

05<sup>th</sup> July, 2022

Clerk of the counsel present. Mr. Kabir Ullah Khattak, Additional AG alongwith Tayyab Gul Superintendent for respondents present.

Respondents have not submitted written reply/comments. Learned AAG seeks time for submission of written reply/comments. Request is accepted. To come up for written reply/comments on 05.09.2022 before S.B.

9

**(Kalim Arshad Khan)**  
**Chairman**

05.09.2022

Junior to counsel for appellant present.

Kabir Ullah Khattak, learned Additional Advocate General alongwith Tayyab Gul Superintendent for respondents present.

Reply on behalf of respondents was not submitted. Representative of respondents requested for time to submit reply/comments. Last chance is given. To come up for reply/comments on 08.11.2022 before S.B.



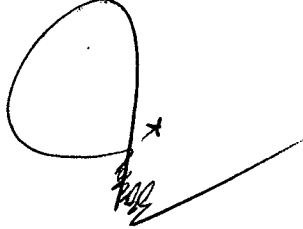
**(Rozina Rehman)**  
**Member(J)**

19.04.2022

Learned counsel for the appellant present. Preliminary arguments heard.

Learned counsel for the appellant contended that the appellant being an Engineer in the respondent-department and otherwise also performing the job as Technical Officer, is being denied the Technical Allowance already allowed to other Technical officers/Engineers in other Technical departments under the provincial cabinet decision dated 24.05.2018. The benefits of notification dated 19.10.2018 are not being extended to the appellant. After having not decided his departmental appeal, he sought remedy through writ petition which was decided on 12.02.2020 with the directions to the respondent/department to decide his departmental appeal pending over there, within a shortest possible time. He also instituted COC when his departmental appeal was not decided. It was during pendency of the COC proceedings that departmental appeal was decided vide office order dated 29.07.2020 and regretted to allow the said Technical Allowance to the appellant. It was further contended that since the said office order was produced in the court and received to the appellant on 30<sup>th</sup> November 2021, hence the instant service appeal on 30.11.2021 which is well within time.

The appeal is admitted to regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to respondents for submission of reply/comments. To come up for reply/comments on 05.07.2022 before S.B.

  
(Mian Muhammad)  
Member(E)

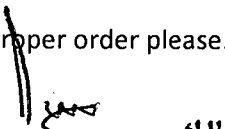


*Rs-600/-*  
*Appellant Deposited*  
*Security & Process Fee*  
*A. M. J. / 25/4/22*

Form- A

FORM OF ORDER SHEET

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

Case No.- \_\_\_\_\_ 7856/2021 \_\_\_\_\_


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	09/12/2021	<p>The appeal of Mr. Shaheen Iqbal resubmitted today by Mr. Muhammad Ayub Khan Shinwari Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-		<p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put there on <u>07/02/22</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	07.02.2022	<p>Due to retirement of the Hon'able Chairman, the case is adjourned to 19.04.2022 before S.B for the same.</p> <p style="text-align: right;"> Reader</p>

The appeal of Mr. Shaheen Iqbal Water Management Officer Office of District Director On Farm Water Management Department Peshawar received today i.e. on 30.11.2021 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

Copies of Writ Petition an C.O.C in respect of appellatant mentioned in the memo of appeal are not attached with the appeal which may be placed on it.

No. 2357 /S.T,

Dt. 01/12 /2021

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Muhammad Ayub Khan Shinwari Adv.

Re-submitted plz.

S. M. I.  
9/12/21

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

**CHECK LIST**

1.	Case Title	..... <u>کورٹ وارنٹ</u> ..... VERSUS ..... <u>نہالہ بیگم</u> .....
2.	Case is duly signed.	Yes <input checked="" type="checkbox"/> No
3.	The law under which the case is preferred has been mentioned.	Yes <input checked="" type="checkbox"/> No
4.	Approved file cover is used.	Yes <input checked="" type="checkbox"/> No
5.	Affidavit is duly attested and appended.	Yes <input checked="" type="checkbox"/> No
6.	Case and annexures are properly paged and numbered according to index.	Yes <input checked="" type="checkbox"/> No
7.	Copies of annexures are legible and attested. If not, then better copies duly attested have annexed.	Yes <input checked="" type="checkbox"/> No
8.	Certified copies of all requisite documents have been filed.	Yes <input checked="" type="checkbox"/> No
9.	Certificate specifying that no case on similar grounds was earlier submitted in this court, filed.	Yes <input checked="" type="checkbox"/> No
10.	Case is within time.	Yes <input checked="" type="checkbox"/> No
11.	The value for the purpose of court fee and jurisdiction has been mentioned in the relevant column.	Yes <input checked="" type="checkbox"/> No
12.	Court fee in shape of stamp paper is affixed. [For writ Rs. 500, for other as required]	Yes <input checked="" type="checkbox"/> No
13.	Power of attorney is in proper form.	Yes <input checked="" type="checkbox"/> No
14.	Memo of addressed filed.	Yes <input checked="" type="checkbox"/> No
15.	List of books mentioned in the petition.	Yes <input checked="" type="checkbox"/> No
16.	The requisite number of spare copies attached [Writ petition-3, civil appeal (SB-2) Civil Revision (SB-1, DB-2)]	Yes <input checked="" type="checkbox"/> No
17.	Case (Revision/ Appeal/petition etc) is filed on a prescribed form.	Yes <input checked="" type="checkbox"/> No
18.	Power of attorney is attested by jail authority (for jail prisoner only).	Yes <input checked="" type="checkbox"/> No

It is certified that formalities/documentations as required in column 2 to 18 above, have been fulfilled.

Name: محمد الیاس خان سوارا  
Signature:- [Signature]  
Dated:- \_\_\_\_\_

**FOR OFFICE USE ONLY**

Case:- \_\_\_\_\_  
Case received on \_\_\_\_\_  
Complete in all respect: Yes/ No, (If No, the grounds) \_\_\_\_\_  
Date in court:- \_\_\_\_\_

Signature \_\_\_\_\_  
(Reader)

Date:- \_\_\_\_\_

Countersigned:- \_\_\_\_\_  
(Deputy Registrar)

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

Service Appeal No. 7856 /2021

Shaheen Iqbal

..... Appellant

Versus

Chief Secretary and others

..... Respondents

**I N D E X**

S.No	Description of Documents	Dated	Annex ure	Pages
1.	Service Appeal - <i>AFFIDAVIT</i>			<i>1-5</i>
2.	Copy of PEC registration Certificate		A	<i>6</i>
3.	Copy of decision of meeting of the Provincial Cabinet dated 24.05.2018	05.06.18	B	<i>7</i>
4.	Copy of the decision of meeting of Provincial Cabinet	18.10.18	C	<i>8-9</i>
5.	Copy of IMPUGNED Notification	19.10.18	D	<i>10</i>
6.	Copy of Notification	07.07.21	E	<i>11</i>
7.	Copy of letter	16.07.21	F	<i>12</i>
8.	Copy of letter	19.11.21	G	<i>13</i>
9.	Copy of the Departmental Appeal		H	<i>14</i>
10.	Copy of judgment and order		I	<i>15-26</i>
11.	Copy of impugned order		J	<i>27-28</i>
				<i>29</i>

Through

*Appellant*

**Muhammad Ayub Khan Shinwari**  
LL.B; LL.M

Supreme Court of Pakistan.

Chamber: 7-A, Haroon Mansion, Khyber

Bazar, Peshawar.

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 7856 /2021

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 7950

Dated 30/11/2021

Shaheen Iqbal,  
Water Management Officer,  
Officer of District Director,  
On Farm Water Management Department, Director, Peshawar.

..... Appellant

Versus

1. Chief Secretary of Govt. of Khyber Pakhtunkhwa, Peshawar
2. Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department, Peshawar.
3. Secretary to Govt. of Khyber Pakhtunkhwa, Agriculture, Livestock and Cooperation Deptt, Govt. of Khyber Pakhtunkhwa, Peshawar.
4. Director General, Agriculture, Livestock and Cooperation Deptt, Govt. of Khyber Pakhtunkhwa, Peshawar.

..... Respondents

Service Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against office order dated 27.07.2020 whereby the Departmental Appeal of the appellant against the Notification dated 19.10.2018 is dismissed.

Filed to-day  
Registrar  
30/11/2021

Respectfully Sheweth:

Brief but relevant facts of the case are as follows:

1. That the Appellant is duly qualified engineer registered with Pakistan Engineering Council and is serving in the respondent Department against the post mentioned in the title of the petition. (Copy of PEC registration Certificate is filed herewith and annexed as Annex-A).
2. That the provincial cabinet in its meeting held on 24.05.2018 decided and approved the grant of technical allowance @ 1.5 times of the initial basic pay scale to all the engineers working in provincial government Departments

Re-submitted to-day  
and filed.

Registrar  
9/12/2021

with effect from 1<sup>st</sup> July, 2018. **(Copy of decision of meeting of the Provincial Cabinet dated 24.05.2018 is filed herewith and annexed as Annex-B).**

3. That thereafter another meeting of the provincial cabinet was held on 15.10.2018 wherein it clarified the status of earlier cabinet decision regarding authorization of Technical Allowance to the Engineers of Provincial Government Departments and it was decided that the decision of the provincial Cabinet be implemented in letter and spirit. **(Copy of the decision of meeting of Provincial Cabinet dated 15.10.2018 is filed herewith and annexed as Annex-C).**
4. That in the light of aforesaid developments, the Appellant was under legitimate expectancy that he will be granted the benefits of the aforesaid decision of provincial cabinet but to the utter surprise of the Appellant, the benefit of the aforesaid provincial cabinet decision is given only to the engineers holding Engineering qualification serving in the C & W Department, Irrigation, Public Health Engineering and Local Government Department of Government of Khyber Pakhtunkhwa and the Appellant is deprived from its benefits. **(Copy of Notification is filed herewith and annexed as Annex-D).**
5. That it is pertinent to mention here that the respondents have extended the benefit of the Notification dated 19.10.2018 to the similarly placed colleagues/engineers of the appellant serving in Local Govt. & Mines & Minerals, vide Notification dated 07.07.2021. Furthermore the respondent No. 4 has requested the respondent No. 3 to extend the benefits of the Notification 19.10.2018 to the appellant vide letter dated 16.07.2021 and 19.11.2021. **(Copy of Notification is filed herewith and annexed as Annex. E, F & G).**
6. That the Appellant had time and again approached the respondents for redressal of his grievance but in vain. **(Copy of the Departmental Appeal is filed herewith and annexed as Annexed as Annex-H).**
7. That thereafter the appellant filed writ petition No. 681-P/2018 before the Honourable Peshawar High Court, Peshawar were directed to decide the departmental appeal of the appellant pending with the respondents. Despite the aforesaid judgment, the respondents were reluctant to pass final order on the departmental appeal of the appellant, thus the appellant filed C.o.C no. 448-P/2020 before the Peshawar High Court, wherein on the date of hearing, the respondents produced the impugned order dated 29.07.2020 whereby the departmental Appeal of the appellant is dismissed. The copy of the impugned order was produced in the hearing before the Honourable Peshawar High Court on the date of hearing i.e. 12.10.2021, whereas the attested copy of the said order is obtained by the appellant on 3011/2021. **(Copy of judgment and order passed by Honorable Peshawar High Court, Peshawar and impugned order is filed herewith and annexed as annex-I & J, respectively)**

Hence, the title Service Appeal on the following amongst other grounds:



**GROUND**

- A. That the impugned Notification dated 19.10.2018 and impugned order date 29.07.2020 is against the law, illegal, unlawful and without lawful authority, thus calling int4erfernce of this Honorable Tribunal.
- B. That the extension of benefits of technical allowance to the engineers serving in few departments and leaving the similarly placed employees of other departments, is ex-facie discriminatory and, therefore, violative of Article 3 and 25 of the Constitution of Islamic Republic of Pakistan, 1973 besides offensive to the principle of "equal pay equal work". The respondents cannot treat the similarly placed persons with different yard stick so far as pay and allowances are concerned.
- C. That the impugned Notification and impugned order is against the fundamental rights of the Appellant enshrined and protected under the Constitution of Islamic Republic of Pakistan, 1973.
- D. That the impugned Notification and impugned order is against the spirit of rule 25 of Government Rules of Business.
- E. That the impugned Notification and impugned order is issued in utter disregard of the decision of the Provincial cabinet. The provincial cabinet in its meeting held on 15.10.2018 clarified the status of earlier cabinet decision regarding authorization of Technical Allowance to the Engineers of Provincial Government Departments and it was decided that the decision of the Provincial Cabinet be implemented in letter and spirit.
- F. That the impugned Notification is against the dictums of the apex Supreme Court of Pakistan and also against the judgments of this Honourable Court.
- G. That the Appellant crave permission of this Honorable Tribunal to reply on other grounds at the time of arguments and produce any additional documents if required in support of instant petition.

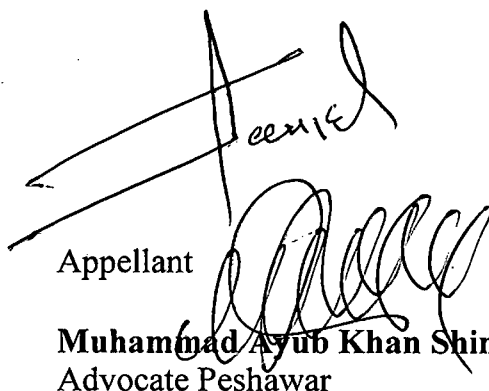
It is, therefore, prayed that on acceptance of this Appeal, this Honorable Tribunal may kindly:

- a. Declare the impugned order 29.07.2020 whereby the appeal of the appellant against the Notification dated 19.10.2018 is dismissed as against the law, illegal, unlawful and without lawful authority; and
- b. Declare the discriminatory implementation of the Provincial Cabinet Decisions dated 24.05.2018 and 15.10.2018 by the respondents as illegal,

unlawful, without lawful authority and ineffective upon the rights of the Appellant; and

- c. Direct the respondents to extend the benefit of the Notification Dated 19.10.2018 to the Appellant by grant of Technical Allowance with effect from 1<sup>st</sup> November, 2018 with all back benefits.
- d. Any other relief which has not been superficially prayed for and deemed fit and appropriate by this Honourable Tribunal in the circumstances may graciously be granted.

Through

  
Appellant  
**Muhammad Ayub Khan Shinwari**  
Advocate Peshawar

5

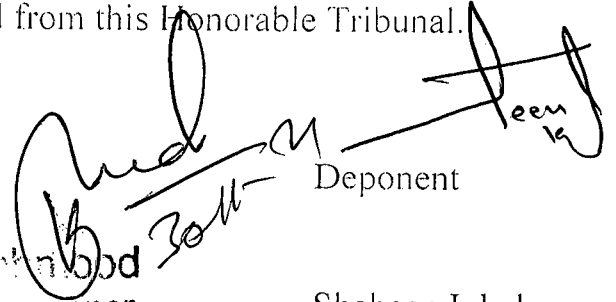
IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No \_\_\_\_\_ 2021

Shaheen Iqbal Versus Chief Secty, Govt of KP & Others

**AFFIDAVIT**

I, Shaheen Iqbal, Water Management Officer, Office of District Director, On Farm Water Management Department, office of District Director, Peshawar do hereby solemnly affirm and declare on oath that the contents of the accompanying Service Appeal are true and correct to the best of my knowledge and belief and nothing is kept concealed from this Honorable Tribunal.

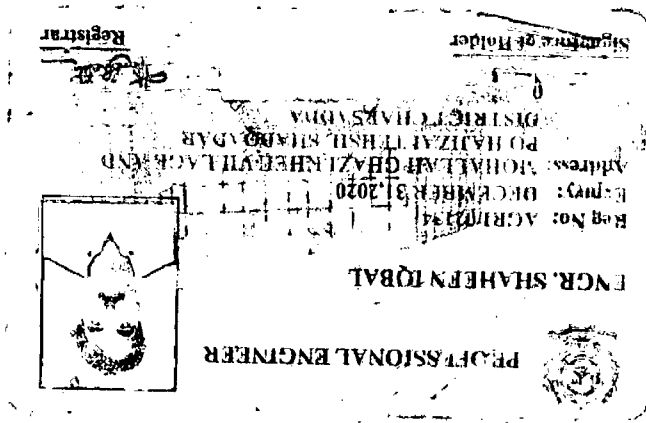
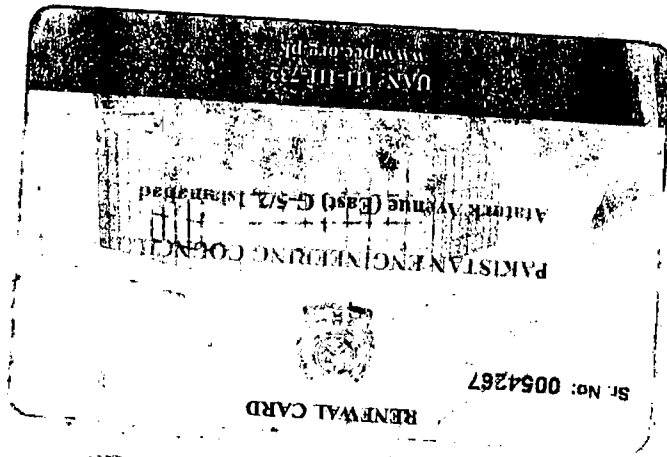
  
Deponent

Khalid Mahmood  
Oath Commissioner  
Peshawar High Court

Shaheen Iqbal  
17101-0337216-9

ATTESTED

ATTESTED



Amir A 6

Annex B.7

IMMEDIATE/SECRET

CABINET BUSINESS



11-06-18  
GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT AND ADMN: DEPARTMENT  
( CABINET WING )  
No.SOC(E&AD)27-312/2018  
Dated Peshawar the 05<sup>th</sup> June, 2018.

Annex A 11

To,

4/523  
16/18

1. The Secretary to Govt. of Khyber Pakhtunkhwa, Irrigation Department
2. The Secretary to Govt. of Khyber Pakhtunkhwa, Establishment Department

**SUBJECT: DECISION OF MEETING OF THE PROVINCIAL CABINET DATED 24.05.2018.**

Dear Sir,

I am directed to forward herewith the following decision of the meeting of Provincial Cabinet held on 24.05.2018 under the chairmanship of Chief Minister, Khyber Pakhtunkhwa for implementation.

**MISCELLANEOUS**

7. The Secretary Irrigation briefed the Cabinet regarding the agenda item titled "Demand of the Khyber Pakhtunkhwa association of Government Engineers" discussed in the previous cabinet meeting held on 17-05-2018. The Cabinet agreed to reconsider its decision in the following manner:

- i. The Cabinet approved technical allowance @ 1.5 times of the initial basic pay scale to all engineers working in provincial government departments with effect from 1<sup>st</sup> July, 2018
- ii. The Cabinet approved to allow the Engineers for private practice. The ToRs and Conditions for the permission of private practice will be finalized and approved by the Committee constituted under the Chairmanship of Secretary Establishment.
- iii. The Cabinet approved, in principle, the demand of "Upgradation/restructuring of the Engineers" for which necessary modalities should be submitted for approval of the Cabinet.

**Implementing Department: Irrigation/Establishment Deptts:**

2. I am to request that an implementation report of the Cabinet decision as required under Rule 25 (2) of the Khyber Pakhtunkhwa Government Rules of Business, 1985 may kindly be furnished on top priority basis to the Cabinet Section, Administration Department.

Yours faithfully,

(QASIM JAN)  
SECTION OFFICER (CABINET)

IMMBD

ATTESTED

+ SO(E) Jan

ATTESTED

Annex

C

8



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT AND ADMINISTRATION DEPARTMENT  
(CABINET WING)  
No. SOC/EA/AD/9-3/2018  
Dated Peshawar the 18<sup>th</sup> October, 2018.

Handwritten initials and numbers: B, 19, 17

- To
1. Mr. Muhammad Ail, Senior Minister
  2. Mr. Shehram Khan, Minister
  3. Mr. Taimoor Saleem Khan Jhagra, Minister
  4. Syed Muhammad Ishfaq, Minister
  5. Haji Qalandar Khan Lodhi, Minister
  6. Mr. Akbar Ayub Khan, Minister
  7. Mr. Shakeel Ahmed, Minister
  8. Mr. Mohibullah Khan, Minister
  9. Dr. Amlad Ali, Minister
  10. Mr. Sultan Muhammad Khan, Minister
  11. Dr. Hisham Inam Ullah Khan, Minister
  12. Mr. Zia Ullah Khan Bangash, Advisor
  13. Mr. Himayatullah Khan, Advisor
  14. Mr. Abdul Karim Khan, Special Assistant
  15. Mr. Kamran Khan Bangash, Special Assistant

**SUBJECT: MINUTES OF THE SPECIAL (BUDGET) MEETING OF THE PROVINCIAL CABINET DATED 15.10.2018.**

Dear Sir,

I am directed to enclose herewith a copy of minutes of The Special (Budget) meeting of the Provincial Cabinet held on 15.10.2018 at 11:00 A.M under the Chairmanship of Chief Minister Khyber Pakhtunkhwa in the Cabinet Room of Civil Secretariat, Khyber Pakhtunkhwa, Peshawar.

2. I am to request that after perusal, these minutes may kindly be returned to the Cabinet Section under a sealed cover.

Yours faithfully,

*Qasim Jan*  
(QASIM JAN)

SECTION OFFICER (CABINET)

Encl:(As above).

**ENDST.NO. & DATE EVEN.**

Copy with a copy of the minutes is forwarded for perusal with the request to return it to the Cabinet Section, Administration Department Govt. of Khyber Pakhtunkhwa:-

1. The Principal Secretary to Governor, Khyber Pakhtunkhwa.
2. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. P.S. to Chief Secretary Khyber Pakhtunkhwa.
4. P.S. to Secretary Administration Department.

*Qasim Jan*  
SECTION OFFICER (CABINET)

ATTESTED

ATTESTED

ATTESTED

AS

**Implementing Department:** Secretary P&D (Merged Areas)

**Miscellaneous:**

The Chief Minister desired to know the status of earlier Cabinet decision regarding authorisation of Technical Allowance to the Engineers of Provincial Government Departments. Secretary Finance explained that there is lack of clarity regarding the beneficiaries of the decision as Engineers are also working at places other than C&W, Irrigation, PHE and Local Government Departments.

The Chair directed that the decision of the Provincial Cabinet for extension of Technical Allowance to the Engineers working in Provincial Government Departments may be implemented in letter & spirit.

**Implementing Department:** Finance/Irrigation Departments

Meeting ended with a vote of thanks from and to the chair.

**ATTESTED**

**ATTESTED**

**ATTESTED**

ATTESTED

*[Handwritten signature]*

ATTESTED

**NOTIFICATION**

No. 12/2018-2720/HR - The Government of Kyrgyz Republic will be conducting the recruitment process for the following positions as announced in the Government Information System (GIS) on 12/19/2018:

1. The recruitment process for the following positions will be conducted on a competitive basis:

Sl. No.	Position	Grade	Number of Vacancies	Application Period
1	Attorney General	12	1	12/20/2018 - 12/27/2018
2	Additional Chief Secretary, N.D. Department	11	1	12/20/2018 - 12/27/2018
3	Chief Secretary to the Government	10	1	12/20/2018 - 12/27/2018
4	Chief Secretary to the Government	10	1	12/20/2018 - 12/27/2018
5	Chief Secretary to the Government	10	1	12/20/2018 - 12/27/2018
6	Chief Secretary to the Government	10	1	12/20/2018 - 12/27/2018
7	Chief Secretary to the Government	10	1	12/20/2018 - 12/27/2018
8	Chief Secretary to the Government	10	1	12/20/2018 - 12/27/2018
9	Chief Secretary to the Government	10	1	12/20/2018 - 12/27/2018
10	Chief Secretary to the Government	10	1	12/20/2018 - 12/27/2018
11	Chief Secretary to the Government	10	1	12/20/2018 - 12/27/2018
12	Chief Secretary to the Government	10	1	12/20/2018 - 12/27/2018
13	Chief Secretary to the Government	10	1	12/20/2018 - 12/27/2018
14	Chief Secretary to the Government	10	1	12/20/2018 - 12/27/2018
15	Chief Secretary to the Government	10	1	12/20/2018 - 12/27/2018

2. The above positions will be subject to the following conditions:

- It will not be admitted in any kind of leave as well as holding posts (SD and leave reserve posts).
- The candidates in receipt of such allowances, either from regular allowances or classified under other office NO 12-1-2012 shall be entitled to one of the allowances, whichever is more beneficial.
- It will not be admissible to despatch to other departments.

Secretary to Government of Kyrgyz Republic

*[Signature]*

Answered (13)



10/1

SR/1

**BETTER COPY OF THE PAGE NO. 14**

Government Of Khyber Pakhtunkhwa  
Finance Department  
(Regulation Wing)

Dated Peshawar The 19<sup>th</sup> October 2018

**NOTIFICATION**

No. FD(SO SR-II) 8-7/2018-19: The Government of Khyber Pakhtunkhwa has been pleased to sanction Technical Allowance as per the following rates to Engineers holding Engineering qualification from the accredited engineering programme of Higher Education Institutions (DEI) / Universities duly recognized by Higher Education Commission (HEC) and registered with Pakistan Engineering Council (PEC), serving against the sanctioned posts in the C&W, Irrigation, Public Health Engineering and Local Government Departments, Govt. of Khyber-Pakhtunkhwa with effect from 1<sup>st</sup> November 2018:-

<u>S.#</u>	<u>Pay Scales</u>	<u>Initial Basic Pay of Pay Scales 2017</u>	<u>Rate of Technical Allowance Per Month (@ 1.5 initial Basic Pays as per Pay Scales 2017)</u>
i.	Engineers in BS -20	Rs 69,090/-	Rs 1,03,635/-
ii.	Engineers in BS - 19	Rs 59,210/-	Rs 88,815/-
iii.	Engineers in BS -18	Rs 38,350/-	Rs 57,525/-
iv.	Engineers in BS -17	Rs 30,370/-	Rs 45,550/-

2. The above allowance will be admissible subject to the following conditions:-
- It will not be counted towards pension or gratuity.
  - It will not be admissible in any kind of leave as well as posting against OSD and leave reserve posts.
  - The Engineers in receipt of such allowances other than regular allowances as classified under major object A012-1 A-12-2 shall be entitled to one of the allowances, whichever is more beneficial.
  - It will not be admissible to deputationists.

Secretary to Government  
Of Khyber Pakhtunkhwa  
Finance Department

Endst: No. & Date Even

- The Accountant General, Khyber Pakhtunkhwa, Peshawar.
- The Additional Chief Secretary P&D Department.
- The Principal Secretary of Chief Minister, Khyber-Pakhtunkhwa
- All the Administrative Secretaries to Govt. of Khyber-Pakhtunkhwa
- All the Divisional Commissioners in Khyber-Pakhtunkhwa
- All the Deputy commissioners in Khyber-Pakhtunkhwa
- All the District Accounts Officers in Khyber-Pakhtunkhwa
- Director, FMIU, Finance Department
- PSO to Chief Secretary, Khyber-Pakhtunkhwa, Peshawar.
- All Budget Officer, Finance Department
- PS to Secretary Finance Department
- PS to Special Secretary Finance Department
- Assistant Director (HR Data Base) Finance Department
- PA to Additional Secretary (Regulation) Finance Department
- PA to Deputy Secretary (Regulation-II), Finance Department

**ATTESTED**

**ATTESTED**

SR/1



Annex E 11

**GOVERNMENT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT  
(REGULATION WING)**

Dated Peshawar the: 07-07-2021

**NOTIFICATION**

**No. FD/SOSR-II/2-5/2021-22/Tech Allow:** In partial modification of this Department notification No FD (SO SR-II) 8-7/2018-19, dated 19-10-2018, the Government of Khyber Pakhtunkhwa has been pleased to accord sanction to Technical Allowance as per the following rates to the Engineers holding Engineering qualification from the accredited engineering programme of Higher Education Institutions (HEI) / Universities duly recognized by Higher Education Commission (HEC) and registered with Pakistan Engineering Council (PEC), serving against positions that are required to be filled by engineers for C&W, Irrigation, Public Health Engineering, Local Government & Mines & Mineral Development Departments with effect from 01.07.2021:

S.No.	Pay Scale	Initial Basic Pay of Pay Scales 2017	Rate of Technical Allowance per Month @ 1.5 Initial Basic pay Scales 2017
1	Engineers in BPS 20	Rs. 69,090/-	Rs. 103,635/-
2	Engineers in BPS 19	Rs. 59,210/-	Rs. 88,815/-
3	Engineers in BPS 18	Rs. 38,350/-	Rs. 57,525/-
4	Engineers in BPS 17	Rs. 30,370/-	Rs. 45,550/-

2. The above allowance will be admissible subject to the following conditions:

- i. It will be subject to Income Tax.
- ii. It will not be counted towards pension and gratuity.
- iii. It will not be admissible in any kind of leave (except casual leave) as well as posting against OSD and Leave Reserve Posts.
- iv. Those engineers who are posted against other posts and are in receipt of cadre allowance other than regular allowances shall only be entitled to one of the allowances, whichever is more beneficial.

3. All Autonomous/Semi-Autonomous/Medical Teaching Institutions/Other Institutions and Authorities under Provincial Government shall adopt this notification within their respective organizations with the approval of concerned Competent Forum subject to availability of their resources

  
Secretary to Govt. of Khyber Pakhtunkhwa  
Finance Department

**Endst: No. & Date even.**

A copy of the above is forwarded for information & necessary action to the:

1. The Accountant General, Khyber Pakhtunkhwa.
2. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. The Principal Secretary to Governor, Khyber Pakhtunkhwa.
4. All Administrative Secretaries to government of Khyber Pakhtunkhwa.
5. All the Divisional Commissioners in Khyber Pakhtunkhwa.
6. All Deputy Commissioners in Khyber Pakhtunkhwa.
7. All the District Accounts Officers in Khyber Pakhtunkhwa.
8. The Director-FMIU, Finance Deptt. with the request to upload the same on FD's Website.
9. PSO to Chief Secretary, Khyber Pakhtunkhwa.
10. All Section Officers/Budget Officers in Finance Deptt. Khyber Pakhtunkhwa.
11. The Manager, Government printing Press, Peshawar.
12. The Private Secretary to Secretary, Finance Deptt. Khyber Pakhtunkhwa.
13. PA to Special Secretary, Finance Department, Khyber Pakhtunkhwa.
14. PAs to Addl. Secretaries/Deputy Secretaries in Finance Deptt., Peshawar.
15. Master File.

  
(Muhammad Ilyas Khattak)  
Section Officer (SR: II)

**ATTESTED**



**DIRECTORATE GENERAL ON FARM WATER  
MANAGEMENT KHYBER PAKHTUNKHWA**

19-Jamrud Road, ATI Campus Peshawar  
(Ph: 091-9224307-8, Fax: 091-9224370, Email: dgofwm@gmail.com)



No. 1663 /DG/OFWM  
Dated 16/07 /2021

To

Secretary ,  
Agriculture, Livestock and Cooperation Department  
Government of Khyber Pakhtunkhwa, Peshawar

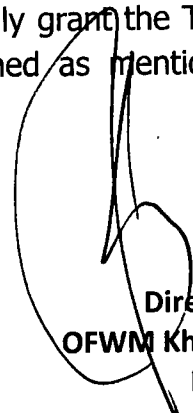
**Subject: - Departmental Appeal for extension of benefit of Notification  
Dated 19-10-2018 partially modified dated 7-7-2021.**

The engineers serving in the office of undersigned has submitted a departmental appeal for extension of benefit of the subject above in shape of Technical Allowance granted to different attached departments of the Government of Khyber Pakhtunkhwa fulfilling the following criteria.

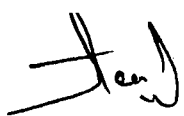
- Engineers holding Engineering Qualification from the accredited Engineering programme of Higher Education Institutions/ Universities duly recognized by Higher Education Commission.
- Engineers Registered with Pakistan Engineering Council.

It is submitted for your information that the Engineers working in the On Farm Water Management fulfilling the above criteria and deals with the civil works/ Engineering works i-e Construction, designing, improvement, preparation of BOQ/ estimates, of the following innervations, improvement of tertiary irrigation system, construction of water storage Tanks, Installation of High Efficiency Irrigation System (Drip & Sprinkle), PCC, PCPS, Brick, and Pipe lining.

In view of the above it is requested to kindly grant the Technical Allowance to the engineers working in the office of undersigned as mentioned in the above subjected notification please.

  
Director General  
OFWM Khyber Pakhtunkhwa  
Peshawar

**ATTESTED**



**ATTESTED**

Notary Public for the State of California  
My Commission Expires \_\_\_\_\_

I, \_\_\_\_\_, do hereby certify that \_\_\_\_\_  
is the true and correct copy of \_\_\_\_\_

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Amex 613

**DIRECTORATE GENERAL ON FARM WATER  
MANAGEMENT KHYBER PAKHTUNKHWA**  
19-Jamrud Road, ATI Campus, Peshawar  
(Ph: 091-9224307 & Fax: 091-9224371) Email: \_\_\_\_\_

No. 3464/DO/OFWM  
Dated 19/11/2021

To

The Secretary  
Agriculture, Livestock and Cooperation Department  
Government of Khyber Pakhtunkhwa Peshawar .

Subject: **GRANT OF TECHNICAL ALLOWANCE TO THE ENGINEERS OF ON FARM WATER MANAGEMENT, WING OF AGRICULTURE DEPARTMENT IN LIGHT OF CABINET DECISION DATED 24.05.2018 & 15.10.2018 ON THE ANALOGY OF C&W IRRIGATION PUBLIC HEALTH ENGINEERING, LOCAL GOVERNMENT AND MINE & MINERALS DEPARTMENTS GOVERNMENT OF KHYBER PAKHTUNKHWA.**

The engineers serving in the office of undersigned has submitted a departmental appeal for extension of benefit of the subject above in shape of Technical Allowance granted to different attached departments of the Government of Khyber Pakhtunkhwa fulfilling the following criteria.

- a. Engineering Qualification from the accredited Engineering Program of Higher Education Institutions (HEC)
- b. University of Qualification the recognized from Higher Education Commission (HEC) and registered with Pakistan Engineering Council (PEC).
- c. Should be serving against the sanctioned posts of Provincial Government.

It is submitted for your information that the Engineers working in the On Farm Water Management fulfilling the above criteria and deals with the civil works / Engineering works i.e. Construction, designing, improvement, preparation of BOQ / estimates of the following innervations empowerment of territory irrigation system, construction of water storage tracks installation of High Efficiency Irrigation System (Drip & Sprinkle) PCC, PCPS, Block and Pipe lining.

In view of the above it is requested to kindly grant the Technical Allowance to the engineers working in the office of undersigned as mentioned in the above subjected notification please.

Sd/-  
Director General  
Of W/M Khyber Pakhtunkhwa  
Peshawar

**ATTESTED**

Annex 26 H  
14

Secretary to Govt of Khyber Pakhtunkhwa,  
Agriculture, Livestock and Cooperation Deptt, Peshawar

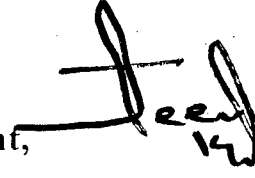
**Subject:** Departmental Appeal against Notification dated 19-10-2018

Sir,

The applicant humbly submits as follows:

1. That I am duly qualified engineer registered with Pakistan Engineering Council and are serving in the Department.
2. That the provincial cabinet in its meeting held on 24-05-2018 decided and approved the grant of technical allowance @ 1.5 times of the initial basic pay scale to all the engineers working in provincial government Departments with effect from 1<sup>st</sup> July, 2018.
3. That thereafter another meeting of the provincial cabinet was held on 15-10-2018 wherein it clarified the status of earlier cabinet decision regarding authorization of Technical Allowance to the Engineers of Provincial Government Departments and it was decided that the decision of the Provincial Cabinet be implemented in letter and spirit.
4. That in the light of aforesaid developments, I was under legitimate expectancy that I will be granted the benefits of the aforesaid decision of provincial cabinet but to my surprise, the Notification dated 19-10-2018 is issued whereby the benefit of the aforesaid provincial cabinet decision is given only to the engineers holding Engineering qualification serving in the C & W Department, Irrigation, Public Health Engineering and Local Government Departments of Government of Khyber Pakhtunkhwa and I have been deprived from its benefit.

It is, therefore, humbly requested that the benefit of Notification dated 19-10-2018 may kindly be granted to me with all back benefits.

Applicant, 

SHAHEEN IOBAL  
WMO (BS-17).

26/10/18

Copy to:

1. Chief Secretary to Govt of Khyber Pakhtunkhwa, Peshawar
2. Secretary to Government of Khyber Pakhtunkhwa, Finance Department, Peshawar

ATTESTED

ANNEX 1/15

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR



Writ Petition No \_\_\_\_\_ 2019

1. Muhammad Asif, Deputy Director Planning, On Farm Water Management Department, Peshawar
2. Muhammad Khurshid Afridi, Director General, On Farm Water Management Department, KP, Peshawar
3. Shamshad Hussain, District Director, On Farm Water Management Department, Charsadda
4. Sahibzada Alamgir, District Director, On Farm Water Management Department, Peshawar
5. Muhammad Azeem, Director HRD, On Farm Water Management Department, D.I Khan
6. Muhammad Afzal, District Director, On Farm Water Management Department, Peshawar
7. Behram Jan, Director Planning, On Farm Water Management Department, Peshawar
8. Dawa Khan, Distt Director, On Farm Water Management Department
9. Riaz Gul, District Officer, On Farm Water Management Department, Kohistan
10. Qayyum Khan, District Officer, On Farm Water Management Department, Bannu
11. Amir Rabbani, District Officer, On Farm Water Management Department, Chitral
12. Shahid Mahmood, District Officer, On Farm Water Management Department, Abbottabad
13. Abdullah Khan, Deputy Director, On Farm Water Management Department, Mardan
14. Rafiq Ahmad Ghuncha, Water Management Officer, On Farm Water Management Department, Office of Distt Officer, Tank
15. Moeen ud Din, District Officer, On Farm Water Management Department, Shangla
16. Zahid Khaliq, Water Management Officer, Office of District Director, On Farm Water Management Department, charsadda
17. Said Muhammad, Water Management Officer, Office of District Director, On Farm Water Management Department, Peshawar
18. Muhammad Idrees, Water Management Officer, Office of District Director, On Farm Water Management Department, Chitral

ATTESTED

ATTESTED

EXAMINER  
Peshawar High Court

19. Munir Ahmad Khan, Water Management Officer, On Farm Water Management Department, presently in office of Project Director Gomalzam Dam
20. Wasimullah, Water Management Officer, Water Management Officer, Office of District Director, On Farm Water Management Department, presently in office of Project Director, Gomalzam Dam
21. Muhammad Farooq, Water Management Officer, Office of District Director, On Farm Water Management Department, Swabi
22. Saeed Shah, A.D Planning, Water Management Officer, Office of District Director, On Farm Water Management Department, Peshawar
23. Aman Khan, Water Management Officer, Office of District Director, On Farm Water Management Department, Buner
24. Ghulam Bilal, Water Management Officer, On Farm Water Management Department, office of District Director, D.I Khan
25. Muhammad Tufail, Water Management Officer, Office of District Director, On Farm Water Management Department, Karak
26. Qiaash Ahmad, Water Management Officer, Office of District Director, On Farm Water Management Department, Swabi
27. Aftab Ahmad Khan, Water Management Officer, Office of District Director, On Farm Water Management Department, D.I Khan
28. Nisar Ahmad, Water Management Officer, On Farm Water Management Department, presently in office of Project Director Gomalzam Dam
29. Muhammad Nadeem, Water Management Officer, Office of District Director, On Farm Water Management Department, Office of Distt Director Lakki Marwat
30. Attaullah, Water Management Officer, Office of District Director, On Farm Water Management Department, office of District Director, Haripur
31. Amjad Ali, Water Management Officer, Office of District Director, On Farm Water Management Department, District Office, Malakand
32. Shaheen Iqbal, Water Management Officer, Office of District Director, On Farm Water Management Department, office of District Director, Peshawar
33. Ihsanullah Khan, Water Management Officer, Office of District Director, On Farm Water Management Department, office of District Office, Bannu
34. Muhammad Zubair, Director Planning, Directorate General, Soil & Water Conservation Deptt, KP, Peshawar
35. Irfanullah, District Officer, Directorate General, Soil & Water Conservation Deptt, KP, Peshawar
36. Abdullah Khan, Soil Conservation Assistant, Directorate General, Soil & Water Conservation Deptt, KP, Peshawar
37. Awais Ali, Soil Conservation Assistant, Directorate General, Soil & Water Conservation Deptt, KP, Peshawar

**ATTESTED**

**ATTESTED**

**EXAMINER**  
Peshawar High Court



- 17
38. Noor Muhammad, Soil Conservation Assistant, Directorate General, Soil & Water Conservation Deptt, KP, Peshawar  
39. M Hizbullah Khan, D.D Industries & Commerce, KP, Peshawar

.....Petitioners

Versus

1. Chief Secretary to Govt of Khyber Pakhtunkhwa, Peshawar
2. Secretary to Govt of Khyber Pakhtunkhwa, Finance Department, Peshawar
3. Secretary to Govt of Khyber Pakhtunkhwa, Establishment Deptt, Peshawar
4. Accountant General, Khyber Pakhtunkhwa, Peshawar
5. Secretary to Govt of Khyber Pakhtunkhwa, Agriculture, Livestock and Cooperation Deptt, KP, Peshawar
6. Secretary to Govt of Khyber Pakhtunkhwa, Industries and Commerce, Deptt, KP, Peshawar

.....Respondents

**Writ Petition under Article 199 of The  
Constitution of Islamic Republic of Pakistan, 1973**

Respectfully Sheweth,

Brief but relevant facts warranting this Writ Petition are:

1. That the Petitioners are duly qualified engineers registered with Pakistan Engineering Council and are serving in the respondent Departments against the posts mentioned in the title of the Writ Petition.
2. That the provincial cabinet in its meeting held on 24-05-2018 decided and approved the grant of technical allowance @ 1.5 times of the initial basic pay scale to all the engineers working in provincial government Departments with effect from 1<sup>st</sup> July, 2018. (Copy of decision of meeting of the Provincial Cabinet dated 24-05-2018 is filed herewith and annexed as Annex-A)
3. That thereafter another meeting of the provincial cabinet was held on 15-10-2018 wherein it clarified the status of earlier cabinet decision regarding authorization of Technical Allowance to the Engineers of Provincial Government Departments and it was decided that the decision of the Provincial Cabinet be implemented in letter and spirit. (Copy of the decision of meeting of the Provincial Cabinet dated 15-10-2018 is filed herewith and annexed as Annex-B)

**ATTESTED**

**EXAMINER**  
Peshawar High Court

4/ 18 12

4. That in the light of aforesaid developments, the Petitioners were under legitimate expectancy that they will be granted the benefits of the aforesaid decision of provincial cabinet but to the utter surprise of the Petitioners, the respondents issued the impugned Notification dated 19-10-2018 whereby the benefit of the aforesaid provincial cabinet decision is given only to the engineers holding Engineering qualification serving in the C & W Department, Irrigation, Public Health Engineering and Local Government Departments of Government of Khyber Pakhtunkhwa and the Petitioners are deprived from its benefit. (Copy of Notification is filed herewith and annexed as Annex-C)

5. That the Petitioners had time and again approached the respondents for redress of their grievance but in vain. (Copies of the Departmental Appeals are filed herewith and annexed as Annex-D)

Thus, the Petitioners having no other adequate, alternate and efficacious remedy are constrained to approach this Honorable Court in its constitutional jurisdiction on the following amongst other grounds:

**Grounds:**

- a. That the impugned Notification and the treatment met to the Petitioners is against the law, illegal, unlawful and without lawful authority, thus calling interference of this Honorable Court in its constitutional jurisdiction.
- b. That the impugned Notification is against the fundamental rights of the Petitioners enshrined and protected under the Constitution of Islamic Republic of Pakistan, 1973.
- c. That the impugned Notification and the treatment met to the Petitioners is against the spirit of rule 25 of Government Rules of Business.
- d. That the impugned Notification is issued in utter disregard of the decisions of the Provincial cabinet.
- e. That the impugned Notification is the result of colorful exercise of powers and based on mala fide for extraneous consideration.
- f. That the treatment met out to the Petitioners is against the principles of natural justice and settled principles of administrative law.
- g. That the impugned Notification is against the dictums of the apex Supreme Court of Pakistan and also against the Judgments of this Honorable Court.


**ATTESTED**

**EXAMINER**  
Peshawar High Court

**ATTESTED**

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**PESHAWAR HIGH COURT PESHAWAR**  
**ORDER SHEET**

Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or that of parties or counsel where necessary
1	2
12.02.2020	<p style="text-align: right;"></p> <p><u>Writ Petition No. 5321-P/2018.</u></p> <p>Present: Mr. Muhammad Ayub Khan Shinwari, advocate for the petitioners.</p> <p>Syed Qaisr Shah, Addl. AG on behalf of respondents.</p> <p style="text-align: center;">*****</p> <p><b><u>WAOAR AHMAD SETH, CJ:-</u></b> Through this constitutional petition, we intend to decide the instant petition as well as connected writ petitions bearing No. 5755-P/2018 &amp; 681-P/2019, being identical in nature.</p> <p>2. Mujahid Naseer, Assistant Director (M&amp;E) P&amp;D Department, &amp; others, petitioners, herein aggrieved from the acts / inactions of respondents have directed this petition with the following relief:-</p> <p>a. Declare the discriminatory implementation of the Provincial Cabinet Decisions dated 24.05.2018 &amp; 15.10.2018 by the respondents as illegal, unlawful, without lawful authority and ineffective upon the rights of the petitioners; and</p> <p>b. Direct the respondents to extend the benefit of the Notification dated 19.10.2018 to the petitioners by grant of Technical Allowance with effect from 1<sup>st</sup> November, 2018 with all back benefits.</p>

**ATTESTED**

**EXAMINER**  
Peshawar High Court

**ATTESTED**



2. At the very outset, learned counsel for the petitioners while producing copy of the judgment dated 21.11.2019, rendered by this Court in writ petition bearing No. 5877-P of 2018; whereby in exactly similar situation, this Court directed the respondents-Chief Secretary, Government of Khyber Pakhtunkhwa to decide the appeal of petitioners pending before him, requested that appeal of present petitioners are also pending before the hierarchy, requested for direction and decision thereon. Learned AAG when confronted, conceded to, in view of which this as well as the connected petitions are disposed of accordingly by directing the respondents to decide the appeals of petitioners pending over there, within a shortest possible time in accordance with relevant law.

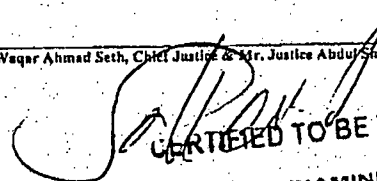
No. 2747  
 Date of Presentation of Application 22-7-2020  
 No of Pages 9P  
 Copying fee \_\_\_\_\_  
 Total 36/2  
 Date of Preparation of Copy 22/7/2020  
 Date of Delivery of Copy 22-7-2020  
 Received By [Signature]

  
 Chief Justice

  
 Judge

Tariq Jan PS.

DB, Mr. Justice Waqar Ahmad Seth, Chief Justice & Mr. Justice Abdul Shakoor, JJ.

  
 CERTIFIED TO BE TRUE COPY  
 EXAMINER  
 Peshawar High Court  
 Authenticated Under Article 67 of  
 the Quran-o-Shahadat Order 1988  
 22 JUL 2020

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

C.o.C No \_\_\_\_\_/2020  
in  
Writ Petition No 681-P/2019



1. Muhammad Asif, Deputy Director Planning, On Farm Water Management Department, Peshawar
2. Muhammad Khurshid Afridi, Director General, On Farm Water Management Department, KP, Peshawar
3. Shamshad Hussain, District Director, On Farm Water Management Department, Charsadda
4. Sahibzada Alamgir, District Director, On Farm Water Management Department, Peshawar
5. Muhammad Azeem, Director HRD, On Farm Water Management Department, D.I Khan
6. Muhammad Afzal, District Director, On Farm Water Management Department, Peshawar
7. Behram Jan, Director Planning, On Farm Water Management Department, Peshawar
8. Dawa khan, Distt Director, On Farm Water Management Department
9. Riaz Gul, District Officer, On Farm Water Management Department, Kohistan
10. Qayyum Khan, District Officer, On Farm Water Management Department, Bannu
11. Amir Rabbani, District Officer, On Farm Water Management Department, Chitral
12. Shahid Mahmood, District Officer, On Farm Water Management Department, Abbottabad
13. Abdullah Khan, Deputy Director, On Farm Water Management Department, Mardan
14. Rafiq Ahmad Ghuncha, Water Management Officer, On Farm Water Management Department, Office of Distt Officer, Tank
15. Moeen ud Din, District Officer, On Farm Water Management Department, Shangla
16. Zahid Khaliq, Water Management Officer, Office of District Director, On Farm Water Management Department, charsadda
17. Said Muhammad, Water Management Officer, Office of District Director, On Farm Water Management Department, Peshawar
18. Muhammad Idrees, Water Management Officer, Office of District Director, On Farm Water Management Department, Chitral

*M. J.*  
**ATTESTED**  
EXAMINER  
Peshawar High Court

19. Munir Ahmad Khan, Water Management Officer, On Farm Water Management Department, presently in office of Project Director Gomalzam Dam
20. Wasimullah, Water Management Officer, Water Management Officer, Office of District Director, On Farm Water Management Department, presently in office of Project Director, Gomalzam Dam
21. Muhammad Farooq, Water Management Officer, Office of District Director, On Farm Water Management Department, Swabi
22. Saeed Shah, A.D Planning, Water Management Officer, Office of District Director, On Farm Water Management Department, Peshawar
23. Aman Khan, Water Management Officer, Office of District Director, On Farm Water Management Department, Buner
24. Ghulam Bilal, Water Management Officer, On Farm Water Management Department, office of District Director, D.I Khan
25. Muhammd Tufail, Water Management Officer, Office of District Director, On Farm Water Management Department, Karak
26. Qiash Ahmad. Water Management Officer, Office of District Director, On Farm Water Management Department, Swabi
27. Aftab Ahmad Khan, Water Management Officer, Office of District Director, On Farm Water Management Department, D.I Khan
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30. Attaullah, Water Management Officer, Office of District Director, On Farm Water Management Department, office of District Director, Haripur
31. Amjad Ali, Water Management Officer, Office of District Director, On Farm Water Management Department, District Office, Malakand
32. Shaheen Iqbal, Water Management Officer, Office of District Director, On Farm Water Management Department, office of District Director, Peshawar
33. Ihsanullah Khan, Water Management Officer, Office of District Director, On Farm Water Management Department, office of District Office, Bannu
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35. Irfanullah, District Officer, Directorate General, Soil & Water Conservation Deptt, KP, Peshawar
36. Abdullah Khan, Soil Conservation Assistant, Directorate General, Soil & Water Conservation Deptt, KP, Peshawar
37. Awais Ali, Soil Conservation Assistant, Directorate General, Soil & Water Conservation Deptt, KP, Peshawar

**ATTESTED**  
EXAMINER  
Peshawar High C

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38. Noor Muhammad, Soil Conservation Assistant, Directorate General, Soil & Water Conservation Deptt, KP, Peshawar  
39. M Hizbullah Khan, DD Industries & Commerce, KP, Peshawar .....Petitioners

Versus

1. Kazim Niaz, Chief Secretary to Govt of Khyber Pakhtunkhwa, Peshawar
2. Atif ur Rehman, Secretary to Govt of Khyber Pakhtunkhwa, Finance Department, Peshawar
3. Jamal ud Din, Secretary to Govt of Khyber Pakhtunkhwa, Establishment Deptt, Peshawar
4. M Israr Khan, Secretary to Govt of Khyber Pakhtunkhwa, Agriculture, Livestock and Cooperation Deptt, KP, Peshawar

.....Respondents

**Application under Article 204 of The Constitution of Islamic Republic of Pakistan, 1973 read with Contempt of Court Ordinance for initiating contempt of court proceedings against the respondents/Contemnors and implementation of Judgment and Order dated 12-02-2020 passed in Writ Petition No 681-P/2019.**

**Respectfully Sheweth,**

Brief but relevant facts of the case are as follows:

1. That the Petitioner filed the title Writ Petition before this Honorable Court with a following prayer:
  - a. Declare the discriminatory implementation of the Provincial Cabinet Decisions dated 24-05-2018 and 15-10-2018 by the respondents as illegal, unlawful, without lawful authority and ineffective upon the rights of the Petitioners; and
  - b. Direct the respondents to extend the benefit of the Notification Dated 19-10-2018 to the Petitioners by grant of Technical Allowance with effect from 1<sup>st</sup> November, 2018 with all back benefits.
  - c. Any other relief which has not been specifically prayed for and deemed fit and appropriate by this Honorable Court in the circumstances may graciously be granted.
2. That the title Writ Petition was clubbed with identical Writ petitions and this Honorable Court was pleased to dispose off the title Writ Petition along with other Writ Petitions vide Judgment dated 12-02-2020 with the directions to


  
**ATTESTED**  
EXAMINER  
Peshawar High Court

decide the appeals of the petitioners pending over there, within a shortest possible time in accordance with relevant law. (Copy of the Judgment is attached herewith as Annex-A)

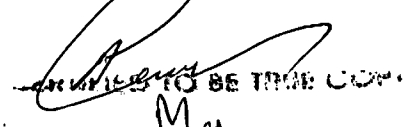
3. That the copy of the aforesaid Order was not only delivered to the respondents by the office of this Honorable Court but also the same is delivered by the Applicant to the respondents.
4. That the Applicant approached the Respondents so many times to comply with the Order 12-02-2020 and to implement the judgment and order of this Honorable Court in letter and spirits but to no fruitful results.
5. That the respondents are deliberately disobeying the Orders of this Honorable Court, which shows the intentions as well as disobedience on their part, towards the order of this Court.
6. That the respondents are required to be dealt with iron handedly and are liable to be proceeded for committing flagrant contempt of court.

It is, therefore, prayed that on acceptance of this application, on initiating contempt of court proceedings, the respondents may kindly be punished under Contempt of Court Act read with Article 204 of the Constitution of Islamic Republic of Pakistan, 1973 and the respondents be further directed to implement the Order dated 12-02-2020 passed in Writ Petition 681-P/2019 in its letter and spirit.

Applicants  
Through



Muhammad Ayub Khan Shinwari  
Advocate Peshawar

  
TO BE TRUE COPY  
Peshawar High Court, Peshawar  
Authorized Under Article 175 of  
the Qanun-e-shahadat Order 1988

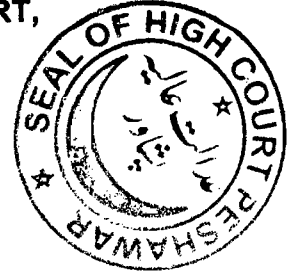
30 NOV 2021



25

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

COC No.448-P/2020 in  
W.P.No.681-P/2018 (D)



Date of hearing: 12.10.2021

Nemo for the petitioners.

Mr. Muhammad Inam Khan Yousafzai, AAG  
for respondents.

**JUDGMENT**

**LAL JAN KHATTAK, J.-** Petitioners seek initiation of contempt of court proceedings against the respondents for their violation of the order of this court dated 12.02.2020 delivered in W.P.No.5321-P/2018 whereby they were directed to decide the petitioners' appeal in accordance with the relevant law.

*Join*

2. Arguments heard and appended record gone through.

3. It reflects from the record that the respondent No.1 in compliance with the order of this court has passed an elaborate order on 29.07.2021, whereby it has held as under:-

And whereas, the matter was thereafter considered threadbare by Chief Secretary who also concurs with aforesaid observation, and now, in light of the above

*M*  
**ATTESTED**  
EXAMINER  
Peshawar High Court

intelligible differentia exist amongst the engineers who are granted "Technical Allowance" and the petitioners, therefore, the petitioners being not entitled as per facts, Cabinet Decision, Policy and recommendations of the Committee on the subject, the prayer of the Engineers Cadre of the concerned department made in the above mentioned Writ Petition filed in the Peshawar High Court, Peshawar is regretted, being not worthy of consideration and against the spirit of the Cabinet Decision of the Provincial Government of Khyber Pakhtunkhwa on the subject.

4. In view of the order *ibid* no case for initiation of any contempt proceedings has been made out against the respondents. In case the petitioners are not in agreement with the decision rendered by the respondent No.1, as referred above, then they can challenge the same before the proper forum and not through any contempt of court proceedings.

5. For what has been discussed above, this petition, being bereft of any merit, is hereby dismissed.

Announced  
12.10.2021

*edl* *2nd Jan Khattak*  
JUDGE

*edl* *S. Musarat Akhbari*  
JUDGE

No. 12437  
 Date of Presentation of Application 10/11/21  
 No of Pages 10-11  
 Copying fee 1  
 Total 10  
 Date of Preparation of Copy 30/11/21  
 Date of Delivery of Copy 30/11/21  
 Received By [Signature]

EXEMPTED TO BE TRUE COPY  
 Examiner  
 Peshawar High Court, Peshawar  
 Authorized Under Article 87 of  
 the Constitution of Pakistan Order 108

30 NOV 2021



Annex J  
27

**GOVERNMENT OF KHYBER PAKHTUNKHWA**  
**FINANCE DEPARTMENT**  
**(REGULATION WING)**

Peshawar, Dated the 29<sup>th</sup> July, 2020

**OFFICE ORDER:**

**No.FD/SOSR-II/8-7/2020** Whereas, the Provincial Government of Khyber Pakhtunkhwa sanctioned Technical Allowance to the tune of 1.5 Initial Basic Pay per month as per Pay Scale of 2017 to the only Four Works Department i.e. C&W, Irrigation, Public Health Engineering & Local Govt Departments Engineers from BS-17 to BS-20 as per rates mentioned therein vide Finance Department Notification No.FD(SOSR-II)8-7/2018-19 Dated 19-10-2018 in pursuance of the approval of the Provincial Cabinet.

*And whereas*, the Engineers cadre of certain departments requested through proper representation for grant of the above allowance on the analogy of the Engineers of the Four Works Departments which was examined but not entertained, being not based on merit, in light of the approved cabinet decision and policy accordingly.

*And whereas*, following non-maintainability of their request by the Provincial Government the engineers of the Agriculture Department filed a Writ Petition No. No. 5877-P/2018 titled "Zahid Rabbani & Others VS Chief Secretary Khyber Pakhtunkhwa & Others" in the Peshawar High Court, Peshawar in which they prayed for grant of the said allowance to their cadre on the analogy of the Engineers of Four Works Department.

*And whereas*, the Honourable Peshawar High Court, Peshawar in its judgment Dated: 21-11-2019 and referred the case to Chief Secretary, Khyber Pakhtunkhwa to look into the matter and make decision within the shortest possible time in accordance with the relevant law, rules on the subject.

*And whereas*, accordingly the Committee constituted by the Provincial Government under the Chairmanship of Minister Finance, examined the Court directions in the above Writ Petition in light of decision of the Provincial Cabinet on the subject and regretted the aforementioned allowance on the following grounds:

1. That the Engineers working in 04 Departments i.e. C&W, Irrigation, PHE and LG&RD Department, to whom Technical Allowance has been allowed by the Provincial Government vide Notification No. FD(SOSR-II)8-7/2018-19 dated 19<sup>th</sup> October, 2018 are dealing totally with the infrastructure of the Province/Provincial Government. They are practically involved in Engineering Works like construction of Roads, Buildings, Canals, Drains and other construction/engineering works etc, throughout their duty hours and perform duties at field outside their offices. On many occasions they work overtime. While the Petitioners are not performing duties cited hereinbefore.

That the office timings for field formation are not fixed rather depends upon the quantum of work & number of sites which they visit/inspect. These inspections/visits include far flung areas in same Districts, consumes time, energy and resources and

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Deputy Registrar  
04 AUG 2020

ATTESTED

28

application of technical/engineering skills. In case of defect/deficiency or any mis-happening observed therein, the concerned engineer is held responsible for the loss/consequences. It is worth to mention that the Petitioners do not undertake these duties as well.

- III. That apart from field work these engineers also manage the office work before start of project like preparation of Project Estimates and Contract/ Agreements etc. all these documents are technically checked by the engineers. Besides, field Engineers are fully committed with Engineering and Field/Office work and no relaxation for availing even Gazzetted holidays, whereas engineers of the other than 04 Departments are not engaged with field work, only performing official assignment of duties and fully relax to avail all holidays whereas the Petitioners are performing normal duties in agriculture department.
- IV. That similarly, the job/duty of Engineers working in Agriculture Department is just desk type, having no application of Engineering skill and do not involve practically in any, type of construction work like constructions/maintenance of buildings, Road, Residential & Non Residential Accommodations, Maintenance & Repair of Roads, Bridges, Ferries, Tunnels, Rope-ways, cause ways etc.

*And whereas*, the matter was thereafter considered threadbare by Chief Secretary who also concurs with aforesaid observation, and now, in light of the above intelligible differentia exist amongst the engineers who are granted "Technical Allowance" and the Petitioners, therefore, the Petitioners being not entitled as per facts, Cabinet Decision, Policy and recommendations of the Committee on the subject, the prayer of the Engineers Cadre of the concerned department made in the above mentioned Writ Petition filed in the Peshawar High Court, Peshawar is regretted, being not worthy of consideration and against the spirit of the Cabinet Decision of the Provincial Government of Khyber Pakhtunkhwa on the subject.

FILED TODAY

Deputy Registrar

04 AUG 2020

CHIEF SECRETARY,  
KHYBER PAKHTUNKHWA

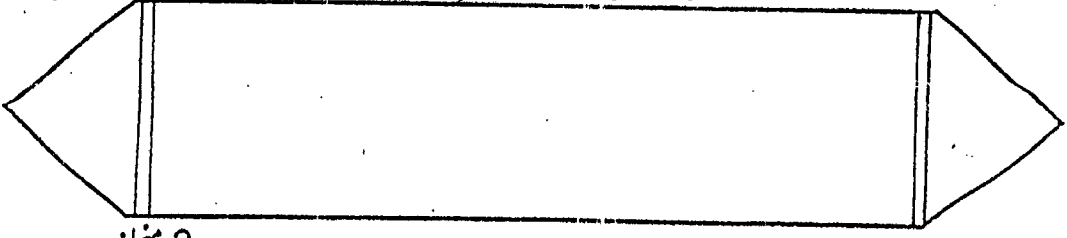
Endst: of Even No. & date:

1. The Registrar, Peshawar High Court, Peshawar with reference to the above mentioned Writ Petition.
2. The Advocate General, Khyber Pakhtunkhwa, Peshawar.
3. The Secretary to Govt. of Khyber Pakhtunkhwa, Law, Human Rights & Parliamentary Affairs Department.
4. The Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department.
5. The Special Secretary-I, Finance Department.
6. The PSO to Chief Secretary, Khyber Pakhtunkhwa.
7. Master File.

ATTESTED

SECTION OFFICER (SR-II)

بعد الت جاب سروس نر میز نل کے پی کے لیسٹ



2 مخائب

شاہین اقبال بنام گورنمنٹ وکٹری

موزخہ  
مقدمہ  
دعویٰ  
جرم

2021 ————— 5-A  
باعث تحریر آنکے

مقدمہ مشدرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ  
آن مقام لیسٹ کے لیے محمد الیوسف شاہین اقبال

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب برصوف کو مقدمہ کی کل کاروائی کا کمال اختیار ہوگا۔ نیز  
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق  
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برادگی اور منسوخی  
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور  
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار  
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ امور یا اختیارات حاصل ہوں گے اور اس کا ساختہ  
پر واختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانشین التوائے مقدمہ کے سبب سے ہوگا۔  
کئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہیں گے۔ کہ پیروی  
کے لئے منظور ہے۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

ATTESTED

المقوم 30 ماہ 2021

العب گ واه العب

ATTESTED  
Accepted  
کے لئے منظور ہے۔

بمقام لیسٹ

**"B"**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**  
JUDICIAL COMPLEX (OLD), KHYBER ROAD,  
PESHAWAR.

No.

Appeal No. 7856 of 20 21

Shahen Jabal Appellant/Petitioner  
Versus

Chief Secy of Govt of KPK Peshawar Respondent  
Respondent No. (1)

Notice to: —

Chief Secy of Govt of KPK Peshawar

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on 05/07/2022 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

~~Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....~~

Given under my hand and the seal of this Court, at Peshawar this 29th

Day of June 20 22

*(For Reply)*

*[Signature]*  
Registrar,

Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

- Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
2. Always quote Case No. While making any correspondence.

*[Handwritten Signature]*  
NCH

**"B"**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.  
JUDICIAL COMPLEX (OLD), KHYBER ROAD,  
PESHAWAR.**

No.

7856

21

Appeal No. *Shabeen Iqbal* of 20

Appellant/Petitioner  
*Chief Secy of Govt of KPK Peshawar*

Respondent No. ....  
*Secy to Govt of KPK Finance Department Peshawar*

Notice to: —

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on.....*05/07/2022*.....at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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Copy of appeal is attached. ~~Copy of appeal has already been sent to you vide this~~  
off. re Notice No.....dated..... *24/6*

Given under my hand and the *June* seal of this Court, at Peshawar this.....  
Day of.....20

*Bob Reply*

Secy. General  
Dairy No. *2*

*[Signature]*

Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

- Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
2. Always quote Case No. While making any correspondence.

**“B”**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.  
JUDICIAL COMPLEX (OLD), KHYBER ROAD,  
PESHAWAR.**

No.

Appeal No. 7856 <sup>SB</sup> of 20 21

Shahreen Iqbal Appellant/Petitioner  
Versus

Chief Secy of Govt of KPK Peshawar Respondent  
Respondent No. (3)

Notice to: —

Secy to Govt of KPK Agriculture, Livestock & Cooperation Deptt: Peshawar

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on 05/07/2022 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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Copy of appeal is attached. ~~Copy of appeal has already been sent to you vide this~~ office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this 24th

Day of June 20 21

(For Reply)  
429/6

[Signature]

Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

Note: 1. The hours of attendance in the court are the same to that of the High Court except Sunday and Gazetted Holidays.  
2. Always quote Case No. While making any correspondence.



**“B”**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**  
**JUDICIAL COMPLEX (OLD), KHYBER ROAD,**  
**PESHAWAR.**

No.

*Recd*

*SB*

Appeal No. *7856* of 20 *21*

*Shaheen Iqbal* Appellant/Petitioner

*Chief Secy of Govt of MLC Peshawar* Respondent

Respondent No. *(1)*

Notice to: — *DG Agriculture, Livestock & Cooperation Deptt Peshawar*

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on.....*05/07/2022*.....at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. ~~Copy of appeal has already been sent to you vide this~~ office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this.....*24th*.....

Day of.....*June*.....20 *22*

*(For Reply)*

*[Signature]*

Registrar,  
 Khyber Pakhtunkhwa Service Tribunal,  
 Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
 2. Always quote Case No. While making any correspondence.