

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR



S.A. No. 1489 /2018

Khyber Pakhtunkhwa Service Tribunal

Diary No. 1672

Dated 23/11/2018

Fayaz Muhammad S/o Taj Muhammad,

R/o Mohallah Sadrikhel, Village Pirpai District Nowshera.

..... APPELLANT

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

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL ACT 1974 AGAINST THE OFFICE ORDER NO. 7120/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

Filed to-day

Registrar

23/11/18

Re-submitted to-day and 13/12/18

Registrar 14/12/18

PRAYER

ON ACCEPTANCE OF THIS APPEAL OFFICE ORDER NO. 7120/JICA-5 DATED 1.08.2018

ATTESTED

Signature
Khyber Pakhtunkhwa Service Tribunal, Peshawar

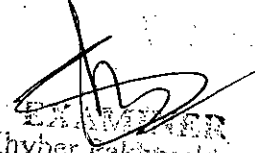
WHEREBY THE APPELLANT WAS TERMINATED FROM HIS SERVICE BY THE RESPONDENTS, HIS DEPARTMENTAL APPEAL WAS NOT BEEN ADJUDICATED UPON BY THE RESPONDENTS, MAY KINDLY BE ADJUDICATED NULL & VOID AND WITHOUT ANY LAWFUL AUTHORITY MAYBE SET ASIDE AND THE APPELLANT MAY VERY KINDLY BE REINSTATED, BE CONSIDERED AS 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 12.03.1995 vide appointment order NO. FMR 1-1/E/18 in the Communication and Works Department, Peshawar. (Copies of appointment order service book details of allowances are attached as annexure A, A/1 to A/2).
- 2) That 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. 7120/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

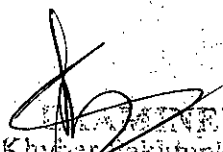

EXAMINER
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Service Tribunal,
Peshawar

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


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result of which he has reached to such stage of his life, who 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 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

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Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

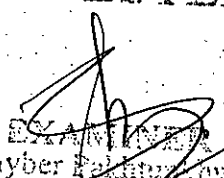
and regard for the laws enacted. (Copy of Regularization Act 2018 is attached as annexure E).

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. 7120/JICA-5 dated 01.08.2018, whereby the appellant was terminated from his services w.e.f

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Khyber Pakhtunkhwa
Service Tribunal,
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(6)

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 *Fuzayyaz*
Appellant
Umar Ali Shah Utmankhel
Umar Ali Shah Utmankhel
&
Jawad Khan
Jawad Khan
Advocate High Court
Peshawar

ATTESTED
[Signature]
EXAMINED
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

S.A.No. _____/2018

Fayaz MuhammadAppellant

VERSUS

Govt of KPK etc.....Respondents

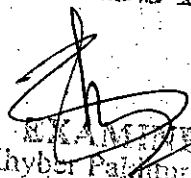
APPLICATION FOR INTERIM RELIEF
SUSPENSION OF THE OPERATION OF
IMPUGNED ORDER DATED 01.08.2018
2018 TILL THE FINAL DECISION OF
INSTANT APPEAL.

Respectfully Sheweth;

Appellant state as under:-

- 1) That the above titled appeal is being filed before this 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.

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Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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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.

Fuzayil
Applicant

through

Umar Ali Shah

Umar Ali Shah Utmankhel

Jawad Khan

Jawad Khan
Advocate High Court
Peshawar

ATTESTED

[Signature]
Khyber Pachtunkhwa
Service Tribunal
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

S.A.No. _____/2018

Fayaz Muhammad Appellant

VERSUS

Govt of KPK etc..... Respondents

AFFIDAVIT

I, Fayaz Muhammad S/o Taj Muhammad, R/o Mohallah Sadrikhel, Village Pirpai District Nowshera 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.

Attested

Fayaz Muhammad
DEPONENT

M. NAZIR HAJAT
Advocate
Peshawar

Certified to be true copy

M. Nazir Hajat
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application _____
Number of Words 4800
Copying Fee 5200
Urgent —
Total 5200
Name of Copyist *M. Nazir Hajat*
Date of Completion of Copy _____
Date of Delivery of Copy _____

(1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

S.A. No. 1489 /2018



Fayaz Muhammad S/o Taj Muhammad,
R/o Mohallah Sadrikhel, Village Firpai District Nowshera.

..... APPELLANT

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.

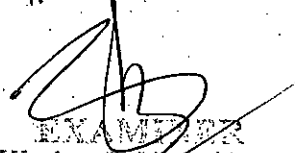
PARAWISE COMMENTS ON BEHALF OF
RESPONDENTS No.1, 2 & 3

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

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

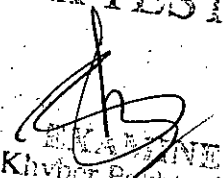
ON FACTS:

1. 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.

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Service Tribunal,
Peshawar

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.

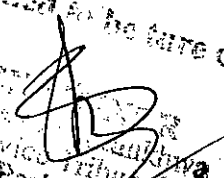
h) Para-h is incorrect. This Para also pertains to record.

I&J Para-I & 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
Project Management Unit
C&W Department Peshawar


Secretary/Project Director
C&W Department
Peshawar

Certified to be true copy

Secretary/Project Director
C&W Department
Peshawar

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR



S.A. No. 1489 /2018

Khyber Pakhtunkhwa Service Tribunal

Diary No. 1672

Date 23/11/2018

Fayaz Muhammad S/o Taj Muhammad,

R/o Mohallah Sadrikhel, Village Pirpai District Nowshera.

..... APPELLANT

VERSUS

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

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL ACT 1974 AGAINST THE OFFICE ORDER NO. 7120/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

Photo-day
 Registrar
 23/11/18

Registrar
 24/12/17

PRAYER

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

ATTESTED

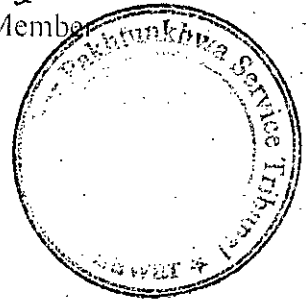
EXAMINER
 Khyber Pakhtunkhwa Service Tribunal,
 Peshawar

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

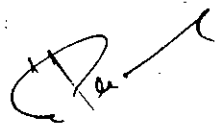

Member



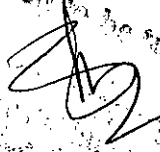
21.06.2019

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

ANNOUNCED Date of Presentation of Application _____
 21.06.2019 Number of Words 800
 Copying Fee 1200
 Urgent _____
 Total 1200
 Name of Copy _____
 Date of Completion of Copy _____
 Date of Delivery of Copy _____

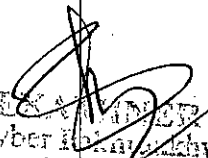
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Peshawar Service Tribunal,
Peshawar



Sr. No	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
<p style="text-align: center;"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u> Service Appeal No. 1487/2018</p> <p style="text-align: center;">Date of Institution 23.11.2018 Date of Decision 21.06.2019</p> <p>Sarfaraz Khan S/o Haji Shahzada R/o Mohallah Tarikhel Village Adizai Tehsil and District Peshawar.</p> <p style="text-align: right;">Appellant</p> <p style="text-align: center;">Versus</p> <p>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.</p> <p style="text-align: right;">Respondents</p> <p>Mr. Muhammad Hamid Mughal-----Member(J) Mr. Hussain Shah-----Member(E)</p> <p>21.06.2019</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>MUHAMMAD HAMID MUGHAL, MEMBER:</u> - Learned counsel for appellant and Mr. Zia Ullah learned Deputy District Attorney present.</p> <p>2. This Single/common judgment/order in the above captioned service appeal shall also dispose of appeal bearing No.1488/2018 filed by 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.</p> <p>3. The appellant (Ex-Driver) has filed the present appeal against the</p>		

21.6.2019

ATTESTED


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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.

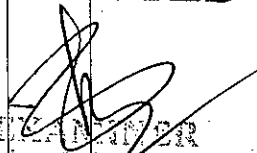
5. Needless to mention that the Hon'ble Peshawar High Court Peshawar vide its judgment dated 07.11.2018 passed in Writ Petition No.5163-P/2018 filed by the appellants, observed that by virtue of Section 4 of Khyber Pakhtunkhwa Act No.10 of 2018, the services of all project employees stand regularized 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.

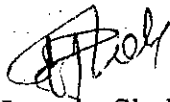
7. In view of the above scenario, copy of departmental appeals of the appellants available on files be sent to the appellate authority i.e. respondent No.1 who is directed to decide the same through speaking order within 30 days of the receipt of this judgment.

8. The present service appeal and the connected service appeals as

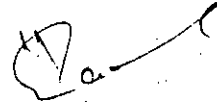
ATTESTED

21.6.2019

 Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawar

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.



(Hussain Shah)
Member




(Muhammad Hamid Mughal)
Member

ANNOUNCED.
21.06.2019

Certified to be true copy.


MEMBER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application _____
Number of Words 1200
Copying Fee 16-00
Urgent ✓
Total 16-00
Name of Copyist 
Date of Completion of Copy _____
Date of Delivery of Copy _____

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.

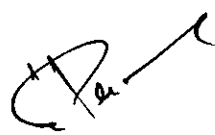

Member


Member

21.06.2019

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

ANNOUNCED
21.06.2019

25.02.2019

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.


Member


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

Counsel for the appellant Fayaz Muhammad 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 show-cause 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.

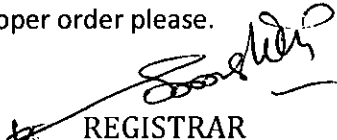
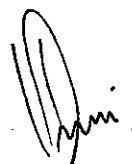
Appellant Deposited
Security & Process Fee


(Muhammad Amin Khan Kundi)
Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1489/2018


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	14/12/2018	<p style="text-align: center;">The appeal of Mr. Fayaz Muhammad 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.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	24/12/2018.	<p style="text-align: center;">This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>02/01/2019.</u></p> <p style="text-align: right;"> CHAIRMAN</p>

This is an appeal filed by Mr. Fayaz Muhammad 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.

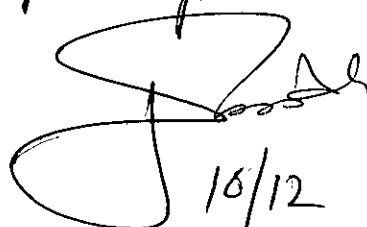
No. 2274/ST,

Dt. 23/11/2018


REGISTRAR 23/11/18
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Umar Ali Shah Adv. Pesh.

Resubmitted after completion
and ninety days lapsed;
therefore may be put up
for hearing.


18/12

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

S.A.No. 1489 /2018

Fayaz Muhammad Appellant

Versus

Govt of KPK etc..... Respondents

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4.	Copies of appointment order service book details of allowances	A, A/1, A/2	11-36
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Through


Appellants


Umar Ali Shah Utmankhel

&

Jawad Khan

Advocates High Court Peshawar

Mob: 0332-9808066

Add: T-29, Bilour Plaza Saddar

Road Peshawar Cantt.

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

S.A.No. 1489 /2018

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1672

Dated 23/11/2018

Fayaz Muhammad S/o Taj Muhammad,

R/o Mohallah Sadrikhel, Village Pirpai District Nowshera.

..... APPELLANT

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

SERVICE APPEAL UNDER SECTION 4 OF
THE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL ACT 1974 AGAINST THE OFFICE
ORDER NO. 7120/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

Filed to-day

Registrar

23/11/18

Re-submitted to day
and filed.

Registrar

PRAYER

ON ACCEPTANCE OF THIS APPEAL OFFICE
ORDER NO. 7120/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 12.03.1995 vide appointment order NO. FMR 1-1/E/18 in the Communication and Works Department, Peshawar. (Copies of appointment order service book details of allowances are attached as annexure A, A/1 to A/2).
- 2) That 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. 7120/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 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 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

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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. 7120/JICA-5 dated 01.08.2018, whereby the appellant was terminated from his services w.e.f

6

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

Fuzuzul
Appellant

Umar Ali Shah Utmankhel

&

Jawad Khan

Advocate High Court

Peshawar

(7)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

S.A.No. _____/2018

Fayaz MuhammadAppellant

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 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.

8

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.

Fuzaila
Applicant

through

Umar Ali Shah Utmankhel

Jawad Khan

Advocate High Court
Peshawar

9

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

S.A.No. _____/2018

Fayaz Muhammad Appellant

VERSUS

Govt of KPK etc. Respondents

AFFIDAVIT

I, Fayaz Muhammad S/o Taj Muhammad, R/o Mohallah Sadrikhel, Village Pirpai District Nowshera 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.

Attested

Razvi

DEPONENT

M. NAZIR RAJAI

Advocate High Court
Peshawar

10

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

S.A.No. _____/2018

Fayaz Muhammad Appellant

Versus

Govt of KPK etc..... Respondents

ADDRESSES OF THE PARTIES

APPELLANT:

1. Fayaz Muhammad S/o Taj Muhammad,
R/o Mohallah Sadrikhel, Village Pirpai District Nowshera.

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.

Fayaz Muhammad
Appellant

Through

Umar Ali Shah
Umar Ali Shah Utmankhel

&

Jawad Khan
Jawad Khan

Advocate High Court
Peshawar

Annex "A"

11

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

NO. FMR-11/2-3, 1-1/E/118

Dated Peshawar the 12/3/1995

OFFICE ORDER

Mr. Fiaz Mohammad S/O Taj Mohammad Mohallah Sadri Khel Village and Post Office, Pirpai District, Nowshera is here-by appointed as Naib Qasid in BPS-1 Rs. 1245-35-1770 plus usual allowances as admissible under Rules against the existing vacancy of the undersigned sanctioned vide Secretary to Government of NWFP C&W 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:-

- 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 undersigned on or before 15-4-1995.

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. Fiaz Mohammad S/O Taj Mohammad Mohallah Sadri Khel Village and Post Office Pirpai District, Nowshera.

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

ATTESTED

True COPY

Amex.

A.

11

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

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

Dated Peshawar the 12.3./1995.

OFFICE ORDER

Mr. Fiaz Mohammad S/o Taj Muhammad Mohalla Sadri Khel village and post office Pirpai 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:-

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 undersigned on or before 30th April, 1995.

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

CC:

1. The project to Director Foreign Aided projects Peshawar.
2. The Accountant General NWFP Peshawar.
3. The Divisional Accountant FMR-II Peshawar.
4. Mr. Fiaz Mohammad S/o Taj Muhammad Mohallah Sadri Khel village and Post Office Pirpai District Nowshera.

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

ATTESTED

Annex. A/2

N.W.F.P. Med. No. 4

GS&PD-NWFP-596 F.S. 2,000 Pt. of 100-19.9.91(19)

MEDICAL CERTIFICATE.

Name of Official *Fiaz Mohammad*

Caste or race *Muslim*

Father's Name *Taj Mohammad*

Residence *Village & Post office Pir Niaz Moh. Saderi Khul*
Tehsil & Distt. Nowshera

Date of birth *10-3-1976*

Exact height by measurement *5-8*

Personal mark of identification *Scar near outer angle left eye*

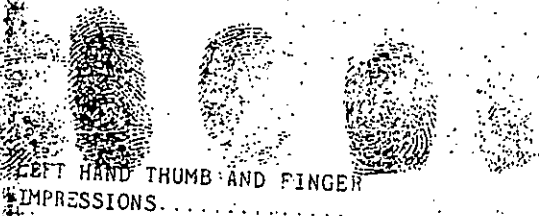
Signature of the Official *[Signature]*

Signature of head of office

Seal of Office *[Signature]*
 Deputy Director-II (Project Cell)
 Farm to Market Roads,
 C&W Deptt, N.W.F.P. Peshawar

I do hereby certify that I have examined Mr. *Fiaz Mohammad* a candidate
 for employment in the office of the *C&W Deptt*
 and can not discover that he had any disease communicable or other constitu-
 tional effectation or bodily infirmity except *nil*

I do not consider this as disqualification for employment in the office
 of the His age according to his own statement *19*
 years and by appearance about *19* years.



[Signature]
 Medical Superintendent
 Civil Hospital
11/4/95

True copy

ATTESTED

13

(For use in Police Department only).

Heirs.

- 1.
- 2.
- 3.

Verification Roll No. _____ dated _____ received back _____

Left thumb-impression.

Qualification	Date	Qualifications	Date
English		Matric	
Pashtu		First Arts	
Urdu		B. L. or B. A.	
Plan-drawing		Pleadershp examination	
Finger print		Training School Final examination	
Drill-instructing		Other qualifications—	
Court duties			
Reserve duties			

[Signature]
 Deputy Director-II
 Form to Market Road, District Col
 C & W Dept. N. W. F. P. Peshawar

True copy
S 2

ATTACHED

The entries in this page should be renewed or re-attested at least every five years, and the Signature or Dates 9 and 10 should be dated.

Name *Fiaz Muhammad*

Race *Islam*

Residence *Mohallah Sadri Khel, village 4 P.O. Pirpai Tehsil & Distt. Nowshera.*

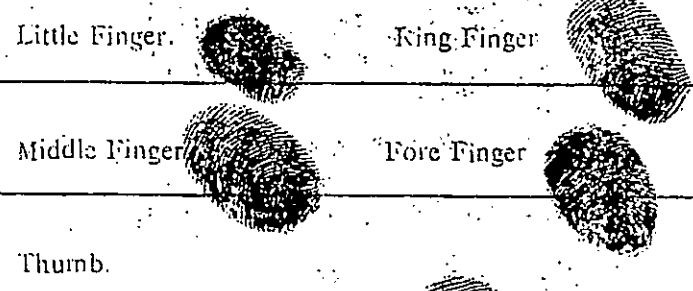
Father's name and residence *Taj Muhammad*
Address *- As above.*

Date of birth by Christian era as nearly as can be ascertained *10-3-1976*

Exact height by measurement *5-Feet 8-inches*

Personal marks for identification *Wound mark near left eye.*

Left hand thumb and Finger impression of (non-gazetted) officer



Signature of Government servant *Fiaz Mhd.*

Signature and designation of the Head of the Office, or other Attesting Officer.
[Signature]
Deputy Director-II (Project Cell)
Farm to Market Roads,
C&W Deptt; N.W.F.P. Peshawar

True copy
ATTESTED

1 Name of post	2 Whether substantive or officiating and whether permanent or temporary	3 If officiating state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C. S. II	4 Pay in substantive post	5 Additional Pay for officiating	6 Other emolument falling under the term "Pay"	7 Date of appointment	8 Signature Government servant
Naib Qaid - BPS-I Rs: 1245-35-1770			Rs 1245/- P.M.			12-3 95	
Naib Qaid (BPS - I) Rs: 1245-35-1770			Rs 1315/- P.M.				

True copy

ATTESTED

7	8	9	10	11	12	13		14	15						
						Signature of Government servant	Signature and name of the head of the office or other officer in charge of the office to which appointed			Date of termination of appointment	Reason of termination (such as promotion, transfer, dismissal, etc.)	Signature of the head of the office or other attesting Officer	Nature and duration of leave taken	Leave	
														Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government	Government to which debitable
						Period	Government to which debitable	Reference to any recorded punishment or censure, or reward or praise of the Government Servant							
						<p>Appointed as Prob. Based BPS-I (Rs. 1245-35-1770) vide Deputy Director-II (Project Cell) Farm-to-Market Roads, C&W Deptt. of Peshawar office order no. FMR-II/1-1/E/18 dt. 12-3-95 and Reported arrival to duty in the forenoon of 01-4-1995</p>									
						<p><i>[Signature]</i> Deputy Director-II (Project Cell) Farm to Market Roads, C&W Deptt. N.W.F.P. Peshawar</p>									
						<p>Allowed double advance increments due to higher qualifications vide Dy. Director-II FMR Cell Pesh. S/O Mo 177/2/2-E dt 25-7-95, as per Finance Dept. order no. FD (PR) 1-1/89, dt 11-8-91</p>									
						<p><i>[Signature]</i> Deputy Director-II Farm to Market Roads (Project Cell) C&W Deptt. N.W.F.P. Peshawar</p>									
						<p>PR-111-DE-I/49 dt-8-1995. Pay order of Rs 280/- disbursed w/ pay order of allowed double advance increment on higher qualifications vide 1-4-1995 to 31-7-1995</p>									
						<p><i>[Signature]</i> 15/8 1995</p>									

True copy
\$

ATTESTED

1 Name of Post	2 Whether substantive or officiating and whether permanent or temporary.	3 If Officiating state (i) Substantive appointment, or (ii) whether service counts for pension under Art. 371 C.S.R.	4 Pay in substantive Post	5 Additional Pay for officiating	6 Other emolument falling under the term "Pay"	7 Date of Appointment	8 Government
Narb Dasid B.P.I Temp 1245-35-1770			1350/Pm			1-12-1985	2
— 11 —	— 11 —		1385/Pm			1-12-86	
— 11 —	— 11 —		Rs 1420/			1-12-97	
<p>DL No. 266, dt 8/7/88.</p> <p>Down Pay Rs 1420/- + All. 6/98.</p>							
<p>True copy S ATTESTED</p> <p><i>[Signature]</i> 18/7</p>							

7 Date of appointment	8 Signature of Government	9 Signature and position of the head of office or other attesting officer in columns 1 to 8	10 Date of termination of appointment	11 Reason of termination (such as promotion, transfer, dismissal etc.)	12 Signature of the head of the office or other attesting Officer	13 Leave		14 Signature of the head of the office or other attesting officer	15 Reference to any recorded punishment or censure, or reward or praise of the Government Servant
						Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government	Period Government to which debitable		
1-1-95			30-11-95	Granted Annual Increment	<i>M. M. Mandir</i> Deputy Director-II (Project Cell) Farm to Market Roads, C&W Deptt. N.W.F.P. Peshawar				Service verified for the period from 1-1-95 to 30-11-95 for the office. Copy of pay rolls.
			30-11-96	Granted Annual Increment	<i>M. M. Mandir</i> Deputy Director-II (Project Cell) Farm to Market Roads, C&W Deptt. N.W.F.P. Peshawar				Service verified for the period from 1-1-95 to 30-11-96 for the office. Copies of pay rolls.
				Granted Annual Increment	<i>M. M. Mandir</i> Deputy Director-II (Project Cell) Farm to Market Roads (Project Cell) C&W Deptt. N.W.F.P. Peshawar				Service verified for the period from 1-1-96 to 30-11-97 for the office. Copies of pay bill.
				Transferred to Sukhan Vid Saly	<i>M. M. Mandir</i> Deputy Director-II (Project Cell) Farm to Market Roads (Project Cell) C&W Deptt. N.W.F.P. Peshawar				Office letter No. 50E dated 15.9.1997

True copy

ATTESTED

M. M. Mandir
Deputy Director-II (Project Cell)
Farm to Market Roads (Project Cell)
C&W Deptt. N.W.F.P. Peshawar

1	2	3	4	5	6	7	9
Name of Post	Whether substantive or officiating and whether permanent or temporary	If Officiating state (i) Substantive appointment, or (ii) whether service counts for pension under Art. 371 C.S.R.	Pay in substantive Post	Additional Pay for officiating	Other emolument falling under the term "Pay"	Date of Appointment	Signature of the official to be attested
<u>Naiib Asisid Temby</u> 1245-35-1770			1420/-			31 ⁵ / ₈ A.W.	
<u>Naiib Asisid BPS-1</u> 1245-35-1770			1455/-			1 ¹² / ₉₅	
<u>Naiib Asisid BPS-1</u> 1245-35-1770			1490/-			1 ¹² / ₉₉	
<u>Naiib Asisid BPS-1</u> 1245-35-1770			1525/-			1 ¹² / ₂₀₀	

True copy

ATTEST

Name of post	Whether substantive or officiating and whether permanent or temporary	If officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C.S.R.	Pay in substantive post	Additional Pay for officiating	Other emolument falling under the term "Pay"	Date of appointment	Signature of the Officer in Charge of the Station
Fajaz Muhammad							
1870-55-3520	BPS No 5	officiating		2365/- PM		12/01	
				2385/-		12/2002	
				2420/-			
				2420/-		12	
do						17/2003	

ATTES

Signature of Government Servant	Signature and designation of the head of the office or other authority in attestation of columns 1 to 8	Date of termination of appointment	Reason of termination (such as promotion, transfer, dismissal, etc).	Signature of the head of the office or other attesting officer	Leave		Signature of the head of the office or other attesting officer	Reference to any recorded punishment or censure, reward or praise of the Government Servant.
					Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government		
					Period	Government to which debitable		

Annual Revised Pay Fixed @ Rs-2310/- p.m
 at the time @ Rs-1870-35-3520
 w.e.f 11/2/2001
 Naas-Rol
 Deputy Director-II (P-1)
 Mr. W&S Deptt. Peshawar

Annual increment granted 11/12/2002
 Naas-Rol
 Deputy Director-II (P-1)
 Mr. W&S Deptt. Peshawar

Service Verified
 w.e.f 11/12/2000 to 30/11/2001
 Naas-Rol
 Deputy Director-II (P-1)
 Mr. W&S Deptt. Peshawar

Service Verified
 w.e.f 11/12/2001 to 30/11/2002

2088
 15/11

Naas-Rol
 Deputy Director-II (P-1)
 Mr. W&S Deptt. Peshawar

Annual Project All w.e.f
 1/9/2001 to 31/12/2002 Rs. 14463/93
 2088 dt 16/11

Accounts Officer
 A.G. N.W.F.P. Peshawar

Granted Annual Increment

Naas-Rol
 Deputy Director-II (P-1)
 Mr. W&S Deptt. Peshawar

1	2	3	4	5	6	7	
Name of post	Whether substantive or officiating and whether permanent or temporary	Officiating state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C. S. R.	Pay in substantive post	Additional Pay for officiating	Other emolument falling under the term "pay"	Date of appointment	State Govt.
1870-55-3570 BPS 01				2475/- PM		12-2003	
No. 12 Naib Bazar B-1 1870-55-3570		Temp		2530/- P.M		12-2004	
Naib Bazar							
BPS 2150-65-4100				2930/-		1-7-05	
Naib Bazar BPS-1				2995/-		1-12-05	
2150-65-4100							

True copy

1 Name of Post	2 Whether substantive or officiating and whether permanent or temporary	3 If Officiating in State (i) Substantive appointment or (ii) whether service counts for pension under Art. 371 C.S.R.	4 Pay in substantive Post	5 Additional Pay for officiating	6 Other emolument falling under the term "Pay"	7 Date of Appointment	8 Signature of the officer in charge of the office
Naib Qasid BPS-1 2550-65-4100				3060/-		1 ¹² / ₂₀₀₆	(Q.N.)
Naib Qasid Rev. B. P.S. 2 2530-85-5080				3550/- P.M.		1-7-2007 F	
11				3685/- P.M.		1 ¹² / ₂₀₀₇ F	
				Call of Attention			
				4435/- P.M. 3735/- P.M.		1 ¹⁰ / ₂₀₀₈	
				Call of Attention			
FROM COPY				4535/- P.M. 3835/- P.M.		1 ¹² / ₂₀₀₉	

ATTESTED

1 Name of Post	2 Whether substantive or officiating and whether permanent or temporary	3 If Officiating state (i) Substantive appointment or (ii) whether service counts for pension under Art. 371 C.S.R.	4 Pay in substantive Post	5 Additional Pay for officiating	6 Other emolument falling under the term "Pay"	7 Date of Appointment	8 Signature of Government
<u>BPS-2</u> 3035-100-6035			4335 P.M			01/07/2008	
<u>BPS-2</u> 3035-100-6035			4635 P.M			01/12/2010	
<u>BPS-02</u> 4900-170-10000			7620 P.M			01/07/2011	
<u>BPS-02</u> 4900-170-10000			7780 P.M			01/12/2011	
<u>BPS-02</u> 4900-170-10000			7960			01/12/2012	

True copy

ATTESTED

Name of post	Whether substantive or officiating and whether permanent or temporary	If officiating state (i) substantive appointment, or (ii) whether service counts for pension under Art. 171 C. SSR	Pay in substantive post	Additional Pay for officiating	Other emolument falling under the term "Pay"	Date of appointment	Signature of Government servant	Signature and designation of the officer in charge of the office for attestation in attestation column
BPS-2-N/A 4800-170-10000			R. 8130/P.M.			01/12/13		
BPS-2-N/A 4800-170-10000			R. 8300/P.M.			01/2/14		
BPS-2-N/A 4800-170-10000			R. 8470/P.M.			01/12/14		
BPS-2-N/A 6335-220-12935			R. 10955/P.M.			01/07/2015		
BPS-2-N/A 6335-220-12935			R. 11175/P.M.			01/12/2015		
BPS-2-N/A 6335-220-12935			R. 11233/P.M.			30/1/16		

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ATTESTED

10	11	12	13		14	15
			Leave	Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government		
Signature of Government Servant	Signature and designation of the head of the office or other attesting officer in attestation of commands to 8	Date of termination of appointment	Reason of termination (such as promotion, transfer, dismissal, etc.)	Signature of the head of the office or other attesting officer	Signature and designation of the head of the office or other attesting officer	Reference to any recorded punishment or censure or reward or praise of the Government Servant.
			Granted Annual Increment Service verified for the period of 10-12-14 to 30-11-15 from office record.	Project Director PMUI/FAP C&W Deptt. Peshawar	Project Director PMUI/FAP C&W Deptt. Peshawar	
			Grant of Premature Increment on some scale vide Govt. of K.P. Finance Deptt. notification No. SOSP-1/2-123/2014 dated 21/2/14.	Project Director PMUI/FAP C&W Deptt. Peshawar	Project Director PMUI/FAP C&W Deptt. Peshawar	
			Granted Annual Increment Service verified for the period from 1-10-15 to 30-11-15 from office record.	Project Director PMUI/FAP C&W Deptt. Peshawar	Project Director PMUI/FAP C&W Deptt. Peshawar	
			Pay fixed at Revised Pay scale 2015 notified by Govt. Serv	Project Director PMUI/FAP C&W Deptt. Peshawar	Project Director PMUI/FAP C&W Deptt. Peshawar	
			Granted Annual Increment Service verified for the period from 01-12-14 to 30-11-15 from office record.	Project Director PMUI/FAP C&W Deptt. Peshawar	Project Director PMUI/FAP C&W Deptt. Peshawar	

TESTED

1	2	3	4	5	6	7
Name of post	Whether substantive or officiating and whether permanent or temporary	If officiating state (i) substantive appointment or (ii) whether service counts for pension under Art. 371 C S.R.	Pay in substantive post	Additional Pay for officiating	Other emolument falling under the term "pay"	Date of appointment
BPS-2- 4800-1700	BPS-4 N/A 6730-300-15730		Rs. 11230/P.M.			01/07/2015
BPS-2- 4800-1700	BPS-4-N/A 6730-300-15730		Rs. 11530/P.M.			01/12/2015
BPS-2- 4800-1700	BPS-4-N/A 8280-370-19380		Rs. 14200/P.M.			01/07/2016
BPS-2- 6335-2000	BPS-4 N/A 8280-370-19380		Rs. 14570/P.M.			01/12/2016
BPS-2- 6335-2000	BPS-4 N/A 9900-440-23100		Rs. 17380/P.M.			01/07/2017

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ATTES...

34

Office of the AG KPK Peshawar
Year of Account 2013/14

(A.T.M.-80)
(See para. 252, Audit Manual)

Name of Subscriber Fayaz Muhammad

Account No. 14/102-18475/07

Opening Balance	Deposits during the year	Particulars of missing credits of previous years adjusted during the year		Interest 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 year	Amount adjusted	Rate	Amount			
1	2	3	4	5	6	7	8	9
Rs.	Rs.		Rs.		Rs.	Rs.	Rs.	
53391	2984	—	—	13.5%	7436	—	63761	7

Signature
Designation
Dated
Assistant Accounts Officer
AG KPK Peshawar

- NOTES: 1.—The subscriber is requested to state whether he desires to make any alteration in any nomination made in accordance with the rules of the Fund.
- 2.—In case where the subscriber had made no nomination in favour of a member of his family owing to his having no family at 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.

True copy
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Annex "A/2"

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Government of Khyber Pakhtunkhwa Communication & Works Department, Peshawar
 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

Annex "A/2" 35

SIN o.	Name of Employee	Designation	Basic Pay 001 2016	HRA 1001	CA 1210	PA 1544	MA 1300	Personal Pay / Audit /Qualification	Washing Allowance	Dress Allowance	Deputation/ Addl Charge Allowance 20%	Adhoc Relief All.2017 10%	Adhoc Relief All. 2013 (5%)	Adhoc Relief All. 2015 (2.5%)	Adhoc Relief All. 2016 (10%)	Adhoc Relief All. 2018 (10%)	Pension Contribution	Arrears	Gross Pay	
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	-	171,769	
2	Sahibzada Qasim Noor	Manager Finance	-	-	-	30,000	-	-	-	-	-	-	-	-	-	-	-	-	-	144,000
3	Fayaz Khan Chamkani	Legal Advisor	144,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	144,000
4	Muhammad Fayaz Khan	Assistant	96,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	96,000
5	Muhammad Irfan	Assistant	96,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	96,000
6	Shoukat Hayat	Senior Auditor	96,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	96,000
7	Illikhar Hussain	Senior Auditor	96,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	96,000
8	Arshad Iqbal	Computer Operator	96,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	96,000
9	Muhammad Fahim	Computer Operator	96,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	96,000
10	Tanzeem ur Rasool	Junior Clerk BPS-11	23,130	2,777	2,856	8,000	1,500	-	-	-	4,626	2,313	530	362	1,865	2,313	-	-	-	96,000
11	Salman Rashid	Junior Auditor	48,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	50,272
12	Gafo Rasool Driver	Driver BPS-7	26,850	2,255	1,932	4,000	1,500	300	-	-	5,370	2,685	690	490	2,197	2,685	-	-	-	50,953
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	-	-	-	43,492
14	Sartaraz Khan	Driver BPS-7	17,000	2,255	1,932	4,000	1,500	300	-	-	2,511	1,255	312	1,381	1,789	1,789	-	-	-	36,018
15	Gul Nawaz	Driver BPS-7	20,140	2,255	1,932	4,000	1,500	300	-	-	4,026	2,014	491	374	1,636	2,014	-	-	-	40,684
16	Muhammad Fayaz S/o Zamin Khan	Driver BPS-5	33,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	33,000
17	Mojang Khan	Driver BPS-5	33,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	33,000
17	Amin Jan S/o Ghulam Jan	Driver BPS-5	33,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	33,000
18	Tahir Shah	Driver BPS-5	33,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	33,000
19	Taimur Khan s/o Muhammad Aslam Khan	Driver BPS-5	33,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	33,000

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18/08/2018

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20	Ashfaq Khan	Naib Qasid BPS-4	16,500	2,048	1,785	2,000	1,500	300	100	100	3,300	1,650	407	318	1,346	1,650	-	33,003
21	Mashal Khan	Naib Qasid BPS-4	16,500	2,048	1,785	2,000	1,500	300	100	100	3,300	1,650	407	318	1,346	1,650	-	33,003
22	Fayaz Mohammad	Naib Qasid BPS-4	17,380	2,048	1,785	2,000	1,500	300	100	100	3,476	1,738	424	333	1,420	1,738	-	34,341
23	Zia ur Rehman	Naib Qasid BPS-4	14,300	2,048	1,785	2,000	1,500	300	100	100	2,860	1,430	347	266	1,161	1,430	-	29,626
24	Saleem Khan	Chowkidar BPS-4	16,500	2,048	1,785	2,000	1,500	300	100	100	3,300	1,650	407	318	1,346	1,650	-	33,003
25	Munaf Khan	Chowkidar BPS-4	16,500	2,048	1,785	2,000	1,500	300	100	100	3,300	1,650	407	318	1,346	1,650	-	33,003
26	Mohammad Javed	Chowkidar BPS-4	14,300	2,048	1,785	2,000	1,500	300	100	100	2,860	1,430	347	266	1,161	1,430	-	29,626
27	Inamullah Khan	Naib Qasid	25,600															25,600
28	Muhammad Anif	Naib Qasid	25,600															25,600
29	Noman Masood	Naib Qasid	25,600															25,600
30	Masrar Ali	Naib Qasid	25,600															25,600
31	Fahim Shah	Naib Qasid	25,600															25,600
32	Muhammad Shiraz	Naib Qasid	25,600															25,600
33	Shahzad Khan	Naib Qasid	25,600															25,600
Total			1,407,430	32,775	28,079	98,000	21,075	3,300	700	700	56,232	29,523	7,050	5,191	23,626	29,523	17,790	240,000

[Signature]
 Director Peshawar
 MU, C&W Department Peshawar

True COPY ATTESTED

36



OFFICE OF THE PROJECT DIRECTOR 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

u B?
Annex
37

No. 7120 /JICA-5

Dated: Peshawar the 01/8 /2018

To

Mr. Fayyaz Muhammad,
Naib Qasid,
PMU, C&W Department,
Peshawar.

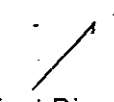
Subject: TERMINATION OF SERVICE

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" and most of the road projects have been completed, therefore, your services are no more required in this office. You are informed that your services are hereby terminated w.e.f. 31-08-2018.


Project Director
PMU C&W Department Peshawar

c.c.

- 1- Secretary to Govt. of KPK Communication & Works Department Peshawar.
- 2- Deputy Director (Coord) PMU CWD Peshawar.
- 3- Finance Manager PMU CWD Peshawar.


Project Director

True copy

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Annex
"B/A" (38)

To

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

Subject:- DEPARTMENTAL APPEAL / REPRESENTATION AGAINST THE ORDER NO.7120/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.7120/JICA-5, dated 01-08-2018.

2. 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.FMR-II/1-1/E/18, dated 12-03-1995, (Annex-I).

3. In response to appointment order, I, obtained medical fitness certificate from Civil Hospital Peshawar (Annex-II).

4. In response to my appointment order and medical fitness certificate. I 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).

5. It is worth mentioned here that the Department grant me annual 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).

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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-18475. Similarly Benevolent 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 heard in person nor provided proper chance to defance and was condemned un-heard.
- 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). ~~with~~ *with all back benefits in the interest.*

Yours sincerely

Dated 10-09-2018

Fayaz Muhammad
Naib Qasid
JICA C&W Department
Peshawar

O/C

W. Sheed
11-9-18

Page 2

Order No. 8106
L. 11-9-18
Secretary C&W Deptt.

copy
ATTESTED

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

Annex "C"

40

W.P.No. _____ /2018



1. Fayaz Muhammad S/o Taj Muhammad,
R/o Mohallah Sadrikhel, Village Pirpai District Nowshera.
2. 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

1. 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**

**ATTESTED
EXAMINER
Peshawar High Court**

- 9 NOV 2018

(41)
Annex
"C" 1/2 3

PESHAWAR HIGH COURT, PESHAWAR
FORM OF ORDER SHEET

Date of Order or Proceedings	Order/Proceedings with Signature of Judge.
07.11.2018	<p data-bbox="541 423 801 461"><u>W.P No.5163-P/2018</u></p> <p data-bbox="541 498 652 536">Present:</p> <p data-bbox="707 536 1214 599">Mr. Umar Ali Shah Utmankhel, Advocate, for the petitioners.</p> <p data-bbox="707 675 768 687">****</p> <p data-bbox="541 776 1214 1028"><u>WAQAR AHMAD SETH, CJ.</u> Through the petition in hand, filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, the petitioners have prayed as under:-</p> <p data-bbox="707 1065 1148 1910"><i>"On acceptance of this writ petition, office order No. 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 be reinstated, be considered as regular employees since their appointment on their respective positions with all back benefits".</i></p> <p data-bbox="558 1973 1230 2073">2. By virtue of Section 4 of Khyber Pakhunkhwa Act No.10 of 2018, the services of all</p>

ATTESTED
EXAMINER
Peshawar High Court
- 9 NOV 2018

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.

[Signature]
CHIEF JUSTICE
[Signature]
JUDGE

No. 12283
 Date of Presentation of Application 07/11/18
 No of Pages 11
 Copying Fee
 Stamping Fee 24
 Total
 Date of Preparation of Copy 09/11/18
 Date of Delivery of Copy 09/11/18
 Received By E. N. S.

CERTIFIED TO BE TRUE COPY
 EXAMINER
 Peshawar High Court, Peshawar
 Authorised Under Article 8.7 of
 The Qanun-e-Shahadat Order 1984
09 NOV 2018

Annex "D"

43

OFFICE OF THE PROJECT DIRECTOR
FOREIGN AIDED PROJECT W&SD PESHAWAR

No. 1602 / 11-E

Dated Peshawar the 16 / 19 / 2005

To

The Section Officer (Etab: II),
Works & Service Department,
Peshawar.

Subject:- MUTUAL TRANSFER.

Reference Your letter No. SO(E)/W&SD/295/2005
dated 14.9.2005.

In this context it is stated that Mir Ahmad Shah
S/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.

M. M. M. M. M.
Project Director
Foreign Aided Project,
Works & Service Deptt:
Peshawar.

17/9

True copy

ATTESTED

Annex-D/11

(44)

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

No. FMR-II/11/E/60


Dated Peshawar the 6/4/1995.

OFFICE ORDER.

Mr. Munsif Ali Khan S/O Sadullah Khan, Mohallah Eidgah, Village Badrashi, Teh: & Distt: 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 office of the undersigned sanctioned vide Secretary to Govt: 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:-

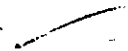
1. His appointment is purely temporary and his services are liable to be terminated without assigning any reason.
2. His service will be governed by such rules and orders as may be issued by Government from time to time.
3. He will have to produce Medical Fitness Certificate from Medical Superintendent Civil Hospital Peshawar.
4. He will joint 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
FARM TO MARKET ROADS N.W.F.P.
C&W DEPTT: PESHAWAR.

C.C.

1. The Project Director Foreign Aided Project C&W Deptt: Peshawar.
2. The Accountant General NWFP., Peshawar.
3. The Divisional Accountant FMR-II Peshawar.
4. Mr. Munsif Ali Khan S/O Sadullah Khan, Mohallah Eidgah Village Badrashi, Teh: & Distt: Nowshera.


DEPUTY DIRECTOR-II PROJECT CI
FARM TO MARKET ROADS N.W.F.P.
C&W DEPTT: PESHAWAR.

copy ATTESTED

Annex-D/1

45

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. Munsif 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:-

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 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

Annex "E"

EXTRAORDINARY

GOVERNMENT



REGISTERED NO. PIII

GAZETTE

46

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, WEDNESDAY, 7TH MARCH, 2018.

PROVINCIAL ASSEMBLY SECRETARIAT,
KHYBER PAKHTUNKHWA

Annex
"H"

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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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;
- (d) "Government" means the Government of the Khyber Pakhtunkhwa;
- (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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- (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 "ad hoc 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 ad hoc 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 ad hoc 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, from the date of commencement of this Act, subject to verification of their qualifications and 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;
- (iii) 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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(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. **Seniority.**---(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)

1. 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.
9. 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.
19. Higher Education Management Information System (HEMIS) Cell.

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200 KHYBER PAKHTUNKHWA GOVERNMENT GAZETTE, EXTRAORDINARY, 7th 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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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, Evaluation, Grievance and Inquiry Cell in Administrative Department.
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 the Manager,
Staty. & Ptg. Deptt., Khyber Pakhtunkhwa, Peshawar

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Annex "F"

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Wajid

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 address of the person on whose behalf money is paid		Amount	Head of Account G06214	No. of Installment	Order to the Bank
S.No.	P.No	Name	Designation	BPS	Deduction		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	114
8	13798	Mohammad Iqbal	Naib Qasid	2	38	3	114
Total							966

Jad
Finance Manager
Project Management Unit
C&W Department Peshawar

Heer
Assistant Treasury Officer
Peshawar

NATIONAL BANK OF PAKISTAN
Main Br. Peshawar CANTT (3300)
16 SEP 2015
RASHID KHAN

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Annex F/1

55

Head of Account Benevolent Fund
Jan, Feb & March 2015

G06214
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 address of the person on whose behalf money is paid		Amount	Head of Account G06214	No. of Installment	Order to the Bank	
S.No.	P.No	Name	Designation	BPS	Deduction		Total Deduction Amount	
1	13794	Said Rasool	Driver	7	180	3	540	
2	41841	Mir Ahmad Shah	Driver	5	180	3	540	
3	96027	Sarfraz Khan	Driver	5	180	3	540	
4	13797	Pervez Khan	Naib Qasid	2	120	3	360	
5	41842	Ashfaq Khan	Naib Qasid	2	120	3	360	
6	42097	Fayaz Mohammad	Naib Qasid	2	120	3	360	
7	96432	Zia Ur Rehman	Naib Qasid	2	120	3	360	
8	13798	Mohammad Iqbal	Naib Qasid	2	120	3	360	
Total							360	3420

Finance Manager
Project Management Unit
C&W Department Peshawar

Head of A/C Verification
Assistant Treasury Officer
Peshawar

NATIONAL BANK OF PAKISTAN
Main Br. Peshawar CANTT (0306)
16 SEP 2015
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Head of Account
Jan, Feb & March
PROVINCIAL

G.P. Fund
2015

G06103
Challan of Cash paid into the
Chalan No.

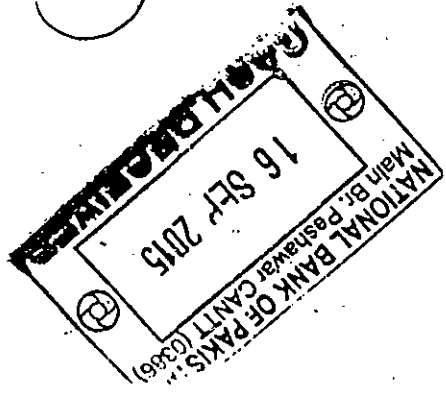
NON GAZZATED
Treasury / Sub-Treasury
State Bank of Pakistan

To be filled in by remitter
To be filled in by the Departmental Officer or the Treasury

S.No.	P.No	GP ACT NO	Name	Designation	BPS	Head of Account G06214	No. of Installment	Total Deduction Amount	By Whome Tendered	
									Name of designation and address of the person on whose behalf money is paid	Amount
1	13794	IVIR015110	Said Rasool	Driver	7	465	3	1395		
2	41841	IVIR018295	Mir Ahmad Shah	Driver	5	465	3	1395		
3	13797	IVIR015783	Pervez Khan	Naib Qasid	2	373	3	1119		
4	41842	IVIR018296	Ashfaq Khan	Naib Qasid	2	373	3	1119		
5	42097	IVIR018475	Fayaz Mohammad	Naib Qasid	2	373	3	1119		
6	13798	IRRO18370	Mohammad Iqbal	Naib Qasid	2	373	3	1119		
Total									7266	

Finance Manager
Project Management Unit
CRW Department Peshawar

Head of A/C Verifies
Account Treasury Officer



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ATTEST

Fayaz Mohammad
N/A

Amex

2/2/14



Amox G



OFFICE OF THE PROJECT DIRECTOR 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

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No. 7166 /JICA-5

Dated Peshawar 08/10/2018

To

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

10/10/2018

Subject: LIST OF CONTRACT EMPLOYEES WORKING IN "JICA ASSISTED
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 08-10-2018.

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.

[Signature]
Deputy Director (Coord)
PMU C&W Department Peshawar

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

Deputy Director (Coord)

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OFFICE OF THE PROJECT DIRECTOR 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

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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 employes 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 employes already regarding by Govt: under the same act.

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

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

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Deputy Director (Coord)

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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

Sl. No.	Name of Employee	Father Name	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 Irfan	Azal Mir	12-12-1980	Karak	Office Assistant	2011	16	
4	Shoukat Hayat	Yousaf Gul	18-02-1971	Mardan	Senor Auditor	2011	16	
5	Ifikhar 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	4	

ATTES: EU *Trouve* 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**

Sl. 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	Iqbal 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 Khan	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	Abbotabad	Chowkidar	01-02-2004	4	

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قیمت 50 روپے

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ایڈوکیٹ: محمد شہناز املاک علی عیاد و ادارہ
 بار کونسل ایسوسی ایشن نمبر: BC353
 رابطہ نمبر: 0332 9808066

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: خیر محمد خواجہ سے سید اسرار حسین کے درمیان تنازعہ

منجانب: <u>شہناز املاک علی</u>	دعویٰ: <u>سید اسرار حسین</u>
علت نمبر: <u>شہناز املاک علی</u>	مورخہ: <u>12/11/2021</u>
جرم: <u>بنام</u>	تھانہ: <u>پشاور</u>
باعت تحریر آگے	

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی اور جواب دہی کارروائی متعلقہ آن مقام پشاور کیلئے محمد شہناز املاک علی اور اس کے وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کمال اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری کی طرف یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرانے اپیل نگرانی و نظارتی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داخستہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب سے ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المقام

شہناز املاک علی

وکیل صاحب

مقام

نوٹ: اس وکالت نامہ کی فونو کالی ناقابل قبول ہوگی۔

محمد شہناز املاک علی
محمد شہناز املاک علی
محمد شہناز املاک علی

قیامتی محمد ولد تاج محمد خان

محمد شہناز املاک علی

17201-2271096-1

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

S.A. No. 1489 /2018

Fayaz Muhammad S/o Taj Muhammad,
R/o Mohallah Sadrikhel, Village Pirpai District Nowshera.
..... APPELLANT

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.

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:


1. 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.

GROUND S:

- 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.
- I&J Para-I & 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
Project Management Unit
C&W Department Peshawar


Secretary/Project Director
C&W Department
Peshawar



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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 in Service 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