

No. 1032/2014

17.10.2018

Appellant Muhammad Saëed alongwith his counsel Mr. Muhammad Arshad Khan Tanoli, Advocate present. Mr. Shahid Mahmood, XEN alongwith Mr. Usman Ghani, District Attorney for the respondents present.

Arguments heard and file perused.

During perusal of the record particularly para-3 of the preliminary objections of parawise comments submitted by the respondents and duly endorsed by the above named representative that a new PC-IV for SNE for sanction of a new post for new water tank on Water Supply Scheme Cholda Gali, has already been submitted to competent authority, however, its sanction is still awaited. The learned counsel for the appellant stated that he will not press the appeal if assurance is given by the respondents that the above mentioned process will be followed up/taken up with the quarter concerned and the appellant's grievance is redressed in a short period as he has already suffered a lot.

To this proposition, the learned District Attorney and the above named representative agreed and stated that they will take up the matter with the quarter concerned so that the grievance of the appellant is redressed in time.

In view of the above stated circumstances, the appeal in hand stands disposed off with the direction to the respondents to expedite the matter and approach the quarter concerned so that the grievance of the appellant is addressed as early as possible. In the circumstances, parties are left to bear their own costs. File be consigned to the record room.

*Muhammad Amin*  
Member

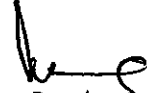
*[Signature]*  
Chairman  
Camp Court, A/Abad

**ANNOUNCED**  
**17.10.2018**

17.10.2018

28.08.2018.


Appellant in person present. Due to summer vacations, the case is adjourned .To come up for the same on 17.10.2018 at camp court Abbottabad.

  
Reader

22.05.2018

Appellant Muhammad Saeed alongwith Mr. Muhammad Arshad Khan Tanoli, Advocate present. Respondent No. 4 has already been placed ex-parte. Neither the remaining respondents nor their authorized representative/agent present. However, Mr. Usman Ghani, District Attorney put attendance on their behalf but again made a complaint that none of the respondents have approached him in this regard. As such this Tribunal has no other option but to order that the contesting respondent No. 3 i.e. Executive Engineer, PHE Division, Mansehra should personally attend the Tribunal alongwith record. To come up for arguments on 28.06.2018 before the D.B at camp court, Abbottabad.


  
Member

  
Chairman  
Camp court, A/Abad

28.06.2018


Appellant Muhammad Saeed in person present. Mr. Shahid Saeed, SDO alongwith Mr. Ziaullah, Deputy District Attorney for the respondents present. Clerk to counsel present and requested for adjournment that counsel for the appellant was busy in High Court today. Granted. Case to come up for arguments on 28.08.2018 before the D.B at camp court, Abbottabad.

  
Member


  
Chairman  
Camp court, A/Abad

21.06.2017

Appellant in person and Mr. Muhammad Bilal, Deputy District Attorney for the respondents present. Appellant requested for adjournment as learned senior counsel for the appellant is not in attendance. Adjourned for rejoinder and final hearing to 19.12.2017 before the D.B. at camp court, Abbottabad.



Member




Chairman  
Camp court, A/Abad

19.12.2017

Clerk of the counsel for appellant present. Mr. Kabirullah Khattak, Additional AG for the respondents also present. Clerk of the counsel for appellant requested for adjournment on the ground that learned counsel for the appellant is not available today. Adjourned. To come up for rejoinder and arguments on 21.02.2018 before D.B at Camp Court Abbottabad.



(Gul Zeb Khan)  
Member (Executive)  
Camp Court Abbottabad




(Muhammad Amin Khan Kundi)  
Member (Judicial)  
Camp Court Abbottabad

21.02.2018

Appellant alongwith counsel and Addl AG for the respondents present. Learned AAG seeks adjournment due to non-availability of record of the present appeal. Adjourned. To come up for arguments on 22.05.2018 before the D.B.




Member



Chairman  
Camp court, A/Abad.


22.09.2016

Appellant in person and Mr. Shahbaz Khan, Social Welfare Officer along with Mr. Muhammad Siddique Sr.GP for respondents present. Written reply not submitted despite last opportunity. Requested for further adjournment. Last opportunity was further extended subject to payment of cost of Rs. 1000/-. Cost of Rs. 1000/- paid and receipt thereof obtained from the appellant. Another last opportunity is extended subject to payment of further cost of Rs. 2000/- which shall be borne by the respondents from their own pockets. To come up written reply/comments and cost of Rs. 2000/- on 22.12.2016 before S.B at camp court, Abbottabad.

  
Chairman  
Camp court, A/Abad

22.12.2016

Counsel for the appellant and Mr. Shah Baz Khan Social Organizer along with Mr. Muhammad Siddique Sr.GP for the official respondents present. Cost of Rs. 2000/- paid and receipt thereof obtained from the appellant. Written statement by respondent No. 3 submitted. Learned Sr.GP in view of the affidavit of the representative relies on the same on behalf of other official respondents. None present on behalf of private respondent No. 4. Proceeded ex-parte. The appeal is assigned to D.B for rejoinder and final hearing for 21.06.2017 at camp court, Abbottabad.

  
Chairman  
Camp court, A/Abad


16.03.2016

Appellant with counsel and Mr. Muhammad Saddique, Sr. GP for respondents present. Written reply not submitted. Requested for further adjournment. Last opportunity granted. To come up for written reply/comments on 20.7.2016 before S.B at Camp Court A/Abad.

  
Chairman  
Camp Court A/Abad

20.07.2016

Appellant in person and Mr. Muhammad Siddique Sr.GP for the respondents present. Written reply not submitted as none from the respondents have appeared despite last opportunity. Last opportunity is further extended subject to payment of cost of Rs. 1000/- which shall be borne by the respondents from their own pockets. To come up for written reply/comments and cost on 22.09.2016 at camp court, Abbottabad.

  
Chairman  
Camp court, A/Abad,

15.9.2015

Counsel for the appellant and Mr. Muhammad Tahir Aurangzeb, G.P present. Learned counsel for the appellant argued that the appellant was appointed as Valveman vide order dated 6.2.2014 which order was withdrawn on 13.3.2014 which was received by appellant on 21.4.2014 regarding which he preferred departmental appeal on 29.4.2014 followed by service appeal on 12.8.2014 and which was amended and resubmitted on 4.9.2015.

That the appellant is entitled to serve as Valveman and withdrawal order dated 13.3.2014 is without lawful justification and appointment of respondent No.4 against the said post is, therefore, ineffective against rights of the appellant.

Points urged need consideration. Admit, subject to limitation. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply for 14.12. 2015 before S.B at Camp Court A/Abad.

Appellant Deposited  
Security & Process Fee



14.12.2015

Counsel for the appellant and Mr. Yasar Rehman, SDO alongwith Mr. Muhammad Siddique, Sr.G.P for respondents present. Requested for adjournment. To come up for written reply/comments on 16.3.2016 before S.B at Camp Court A/Abad.

Chairman  
Camp Court A/Abad

Chairman  
Camp Court A/Abad

5 19.5.2015

Appellant with counsel and Mr. Muhammad Tahir Aurangzeb, G.P for respondents present. Learned counsel for the appellant seeks adjournment to discuss the issue of appointment of the appellant with the respondent-department. Adjourned for preliminary hearing to 20.7.2015 before S.B at camp court A/Abad.

~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~  
Chairman  
Camp Court A/Abad

20.07.2015


Since the 20<sup>th</sup> July 2015 has been declared as a public holiday on account of Eid-ul-Fiter. Therefore case is adjourned to 17.08.2015 for preliminary hearing at Camp Court Abbottabad.

17.08.2015

Appellant with counsel and Mr. Muhammad Tahir Aurangzeb, GP for respondents present. Further argued that the respondents have already constructed Water Tank on the land of the appellant which was surrendered by the appellant regarding which mutation No.242 dated 07.03.2014 is pending attestation for no fault of the appellant and that possession has already been handed over to the respondents.

That the respondents have appointed another person namely Muhammad Shafique son of Noor Muhammad against the post of Valveman.

In view of the above, learned counsel for the appellant requested for furnishing amended appeal. May file the same in office which shall be posted before the court for preliminary hearing after scrutiny on 15.09.2015 before S.B at camp court A/Abad.

  
Chairman  
Camp Court Abbottabad



3 - 03.10.2014

Notices be issued to the appellant and his counsel for preliminary hearing at camp court A/Abad on 18.11.2014 instead of 16.02.2015.

18-11-14.

*no one present for the appellant  
The Tribunal is incomplete. To come up for  
preliminary hearing at camp court  
A/Abad on 20-4-15.*

*[Handwritten signature]*  
Chairman

*[Handwritten signature]*  
Indira  
Reddy

4 20.4.2015

Appellant with counsel present. Learned counsel for the appellant argued that the appellant was appointed as Valveman vide order dated 6.2.2014 and that he was dismissed from service for no ostensible reason vide impugned order dated 13.3.2014 received by appellant on 21.4.2014 regarding which he preferred departmental appeal on 29.4.2014 which was not responded and hence the instant service appeal on 12.8.2014.

During the course of arguments it was transpired that the appointment of the appellant was subject to transfer of land within two months after the issue of said appointment order as evident from clause 9 of the same order (Annexure-A page-10). The Court was informed that the land has not been transferred in the name of PHE Department till date.



Let pre-admission notice be issued to the respondents for 19.5.2015 at camp court A/Abad.

*[Handwritten signature]*  
Chairman  
Camp Court A/Abad

Form- A  
FORM OF ORDER SHEET

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

Case No. 1032/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	12/08/2014	<p>The appeal of Mr. Muhammad Saeed presented today by Mr. Muhammad Arshad Khan Tanoli Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	5-9-14	<p>This case is entrusted to Touring Bench A.Abad for preliminary hearing to be put up there on <u>16-2-15</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p style="text-align: center;">!</p>

10

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

Amended Service Appeal No. 1032 /2014

Muhammad Saeed Valveman Water Supply Scheme Cholda Gali, Village Haryala, P.O Phulra, Tehsil & District, Mansehra.

....APPELLANT

**VERSUS**

Govt. of Khyber Pakhtunkhwa, through Secretary Public Health, Khyber Pakhtunkhwa, Peshawar & others.

....RESPONDENTS

**AMENDED SERVICE APPEAL**

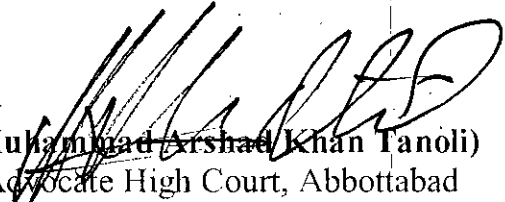
**INDEX**

S.#	Description	Page No.	Annexure
1.	Amended service appeal along with affidavit	1 to 9	
2.	Copy of appointment order	10 -	"A"
3.	Copies of Medical Certificate and attendance report dated 14/02/2014	11 - 12	"B" & "C"
4.	Copy of record of rights of Mouza Batangi, District Mansehra of the appellant bearing mutation No. 242	13	"D"
5.	Copies of letters	14 - 15	"E"
6.	Copies of departmental appeal and receipts	16 - 20	"F" & "G"
7.	Wakalatnama.		

  
...APPELLANT

Dated: \_\_\_\_\_ /2015

Through

  
(Muhammad Arshad Khan Tanoli)  
Advocate High Court, Abbottabad

1

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

S.W.F Province  
Service Tribunal  
Diary No/1000  
Dated 4/9/15

Amended Service Appeal No. 1032/2015

Muhammad Saeed Valveman Water Supply Scheme Cholda Gali, Village Haryala, P.O Phulra, Tehsil & District, Mansehra.

....APPELLANT

VERSUS

1. Govt. of Khyber Pakhtunkhwa, through Secretary Public Health, Khyber Pakhtunkhwa, Peshawar.
2. Superintendent Engineer, Public Health, Engineering Department, Abbottabad.
3. Executive Engineer, Public Health, Engineering Division, Mansehra.
4. Muhammad Shafiq son of Noor Khan, Valveman Water Supply Scheme Cholda Gali, Village Haryala, P.O Phulra, Tehsil & District, Mansehra.

....RESPONDENTS

Respondent No - 4  
Esc-partia vide order  
dt: 22/12/15.

**AMENDED SERVICE APPEAL** UNDER SECTION 4  
OF KPK SERVICE TRIBUNAL ACT 1974, AS PER  
ORDER DATED 17-8-2015 OF THIS  
HONOURABLE TRIBUNAL TO THE EFFECT THAT

THE APPELLANT WAS APPOINTED AS VALVEMAN ON WATER TANK, WATER SUPPLY SCHEME CHOLDA GALI, TEHSIL AND DISTRICT, MANSEHRA ON THE RECOMMENDATION OF DEPARTMENTAL SELECTION COMMITTEE VIDE APPOINTMENT ORDER NO. 13/E-7 DATED 06/02/2014 AND THE RESPONDENT NO. 3 WITHOUT ISSUING EXPLANATION, CHARGE SHEET, SHOW CAUSE NOTICE AND PROPER INQUIRY WITHDREW APPOINTMENT OF APPELLANT DATED 06/02/2014 VIDE IMPUGNED WITHDRAWAL ORDER NO. E-02/12 DATED 13/03/2014 WHICH WAS RECEIVED BY THE APPELLANT ON 21/04/2014, IN THE MEANWHILE RESPONDENT NO. 4 HAS BEEN APPOINTED IN PLACE OF THE APPELLANT WHICH IS ILLEGAL, WITHOUT LAWFUL, JUSTIFICATION, DISCRIMINATORY, WITHOUT ANY SHOW CAUSE NOTICE, CHARGE SHEET, INQUIRY AND THE SAME IS LIABLE TO BE SET ASIDE.

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**PRAYER:** ON ACCEPTANCE OF THE INSTANT AMENDED APPEAL, IMPUGNED WITHDRAWAL ORDER NO. E-02/12 DATED 13/04/2014 APPOINTMENT ORDER OF RESPONDENT NO. 4

MAY BE DECLARED ILLEGAL AND BE SET ASIDE  
AND RESPONDENTS MAY BE DIRECTED TO  
RESTORE APPOINTMENT ORDER OF APPELLANT  
DATED 06/03/2014 WITH ALL SERVICE BACK  
BENEFITS IN TERMS OF PAY AND ALLOWANCES.

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Respectfully Sheweth: -

Following are the facts, giving rise to the instant appeal;-

1. That the appellant is permanent resident of Village Haryala, P.O Phulra, Tehsil & District, Mansehra. That, a water tank for Water Supply Scheme Cholda Gali, Tehsil & District, Mansehra has been constructed by the respondents Department for supply of water to the surrounding villages.
2. That prior to the construction of water tank, respondents department made promise with appellant for appointment as Valveman on Water Supply Scheme Cholda Gali, Tehsil & District, Mansehra.

3. That respondent No. 3 appointed the appellant as per law on the recommendation of Departmental Selection Committee vide appointment order No. 13/E-07 dated 06/02/2014. Copy of appointment order is attached as Annexure "A".
4. That, following this, the appellant took over the charge of his post after getting Medical Authorities. Copies of Medical Certificate and attendance report dated 14/02/2014 are attached as Annexure "B" & "C".
5. That the appellant, on the verbal instruction of respondent No. 3 made the scheme operational near ~~for~~ about two years free of cost. Hence, the appellant was appointed on merit as Valveman on the recommendation of Departmental Selection Committee on the said scheme on 06/02/2014. In the meanwhile, on the verbal instruction of respondent No. 3 transfer the required land in favour of Public Health Engineering Division, Mansehra vide mutation No. 242 dated 07/03/2014 which is yet to be attested by the Revenue Authority. Copy of record of rights of Mouza

Batangi, District Mansehra of the appellant bearing mutation No. 242 is attached as Annexure "D" and other letters are attached as Annexure "E".

6. That the appellant preferred departmental appeal to respondent no. 2 on 29/04/2014 through registered A/D. Copies of departmental appeal and receipts are attached as Annexure "F" & "G".
7. That the appellate authority did not bother to reply to the appellant so far. That in the meanwhile respondent No. 4 has been appointed in place of the respondent. However respondents department did not provide appointment order of respondent No. 4 which shall be placed on file later on if provided by the Department. Hence, the instant appeal is filed, inter-alia, on the following grounds:-

**GROUND:-**

- a. That the impugned withdrawal order dated 13/03/2014 issued by respondent No. 3 is malafide, perverse, discriminatory, and



appointed respondent No. 4 who is blue eyed chap without prior show cause notice, charge sheets, inquiry, which is liable to be set aside.

- b. That the valuable rights of the appellant had been accrued to him after issuing appointment order dated 06/02/2014 on the recommendation of Departmental Selection Committee. Respondent No. 3 cannot withdraw appointment order of the appellant without any lawful justification and proper inquiry. Hence, impugned withdrawal order dated 13/03/2014 is liable to be set aside.
- c. That respondent No. 3 issued withdrawal order at his own whim and wishes, which is not maintainable at law.
- d. That this fact may not be left to fade in oblivion that the appellant was duly appointed on purely merit on the recommendation of Departmental Selection Committee, therefore, the appellant cannot

be dismissed/ terminated without observing codal formalities.

- e. That respondents department did not issued explanation, charge sheet, show cause notice, hold inquiry, notice and opportunity of hearing prior to issuance of impugned withdrawal order dated 13/03/2014 which is against the service law, natural justice as well as against the fundamental rights of the appellant and the same is liable to be set aside.
- f. That the respondents department has lead to the appellant to the place which is utterly unknown to the principles of jurisprudence. The conduct of respondents department towards the appellant is perverse and is against the principles of good governance.
- g. That there is no prompt and efficacious remedy is available to the appellant except the placing of the instant amended appeal before this Honourable Tribunal.

It is, therefore, most humbly prayed that on acceptance of the instant amended appeal, impugned withdrawal order No. E-02/12 dated 13/04/2014 appointment order of respondent No. 4 may be declared illegal and be set aside and respondents may be directed to restore appointment order of appellant dated 06/03/2014 with all service back benefits in terms of pay and allowances.

**INTERIM RELIEF:-**

It is further prayed as an interim relief that status quo be maintain in favour of appellant, till the final disposal of the titled service appeal as the appellant is suffering irreparable loss due to loss of his job and balance of convenience is also in favour of the appellant.

  
...APPELLANT

Through

Dated: \_\_\_\_\_/2015

  
(Munim Ahmad Arshad Khan Tanoli)  
Associate High Court, Abbottabad

**VERIFICATION:-**

Verified on oath that the contents of forgoing appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.

  
...APPELLANT

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

Amended Service Appeal No. \_\_\_\_\_/2015

Muhammad Saeed Valveman Water Supply Scheme Cholda Gali, Village Haryala, P.O Phulra, Tehsil & District, Mansehra.

....APPELLANT

**VERSUS**

Govt. of Khyber Pakhtunkhwa, through Secretary Public Health, Khyber Pakhtunkhwa, Peshawar & others.

....RESPONDENTS

**AMENDED SERVICE APPEAL**

**AFFIDAVIT**

I, Muhammad Saeed Valveman Water Supply Scheme Cholda Gali, Village Haryala, P.O Phulra, Tehsil & District, Mansehra, do hereby solemnly affirm and declare that the contents of forgoing appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.

  
**DÉPONENT**

10

Annex A



OFFICE OF THE EXECUTIVE ENGINEER,  
PUBLIC HEALTH ENGINEERING DIVISION MANSEHRA  
[emph:manshra@gmail.com] Phone & Fax. No. 0357-301246

No. 13 /E-07 Dated Mansehra the 06 / 02 / 2014

Mr. Muhammad Saeed,  
Son of Muhammad Ayub,  
Village Haryala P.O Phulra,  
District Mansehra  
Cell # 0333-3555324

Subject:- APPOINTMENT AS VALVEMAN ON BSS "CHOLDA GALI"

In consultation with the Departmental Selection Committee, and as well as recommendation during its meeting dated 21<sup>st</sup> January 2014, you are hereby offered a temporary post of Valveman BPS-1 (4800-150-9300) on Water Supply Scheme Cholda Gali Tehsil Mansehra under the following terms & conditions:

1. You will get pay at the minimum of Valveman BPS-1 (4800-150-9300) plus usual allowances as admissible under the rules. You are also entitled to annual increment as per existing policy.
2. Your service will be liable to termination with or without any reason on one month notice from either side. In case of termination without notice by the employer or from the employee one month pay and allowances shall be paid by the Government, or ordered by the employee as the case may be.
3. Your appointment will be purely temporary and will not confer on you any right for regular appointment.
4. You will be allowed conveyance, medical, house rent allowance, leave and T/DV as per Govt. rules.
5. You will have to produce a medical certificate of fitness from Medical Superintendent, DHQ Hospital Mansehra before reporting for arrival of duty as required under the rules.
6. You will be initially on a probation of one year extendable upto 2 years.
7. You shall be liable to work/ serve any where within the jurisdiction of District Mansehra.
8. You will have to provide an affidavit to the effect that you are not an employee of any Govt. / Semi Govt. Organization/ institution/ Department or any autonomous or semi autonomous bodies during arrival report.
9. You will have to transfer the land covered under the existing Tube Well/ Water works/ Water tank in favour of PHE Department Mansehra within 2 (Two) months after the issue of said appointment order, failing which this Department would be at liberty to withdraw/ cancel the appointment order without any notice.

If you are willing to accept the offer on the above terms & conditions, you should report for duty in the office of the Executive Engineer, PHE Division Mansehra within 14 days after the issue of appointment order, failing which the offer shall stand cancelled automatically.

*[Signature]*  
EXECUTIVE ENGINEER,  
PUBLIC HEALTH ENGG. DIVISION  
MANSEHRA

Copy forwarded to:

1. The Superintending Engineer, PHE Circle Abbottabad for information please.
2. The District Accounts Officer, Mansehra for information please.
3. The Divisional Accounts Officer (Local) for information please.
4. The Sub Divisional Officer, PHE Sub Division Mansehra/ Chul/ Balakot.

EXECUTIVE ENGINEER,  
PUBLIC HEALTH ENGG. DIVISION

*[Signature]*  
Superintending Engineer,  
PHE Circle Abbottabad

11

Annex "B"

MEDICAL CERTIFICATE

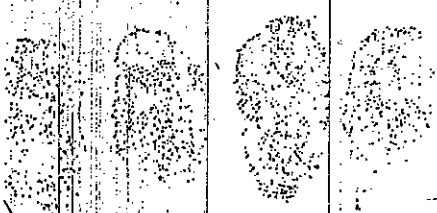
Name of Official: Muhammad Saad  
 Father's Name: Muhammad Ayub  
 Date of Birth: 03-01-1974  
 Caste of Race: Tardi  
 Address: Vill Hareyala Po. Phulwa  
 Tehsil: Hansuri District: Mansehra  
 Exact height by measurement: 5'6"  
 Personal mark of identification: A scar on left hand thumb  
 National Identity Card No.: 42000-8225669-3  
 Signature of Official: \_\_\_\_\_  
 Signature of head of office: \_\_\_\_\_

I do hereby certify that I have examined Mr. Muhammad Saad Seal of Office

employment in the office of the Public Health Dept. and cannot discover that he had any disease communicable of other constitutional affection or bodily infirmity except all

I do not consider this as disqualification for employment in the office of the Asst. Commr. His age according to his own statement is 40 years and by appearance about 40 years.

Left hand thumb and finger impression.



Medical Superintendent,  
 King Abdullah Teaching Hospital,  
 Manshra - 14/02/14  
 Medical Superintendent,  
 King Abdullah Teaching Hospital,  
 Manshra.

Attested  
[Signature]  
 Advocate  
 Manshra

حافری رپورٹ

میں ایس ایم محمد سعید 5/ فر ایوب ٹاؤن ٹریڈنگ ڈاکٹریٹ فیکٹریہ تحصیل فیصلہ

131-E-07 14-2-14

14-2-14 کو آئندہ آرڈر میں 14 فروری 14 کو آئندہ آرڈر میں 14 فروری 14 کو آئندہ آرڈر میں

14 فروری 14 کو آئندہ آرڈر میں 14 فروری 14 کو آئندہ آرڈر میں 14 فروری 14 کو آئندہ آرڈر میں

14 فروری 14 کو آئندہ آرڈر میں 14 فروری 14 کو آئندہ آرڈر میں 14 فروری 14 کو آئندہ آرڈر میں

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محمد سعید

محمد سعید

14-2-14

گواہان

خانہ 13503-0568272-3

13503-0538485-5

42000-34384-9

Attended

Muhammad Usaid Farooq

محل وقوع زمین مورثہ تفصیل ضلع سندھ سال ۱۹۱۳ء

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رقبہ	نمبر حوالہ	رقبہ مورثہ	تعداد	رقبہ مورثہ	رقبہ مورثہ	رقبہ مورثہ	رقبہ مورثہ
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تفصیل بیان زمین مورثہ

26/13  
20/13

Muhammad Ali  
Advocate  
Distt: Courts Abbottabad



14

Annex "E"



Office of the Deputy Commissioner

District Mansehra

District Mansehra, District of Mansehra, District of Mansehra, District of Mansehra

No.D.K/Charsalajaal/ 221-02

Dated: 10/12/2014

To

The Naib Tehsildar,  
Mansehra.

Subject:

TRANSFER OF LAND IN FAVOR OF PHE DEPARTMENT  
MANSEHRA.

Memo;

Enclosed please find herewith the copy of letter No. 07/  
Dated: 04-02-2014 received from Executive Engineer, Public Health Engineering  
Division Mansehra, on the subject cited above, for further lawful action.

Deputy Commissioner  
Mansehra

Enclosed: even No. & Dated:

Copy forwarded to the Executive Engineer, Public Health Engineering  
Division Mansehra, with reference his letters No. quoted above:

Deputy Commissioner  
Mansehra

Naib Tehsildar Mansehra

10-2-14

Handwritten notes in Urdu, including dates and signatures, located in the lower middle section of the document.

15

OFFICE OF THE EXECUTIVE ENGINEER,  
PUBLIC HEALTH ENGINEERING DIVISION MANSEHRA.  
Xenphemanschra@gmail.com Phone & Fax. No .0997-381246

No. 07 /E-07

Dated Mansehra the 04 /02 /2014

To

The Deputy Commissioner,  
Mansehra.

Subject: -

TRANSFER OF LAND IN FAVOUR OF PHE DEPARTMENT  
MANSEHRA.

It is stated that Mr. Muhammad Saeed Son of Muhammad Ayub resident of Village Haryala P.O Phulra Tehsil & District Mansehra have supplied copy of Fard regarding ownership of the land covered under Tube Well/ Water Tank of WSS Cholda Gali

It is requested that actual ownership of the above cited land of Tube Well / Water Tank may please be got verified from ilaka Patwari & get it transferred in favour of this Department free of cost to proceed further.

EXECUTIVE ENGINEER,  
PUBLIC HEALTH ENGG. DIVISION  
MANSEHRA

Muhammad Saeed  
Advocate  
Distt. Court At, Mansehra

Annex "F"

16



OFFICE OF THE EXECUTIVE ENGINEER,  
PUBLIC HEALTH ENGINEERING DIVISION MANSEHRA.  
Xanphjmanisehra@gmail.com Phone & Fax. No .0997-381246

OFFICE ORDER.

The appointment order issued vide this office letter No 13/E-07  
dated 06-02-2014 is here-by with drawn.

EXECUTIVE ENGINEER,  
PUBLIC HEALTH ENGG: DIVISION  
MANSEHRA

Endst: No. E-07/12

Dated Mansehra the 13/03/2014

Copy to:

1. The Superintending Engineer PHE Circle Abbottabad for information please.
2. The District Accounts Officer Manseha for information please.
3. The Divisional Accounts Officer (Local) for information.
4. The Sub Divisional officer PHE Sub Division Oghi for information.
5. Official Concerned.

EXECUTIVE ENGINEER,  
PUBLIC HEALTH ENGG: DIVISION  
MANSEHRA

Attested

Muhammad Arshad Khan Tanoli  
Advocate  
Distt: Courts Abbottabad

17

Annex "G"

The Superintendent Engineer,  
Public Health, Engineering Department,  
Abbottabad.

**DEPARTMENTAL APPEAL / REPRESENTATION  
AGAINST IMPUGNED WITHDRAWAL ORDER OF  
APPOINTMENT ENDST NO. E-07/12 DATED 13.03.2014  
RECEIVED BY THE APPELLANT ON 21.04.2014**

With due respect, the appellant submits as under:

1. That the appellant is resident of village Haryala P/O Phulra District Mansehra. That the Officers of Public Health Department constructed water tank for water supply scheme Cholda Gali Tehsil & District Mansehra.
2. That, before constructing the water tank of the said scheme, Public Health Department Mansehra, promised with the appellant that he would be appointed as valveman in BPS-I, on water supply scheme at Cholda Gali District Mansehra, if the appellant permits to construct water tank in his land bearing Khasra No.265 situated in Moza Batangi District Mansehra.
3. That, on assurance of appointment against the post of Class IV to the appellant by the department, the appellant accepted the offer and promised to transfer the required land in lieu of job.
4. That on completion of the said scheme, the appellant made the scheme operational on the verbal instruction of the department free of cost near about two years. Hence, the appellant was appointed as valveman on the recommendation of Departmental Selection Committee on water supply scheme Cholda Gali District Mansehra vide appointment order No. 13/E-07 dated 06.02.2014.
5. That after getting the appointment letter, the appellant got himself medically checked and found fit vide Medical

Attested  
*[Signature]*

Multan  
Abbottabad  
District Courts Abbottabad

Certificate dated 14.02.2014 and thereafter, on the same day took over the charge for the post of valveman. Photocopy of appointment order dated 06.02.2014, Medical Certificate dated 14.02.2014 and Charge Report dated 14.02.2014 are attached.

6. That during this period, on the instruction of Executive Engineer Public Health Engineering Division Mansehra got the required land transferred in favour of Public Health Engineering Division Mansehra vide mutation No.242 dated 07.03.2014 which is yet to be attested by the Revenue Authority. Copy of record of rights of Moza Batangi bearing mutation No.242 in favour of Public Health Division, Executive Engineer Public Health Engg Division Mansehra dated 04.02.2014 and Deputy Commissioner letter dated 10.02.2014 are attached.
7. That the appellant is serving on the said scheme as valveman with complete devotion and dedication. That the appellant visited the office of Executive Engineer Mansehra on 21.04.2014 and found that his appointment order dated 06.02.2014 was withdrawn vide impugned order Endst No.E-02/12 dated 13.03.2014 and the appellant received the impugned withdrawal order dated 13.03.2014 on 21.04.2014. Hence, the impugned order is illegal, against the law, without issuing show cause notice, explanation and is without reasons and justification. Hence, the said order is liable to be set aside.
8. That the impugned withdrawal order dated 13.03.2014 is non speaking order without any reason as well as without any fault of the appellant. Hence, the same is not maintainable at law.
9. That the impugned withdrawal order is as a result of political pressure of local MPAs on the competent authority and the competent authority i.e. Executive Engineer Public Health Engineering Division is going to appoint some other blue eyed chap in lieu of the appellant purely under the

Muhammad  
Distt: Courts Abbottabad

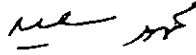
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pressure of local MPAs. Therefore, the impugned withdrawal of appointment order of the appellant is discriminatory and liable to be set aside. Copies of some newspapers on the same subject are attached.

In view of the above it is humbly prayed that the instant departmental appeal of the appellant may be accepted and impugned withdrawal appointment order of the appellant may be set aside and restore appointment order of the appellant dated 06.02.2014 and obliged.


The instant appeal is dispatched to your office through Registered AD.

Date: 26.04.2014



Muhammad Saeed  
Valveman water supply scheme Cholda Gali  
Village Haryala P/O Phulra  
District: Manshara

Dispatched on  
29-4-2014



Muhammad Saeed  
Advocate  
Distt: Courts Abbottabad

20 Annex 'G'

No. 341 For Insurance Notices see reverse.  
Stamps affixed except in case of  
uninsured letters of not more than  
the initial weight prescribed in the  
Post Office Guide or on which no  
acknowledgement is due.

Rs. Ps.

Received a registered\*  
addressed to:

Singh Engineer



Initials of Receiving Officer ATD Write here "letter", "post card", "packet" or "parcel"  
Insured for Rs. 100 (in figures) with the word "insured" before it when necessary.  
(in words)

If insured.

Insurance fee Rs. 2 Ps. 00 Weight 100 Kilo Grams  
(in words) 100 C  
Name and address of sender ATD

Attested

Muhammad Arshad Khan Tanchi  
Muhammad Arshad Khan Tanchi  
Advocate  
Distt: Courts Abbottabad

(30A)

NOTICE (1) - The Post Office is not responsible for loss or damage in the case of Inland registered articles, unless they are also insured.

(2) - The special conditions and restrictions as to insurance which will be found in the current edition of the Post Office Guide are binding upon every sender of an insured postal article by virtue of rules prescribed under the Pakistan Post Office Act, 1898.



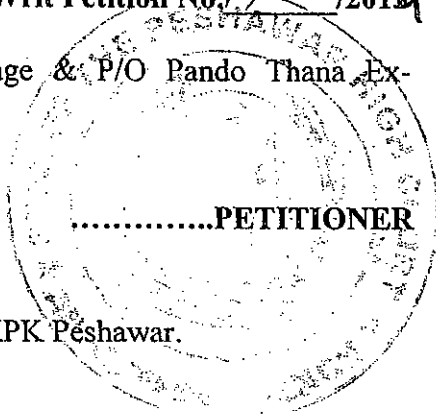
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**BEFORE THE PESHAWAR HIGH COURT**  
**ABBOTTABAD BENCH**

Writ Petition No. 19/A/2013

Abdul Khaliq S/o Mir Abdullah R/O Village & P/O Pando Thana Ex-Chowkidar BHU Pando Thana Abbottabad.



.....PETITIONER

**VERSUS**

1. Govt of KPK through Secretary Health KPK Peshawar.
2. Director Health Services KPK Peshawar.
3. District Health Officer Abbottabad.
4. District Account Officer Abbottabad.

.....RESPONDENTS

**WRIT PETITION UNDER ARTICLE**

**199 OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN,**

**1973 TO THE EFFECT THAT DATE OF BIRTH OF THE PETITIONER IS 1957**

**AS PER SERVICE BOOK AND 1950 AS PER COMPUTERIZED NATIONAL**

**IDENTITY CARD. THE PETITIONER'S ACTUAL DATE OF**

**SUPERANNUATION IS ON 17.09.2017**

**WHEREAS THE PETITIONER HAS WRONGLY BEEN RETIRED FROM**

**SERVICE ON 17.09.2011 ON THE BASIS OF DATE OF BIRTH MENTIONED IN**

**HIS CNIC. NOW RESPONDENT NO 4**

M. 65

8/1/14

FILED TODAY

Additional Registrar  
Peshawar High Court  
Abbottabad Bench

8/1/14

Certified to be a true and correct copy of the original  
PESHAWAR HIGH COURT  
ABBOTTABAD BENCH  
66/07/17



IS NOT ISSUING PENSION BOOK,  
 COMMUTED VALUE OF PENSION  
 AND ENCASHMENT OF LEAVE  
 PENDING RETIREMENT (LPR) ETC  
 ON THE PLEA THAT THE  
 PETITIONER SERVED AS CONTRACT  
 EMPLOYEES AND IS NOT ENTITLED  
 TO PENSIONERY BENEFITS  
 WHEREAS THE PETITIONER WAS  
 REGULAR EMPLOYEE OF  
 RESPONDENT NO 3, WHICH IS  
 ILLEGAL, MALA FIDE, AMOUNTS TO  
 SNATCHING OF LIVELIHOOD IN  
 TERMS OF PENSIONERY BENEFITS,  
 AGAINST THE NORMS OF  
 PRINCIPLE OF NATURAL JUSTICE  
 AND ALSO AMOUNTS TO  
 EXPLOITATION AND DENIAL OF  
 FUNDAMENTAL RIGHTS OF THE  
 PETITIONER.

FILED TODAY

*Handwritten signature*  
 Additional Registrar  
 Peshawar High Court  
 Abulhasanabad Bench  
 07/1/14

PRAYER: -

ON ACCEPTANCE OF THE INSTANT  
 WRIT PETITION, RESPONDENT  
 ESPECIALLY RESPONDENT NO 4 BE  
 DIRECTED TO RELEASE PENSION

Certified to be true copy  
*Handwritten signature*  
 Peshawar High Court  
 Authorized Registrar  
 06/07/17

3

PAYMENT ORDER, COMMUTED  
VALUE OF PENSION, ENCASHMENT  
OF LEAVE PENDING RETIREMENT  
(LPR) IN FAVOUR OF THE  
PETITIONER FORTHWITH  
ALONGWITH INTEREST ON BANK  
RATE W-E-F THE DATE OF  
RETIREMENT ONWARD AND ANY  
OTHER RELIEF WHICH THIS HON'  
ABLE COURT DEEM APPROPRIATE  
MAY ALSO BE GRANTED TO THE  
PETITIONER.

Respectfully Sheweth:

1. That the petitioner got appointment as Chowkidar, in BHU, Pando Thana, District, Abbottabad on 17.01.1993 on fixed pay vide appointment order No 732/27-T dated 17.01.1993. Copy of appointment order is attached as Annexure "A".
2. That the petitioner was not treated employee on fixed pay by the appointing authority, respondent No 3 and allowed annual increments from the

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Additional Registrar  
Peshawar High Court  
Abbottabad Bench

9/1/14

Certified to be true Copy

06/07/17

date of appointment of the petitioner vide service book which is attached as Annexure "B".

3. That the petitioner is illiterate and at the time of joining service, date of birth of the petitioner was recorded in his service book as 17.09.1957.
4. That date of the birth of the petitioner as per his CNIC is 1950. Copy of CNIC is attached as Annexure "C".
5. That the petitioner filed Civil Suit No 83/1 in the court of learned Civil Judge V Abbottabad for seeking declaration to the effect that his date of birth as per service book is 17.09.1957 whereas the date of birth of the petitioner is 1950 in his CNIC and the date of birth recorded in service book is correct and the same be recorded in the CNIC of the petitioner. The learned Civil Judge V dismissed the suit of the petitioner on 12.05.2011. Copy of the plaint and judgment dated 12.05.2011 is attached as Annexure "D&E".
6. That the petitioner filed appeal against judgment and decree of learned lower court before the learned District and Sessions Judge Abbottabad which was also dismissed on 17.09.2011. Copy

**FILED TODAY**

*[Handwritten Signature]*  
Additional Registrar  
Peshawar High Court  
Abbottabad Bench  
07/11/14

Certified to be true Copy

*[Handwritten Signature]*  
Peshawar High Court  
Abbottabad Bench  
06/07/17

of appeal and judgment dated 17.09.2011 is attached as Annexure "F&G".

7. That the respondents retired the petitioner from service on superannuation on the basis of date of birth recorded in the CNIC i.e. 1950 whereas the petitioner should have been retired from service on the basis of date of birth mentioned in the service book i.e. 17.09.1957. Hence, the actual date of retirement of the petitioner comes to 17.09.2017 and not 17.09.2011. That the respondent No 3 misinterpreted decision of learned District Judge Abbottabad and retired the petitioner on 17.09.2011. Copy of retirement office order No. 12418-21/Account EDO (Health) dated 09.12.2011 is attached as Annexure "H".

8. That respondent No 3 sanctioned monthly pension and commuted value of pension of the petitioner w-e-f 18.09.2011 by respondent No 3 and forwarded the same to respondent No 4 for issuance of pension payment order and remittance of cheque of commuted value of pension to the petitioner but respondent No 3 did not grant the same to the petitioner on the ground that the petitioner was a contract employees and is not entitled for any pensionary benefits. Copy

FILED TODAY

*Handwritten signature*  
Additional Registrar  
Peshawar High Court  
Abbottabad Bench  
07/11/14

Certified to be True Copy

*Handwritten signature*  
Peshawar High Court  
Abbottabad Bench  
Authorized Signatory

06/07/17

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of objection of Respondent No 4 is attached as Annexure 'I'.

9. That the petitioner was never appointed on contract basis but on temporary basis on fixed pay.
10. That the Gov t of KPK, has already converted the contract service of all employees into regular service but respondent No 4 is not issuing pension payment order and commutation cheque.
  - a. That when law prescribe something which is to be done in a particular manner that must be done in that manner and not otherwise.
  - b. That this fact must not be left to fade in oblivion that the petitioner served the department as chowkidar on regular basis and not on contract basis. Hence, the petitioner is entitled for pension / commutation.
  - c. That at the moment, there is no efficacious and effective remedy available to the petitioner except the invocation of constitutional jurisdiction of this Hon' able Court.
  - d. That it is a settled principle of law that of date of birth recorded in service book is final for the purposes of pension / commutation. The act of the respondent No 4 is mala fide and against the law.

**FILED TODAY**

*Additional Registrar  
Petitioner High Court  
Abdullah Bencik*

*07/1/17*

Certified to be True Copy

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*06/07/17*

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- e. That proper court fee is attached herewith.
- f. That other points would be raised at the time of arguments.

It is most humbly prayed that on acceptance of the instant writ petition, respondent especially respondent no 4 be directed to release pension payment order, commuted value of pension, encashment of leave pending retirement (LPR) in favour of the petitioner forthwith alongwith interest on bank rate w-e-f the date of retirement onward and any other relief which this Hon' able Court deem appropriate may also be granted to the petitioner.

**FILED TODAY**

*Handwritten signature*  
 Additional Registrar  
 Peshawar High Court  
 Abbottabad Bench

*Handwritten date*  
 07/1/14

Dated; \_\_\_\_\_/2014

.....PETITIONER

Through

*Handwritten signature*  
 (MUHAMMAD ARSHAD KHAN TANOLI)

*Handwritten signature*  
 (SARDAR MUHAMMAD ASIF)

&

*Handwritten signature*  
 (Yasir Zanoor Abbasi)  
 Advocates High Court Abbottabad

Certified to be True Copy

*Handwritten signature*  
 Peshawar High Court  
 Abbottabad Bench  
 Authorized Signatory Secy. to the Bench

*Handwritten date*  
 06/07/17

8

**BEFORE THE PESHAWAR HIGH COURT**  
**ABBOTTABAD BENCH**

Writ Petition No. 13 A 2014

Abdul Khaliq S/o Mir Abdullah R/O Village & P/O Pando Thana Ex-Chowkidar BHU Pando Thana Abbottabad.

.....PETITIONER

**VERSUS**

Govt of KPK through Secretary Health KPK Peshawar and others.

**FILED TODAY**

.....RESPONDENTS

*Additional Registrar  
Peshawar High Court  
Abbottabad Bench*

**WRIT PETITION**

**CERTIFICATE**

*9/1/14*

Certificate that no such like Writ Petition has earlier been filed

before this Honourable Court.

.....PETITIONER

Abdul Khaliq

Through

Dated; \_\_\_\_\_/2014

*(MUMTAZ KHAN)*  
(MUMTAZ KHAN)

&  
(SARDAR MUHAMMAD ASIF)

&  
(Yasir Zahoor Abbasi)  
Advocates High Court Abbottabad

Certified to be true copy

*WJ*  
Peshawar High Court  
Abbottabad Bench  
Authorized Registrar

*66/07/17*



1

**JUDGMENT SHEET**  
**PESHAWAR HIGH COURT ABBOTTABAD**  
**BENCH**

**JUDICIAL DEPARTMENT**

W.P.No.19-A/2014.

**JUDGMENT**

Date of hearing 19.6.2017.

Appellant / petitioner by Muhammad Asad Khan Tanoli Advocate.

Respondent by Muhammad Rubair Khan A-A-C.

**ABDUL SHAKOOR, J.-** Through the instant constitutional petition, the petitioner seeks the following relief:-

“It is most humbly prayed that on acceptance of the instant writ petition, respondent especially respondent No.4 be directed to release pension payment order, commuted value of pension, encashment of leave pending retirement (LPR) in favour of the petitioner alongwith in favour of the petitioner forthwith alongwith interest on bank rate w-e-f the date of retirement onward and any other relief which this Hon'ble Court deem appropriate may also be granted to the petitioner.”

2. Brief facts of the instant writ petition are that petitioner was appointed as Chowkidar in BHU, Pando Thana District Abbottabad on fixed pay through order dated 17.1.1993. The

Certified to be True Copy  
06/07/17

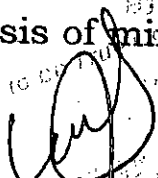
respondents retired the petitioner from service on superannuation on the basis of date of birth mentioned in the CNIC i.e. 1950 whereas the petitioner should have retired from service on the basis of date of birth recorded in the service book i.e. 17.9.1957, therefore, the actual date of retirement of petitioner comes to 17.9.2017 and not 17.9.2011. Thereafter respondent No.3 sanctioned monthly pension and commuted value of pension of the petitioner w.e.f. 18.9.2011 and forwarded the same to respondent No.4 for issuance of pension payment order and remittance of cheque of commuted value of pension to the petitioner but the respondent No.3 did not grant the same to the petitioner on the ground that the petitioner was a contract employee and is not entitled for any pensionary benefits. The Government of Khyber Pakhtunkhwa has already converted the contract services of all employees into regular service but the respondent No.4 is not issuing pension payment order and commutation cheque, hence the petitioner filed the instant writ petition.

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 Peshawar  
 Authorized Signatory  
 06/07/17

3. On 19.2.2014 comments were called from the respondents No.2 to 4, which were so submitted and on 22.10.2014, the instant writ petition was admitted for regular hearing on the following terms;

*“Inter alia, contends that denial pension to the petitioner is in violation of Rule-2.2 of Pension Rules 1963, wherein it has been stated that entitlement to pension is from the date of joining the service. Points raised need consideration. The petition is admitted to regular hearing. Notice and record.”*

4. Learned counsel appearing on behalf of the petitioner confined his arguments to the extent of non-payment of pensionary benefits to the petitioner with effect from date of his first appointment dated 17.1.1993 and argued that petitioner after being regularized in terms of order dated 29.1.2008 of Government Khyber Pakhtunkhwa, thus under Rule 2.2 of West Pakistan Civil Services Pension Rules, 1963 had become entitled to be paid pensionary benefit with effect from 17.1.1993. In view of the above, the respondents having no lawful authority to deny the pensionary benefits to the petitioner on the basis of minutes dated 03.2.2014. He further

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 Secretary, Government of Khyber Pakhtunkhwa  
 06/07/17

contended that the minutes referred above on the strength of which the petitioner has been denied the pensionary benefit with effect from his appointment on 17.1.1993 having no legal backing and force. He also submitted that in the said meeting it was simply held that status quo be maintained for avoiding the payment of pensionary benefits to all those Class-IV employees of Government Khyber Pakhtunkhwa, whose services have been regularized by aforesaid order of Government of Khyber Pakhtunkhwa of the year 2008 and the same was issued in the interest of provincial exchequer.

5. On the other hand, learned Additional Advocate General appearing on behalf of respondents supported the stance of respondents for payment of pensionary benefits from date of regularization of petitioner.

6. This Court has considered the submissions of learned counsel for the parties and carefully examined the record available on the file.

Certified to be true copy  
 Bench  
 06/07/19

7. Before proceeding further, we deem it advantageous to reproduce the Rule 2.2 of West Pakistan Civil Services Pension Rules, 1963 and contents of order dated 29.1.2008 of Government Khyber Pakhtunkhwa as under:-

**“2.2 Beginning of service.-** Subject to any special rules the service of Government servant begins to qualify for pension when he takes over charge of the post to which he is first appointed.”

مجھے ہدایت کی گئی ہے کہ عنوان بالا کا حوالہ دیتے ہوئے عرض کروں کہ صوبائی حکومت نے تمام درجہ چہارم (مقررہ تنخواہ Fixed pay) پانے والے ملازمین کے یکم جولائی 2008 سے این ڈبلیو ایف پی سول ملازمین ایکٹ 1973 کے تحت سول ملازمین کا درجہ دیکر بنیادی سکیل 1 (BPS-1) دینے کی منظوری دی ہے۔

2. مذکورہ ملازمین کی تنخواہ کا تعین (Fixation of pay) ان کی بھرتی کے تاریخ (Date of Appointment) سے کیا جائے گا۔ تاہم یہ ملازمین تنخواہوں اور الاؤینسز وغیرہ کی مد میں کسی قسم کی بقایا جات (Arrears) کے حقدار نہیں ہوں گے۔

From perusal of above referred rule as well as contents of order dated 29.1.2008 it is crystal clear that the present petitioner after being regularized in his services in the year 2008 had become entitled to be paid pensionary benefits from the date of his first appointment.

8. The defence which has been advanced for non-payment of pensionary benefits of the petitioner on the basis of minutes dated 03.2.2014 is not valid and just. The same defence of respondent was mere an eye wash to deny the petitioner from his legal pensionary benefits from the date of his first appointment. This Court in no way can approve such act of the respondents for denying the pensionary benefits to petitioner, which is his legal right, for which he was entitled from the date of his first appointment. We may mention here, while perusing West. Pakistan Civil Services Pension Rules, 1968, come across with rule 2.3, which clearly states that temporary and officiating service followed by confirmation shall also count for pension or gratuity. Thus, the petitioner is also entitled to be paid pensionary benefits under this rule as well.

9. As there is no denial of the fact that petitioner was initially appointed on fixed pay and subsequently his services were regularized, hence in view of Rule 2.3 West Pakistan Civil Services Pension Rules, 1968 the petitioner is to

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Peshawar High Court  
 Authorized Signatory  
 06/07/17

be paid pensionary benefits from the date of his first appointment. It is well settled law, when any employee on contract is absorbed into regular employment, and there is no break in his service, then period on contract employment has to be considered for counting length of service for pensionary benefits etc. Reliance is placed on **2010 PLC 354**, where it is held that:-

*“When an employee was regularized his total length of service, was to be computed from the day he joined the service that could be temporary or otherwise. Even period of an employee of daily wages would be counted for the purpose of computing pensionary benefits.”*

10. In the light of what has been discussed above, we allow this writ petition and issue direction to the respondents to pay pensionary benefit to the petitioner from the date of his first appointment.

**ANNOUNCED**

19.6.2017

Aftab/\*

*Sd/- Judge,*  
*Sd/- Judge,*

Certified to be True Copy

Position of the Bench  
Authenticating Signature of the Bench

66/07/17

**BEFORE THE SERVICE TRIBUNAL KPK, PESHAWAR**Appeal No. 1032 /2014Muhammad Saeed Valveman Water Supply Scheme Cholda Gali Village  
Haryala P.O Phulra Tehsil & District Mansehra.

.....APPELLANT

VERSUS

Govt of KPK through Secretary Public Health KPK, Peshawar and others.

.....RESPONDENTS

**SERVICE APPEAL****INDEX**

S. #	Description	Page Nos.	Annexure
1.	Writ petition alongwith, affidavit, certificate	1 to 7	
2.	List of Books	8	
3.	Addresses of the parties	9	
4.	Copy of appointment order dated 06-02-2014	10	"A"
5.	Copies of Medical Certificate and attendance report dated 14-02-2014	11-12	"B & C"
6.	Copy of record of rights of Mouza Batangi District Mansehra of the appellant bearing Mutation No. 242 & letters	13-15	"D & E"
7.	Copy of impugned order dated 13-03-2014	16	"F"
8.	Copy of departmental appeal & receipts	17-20	"G&H"
9.	Wakalatnama	21	

Dated: 12 /08/2014
  
 .....Appellant

Through

  
**MUHAMMAD ARSHAD KHAN TANOLI**  
 Advocates High Court, Abbottabad.



**BEFORE THE SERVICE TRIBUNAL KPK, PESHAWAR**Appeal No. 1039 /2014

Muhammad Saeed Valveman Water Supply Scheme Cholda Gali Village  
Haryala P.O Phulra Tehsil & District Mansehra.

.....APPELLANT

VERSUS

1. Govt of KPK through Secretary Public Health KPK, Peshawar.
2. Superintendent Engineer, Public Health, Engineering Department, Abbottabad.
3. Executive Engineer, Public Health, Engineering Division, Mansehra.

.....RESPONDENTS

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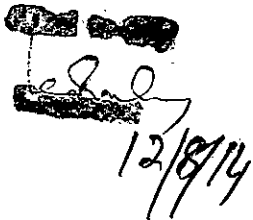
**SERVICE APPEAL**


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SERVICE APPEAL UNDER SECTION 4 OF KPK SERVICE TRIBUNAL ACT 1974 TO THE EFFECT THAT THE APPELLANT WAS APPOINTED AS VALVEMAN ON WATER TANK, WATER SUPPLY SCHEME CHOLDA GALI TEHSIL & DISTRICT MANSEHRA ON THE RECOMMENDATION OF DEPARTMENTAL SELECTION COMMITTEE VIDE APPOINTMENT-ORDER NO. 13/E-07 DATED 06-02-2014 AND THE RESPONDENT NO.3 WITHOUT ISSUING EXPLANATION, CHARGE SHEET, SHOW CAUSE NOTICE AND PROPER INQUIRY WITHDREW APPOINTMENT OF APPELLANT DATED 06-02-2014 VIDE IMPUGNED WITHDRAWAL ORDER NO. E-02/12 DATED 13-03-2014 WHICH WAS RECEIVED BY THE APPELLANT ON 21-04-2014, WHICH IS ILLEGAL, WITHOUT LAWFUL JUSTIFICATION, DISCRIMINATORY, WITHOUT ANY SHOW CAUSE NOTICE, CHARGE SHEET, INQUIRY AND THE SAME IS LIABLE TO BE SET-ASIDE.

  
12/8/14

**PRAYER:** ON ACCEPTANCE OF THE INSTANT APPEAL, IMPUGNED WITHDRAWAL ORDER NO. E-02/12 DATED 13-03-2014 MAY BE DECLARED ILLEGAL AND BE SET-ASIDE AND RESPONDENTS MAY BE DIRECTED TO RESTORE APPOINTMENT ORDER OF APPELLANT DATED 06-03-2014 WITH ALL SERVICE BACK BENEFITS IN TERMS OF PAY AND ALLOWANCES.

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Respectfully Sheweth:

**FACTS**

1. That the appellant is permanent resident of Village Haryala P/O Phulra Tehsil & District Mansehra. That a Water Tank for Water Supply Scheme Cholda Gali, Tehsil & District Mansehra has been constructed by the respondents Department for supply of water to the surrounding villages.
2. That prior to the construction of water tank, respondents department made promise with appellant for appointment as Valveman on Water Supply Scheme Cholda Gali, Tehsil & District Mansehra provided the appellant permits to construct water tank in his land bearing Khasra No. 265 situated in Mouza Batangi, Tehsil & District Mansehra.
3. That respondent No.3 appointed the appellant as per law on the recommendation of Departmental Selection Committee vide appointment order No. 13/E-07 dated 06-02-2014. Copy of appointment order is attached as Annexure "A".
4. That, following this, the appellant took over the charge of his post after getting Medical Certificate from the nominated Medical Authorities. Copies of medical certificate and attendance report dated 14-02-2014 are attached as Annexure "B & C".
5. That the appellant, on the verbal instruction of respondent No.3 made the scheme operational near for about two years free of cost. Hence, the appellant was appointed on merit as valvemen on the recommendation of Departmental Selection Committee on the said scheme on 06-02-2014. In

the meanwhile, on the verbal instruction of respondent No.3 transfer the required land in favour of Public Health Engineering Division, Mansehra vide mutation No. 242 dated 07-03-2014 which is yet to be attested by the Revenue Authority. Copy of record of rights of Mouza Batangi District Mansehra of the appellant bearing mutation No. 242 is attached as Annexure "D" and other letters are attached as Annexure "E".

6. That respondent No.3 withdrew appointment order of the appellant dated 06-02-2014 vide impugned withdrawal order No. E-07/12 dated 13-03-2014 which was not addressed to the appellant therefore, the appellant received impugned letter from the office of respondent No. 3 on 21-04-2014 when appellant visited to know about release of his salary. Copy of impugned order dated 13-03-2014 is attached as Annexure "F".
7. That, the appellant preferred departmental appeal to respondent No.2 on 29-04-2014 through registered A/D. Copy of departmental appeal & receipts are attached as Annexure "G&H".
8. That the appellate authority did not bother to reply to the appellant so far, hence, the instant appeal is filed inter alia on the following grounds:-

**GROUND:**

- a. That the impugned withdrawal order dated 13-03-2014 issued by respondent No.3 is malafide, perverse, discriminatory, without prior show cause notice, charge sheets, inquiry, which is liable to be set-aside.
- b. That the valuable rights of the appellant had been accrued to him after issuing appointment order dated 06-02-2014 on the recommendation of Departmental Selection Committee. Respondent No.3 cannot withdraw appointment order of

the appellant without any lawful justification and proper inquiry. Hence, impugned withdrawal order dated 13-03-2014 is liable to be set-aside.

c. That respondent No.3 issued withdrawal order at his own whim & wishes, which is not maintainable at law.

d. That this fact may not be left to fade in oblivion that the appellant was duly appointed on purely merit on the recommendation of Departmental Selection Committee, therefore, the appellant cannot be dismissed/terminated without observing codal formalities.

e. That respondents department did not issued explanation, charge sheet, show cause notice, hold inquiry, notice and opportunity of hearing prior to issuance of impugned withdrawal order dated 13-03-2014 which is against the service law, natural justice as well as against the fundamental rights of the appellant and the same is liable to be set-aside.

f. That the respondents department has lead to the appellant to the place which is utterly unknown to the principles of jurisprudence. The conduct of respondents department towards the appellant is perverse and is against the principles of good governance.

9. That there is no prompt and efficacious remedy is available to the appellant except the placing of the instant Service Appeal before this Honourable Tribunal.

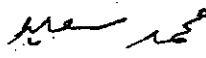
**PRAYER:**

It is, therefore, most humbly prayed that on acceptance of the instant appeal, impugned withdrawal order No. E-02/12 dated 13-03-2014 may be declared illegal and be set-aside and respondents may be directed to restore appointment order of appellant dated 06-03-2014 with all service back benefits in terms of pay and allowances.

**INTERIM RELIEF:**

It is further prayed as an interim relief that status quo be maintain in favour of appellant, till the final disposal of the titled Service Appeal as the appellant is suffering irreparable loss due to loss of his job and balance of convenience is also in favour of the appellant.

Dated: \_\_\_/08/2014

  
.....Appellant

Through

  
**MUHAMMAD ARSHAD KHAN TANOLI**  
Advocates High Court, Abbottabad.

**BEFORE THE SERVICE TRIBUNAL KPK, PESHAWAR**

Appeal No. \_\_\_\_\_/2014

Muhammad Saeed Valveman Water Supply Scheme Cholda Gali Village  
Haryala P.O Phulra Tehsil & District Mansehra.

.....**APPELLANT**

**VERSUS**

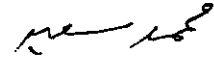
Govt of KPK through Secretary Public Health KPK, Peshawar and others.

.....**RESPONDENTS**

**SERVICE APPEAL**

**AFFIDAVIT**

I, Muhammad Saeed Valveman Water Supply Scheme Cholda Gali Village  
Haryala P.O Phulra Tehsil & District Mansehra, do hereby solemnly  
affirm and declare on oath that the contents of the foregoing Service  
Appeal are correct to the best of my knowledge and belief and nothing  
has been concealed from the honourable Court.



Dated: \_\_\_\_/08/2014

**...DEPONENT**

**BEFORE THE SERVICE TRIBUNAL KPK, PESHAWAR**

Appeal No. \_\_\_\_\_/2014

Muhammad Saeed Valveman Water Supply Scheme Cholda Gali Village  
Haryala P.O Phulra Tehsil & District Mansehra.

.....APPELLANT

**VERSUS**

Govt of KPK through Secretary Public Health KPK, Peshawar and others.

.....RESPONDENTS

**SERVICE APPEAL****CERTIFICATE**

*Certificate that no such Service Appeal has been filed  
before this Honourable Court prior to this.*

Dated: \_\_\_\_/08/2014

.....Appellant

Through

**MUHAMMAD ARSHAD KHAN TANOLI**  
Advocates High Court, Abbottabad.

**BEFORE THE SERVICE TRIBUNAL KPK, PESHAWAR**

Appeal No. \_\_\_\_\_/2014

Muhammad Saeed Valveman Water Supply Scheme Cholda Gali Village  
Haryala P.O Phulra Tehsil & District Mansehra.

.....APPELLANT

**VERSUS**

Govt of KPK through Secretary Public Health KPK, Peshawar and others.

.....RESPONDENTS

**SERVICE APPEAL****LIST OF BOOKS**

1. Constitution of Islamic Republic of Pakistan 1973.
2. Civil Servant Act 1973.
3. Other case law will be cited at Bar.

Dated: \_\_\_\_/08/2014



.....Appellant

Through

  
**MUHAMMAD ARSHAD KHAN TANOLI**  
Advocates High Court, Abbottabad.



**BEFORE THE SERVICE TRIBUNAL KPK, PESHAWAR**

Appeal No. \_\_\_\_\_/2014

Muhammad Saeed Valveman Water Supply Scheme Cholda Gali Village  
Haryala P.O Phulra Tehsil & District Mansehra.

.....APPELLANT

**VERSUS**

Govt of KPK through Secretary Public Health KPK, Peshawar and others.

.....RESPONDENTS

**SERVICE APPEAL****ADDRESSES OF THE PARTIES ARE AS UNDER**

Respectfully Sheweth:-

Muhammad Saeed Valveman Water Supply Scheme Cholda Gali Village  
Haryala P.O Phulra Tehsil & District Mansehra.

.....APPELLANT

**VERSUS**

1. Govt of KPK through Secretary Public Health KPK, Peshawar.
2. Superintendent Engineer, Public Health, Engineering Department, Abbottabad.
3. Executive Engineer, Public Health, Engineering Division, Mansehra.

.....RESPONDENTS

Dated: \_\_\_/08/2014

.....Appellant

Through

  
**MUHAMMAD ARSHAD KHAN TANOLI**  
Advocates High Court, Abbottabad.

10

Annex 'A'



OFFICE OF THE EXECUTIVE ENGINEER,  
PUBLIC HEALTH ENGINEERING DIVISION MANSEHRA.  
[enphicmanshra@gmail.com] Phone & Fax. No. 0997-381246

No. 13 /E-07 Dated Mansehra the 06 / 02 /2014.

To,

Mr. Muhammad Saeed,  
Son of Muhammad Ayub,  
Village Haryala P.O Phulra,  
District Mansehra  
Cell #/ 0333-3565324

Subject:- APPOINTMENT AS VALVEMAN ON WSS "CHOLDA GALI"

In consultation with the Departmental Selection Committee and as well as recommendation during its meeting dated 21<sup>st</sup> January 2014. You are hereby offered a temporary post of Valveman BPS-1 (4800-150-9300) on Water Supply Scheme Cholda Gali Tehsil Mansehra under the following terms & conditions.

1. You will get pay at the minimum of Valveman BPS-1 (4800-150-9300) plus usual allowances as admissible under the rules. You are also entitled to annual increment as per existing policy.
2. Your service will be liable to termination with or without any reason on one month notice from either side. In case of termination without notice by the employer or from the employee one month pay and allowances shall be paid by the Government or refunded by the employee as the case may be.
3. Your appointment will be purely temporary and will not confer on you any right for regular appointment.
4. You will be allowed conveyance, medical, house rent allowance, leave and TA/DA as per Govt. rules.
5. You will have to produce a medical certificate of fitness from Medical Superintendent, DHO Hospital Mansehra before reporting for arrival of duty as required under the rules.
6. You will be initially on a probation of one year extendable upto 2 years.
7. You shall be liable to work/ serve any where within the jurisdiction of District Mansehra.
8. You will have to provide an affidavit to the effect that you are not an employee of any Govt. / Semi Govt. Organization/ institution / Department or any autonomous or semi autonomous bodies during arrival report.
9. You will have to transfer the land covered under the existing Tube Well/ Water woks/ Water tank in favour of PHE Department Mansehra within 2 (Two) months after the issue of said appointment order, failing which this Department would be at liberty to withdraw/ cancel the appointment order without any notice.

ATTESTED

*[Signature]*  
Attested  
*[Signature]*  
By: *[Signature]*

If you are willing to accept the offer on the above terms & conditions, you should report for duty in the office of the Executive Engineer, PHE Division Mansehra within 14 days after the issue of appointment order, failing which the offer shall stand cancelled automatically.

*[Signature]*  
EXECUTIVE ENGINEER,  
PUBLIC HEALTH ENGG. DIVISION  
MANSEHRA.

Copy forwarded to:

1. The Superintending Engineer, PHE Circle Abbottabad for information please.
2. The District Accounts Officer, Mansehra for information please.
3. The Divisional Accounts Officer (Local) for information please.
4. The Sub Divisional Officer PHE Sub Division Mansehra/ Oghi/ Balakot-

ATTESTED

EXECUTIVE ENGINEER,  
PUBLIC HEALTH ENGG. DIVISION

11

Annex "B,"

MEDICAL CERTIFICATE

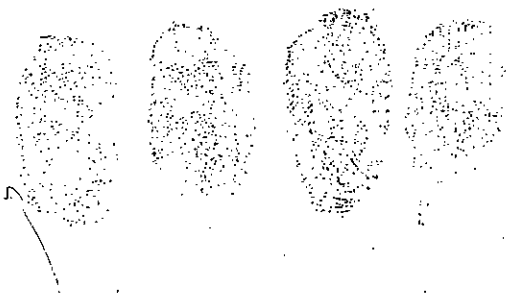
Name of Official Muhammad Saad  
 Father's Name Muhammad Ayub  
 Date of Birth 03-01-1974  
 Caste of Race Tardi  
 Address Vill Hareyala Po. Phalsa  
 Tehsil Mansehra District Mansehra  
 Exact height by measurement 5-6  
 Personal mark of identification A. Scar on L.H. and forefinger  
 National Identity Card No. 40200-8625669-3  
 Signature of Official [Signature]  
 Signature of head of office \_\_\_\_\_

I do hereby certify that I have examined Mr. Muhammad Saad Seal of Office  
 employment in the office of the Public Health Dept.  
 and cannot discover that he had any disease communicable or other constitutional affection  
 or bodily infirmity except all

I do not consider this as disqualification for employment in the office of the  
As above His age according to his own statement  
 is 40 years and by appearance about 40 years.

**ATTESTED**  
[Signature]  
M. Akhmed

Left hand thumb and finger impression.



**ATTESTED**  
 Medical Superintendent,  
 King Abdullah Teaching Hospital,  
 Mansehra. 14/02  
 Medical Superintendent  
 King Abdullah Teaching  
 Hospital Mansehra.



(13)

Annex "D"

سال ۱۳۵۷

ضلع بامیان

فصل

فردا کتب بازار جرئت حقداران زمین موضع بستان

۸	۷	۶	۵	۴	۳	۲	۱
کیفیت	نمایه	نگان	رقبه مکه قسم زمین	نمبرات خسره	نام کاشتکار معده احوال	نام مالک معده احوال (مهر و ثبت)	نمبر کاش نمبر بستان
<p>مهره ... بستان ... مهره ... بستان ... مهره ... بستان ... مهره ... بستان ... مهره ... بستان ...</p>			<p>۱۲-۲۷ مهره ... بستان ...</p>	<p>۴۶۵</p>		<p>مهره ... بستان ... مهره ... بستان ...</p>	<p>۱۳ ۴۶</p>
				<p>رقبه مکه (۲-۵)</p>		<p>۱۳۳۹۷۹ ۱۳۳۶۰۰</p>	<p>ATTESTED Attested <i>[Signature]</i> M. Ahmad Adh</p>
<p>مهره ... بستان ...</p>						<p>ATTESTED</p>	
			<p>۲۶/۱۳ ۲۵/۱۳</p>				

بستان ...

نتیج بیانات احوال در دست است

*[Signature]*

۲۶/۱۳  
۲۵/۱۳

ATTESTED

14

Annex "E"



Office of the Deputy Commissioner  
District Mansehra

DAD, Rythu Bazar, District of Land in favor of the Tehsildar Mansehra

No. D.K/Charsalajal/ 221-22

Dated: 10/2/2014

To

The Naib Tehsildar,  
Mansehra.

Subject: TRANSFER OF LAND IN FAVOR OF PHE DEPARTMENT  
MANSEHRA.

Memo:

Enclosed please find herewith the copy of letter No. 07/E-7  
Dated: 04-02-2014 received from Executive Engineer, Public Health Engineering  
Division Mansehra, on the subject cited above, for further lawful action.

Deputy Commissioner  
Mansehra

ATTESTED

Encl: even No. & Dated:

Copy forwarded to the Executive Engineer, Public Health Engineering  
Division Mansehra, with reference his letter No. quoted above.

Deputy Commissioner  
Mansehra

Attested  
M. Ashraf

V Naib Tehsildar Mansehra

10-2-14

ATTESTED

Handwritten notes and signatures in Urdu, including a large signature at the bottom and various administrative markings.

15



OFFICE OF THE EXECUTIVE ENGINEER,  
PUBLIC HEALTH ENGINEERING DIVISION MANSEHRA.  
Xenphemanshra@gmail.com Phone & Fax. No .0997-381246

No. 07 /E-07 Dated Mansehra the 04 /02 /2014.

To  
The Deputy Commissioner,  
Mansehra.

*(Handwritten initials)*

Subject: - TRANSFER OF LAND IN FAVOUR OF PHE DEPARTMENT  
MANSEHRA.

*DCM*  
*2/2/14*

It is stated that Mr. Muhammad Saeed Son of Muhammad Ayub resident of Village Haryala P.O Phulra Tehsil & District Mansehra have supplied copy of Fard regarding ownership of the land covered under Tube Well/ Water Tank of WSS Cholda Gali

It is requested that actual ownership of the above cited land of Tube Well / Water Tank may please be got verified from ilaqa Patwari & get it transferred in favour of this Department free of cost to proceed further.

*(Signature)*  
EXECUTIVE ENGINEER,  
PUBLIC HEALTH ENGG: DIVISION  
MANSEHRA

ATTESTED

*Attested*

*(Signature)*

*M. Ahmad Advi*

ATTESTED

Annex "F"

16



OFFICE OF THE EXECUTIVE ENGINEER,  
PUBLIC HEALTH ENGINEERING DIVISION MANSEHRA.  
Xenphemansehra@gmail.com Phone & Fax. No .0997-381246

OFFICE ORDER.

The appointment order issued vide this office letter No 13/E-07 dated 06-02-2014 is here-by with drawn.

EXECUTIVE ENGINEER,  
PUBLIC HEALTH ENGG:DIVISION  
MANSEHRA

Endst: No. E-07/12

Dated

Mansehra the

13/03/2014

Copy to:

1. The Superintending Engineer PHE Circle Abbottabad for information please.
2. The District Accounts Officer Mansehra for information please.
3. The Divisional Accounts Officer (Local) for information.
4. The Sub Divisional officer PHE Sub Division Oghi for information.
5. Official Concerned.

*[Handwritten signature]*  
21-4-2014

ATTESTED

*[Handwritten signature]*  
*[Handwritten signature]*  
M. Arshad Adh

EXECUTIVE ENGINEER,  
PUBLIC HEALTH ENGG: DIVISION  
MANSEHRA

ATTESTED



17

Annex "G"

To,

The Superintendent Engineer,  
Public Health, Engineering Department,  
Abbottabad.

**DEPARTMENTAL APPEAL / REPRESENTATION  
AGAINST IMPUGNED WITHDRAWAL ORDER OF  
APPOINTMENT ENDST NO. E-07/12 DATED 13.03.2014  
RECEIVED BY THE APPELLANT ON 21.04.2014**

Sir,

With due respect, the appellant submits as under:

1. That the appellant is resident of village Haryala P/O Phulra District Mansehra. That the Officers of Public Health Department constructed water tank for water supply scheme Cholda Gali Tehsil & District Mansehra.
2. That, before constructing the water tank of the said scheme, Public Health Department Mansehra, promised with the appellant that he would be appointed as valveman in BPS-I, on water supply scheme at Cholda Gali District Mansehra, if the appellant permits to construct water tank in his land bearing Khasra No.265 situated in Moza Batangi District Mansehra.
3. That, on assurance of appointment against the post of Class IV to the appellant by the department, the appellant accepted the offer and promised to transfer the required land in lieu of job.
4. That on completion of the said scheme, the appellant made the scheme operational on the verbal instruction of the department free of cost near about two years. Hence, the appellant was appointed as valveman on the recommendation of Departmental Selection Committee on water supply scheme Cholda Gali District Mansehra vide appointment order No. 13/E-07 dated 06.02.2014.
5. That after getting the appointment letter, the appellant got himself medically checked and found fit vide Medical

ATTESTED

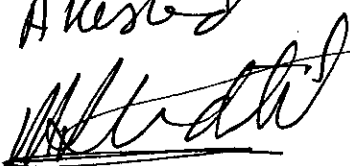
Attested  
M. J. H. Adh

ATTESTED

Certificate dated 14.02.2014 and thereafter, on the same day took over the charge for the post of valveman. Photocopy of appointment order dated 06.02.2014, Medical Certificate dated 14.02.2014 and Charge Report dated 14.02.2014 are attached.

- 6. That during this period, on the instruction of Executive Engineer Public Health Engineering Division Mansehra got the required land transferred in favour of Public Health Engineering Division Mansehra vide mutation No.242 dated 07.03.2014 which is yet to be attested by the Revenue Authority. Copy of record of rights of Moza Batangi bearing mutation No.242 in favour of Public Health Division, Executive Engineer Public Health Engg Division Mansehra dated 04.02.2014 and Deputy Commissioner letter dated 10.02.2014 are attached.
- 7. That the appellant is serving on the said scheme as valveman with complete devotion and dedication. That the appellant visited the office of Executive Engineer Mansehra on 21.04.2014 and found that his appointment order dated 06.02.2014 was withdrawn vide impugned order Endst No.E-02/12 dated 13.03.2014 and the appellant received the impugned withdrawal order dated 13.03.2014 on 21.04.2014. Hence, the impugned order is illegal, against the law, without issuing show cause notice, explanation and is without reasons and justification. Hence, the said order is liable to be set aside.
- 8. That the impugned withdrawal order dated 13.03.2014 is non speaking order without any reason as well as without any fault of the appellant. Hence, the same is not maintainable at law.
- 9. That the impugned withdrawal order is as a result of political pressure of local MPAs on the competent authority and the competent authority i.e. Executive Engineer Public Health Engineering Division is going to appoint some other blue eyed chap in lieu of the appellant purely under the

ATTESTED

Attested  
  
 M. B. D. Advi

ATTESTED

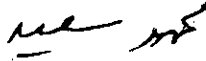
19

pressure of local MPAs. Therefore, the impugned withdrawal of appointment order of the appellant is discriminatory and liable to be set aside. Copies of some newspapers on the same subject are attached.

In view of the above it is humbly prayed that the instant departmental appeal of the appellant may be accepted and impugned withdrawal appointment order of the appellant may be set aside and restore appointment order of the appellant dated 06.02.2014 and obliged.

The instant appeal is dispatched to your office through Registered AD.

Date: 26.04.2014

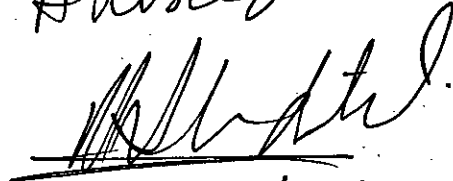


Muhammad Saeed  
Valveman water supply scheme Cholda Gali  
Village Haryala P/O Phulra  
District Mansehra

Dispatched on  
29-4-2014

ATTESTED

Attested



M. Anwar Advi

ATTESTED

20

Annex 'H'

No. 341

For Insurance Notices see reverse. Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgement is due.

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*Sudatt Engineer*



Initials of Receiving Officer

\*Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before it when necessary.

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ATTESTED

*[Signature]*

*[Signature]*

ATTESTED

NOTICE (1) — The Post Office is not responsible for loss or damage in the case of Inland registered articles, unless they are also insured.

(2) — The special conditions and restrictions as to insurance which will be found in the current edition of the Post Office Guide are binding upon every sender of an insured postal article by virtue of rules prescribed under the Pakistan Post Office Act, 1898.

*Admitted*  
*M. Anwar*  
*M. Anwar*

1970/71

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**BEFORE THE HONOURABLE SERVICE TRIBUNAL, KHYBER  
PAKHTUNKHWA, PESHAWAR AT CAMP COURT ABBOTTABAD**

SERVICE APPEAL NO. 1032/2014


MUHAMMAD SAEED.....APPELLANT

VERSUS

GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH SECRETARY PHE &  
OTHERS.....RESPONDENTS

**INDEX**

S#	Description	Annexure	Page#
1	Reply of Comments	-----	2 to 6
2	Affidavit	-----	7
3	Withdrawal Order	A	8
4	PC IV for Sanction of another Post on the same scheme	B	9
5	<i>Appointment order of Shafiqe</i>	C	10

  
SHOUKAT REHMAN  
EXECUTIVE ENGINEER  
PUBLIC HEALTH ENGG. DIVISION  
MANSEHRA

**BEFORE THE HONOURABLE SERVICE TRIBUNAL, KHYBER  
PAKHTUNKHWA, PESHAWAR AT CAMP COURT ABBOTTABAD**

**SERVICE APPEAL NO.1032/2014**

**MUHAMMAD SAEED.....APPELLANT**

**VERSUS**

**GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH SECRETARY PHE &  
OTHERS.....RESPONDENTS**

**RESPECTFULLY SHEWETH.**

**PARA WISE COMMENTS ON BEHALF OF RESPONDENTS**

**PRELIMINARY OBJECTIONS.**

1. The Appellant has got no cause of action to file the instant service Appeal.
2. That the appellant has no locus standi to file the present appeal.
3. Respondent No.3 has submitted a new PC-IV for SNE (Schedule of New Expenditure) (Annex- B) for a new post sanction for new water tank on water supply scheme Cholda Gali, but its sanction is awaited. After sanction of post, appellant will be considered for the appointment as a Valveman on water supply scheme Cholda Gali.
4. That the appeal is liable to be dismissed due to miss joiner of necessary parties.
5. That the appellant has suppressed the original facts from this honorable tribunal hence not entitled for any relief and appeal is liable to be dismissed without further proceedings.

6. That the appeal is time barred, hence liable to be dismissed.
7. That the respondent No. 3 came to know that another candidate has allotted his land for older water tank, for same water supply scheme and he was also in waiting for appointment as a Valveman, so respondent No.3 withdraw the appointment order dated- 06-02-2014 on 13-03-2014 vide office order No. E-07/2 (Annex-A) and appointed another candidate namely Shafique Muhammad who was in waiting. (Annex-C, appointment order of Shafique Muhammad).



**FACTS.**

1. Para no.1 is Correct and need no comments.
2. That prior to the construction of water tank, respondents department did not make any commitment with appellants for appointment as Valveman on Water Supply Scheme Cholda Gali, Tehsil & District Mansehra. On the provision of land by appellants for water tank, department selection committee just give preference to the appellants among other candidates, for vacant post of Valveman on water supply scheme Cholda Gali, according to rules and regulations.
3. Para no.3 is also Correct and need no comments.
4. Para no.4 is correct, that appellants took over the charge of his post after getting Medical Certificate from nominated Medical Authorities.
5. Para no. (5) is incorrect. Respondent no.3/ Department did not give verbal instruction to appellants for operating water supply scheme Cholda Gali for about two years free of cost. Appellants wilfully transferred the required land in favour of Public Health Engineering Division, Mansehra free of cost vide mutation No. 242 dated 07-03-2014, after the conduction of interview/selection with mala fide intentions, which is yet to be attested by Revenue Authority.
6. In reply of para No. 6 it is hereby submitted, that respondent No.3 withdrew appointment order of the appellants dated 13-03-2014 by withdrawal order No. E-07/12 (Annex-A) when respondent No.3 came to know that another candidate has allotted his land, for older water tank, and the post was sanctioned for old water tank, for water supply scheme Cholda Gali, and he was also on waiting list for appointment as a Valveman on same water supply scheme, so respondent No.3 withdraw appointment order dated 13-03-2014 by withdrawal order No. E-07/12 (Annex- A) of appellants as a Valveman and appointed another candidate who was on waiting.

7. Para needs no comments.
8. Para also needs proof. Respondent No. 3 has submitted PC-IV (Annex- B) for sanction of a new post of Valveman on new water tank, still its sanction is awaited. After sanction of post, appellant will be considered for the appointment as a Valveman on new water tank, for water supply scheme Cholda Gali.

**GROUND.**

- A) In Correct hence denied in fact, when respondent No.3 came to know that another candidate has allotted his land, for older water tank, for water supply scheme Cholda Gali, and he was also on waiting<sup>g</sup> list for appointment as a Valveman, so respondent No.3 withdraw appointment order dated 06-02-2014 by withdrawal order No. E-07/12 dated 13-03-2014 (Annex- A) of appellant as a Walveman and appointed another candidate who was on waiting.
  - B. The reply has been given in above para hence denied.
  - C. Respondent No. 3 issued withdrawal order in the best interest of public.
  - D. Complete reply has been given in above para.
  - E. In Correct hence denied further stated that respondent No.3 has submitted PC-IV (Annex B) for sanction of a new post of Valveman on new water tank, after sanction of post, appellant will be considered for appointment as a Valveman on water supply scheme Cholda Gali.
  - F. In Correct hence denied complete reply has been given in above paras.
9. Para No. 9 is legal treated as per law.

It is therefore, graciously prayed that the instant Appeal No. 1032/2014 may very kindly be dismissed.

*Muhammad*

Respondent 3. \_\_\_\_\_  
EXECUTIVE ENGINEER  
PUBLIC HEALTH ENGINEERING,  
DIVISION MANSEHRA.

*Vetted subject  
In connection, Attachment  
of Annexures other relevant  
received, and Affidavit  
19/12/2016*

**BEFORE THE HONOURABLE SERVICE TRIBUNAL, KHYBER  
PAKHTUNKHWA, PESHAWAR AT CAMP COURT ABBOTTABAD**

APPEAL NO. 1032/2014

MUHAMMAD SAEED .....APPELLANT

VERSUS

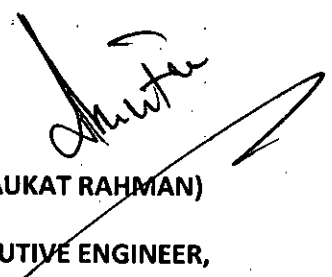
GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH SECRETARY PHE &  
OTHERS.....RESPONDENTS

**Joint Comments on Behalf of Respondents**

**AFFIDAVIT**

I, Shaukat Rahman, Executive Engineer, Public Health Engg: Division Mansehra, do hereby solemnly affirms and declare that the contents of forgoing comments are true and correct according to the best of my knowledge and belief, and nothing has been suppressed from this Honorable Service Tribunal.

**DEPONENT**



(SHAUKAT RAHMAN)

EXECUTIVE ENGINEER,

PUBLIC HEALTH ENGG: DIVISION,

MANSEHRA

Dated: \_\_\_\_\_/2016.

Annex "A"

08



OFFICE OF THE EXECUTIVE ENGINEER,  
PUBLIC HEALTH ENGINEERING DIVISION MANSEHRA.  
Xenphemansehra@gmail.com Phone & Fax: No .0997-381246

OFFICE ORDER.

The appointment order issued vide this office letter No 13/E-07 dated 06-02-2014 is hereby withdrawn.

EXECUTIVE ENGINEER,  
PUBLIC HEALTH ENGG: DIVISION  
MANSEHRA

Endst: No. E-07/12

Dated Mansehra the 13/03/2014

Copy to:

1. The Superintending Engineer PHE Circle Abbottabad for information please.
2. The District Accounts Officer Mansehra for information please.
3. The Divisional Accounts Officer (Local) for information.
4. The Sub Divisional officer PHE Sub Division Oghi for information.
5. Official Concerned.

*[Handwritten initials]*  
21-4-2014

*[Signature]*  
EXECUTIVE ENGINEER,  
PUBLIC HEALTH ENGG: DIVISION  
MANSEHRA



ANNEX - B P-09

**OFFICE OF THE EXECUTIVE ENGINEER**  
**PUBLIC HEALTH ENGINEERING DIVISION MANSEHRA.**  
*Xenphemanshehra@gmail.com Phone & Fax. No.0997-381246-0997 303299*

No. 101AC-19 Dated Mansehra the 28/03 /2016.

To,

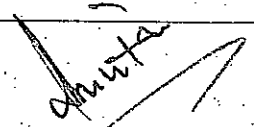
The Chief Engineer (North),  
Public Health Engg: Department,  
Govt: of Khyber Pakhtunkhwa,  
Peshawar.

Subject: - **PC-IV ALONG WITH EXPLANATION MEMO/ DETAIL JUSTIFICATION  
IN CASE OF ADDITIONAL POST.**


Reference: Your office letter No. 11/B-6/PHE (N) dated 27-10-2015.

Enclosed please find herewith PC-IV of following Water Supply Schemes after necessary clarification for favour of further necessary action please.

S.No	Name of Water Supply Scheme	Status of Scheme old/New
1	WSS Rannia Bhatti	New
2	WSS Braddar Jokan	Old
3	WSS Seri Menjihani	New
4	WSS Lassan Nawab	New
5	Reh: of E/Q Cholda Gali	Old
6	WSS Dharra Haji Qamar	Old

  
**EXECUTIVE ENGINEER,  
PUBLIC HEALTH ENGG: DIVISION  
MANSEHRA**

✓  
Copy to Sub Divisional Officer, PHE Sub Division Oghi for information w/r to his letter No. 01/AC-6 dated 16-03-2016.

  
**EXECUTIVE ENGINEER,  
PUBLIC HEALTH ENGG: DIVISION  
MANSEHRA**



OFFICE OF THE EXECUTIVE ENGINEER,  
PUBLIC HEALTH ENGINEERING DIVISION MANSEHRA

Xenph@manshra@gmail.com Phone & Fax No. 0997-381246-303299

ANNEX-C

P.N. = 10

No. 01 /E-07 Dated 21 / 04 /2015.  
To,

Mr. Shafique Muhammad,  
Son of Noor Khan,  
Village Kamar Mari,  
P.O Madserian,  
Tehsil & District Mansehra  
Cell # 03442470299

Subject:- APPOINTMENT AS VALVEMAN ON WSS "CHOLDA GALI"

In consultation with the Departmental Selection Committee and as well as recommendation during its meeting dated 9<sup>th</sup> April 2015. You are hereby offered a temporary post of Valveman BPS-1 (4800-150-9300) on Water Supply Scheme Cholda Gali Tehsil Mansehra under the following terms & conditions.

1. You will get pay at the minimum of Valveman BPS-1 (4800-150-9300) plus usual allowances as admissible under the rules. You are also entitled to annual increment as per existing policy.
2. Your service will be liable to termination with or without any reason on one month notice from either side. In case of termination without notice by the employer or from the employee one month pay and allowances shall be paid by the Government or refunded by the employee as the case may be.
3. Your appointment will be purely temporary and will not confer on you any right for regular appointment.
4. You will be allowed conveyance, medical, house rent allowance, leave and TA/DA as per Govt. rules.
5. You will have to produce a medical certificate of fitness from Medical Superintendent, DHQ Hospital Mansehra before reporting for arrival of duty as required under the rules.
6. You will be initially on a probation of one year extendable upto 2 years.
7. You shall be liable to work/ serve any where within the jurisdiction of District Mansehra.
8. You will have to provide an affidavit to the effect that you are not an employee of any any Govt. / Semi Govt. Organization/ institution / Department or any autonomous or semi autonomous bodies during arrival report.
9. Matriculation Certificate duly attested by Gazetted Officer, should also be supplied to this office at the time of arrival report.

If you are willing to accept the offer on the above terms & conditions, you should report for duty in the office of the Executive Engineer, PHE Division Mansehra within 14 days after the issue of appointment order, failing which the offer shall stand cancelled automatically.

  
EXECUTIVE ENGINEER,  
PUBLIC HEALTH ENGG: DIVISION  
MANSEHRA.

Copy forwarded to:

1. The Superintending Engineer, PHE Circle Abbottabad for information please

51

**BEFORE THE HONOURABLE SERVICE TRIBUNAL, KHYBER  
PAKHTUNKHWA, PESHAWAR AT CAMP COURT ABBOTTABAD**

Appeal No. 1032/2014

Muhammad Saeed.

....APPELLANT

**VERSUS**

Government of Khyber Pakhtunkhwa through Secretary PHE & others.

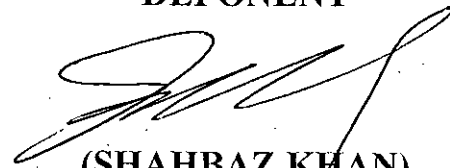
....RESPONDENTS

**AFFIDAVIT**

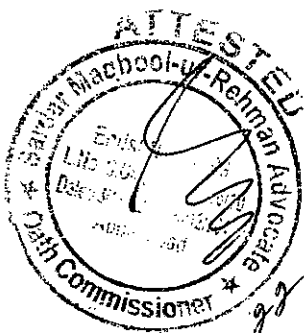
I, Shahbaz Khan Assistant Social organizer, BPS-16, Public Health Division Mansehra, do hereby solemnly affirm and declare that comments/ reply in appeal of Muhammad Saeed V/s Govt. KPK Appeal No. 1032/2014 submitted in Service Tribunal.

Secretary, Public Health Engineering Department and Superintendent Engineer Circle Abbottabad Public Health Engineering Department rely on submitted comments/ reply.

**DEPONENT**



(SHAHBAZ KHAN)  
Assistant Social Organizer, BPS-16  
Public Health Division Mansehra





لہذا یہ سہولتیں فراہم کی جائیں گی

میں نے

میں نے

میں نے 2000ء

میں نے 2000ء

میں نے 2000ء

میں نے 2000ء

میں نے 2000ء

Attested  
22/12/18

میں نے 2000ء

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 2135/ST

Dated 22/10/2018

To


The Executive Engineer PHE Division,  
Government of Khyber Pakhtunkhwa,  
Mansehra,

Subject: -

JUDGMENT IN APPEAL NO. 1032/2014, MR. MUHAMMAD SAEED.

I am directed to forward herewith a certified copy of Judgement dated 17.10.2018 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.

کورت فیس  
قیمتی

وکالت نامہ

Before the Service Tribunal KPK Peshawar بعدالت

مohammad Saad نام Govt of KPK عنوان:

Appellant منجانب:

Service Appeal نوعیت مقدمہ:

باعث تحریر آنکہ

مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی و جواب دہی کل کاروائی متعلقہ آل مقام

Adv. Mohammad Arshad Khan Tanzeel Advocate

کو وکیل مقرر کر کے اقرار کرتا ہوں کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا نیز وکیل صاحب

موصوف کو کرنے راضی نامہ و تقرر ثالث و فیصلہ بر حلف و دینے اقبال دعویٰ اور بصورت دیگر ڈگری کرانے اجراء

وصولی چیک روپیہ و عرضی دعویٰ کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور

کی کل یا کسی جزوی کاروائی کے لئے کسی اور وکیل یا مختار صاحب قانونی کو اپنے ہمراہ اپنی بجائے تقرر کا اختیار

بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا ساختہ پرداختہ مجھ کو منظور و قبول

ہوگا۔ دوران مقدمہ جو خرچ و ہرجانہ التوائے مقدمہ کے سبب ہوگا اس کے مستحق وکیل صاحب ہوں گے۔

نیز بقایا رقم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب موصوف

پابند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اور اگر مختار مقرر کردہ میں کوئی جزو بقایا ہو تو وکیل صاحب موصوف

مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست برآمد استجارت نالش بصیغہ مفلسی کے دائرہ کرنے اور اس کی

پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔

لہذا وکالت نامہ تحریر کر دیا تاکہ سند رہے۔

المترقوم: 29/05/15

بمقام: Abbottabad

Accepted

Mohammad Arshad Khan Tanzeel Advocate  
High court Abbottabad

10

Before the Senate Judiciary Committee  
House of Representatives  
Appointed  
James H. ...

His Honor the ...  
...  
...

Appointed

2021

Accepted

...  
...

بعدالت حسب الترتیب  
 عنوان: عدالت عالیہ لاہور  
 منجانب: Petitioner  
 نوعیت مقدمہ: Grant of Pension

باعث تحریر آنکہ

مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی وجواب دہی کل کاروائی متعلقہ آس مقام  
 محترمہ خانہ تنویری / سردار محمد آصف / باس نمبر 10/10/10  
 کو وکیل مقرر کر کے اقرار کرتا ہوں کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کمال اختیار ہوگا نیز وکیل صاحب  
 موصوف کو کرنے راضی نامہ و تقرر ثالث و فیصلہ بر حلف و دینے اقبال دعویٰ اور بصورت دیگر ڈگری کرانے اجراء  
 وصولی چیک روپیہ و عرضی دعویٰ کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور  
 کی کل یا کسی جزوی کاروائی کے لئے کسی اور وکیل یا مختار صاحب قانونی کو اپنے ہمراہ اپنی بجائے تقرر کا اختیار  
 بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا ساختہ پرداختہ مجھ کو منظور قبول  
 ہوگا۔ دوران مقدمہ جو خرچ و ہرجانہ التوائے مقدمہ کے سبب ہوگا اس کے مستحق وکیل صاحب ہوں گے۔  
 نیز بقایا رقم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب موصوف  
 پابند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اور اگر مختار مقرر کردہ میں کوئی جزو بقایا ہو تو وکیل صاحب موصوف  
 مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست براد استجارت ناش بصیغہ مفلسی کے دائرہ کرنے اور اس کی  
 پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔

لہذا وکالت نامہ تحریر کر دیا تاکہ سند رہے۔  
 المقوم: [Signature]  
 بمقام: [Signature]

Certified to be True Copy

Peshawar District Court  
 Authority: [Signature]  
 06/07/17

بعدالت حساب سے روسی کے ایکشنز کے لیے

عنوان: محمد ناصر بنام حکومت و غیرہ

منجانب: Appellant

نوعیت مقدمہ: se-instatement in service

باعث تحریر آئندہ

مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی و جواب دہی کل کارروائی متعلقہ آں مقام  
محمد اسد خان تئوں اور وکیل صاحب کی طرف

کو وکیل مقرر کر کے اقرار کرتا ہوں کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا نیز وکیل صاحب  
موصوف کو کرنے راضی نامہ و تقرر ثالث و فیصلہ برحلف و دینے اقبال دعویٰ اور بصورت دیگر ڈگری کرانے اجراء  
وصولی چیک روپیہ و عرضی دعویٰ کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور  
کی کل یا کسی جزوی کارروائی کے لئے کسی اور وکیل یا مختار صاحب قانونی کو اپنے ہمراہ اپنی بجائے تقرر کا اختیار  
بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا ساختہ پر داختم مجھ کو منظور و قبول  
ہوگا۔ دوران مقدمہ جو خرچ و ہرجانہ التوائے مقدمہ کے سبب ہوگا اس کے مستحق وکیل صاحب ہوں گے۔  
نیز بقایا رقم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب موصوف  
پابند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اور اگر مختار مقرر کردہ میں کوئی جز و بقایا ہو تو وکیل صاحب موصوف  
مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست بمراد استجارت نالش بصیغہ مفلسی کے دائرہ کرنے اور اس کی  
پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔

لہذا وکالت نامہ تحریر کر دیا تاکہ سند رہے۔

Accepted

المرقوم:

بمقام:

M. Arshad Khan  
Adv

خدمت جناب چیئر مین اسوں لہا ہونسل ۱۹۶۶

درخواست مراد Early hearing  
مقدمہ ایسٹیشن عنوان <sup>سید</sup>  
بنام سکریٹری بینک بیلوہ سندھ

put up  
with  
file.  
Al

2/10/14

جناب کی درخواست ذیل ہے۔

Al

۱۔ کہ مقدمہ عنوان زیر سماعت عدالت ہذا ہے جو کہ ۱۲ اگست

۱۹۶۴ کو دائر ہو کر آئندہ تاریخ ۱۶<sup>2</sup>/<sub>2015</sub> کے لئے ابتدائی

۱۵/۱۰/۱۴ سماعت کیجیے گا اور اسے آباد فقہر دیوٹی پر بھیج دیا جائے۔

۲۔ یہ کہ سال کی حکمہ املا علیہم نے طینہ قانونی طور پر طرف

آیا ہے۔ اس کے لئے اپنی اپیل میں interim relief بھی طلب کیا ہے۔

۳۔ یہ کہ اس کی درخواست کو منکر و مرناتہ ہوئے ایسٹیشن عنوان  
Early بنا جاوے۔

المرقوم

محمد سعید

محمد سعید ولد محمد ایوب  
ڈاکٹر فاضل  
گورنمنٹ ہائی اسکول  
ایسٹیشن