... Petitioner

VERSUS

- Govt of Pakistan through Secretary Communication & Works Deptt Civil Secretariat Peshawar.
- 2. Deputy Director (Coordination) PMU C &W Deptt Civil Secretariat Peshawar.
- 3. Project Director PMU, C&W Deptt Civil Secretariat Peshawar.

.....Respondents

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

PRAYER

ON ACCEPTANCE OF THIS WRIT PETITION OFFICE ORDER NO. 7120/JICA-5 OFFICE ORDER NO. 7119/JICA-5, DATED 1.08.2018

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PESHAWAR HIGH COU FORM OF ORDER

Order/Proceedings with Signature

or Proceedings 07.11.2018 W.P No.5163-P/2018

Date of Order

Present:

Mr. Umar Ali Shah Utmankhel, Advocate, for the petitioners.

WAQAR AHMAD SETH, CJ. Through the petition in hand, filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, the petitioners have prayed as under:-

> "On acceptance of this writ petition, office 7120/JICA-5, office order No. 7119/JICA-5, dated 01.08.2018 and office order No. 7124/JICA-5 dated 03.08.2018, whereby the petitioners were terminated from their services by the respondents, may be adjudicated null & void and without any lawful authority and the petitioners may very kindly reinstated, considered as regular employees since their appointment on their respective positions with all back benefits".

virtue of Section 4 of Khyber Pakhunkhwa Act No.10 of 2018, the services of all





project employees stand regularized w.e.f the date of commencement of the said Act i.e. 07.03.2018 and thereafter termination from service, in the month of August, 2018 of a regular employee of the government, is to be challenged before the Services Tribunal. Under Article 212 of the Constitution of Islamic Republic of Pakistan, 1973, the instant petition is not maintainable.

3. Resultantly, instant petition stands dismissed, however, the petitioners are at liberty to impugn their termination before the competent forum, but within due time.

CHIEF JUSTICE

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FXAMINER From Still Court Peshawar From Under Article 8.7 of Tilk Salidies-Shahadat Order 1984

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Atomas D

OFFICE OF THE PROJECT DIRECTOR (POREIGN AIDED PROJECT WEED PECH

No. 1602 11-E Dated Peshawar the 16 /9/2005

J, O

The Section Officer(Bstab:II), Works & Service Department, Deahovor.

Subject:- MUTUAL TRANSPER.

Refer nce Your letter No.SO(E)/W&SD/205/2005 dated 14.9.2005.

In this context it is stated that Mir Ahmad Shah

3/o Subhan Shah working as a Driver in this Directorate is a regular employee of the Govt.and this office has no.

objection for mutual transfer amongst the Drivers please.

Project Director
Foreign Mided Project,
Works & Service Deptt:
Pochewer.

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Under Daniel

OFFICE OF THE BEPUTY DIRECTOR-II FARM TO MARKET ROADS (PROJECT CELL), COMMUNICATION & WORKS DEPARTMENT N.W.F.P., PESHAWAR.

No. FMR-II////E/60

Dated Peshawar the 6/1/1995.

OFFICE CEDER.

Mr. Munsif Ali Khan S/O Sadullah Khan, Mohallah Eidgah, Village Badrashi, Teh: & Distr: Nowshera, is hrreby appointed as Naib Qasid in EPS-I, i.e. Rs. 245-35-1770 plus usual allowances as admissible under the Rules against the existing vacancy in the the office of the undersigned sanctioned vide Secretary to Novt: of NWFP., Communication & Works Department No.21-Bud/94-95/SNE(C)/ 1485-90, dated 3-8-1994 with immediate effect in the public interest, subject to the following conditions:-

- His appointment is purely temporary and his services are liable to be terminated without assigning any reason.
- 2. His service will be governed by such rules and orders as may be issued by Government from time to time.
- 3. He will have to produce Medical Fitness Certificate from Medical, Superintendent Civil Hospital Peshawar.
- He will join duty at his own expenses. 4.

He is directed to report for duty to the office of the undersigned on or before 30th April, 1995.

Lus M

DEPUTT DIRECTOR-I: PROJECT FARM TO MARKE? ROADS N.W.F. C&W DEPTT: PESHAWAR.

1. The Project Director Foreign Aided Project C&W Depts: Peshawar.
2. The Accountant General NW.P., Peshawar.

3. The Divisional Accountant FMR-II Peshavar.

4. Mr. Munsif Ali Khan S/O Sadullah Khan, Y Makana Mohallah Eid Gah Village Badreshi, Teh: & Distt: Nowshera.

DEPUTY DIRECTOR-11 PROJECT CI FARM TO MARKET ROADS N.W.F.P. במשמווייחם . חחסתת שמי

Amor D

(49)

OFFICE OF THE DEPUTY DIRECTOR II FARM TO MARKET ROADS" (PROJECT. CELL), COMMUNICATION & WORKS DEPARTMENT NWFP, PESHAWAR.

No. FMR-II: 11-1/E/18

Dated Peshawar the 6./1995.

OFFICE ORDER

Mr. Munsil Ali Khan S/o Sadullah Khan, Mohallah Eidgah Village Badrashi, Tehsil and District Nowshera is hereby appointed as Naib Qasid in BPS-I, i.e. Rs. 245-35-1770 plus usual allowances as admissible under the Rules against the existing vacancy in the office of the undersigned sanctioned vide Secretary to Govt: of NWFP., Communication & Works Department letter No. 21-Bud/94-95/SNE (C) /1485-90, dated 3.8.1994 with immediate effect in the public interest, subject to the following conditions:-

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- 12. His service will be governed by such rules and orders as may be issued by Government from time to time.
 - 3. He will have to produce Medical Fitness Certificate from Medical Superintendent Civil Hospital Peshawar.
 - 4. He will join duty at his own expenses.

He is directed to report for duty to the office of the undersigned on or before 30th April, 1995.

Deputy Director-II (Project Cell)
Farm to Market Roads NWFP
C&W Department Peshawar.

CC:

- 5. The project to Director Foreign Aided projects Peshawar.
- -6. The Accountant General NWFP Peshawar.
- 7. The Divisional Accountant FMR-II Peshawar.
- 8. Mr. Munsif Ali Khan S/o Sadullah Khan, Mohallah Eid gah Village Badrashi Tehsil and District Nowshera

Deputy Director-II (Project Cell)
Farm to Market Roads NWFP
C&W Department Peshawar.

ATTESTED

OFFICE OF THE BEPUTY DIRECTOR-II FARM TO MARKET ROADS (PROJECT CELL), COMMUNICATION & WORKS DEPARTMENT N.W.F.P., PESHAWAR.

No. FMR-II// // E/60

Dated Peshawar the 6/1/1995.

OFFICE CEDER.

Mr. Munsif Ali Khan S/O Sadullah Khan, Mohallah Eidgah, Village Badrashi, Teh: & Disty: Nowshera, is hereby appointed as Naib Qasid in EPS-I, i.e. Rs. 245-35-1770 plus usual allowances as admissible under the Rules against the existing vacancy in the it office of the indersigned sanctioned vide Secretary to Fort: of NWFP., Communication & Works Department No.21-Bud/94-95/SNE(C)/ 1485-90, dated 3-8-1994 with immediate effect in the public interest, subject to the following conditions:-

- His appointment is purely temporary and his services are liable to be terminated without assigning any reason.
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- 4. He will join duty at his own expenses.

He is directed to report for duty to the office of the undersigned on or before 30th April, 1995.

M. arm

DEPUTY DIRECTOR-I: PROJECT FARM TO MARKE! ROADS N.W.F. C&W DEPTT: PESHAWAR.

The Project Director Foreign Aided Project C&W Depts: Peshawar. The Accountant General NW:P., Peshawar. The Divisional Accountant FMR-II Peshawar.

Mr. Munsif Ali Khan S/O Sadullah Khan, Y Makanca Mohallah Eid Gah Village Badreshi, Teh: & Distt: Nowshera.

DEPUTY DIRECTOR-11 PROJECT CI FARM TO MARKET ROADS N.W.F.P.

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EXTRAORDINARY

GOVERNMENT



REGISTERED NO. P.III

GAZETTE

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, WEDNESDAY, 7th MARCH, 2018.

PROVINCIAL ASSEMBLY SECRETARIAT, KHYBER PAKHTUNKHWA

NOTIFICATION

Dated Peshawar, the 7th March, 2018.

No. PA/Khyber Pakhtunkhwa/Bills/2018/5031.—The Khyber Pakhtunkhwa Employees (Regularization of Services) Bill, 2018 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 26th February, 2018 and assented to by the Governor of the Khyber Pakhtunkhwa on 2nd March, 2018 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

THE KHYBER PAKHTUNKHWA EMPLOYEES (REGULARIZATION OF SERVICES) ACT, 2018

(KHYBER PAKHTUNKHWA ACT NO. X OF 2018)

(First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa, (Extraordinary), dated the 7th March, 2018).

> AN ACT

to provide for the appointment and regularization of services of certain employees appointed on adhoc basis against civil posts and contract basis against project posts in the Province of the Khyber Pakhtunkhwa.

WHEREAS it is expedient to provide for the appointment and regularization of services of certain employees appointed on adhoc basis against civil posts and contract basis against project posts in the Province of the Khyber Pakhtunkhwa;

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196 KHYBER PAKHTUNKHWA GOVERNMENT GAZETTE, EXTRAORDINARY, 70 MARCH, 2018

It is hereby enacted as follows:

- 1. Short title, application and commencement.—(1) This Act may be called the Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2018.
- (2) It shall apply to all the employees as defined in clause (e) of sub-section (1) of section 2 of this Act.
 - (3) It shall come into force at once.
- 2. Definitions.--- (1) In this Act, unless the context otherwise requires;
 - (a) "Commission" means the Khyber Pakhtunkhwa Public Service Commission;
 - (b) "contract appointment" means the appointment of a duly qualified person, for a specific period, made against project posts, in a prescribed manner;
 - (c) "Departmental Selection Committee" means a Departmental Selection Committee, constituted for the purpose of making selection for initial recruitment to civil post under a Government Department or office of Government;

 - (e) "employees" mean duly qualified,-
 - (i) one-hundred and fifty-eight (158) District Specialists of Health
 Department, who are appointed on adhoc basis against civil posts w.e.f. 4th July, 2017 and holding such civil posts till the commencement of this Act; and
 - (ii) persons, who are appointed in the projects on contract basis in accordance with the project policy;
 - (f) "Government Department" means a Government Department, as defined in the Khyber Pakhtunkhwa Government Rules of Business, 1985;
 - (g) "law or rule" means the law or rule, for the time being in force, governing the selection and appointment of civil servants;
 - (h) "project" means a perpetual nature project, the continuation on which and conversion to regular budget is essential for service delivery duly identified by the Departments and reflected in the Schedule;

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(HYBER PAKHTUNKHWA GOVERNMENT GAZETTE, EXTRAORDINARY, 7th MARCH, 2018. 197

- (i) "civil post" means a civil post under Government or in connection with the affairs of Government to be filled in on the recommendation of the Commission;
- (j) "project post" means a post in the project; and
- (k) "Schedule" means a Schedule appended to this Act.
- (2) The expression "adhoc appointment" shall have the same meaning as is assigned to it in the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973).
- 3. Regularization of services of adhoc employees.—Notwithstanding anything contained in any law or rules, the employees at sub-clause (i) of clause (e) of sub-section (1) of section 2 of this Act, appointed on adhoc basis against civil posts and holding such civil posts till the commencement of this Act, shall be deemed to have been validly appointed on regular basis, other credentials by the concerned Government Department.
- 4. Regularization of services of project employees.—Notwithstanding anything contained in any law or rules, the employees at sub-clause (ii) of clause (e) of sub-section (1) of section 2 of this Act, appointed on contract basis against project posts and holding such project posts till the commencement of this Act, shall be deemed to have been validly appointed on regular basis from the date of commencement of this Act, subject to verification of their qualifications and other credentials by the concerned Government Department:

Provided that the terms and conditions of services of employees reflected at S.No.5 of the Schedule shall further be governed under the National Disaster Management Authority Act, 2010 (Act No. XXIV of 2010) and Regulations made thereunder, and the terms and conditions of services of employees reflected at S.No.6 & 7 of the Schedule shall be governed under the Khyber Pakhtunkhwa Emergency Rescue Services Act, 2012 (Khyber Pakhtunkhwa Act No. XV of 2012).

- 5. General conditions for regularization.—For the purpose of regularization of the employees under this Act, the following general conditions shall be observed:
 - (i) the service promotion quota of all service cadres shall not be affected;
 - (ii) the employees shall possess the same qualification and experience as required for a regular post;
 - the employees have not resigned from their services or terminated from service on account of misconduct, inefficiency or any other grounds before the commencement of this Act; and

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198 KHYBER PAKHTUNKHWA GOVERNMENT GAZETTE, EXTRAORDINARY, 7th MARCH, 2018

- (iv) the services of such employees shall be deemed to have been regularized only on the publication of their names in the Official Gazette.
- 6. Senlority.---(1) Except the employees mentioned in the proviso to section 4 of this Act, whose services are to be regulated by their respective laws and rules, all other employees whose services are regularized under this Act or in the process of attaining service at the commencement of this Act, shall rank junior to all civil servants belonging to the same service or cadre, as the case may be, who are in service on regular basis on the commencement of this Act, and shall also rank junior to such other persons, if any, who, in pursuance of the recommendation of the Commission or Departmental Selection Committee, as the case may be, made before the commencement of this Act, are to be appointed to the respective service or cadre, irrespective of their actual date of appointment.
- (2) The seniority inter-se of the employees, whose services are regularized under this Act within the same service or cadre, shall be determined on the basis of their continuous officiation in such service or cadre:

Provided that if the date of continuous officiation in the case of two or more employees is the same, the employee older in age shall rank senior to the younger one.

7. Removal of difficulties.—If any difficulty arises in giving effect to any of the provisions of this Act, the Chief Minister 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:

Provided that no such powers shall be exercised after the expiry of one year from the coming into force of this Act.

8. Overriding effect.—Notwithstanding anything to the contrary contained in any other law or rule for the time being in force, the provisions of this Act shall have an overriding effect and the provisions of any such law or rule to the extent of inconsistency to this Act shall cease to have effect.

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SCHEDULE See section 2(1)(h)(k):

- Capacity Building of Planning and Development Department.
- 2. Establishment of M&E System in Khyber Pakhtunkhwa.
- 3. Sustainable Development Unit, Planning and Development Department.
- 4. Urban Policy Unit, Planning and Development Department.
- 5. Provincial Reconstruction, Rehabilitation & Settlement Authority under Provincial Disaster Management Authority.
- 6. Establishment of Emergency Rescue Services (Rescue 1122) in 16 Districts.
- 7. Establishment of Planning, Monitoring& Evaluation Wing in ERS (Rescue 1122) Headquarter.
- 8. Roll Back Malaria Control Program.
- Prime Minister's Program for prevention and control of Hepatitis.
- 10. Establishment of Financial Management Cell in Health Department.
- 11. Establishment of Safe Blood transfusion.
- 12. Strengthening of TB Control Program Khyber Pakhtunkhwa
- 13. Establishment of Procurement Cell in office of DG Health Services, Peshawar.
- 14. Mother, Neonatal and Child Health (MNCH) Program in Khyber Pakhtunkhwa.
- 15. Social Health Protection Initiative for Khyber Pakhtunkhwa.
- 16. Establishment of Bacha Khan Medical College Mardan.
- 17. Integrated HIV, Hepatitis and Thalassemia Control Program.
- 18. Construction of Shaheed Mohtarama Benazir Bhutto Children Hospital Mardan.
- Higher Education Management Information System (HEMIS) Cell.

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200 KHYBER PAKHTUNKHWA GOVERNMENT GAZETTE, EXTRAORDINART, 75 MARCH, 2018

- 20. Project Management Unit (PMU) for implementation of BS Program and Special Initiatives.
- 21. Computerization of Arms License.
- 22. Prison Management Information System.
- 23. Development of Common Application for Government Departments.
- 24. ICT Infrastructure for Government of Khyber Pakhtunkhwa.
- 24A. IT Support for improvement of Health Service Delivery.
- 24B. IT Professional Training Centre.
- 25. Strengthening of Planning Cell at Elementary & Secondary Education Department.
- 26. Provision of free text book to all students of Khyber Pakhtunkhwa upto Intermediate level (Phase-XIV).
- 27. Strengthening of Planning Cell at Industries Department.
- 28. Establishment of Special Media Cell in the Directorate of Information.
- 29. Strengthening of Information Department.
- 30. Establishment of three FM Stations at Kohat, Swat and Abbottabad.
- 31. Establishment of Planning Cell at Local Government and Rural Development Department.
- 32. Retirement Benefit and Death Compensation Cell.
- 33. Automation of Pension Payment System (APPS).
- 34. Energy Monitoring Unit.
- 35. Establishment of Planning Cell in Food Department.
- 36. Automation of Food Department.
- 37. Operationalization of Redesigned Energy and Power Department.

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KHYBER PAKHTUNKHWA GOVERNMENT GAZETTE, EXTRAORDINARY, 7th MARCH, 2018. 201

- 38. Establishment of Planning Cell in Energy and Power Department.
- 39. Computerization of Land Record
- 40. Creation of MRS Cell in C&W Department.
- 41. Enhancement of existing facilities in MIS/GIS for C&W Department.
- 42. Strengthening of Planning Cell and Monitoring of Developmental Projects of Agriculture Department.
- 43. Project Coordination Unit (PCU) for implementation of Law and Order Initiative in Khyber Pakhtunkhwa.
- 44. Afghan Management and Repatriation Cell at Home Department.
- 45. Traffic Control Management System and FM Radio 693-120173.
- 46. Strengthening of Prosecution Directorate, PCMC and Planning Cell at Home Department.
- 47. Establishment of 100 Family Welfare Centers.
- 48. Establishment of Population and Research Training Institute and Social Mobilization.
- 49. Value Addition/Research and Development works on Ore Minerals in Khyber Pakhtunkhwa.
- 50. Establishment of Model Coal Mine at Shahkot District Nowshera.
- 51. Establishment of Zoo for Peshawar Division.
- 52. Development and Management of National Park in Khyber Pakhtunkhwa.
- 53. Conservation and Management of Wildlife in Central and Northern Division.
- 54. Establishment of Monitoring, Administrative Department. Evaluation, Grievance and Inquiry Cell in
- 55. Establishment of Climate Change Cell for Multilateral Environmental Agreements.
- 56. Carbon Stock Assessment in Khyber Pakhtunkhwa.

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202 KHYBER PAKHTUNKHWA GOVERNMENT GAZETTE, EXTRAORDINARY, 7th MARCH, 2018

- 57. Introduction of Range Management Initiatives in Khyber Pakhtunkhwa.
- 58. Establishment of Engineering Wing in Sports, Tourism, Archeology, Youth Affairs and Museums Department.

BY ORDER OF MR. SPEAKER
PROVINCIAL ASSEMBLY OF KHYBER PAKHTUNKHWA

(NASRULLAH KHAN KHATTAK)

Secretary

Provincial Assembly of Khyber Pakhtunkhwa

Printed and published by Cie Manager, Staty. & Ptg. Deptt., Khyber Palditunkhwa, Pooliswar

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Head of Account

Jan, Feb & March

PROVINCIAL .

G.P. Fund 2015

G06103

Challan of Cash paid into the

Chalan No.

NON GAZZATED

Treasury / Sub-Treasury

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State Bank of Pakistan

· 		To be filled in	by remitter		Т	o be filled in	by the Depart	mental
<u></u>	y Whome Tendered		Name of desi and adress of the person on paid	gnation whose behalf money is	Amount	Head of Account G06214.	r the Treasury	Order to the Bank
S.No.	P.No	GP ACCT NO	Name	Designation	BPS	Deduction	Installment	Total Deduction
1	13794	IVIRR015110	Said Rasool	Driver		1		Amount
2	41841	IVIRR018295	Mir Ahmad Shah	Driver		465	3	1395
3	13797	- IVIRR015783	Pervez Khan		5	465	3	1395
4	41842	` IVIRR018296		Naib Qasid	2	373	3 .	1119
5			Ashfaq Khan	Nalb Qasid	2	373	3	
	42097	. IVIRR018475	Fayaz Mohammad	··Naib Qasid	2			1119
6	13798	IRR018370	Mohammad Iqbal	† -		373	3	1119
			Total	Naib Qasid	. 2	373	3	-1119
	,		- Total				7	7266

Project Management Unit C&W Department Peshawar

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Head of Account

PROVINCIAL

Benevolent Fund

Jan, Feb & March 2015

G06214

Challan of Cash paid into the

Chalan No.

NON GAZZATED

Treasury / Sub-Treasury

State Bank of Pakistan

To be filled in by remitter

To be filled in by the Departmental

					Officer or the Treasury				
8 ! 	Whome and adress of the person on whose behalf money is paid		Amount	Head of Account G06214	No. of	Order to the Bank			
S.No.	P.No 13794	Name	Designation	BPS	Deduction	Installment	Total Deduction		
		Said Rasool	Driver	7	180	3	Amount 540		
2	41841	Mir Ahmad Shah	Driver	5 :	180				
3	96027	Sarfaraz Khan	Driver	5		3	50		
4	13797	Pervez Khan			180	3	540		
5	41842	Ashfaq Khan	Naib Qasid	2	120	3	360		
6	42097		Naib Qasid	2	120	- 3	360		
7		Fayaz Mohammad	Naib Qasid	2	120	3	360		
	96432	Zia Ur Rehman	Naib Qasid	2	120	3			
8	13798	Mohammad Iqbal	Nalb Qasid	2			360		
Total 2 120 3							360		
					. !	()	3420		

Finance Manage Project Management Unit C&W Department Peshawar

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Head of Account Group Insurance

Jan, Feb & March 2015

G06408

Challan of Cash paid into the

Chalan No.

NON GAZZATED

Treasury / Sub-Treasury

PROVINCIAL

State Bank of Pakistan

	To be	filled in by remitter	To be filled in by the Departmental Officer or the Treasury					
By Whome Tendered		Name of designation and adress of the person on whose behalf money is paid			Head of Account G06214	No. of	Order to the Bank	
S.No.	P.No	Name	Designation	BPS	Deduction	Installment	Total Deduction Amount	
1	13794	Said Rasool	Driver	7	44	. 3	. 132	
2	41841	Mir Ahmad Shah	Driver	5	44	3.	- 132	
3	96027	Sarfaraz Khan	Driver	·5	44	3	132	
4	13797	Pervez Khan	Naib Qasid	. 2	38	3	·114	
5	41842	Ashfaq Khan	Naib Qasid	2	38	3	114	
6	42097	Fayaz Mohammad	Naib Qasid	2.	38	3	114	
7	96432	Zia Ur Rehman	Naib Qasid	2	38	3		
8	13798	Mohammad Iqbal	Naib Qasid	2	38	3	114	
	<u> </u>		Total			(966	

- Finance Manager Project Management Unit C&W Department Peshawar

And Stant Treasury Offices

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OFFICE OF THE PROJECT DIRCTOR PROJECT MANAGEMENT UNIT Communication & Works Department Khyber Pakhtunkhwa House No.08-BC, Park Road, Fouwara Chowk University Town, Peshawar. Phone No.91-9216991, Fax: 091-9216949 Email pdpmujica@gmail.com



No. 7166 /JICA-5

Dated Peshawar 08/10/2018

10/2018

To

The Section Officer (G), C&W Department Peshawar.

Cavv Department Peshawar

Subject: LIST OF CONTRACT EMPLOYEES WORKING IN "JICA ASSISTED KHYBER PAKHTUNKHWA EMERGENCY BURAL

KHYBER PAKHTUNKHWA EMERGENCY RURAL ROADS REHABILITATION PROJECT" FOREIGN AIDED PROJECT

DIRECTORATE C&W DEPARTMENT PESHAWAR.

Ref: Your Office Letter No. COMP/C&W/MIS-GIS/Phase-II/2016/Vol-II Dated

Peshawar the 09-10-2018.

Enclosed please find a consolidated report and list of contract employees presently working in "JICA Assisted Khyber Pakhtunkhwa Emergency Rural Roads Rehabilitation Project" for information and further necessary action.

Deputy Director (Coord)
PMU Carv Department Peshawar

Copy forwarded to the Project Director PMU C&W Department Peshawar for information.

Deputy Director (Coord)

Indie ed



OFFICE OF THE PROJECT DIRCTOR PROJECT MANAGEMENT UNIT Communication & Works Department Khyber Pakhtunkhwa House No.08-BC, Park Road, Fouwara Chowk University Town, Peshawar. Phone No.91-9216991, Fax: 091-9216949 Email pdpmujica@gmail.com



No. 7167 /JICA-5

Dated Peshawar 08/10/2018

To

The Section Officer (G), C&W Department Peshawar.

Subject:

CONSOLIDATIVE CASE FOR REGULARIZATION OF THE PROJECT EMPLOYEES.

The Project Employees of this Directorate (as per attached list) were serving in Foreign Aided Project Directorate C&W Department Peshawar against different posts and from different times as evident from the data provided against each employee. They are drawing pay from the said Directorate chargeable to the projects. Since their deployment in the Foreign Aided Project, they are serving without any break and have earned Annual Increment regularly.

The Provincial Government of Khyber Pakhtunkhwa has regularized the services of about 4743-Project / temporary employees in different Departments having different cadre of posts. Being a project employee, it was much optimistic that, the Government will also be regularized them i.e. other employees under the regularization policy. However, they could not be regularized due to unknown reasons.

It is pertinent to mention that, in the said Foreign Aided Directorate, these employees have performed their duties to the best satisfactions of their higher ups and to the entirety of their zeal and fervor. Moreover, due to extreme scarcity of employment and lack of other opportunity of livelihood, it is feared that, with the closure of the ongoing JICA project, their services will be terminated unless otherwise declared and notified as Regular by the Provincial Government. In case of termination of their services, the only available mean of earning will be snatched-away from their hands and resultantly it will bring a lot of financial miseries and mental worries to all their family members.

Therefore, keeping in view spotless and clean service records, thus it is recommended that these may be regularized in light of KP Government regularization act PA/Khyber Pakhtunkhwa/Bills/2018/5031 dated 07-03-2018 enabling them to continue their services on regular footing take other employees already regarding by Govt: under the same act.

Deputy Director (Coord)
Project Management Unit
W Department Peshawar

Capy ferwarded to the Project Director PMU C&W Department Peshawar.

Tanties - Copy

Deputy Director (Coord)

LIST OF EMPLOYEES OF PROJECT MANAGEMENT UNIT (PMU) JICA ASSISTED KHYBER PAKHTUNKHWA EMERGENCY RURAL ROADS REHABILITATION PROJECT/

FOREIGN AIDED PROJECT DIRECTORATE C&W DEPARTMENT PESHAWAR

SI. No.	Name of Employee		Date of Birth	Domicile	Post Held	Date of Joining Service	BPS	Remarks
1	Fayaz Khan chamkani	Muhammad Yousaf	21-11-1961	Peshawar	Legal Advisor	2011	,17	
2	Muhammad Fayaz Khan	Lal Khan	08-09-1971	Lakki Marwat	Office Assistant	2011	16	
3	Muhammad Irian	Azal Mir	12-12-1980	Karak	Office Assistant	2011	16	
4	Shoukat Hayat	Yousaf Gul	18-02-1971	Mardan	Senor Auditor	2017	16	•
5	lftikhar Hussain	Abdul Jabbar	24-09-1975	Mardan	Senor Auditor	2011	16	
6 _.	Arshad Iqbal	Karim Khan	03-02-1982	Mardan	Computer Operator	2011	16	
7	Muhammad Fahim	Muhammad Aslam	10-04-1986	Bannu	Computer Operator	2012	16	
8	Tanzeem Ur Rasool	Rasool Mohammad	31-07-1974	Peshawar	Junior Clark	01-04-2000	11	• •
9	Salman Rashid	Abdur Rashid	31-03-1984	Peshawar	Junior Auditor	2011	11	
10	Mir Ahmad Shah	Subhan Shah	04-05-1969	Peshawar	Driver	25-01-1995	5	
11	Gul Nawaz	Khaista Mand	12-04-1978	Shangla	Driver	17-07-1994	5	,
12)	Sarfaraz Khan	Haji Sahibzada	01-07-1970	Peshawar	Driver	01-02-2004	5	
13	Muhammad Fayaz	Zamin Khan	02-02-1988	Peshawar	Driver	2011	5	· · · · · · · · · · · · · · · · · · ·
14	Malang Khan	Bacha Khan	25-01-1982	Peshawar	Driver	2011	5	
15	Ibadullah	Ali Haider	22-02-1989	Peshawar	Driver	2012	5	
16	Amin Jan	Ghulam Jan	15-08-1967	Peshawar	Driver	2011	5	
17	Tahir Shah	Shahji Khan	10-10-1986	Peshawar	Driver	2014	5	· · · · · · · · · · · · · · · · · · ·
18	Taimur Khan	Muhammad Aslam	1987	Haripur	Driver	2014	5	
19	Ashfaq Khan	Abdul Ali Khan.	1961	Peshawar	Naib Qasid	25-01-1995	4	
20	Mashal Khan	Sarwar Khan	1974	Lakki Marwat	Naib Qasid	10-07-1995	47	

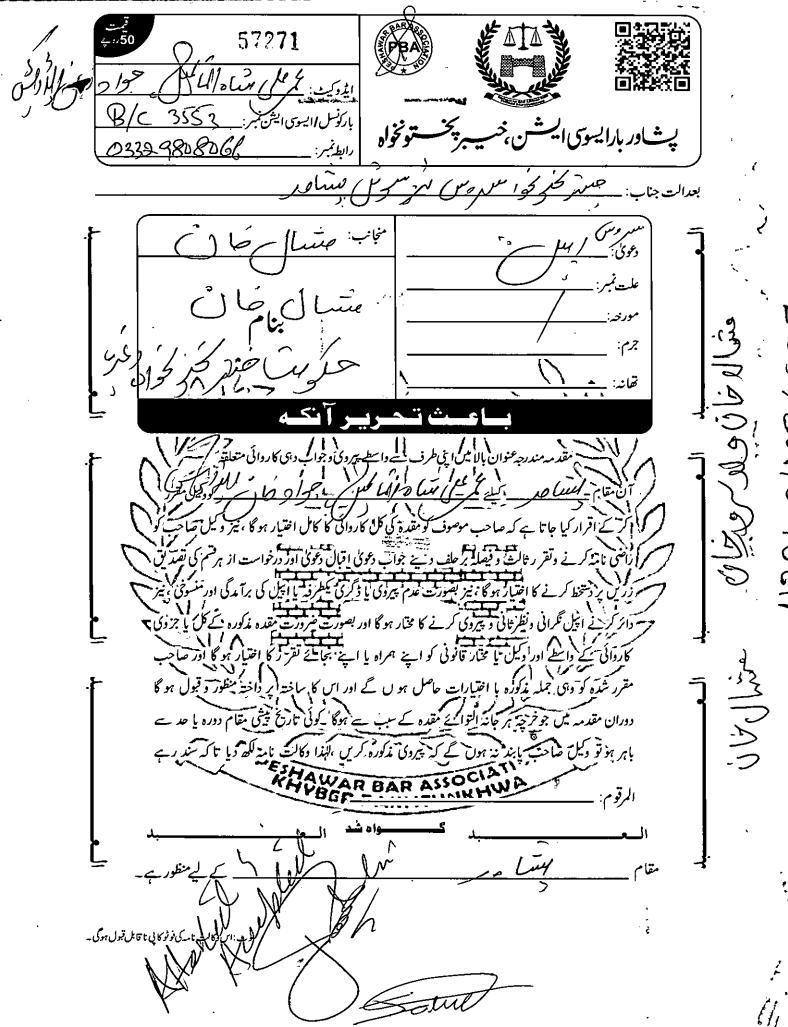
Table Copy

LIST OF EMPLOYEES OF PROJECT MANAGEMENT UNIT (PMU) JICA ASSISTED KHYBER PAKHTUNKHWA EMERGENCY RURAL ROADS REHABILITATION PROJECT/

FOREIGN AIDED PROJECT DIRECTORATE C&W DEPARTMENT PESHAWAR

								
SI. No.	Name of Employee	Father Name	Date of Birth	Domicile	Post Held	Date of Joining Service	BPS	Remarks
21	Muhammad Fayaz	Taj Muhammad	10-03-1976	Noweshra	Naib Qasid	12-03-1995	4	
22	Zia Ur Rehman	Mir Abbass Khan	25-03-1979	Lakki Marwat	Naib Qasid	09-02-2004	4	
23	Inamullah Khan	Asmat Ullah	18-04-1980	Lakki Marwat	Naib Qasid	2011	4	
24	Muhammad Arif	Ashfaq Khan	01-03-1983	Peshawar	Naib Qasid	2011	4	
25	Noman Masood	Masood Perviz	07-07-1988	Peshawar	Naib Qasid	2011	4	
26	Mudassar Ali	lqbal Ahmed	04-04-1977	Peshawar	Naib Qasid	2011	4	
27	Fahim Shah	Muhammad Shah	01-09-1984	Peshawar	Naib Qasid	2011	4	
28	Muhammad Shiraz	Saleem Khan	01-01-1980	Charsadda	Naib Qasid	2014	4	
29	Shahzad Khạn	Abdullah Khan	28-03-1999	Charsadda	Naib Qasid	2017	4	
30	Manaf Khan	Firdaus Khan	1966	Noweshra	Chowkidar	06-04-1995	4	
31	Saleem Khan	Ghulam Hussain	1971	Peshawar -	Chowkidar	06-04-1995	4	
32	Muhammad Javid	Kala Khan	1959	Abbottabad	Chowkidar	01-02-2004	4	

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11201-0403600-7

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

S.A.No. 1488 /2018

Mashal Khan S/o Sarwar Khan

VERSUS

- 1. Govt of KPK through Secretary Communication & Works
 Deptt Civil Secretariat Peshawar.
- 2. Deputy Director (Coordination) PMU C&W Deptt Civil Secretariat Peshawar.
- 3. Project Director PMU, C&W Deptt Civil Secretariat Peshawar.

..RESPONDENTS

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS No.1, 2 & 3

Respectfully Sheweth:

PRELIMINARY OBJECTIONS:

- a. That the Appellant has got no locus standi file the instant petition.
- b. That the appeal is time barred.
- c. That the appellants is estopped by his own conduct to file the instant petition.
- d. That the appellant had concealed the actual facts from this Hon'ble Tribunal.
- e. That the present petition is liable to be dismissed for

ON FACTS:

- Para No.1 pertain to record, hence needs no comments.
- 2. Para No.2 as stated in incorrect, the appellant has attached nothing in this respect.
- 3. Para No.3 is also incorrect. The respondents had adopted and fulfilled the requisite requirement while terminating the appellant from service. No such appeal has been preferred in this regard to the higher authorities, but annexed a copy only to fill up the formalities, hence the appeal is liable to be dismissed.

GROUNDS:

- a) Para-a as stated in incorrect. The service of the appellant were terminated as per law and rules adopting the codal formalities.
- b) Para-b is also incorrect, pertains to record, however detail reply has also been given in the above referred Paras.
- c) Para-c is incorrect, the competent authority has got the powers to terminate the services of the appellant without assigning any reason.

- d) Para-d pertains to record. The appellant has served in the department for the last 24 years; the remaining para needs no reply, hence denied.
- e) Para-e is incorrect. The replying respondents have adopted all codal formalities while passing the impugned order.
- f) Para-f is incorrect. No such employee has been regularized nor any discriminations has been shown in respect of the appellant.
- g) Para-g is legal, hence need no comments.
- h) Para-h is incorrect. This Para also pertains to record.
- 1&J Para-1 & J is also incorrect. Detailed reply has been given in the preceding Paras.

It is, therefore, humbly prayed that on acceptance of this Parawise comments the appeal may kindly be dismissed with cost.

Deputy Director,

Coordination PMU,

C&W Department, Peshawar

Deputy Director (Coordination)

Project Management Unit

C&W Department Peshawar

Secretary/Project Director

C&vvi Department ... Peshawar



OFFICE OF THE PROJECT DIRECTOR PROJECT MANAGEMENT UNIT COMMUNICATION & WORKS DEPARTMENT KHYBER PAKHTUNKHWA House No. 8-BBPark Road University Town Peshawar

Phone No.91-9224270, 091-9224272

AUTHORITY LETTER

Title:

- i. FAYAZ MUHAMMAD VS GOVT: OF KP ETC APPEAL NO. 1489/2018
- ii. MASHAL KHAN VS GOVT: OF KP ETC APPEAL NO. 1488/2018
- III. SARFARAZ KHAN VS GOVT: OF KP ETC APPEAL NO. 1487/2018

We respondent I, II&III is hereby authorized Mr. Fayyaz Chamkani, Legal Advisor PMU, C&W Department Peshawar to conduct the case inService Tribunal Khyber Pakhtunkhwa Peshawar in the subject titled above.

Deputy Director (Coord)
Project Management Unit
C&W Department Peshawar

Secretary /Project Director C&W Department