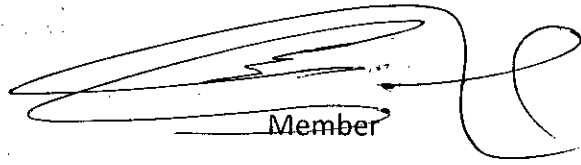
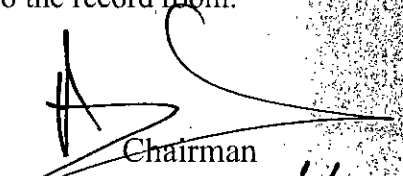


25.10.2016

None present for the appellant despite repeated calls. Mr. Tayyab Gul, Assistant alongwith Mr. Muhammad Jan, GP for respondents present. The Court time is about to over. Dismissed for want of prosecution. File be consigned to the record room.



Member



Chairman
25.10.16

ANNOUNCED:
25.10.2016

22.10.2015

None present on behalf of the appellant. Mr. Muhammad Jan, GP for official respondents and private respondent No. 23 with counsel present. Fresh notice be issued to appellant and his counsel for 15-2-16 for arguments on application.


MEMBER


MEMBER

15.02.2016

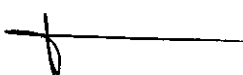
Junior to counsel for the appellant and Addl: AG: for respondents present. Arguments could not heard due to learned Member (Executive) is on official tour to Abbotabad. Therefore, the case is adjourned to 30.5.16 for arguments.

~~MEMBER~~


MEMBER

30.05.2016

No one is present on behalf of the appellant. Mr. Tayyab Gul, Assistant alongwith Ziaullah, GP for official respondents and private respondent No. 23 in person present. Notice be issued to appellant and his counsel. To come up for arguments on 25.10.2016.



Member


Member

4. 18.2.2015

Counsel for the appellant, Mr. Muhammad Jan, GP with Rahat Shah, Admin. Officer for the official respondents, junior to counsel for private respondents No. 7 to 22 and private respondent No. 23 in person present. Private respondent No. 6 sent an application for adjournment, due to surgery of his counsel. Counsel for the appellant as well as private respondents requested for adjournment. To come up for arguments on applications on 04.05.2015.


Member


Member

4.5.2015

Junior to counsel for the appellant, Mr. Muhammad Jan, GP with Tayyab Gul, Office Assistant and Muhammad Yousaf, Senior Clerk for the official respondents, junior to counsel for private respondents No. 7 to 22 and private respondent No. 23 with junior counsel present. Written reply on behalf of official respondents No. 1 & 2 received. Senior counsel for the parties are not available. To come up for arguments on application on 02.7.2015.


MEMBER


MEMBER

2.07.2015

None is available on behalf of the appellant. Mr. Muhammad Jan, GP with Tayyab Gul, Assistant for the official respondents, Mr. Muhammad Taimur Advocate, junior to counsel for private respondents No. 7 to 22 and private respondent No. 23 with counsel present. None is available on behalf of private respondents No. 3, 4, 5 & 6. Fresh notices be issued to appellant, his counsel and private respondents No. 3 to 6. To come up for arguments on application on 22.10.2015.


Member


Member

12.08.2014

Junior to counsel for the appellant, AAG with Rahat Shah, AO for official respondents, Qazi Zakiud Din, Advocate/counsel for private respondent No. 4, Private respondents No. 3, 5 and 6 in person, junior to counsel for private respondents No. 7 to 22 and private respondent No. 23 with counsel present. Learned executive Member is on ex-Pakistan leave, therefore, arguments could not be heard. To come up for arguments on 21.10.2014.


MEMBER

21.10.2014

Junior to counsel for the appellant, Mr. Kabeerullah Khattak, Asstt. A.G with Rahat Shah, Administrative Officer for the official respondents, counsel for private respondent No.6, junior to counsel for private respondents No. 7 to 22 and private respondent No. 23 with counsel present. Due to incomplete Bench, case is adjourned to 30.12.2014 for arguments.


MEMBER

30.12.2014

Clerk to counsel for the appellant, Mr. Muhammad Jan, GP with Rahat Shah, A.O for the official respondents, Clerk to counsel for private respondents No. 7 to 22 and private respondent No. 23 in person present. The Tribunal is incomplete. To come up for the same on 18.2.2015.


READER

12.3.2014

Counsel for the appellant, Mr. Muhammad Jan, GP with Rahat Shah, AD for the official respondents, separate counsel for private respondents No. 4, 5 and 6 present. Private respondent No.14 in person present and stated that counsel for private respondents No. 7 to 22 is busy before the august Supreme Court of Pakistan. He submitted an application for adjournment. Private respondent No. 23 alongwith his counsel also present. To come up for arguments on applications on 21.4.2014.

21.4.2014

~~MEMBER~~
Counsel for the appellant and Mr. Muhammad Jan, GP with Rahat Shah, Administrative Officer for the official respondents, Qazi Zakiud Din, Advocate/counsel for respondent No. 4, private respondent No. 5 in person, Bakhtawar Shah, Advocate/counsel for private respondent No. 6, Junior to counsel for private respondents No. 7 to 22 and private respondent No. 23 with junior counsel present. Application for adjournment submitted on behalf of senior counsel for private respondents No. 7 to 22, for adjournment due to serious illness. To come up for arguments on 27.5.2014.

~~MEMBER~~

MEMBER

27.05.2014

Junior to counsel for the appellant, Mr. Muhammad Jan, GP Rahat Shah, A.O for the official respondents, private respondents No. 4, 5, 6 in person, junior to counsel for private respondents No. 7 to 22 and private respondent No. 23 with junior counsel present. Application submitted, on behalf of counsel for private respondents No. 7 to 22, for short adjournment being not well to-day. To come up for arguments on applications of respondents No. 7 to 22 and respondent No. 23, on 12.8.2014.

MEMBER

9.1.2014

Applicant Mansoor Nasir (Private respondent No. 23) in main appeal with counsel and Mr. Muhammad Jan, GP also present. Applicant already submitted an application for dismissal of the appeal on the ground of non-maintainability. Notice of application be issued to the appellant as well as official respondents for reply/arguments on the date fixed i.e. 21.1.2014. However, a copy of application handed over to the learned G.P.

MEMBER

21.1.2014

Appellant with counsel and Mr. Muhammad Adeel Butt, AAG with Rahat Shah, Administrative Officer for the official respondents, private respondent No. 5 with Qazi Zakiud Din, Advocate present and Wakalatnama placed on file, counsel for private respondent No. 6, and counsel for private respondents No. 7 to 22 and private respondent No. 23 with counsel present. Reply to application of private respondents No. 7 to 22 received on behalf of the appellant and copy handed over to the opposite sides. Copy of application of private respondent No. 23 handed over to appellant. To come up for reply/arguments on application of private respondent No. 23 and arguments on application of respondents No. 7 to 22 on 18.2.2014. Fresh notices be issued to private respondents No. 3 and 4 positively for the date fixed.

MEMBER

MEMBER

18.2.2014

Counsel for the appellant and Mr. Muhammad Jan, GP with Rahat Shah, AD for the official respondents, private respondent No. 3 was stated to have gone abroad, Respondent No. 4, 5 and 6 with their separate counsel, private respondents No. 16 and 23 present in person and stated that counsel for respondents No. 7 to 22 is busy in the august Supreme Court of Pakistan. Private respondent No. 23 with counsel also present. Reply to application received on behalf of the appellant received. Copies handed over to the opposite sides. To come up for arguments on application of respondent No. 7 to 22 and application of respondent No. 23, on 12.3.2014.

MEMBER

MEMBER

21.11.2013

Counsel for the appellant and Mr. Muhammad Adeel Butt, AAG with Rahat Shah, Administrative Officer for the official respondents and counsel for private respondents No. 7 to 22 present and Wakalatnama placed on file. Counsel for private respondent No. 6 also present and requested for further time. Fresh notice be issued to private respondent No. 23. To come up for written reply on main appeal as well as reply/arguments on stay application on 12.12.2013.


MEMBER


MEMBER

12.12.2013

Counsel for the appellant, Mr. Usman Ghani, Sr.GP with Tayyab Gul, Office Assistant for the official respondents, private respondents No. 4, 6, 7, 8, 10, 11, 12, 13, 14, 16, 16, 17, 18, 19, 22 & 23 in person with counsel for private respondents No. 7 to 22 present. Counsel for private respondents No. 7 to 22 submitted an application for sine-die adjournment of the present appeal on the ground that the controversy before the instant Tribunal has already been called into question and the matter has become subjudice again before the august Supreme Court of Pakistan. The learned counsel submitted that the august Supreme Court of Pakistan has held that the judgments delivered by the High Court as well as Supreme Court need to be re-examined or revisited. Copy of application handed over to learned counsel for the appellant, AAG for reply/arguments on 21.1.2014.



MEMBER


MEMBER

Appeal No. 917/2013.
Mr. Abdul Kalam

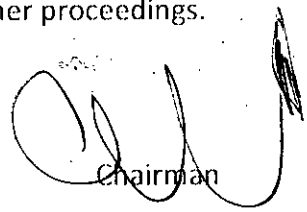
01.08.2013

Counsel for the appellant present and heard on preliminary. Contended that the appellant has not been treated in accordance with the law/rules. The departmental appeal filed against the impugned seniority list No.5324-97/DG/OFWM dated 26.12.2012 which has not been responded within the statutory period of 30 days. Hence the instant appeal on 17.05.2013 which is within time. Appellant also submitted an application for restraining respondents No.1 and 2 from processing illegally the promotion cases of respondents No.3 to 23 to the higher posts in BS-18 till the final disposal of instant appeal. Points raised need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, notice be issued to the respondents. Case adjourned to 21.11.2013 for submission of written reply on main appeal as well as reply/arguments on application.


Member.

1.8.2013

This case be put before the Final Bench II for further proceedings.


Chairman

3.

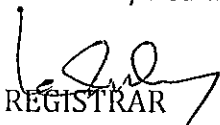
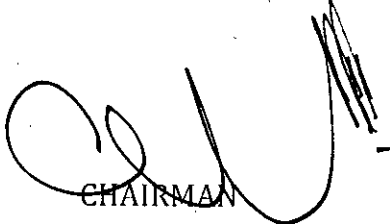
4.

Appellant deposited
Process fee/ Security
Rs. 29000/- Bank Receipt
attached with file

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 917/2013

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	21/05/2013	<p>The appeal of Mr. Abdullah Khan presented today by Mr. Imtiaz Ali 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	15-7-2013	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>1-8-2013</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

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

In Re: Service Appeal No. 917 / 2013.

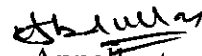
Abdullah Khan.....**APPELLANT.**


Versus

Director General,
On Farm Water Management and others.....**RESPONDENTS.**


INDEX

S. No.	Particulars	Annexure	Pages
1.	Memo of Appeal.		1 - 7
2.	Affidavit.		8
3.	Memo of address.		9 - 11
4.	Stay Application with affidavit.		12 - 13
5.	Notification dated 24.11.2004.	A	14 - 17
6.	Appointment orders of respondents.	B & B-1	18 - 21
7.	Notifications dated 21.04.2007 and 30.04.2007.	C & C-1	22 - 25
8.	Notifications dated 31.07.2007 and 03.09.2007.	D & D-1	26 - 29
9.	Judgment of Supreme Court (2011 SCMR 898).	E	30 - 34
10.	Notification dated 07.06.2011.	F	35 - 36
11.	Impugned seniority list dated 26.12.2012.	G	37 - 40
12.	Appeal / representation.	H	41


Appellant
through


Imtiaz Ali
Advocate Supreme Court of Pakistan

And


Sardar Shoukat Hayat
Advocate High Court

Dated: 20.05.2013

M. SARDAR KHAN AND ASSOCIATES
ADVOCATES & LEGAL CONSULTANTS.
Flats # 6 & 7, First Floor, Cantonment Commercial
Complex, Saddar Road, Peshawar Cantt.
Tel: 5276528, 5275946
Cell No. 0300-5020417

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

Service Appeal No. 917 / 2013.

962
9.1.5.13

Abdullah Khan
Water Management Officer (B-17),
Office of Deputy Director (F),
On Farm Water Management District Mardan.....**APPELLANT.**

Versus

1. **Director General,**
On Farm Water Management,
Khyber Pakhtunkhwa, Peshawar.
2. **Secretary to Govt of Khyber Pakhtunkhwa,**
Agriculture, Livestock and Cooperative Department,
Peshawar.
3. **Mohammad Jamil,**
Assistant Director (B-17),
Office of Deputy Director,
On Farm Water Management, District Mansehra.
4. **Muhammad Ishaq,**
Assistant Director (B-17),
Office of Deputy Director,
On Farm Water Management, District Abbottabad.
5. **Masud-ur-Rehman,**
Assistant Director (B-17),
c/o Director General,
On Farm Water Management, Peshawar.
6. **Bakhtawar Shah,**
Assistant Director (B-17),
Office of Deputy Director,
On Farm Water Management, District Buner.
7. **Bakht Ali,**
Assistant Director (B-17),
Office of Deputy Director,
On-Farm Water Management, District Kohat.
8. **Zahidullah,**
Assistant Director (B-17),
Water Management Training Centre,
District D.I. Khan.

21/5/13

9. **Shad Muhammad,**
Assistant Director (B-17),
c/o Director General,
On Farm Water Management, Peshawar.
10. **Habib-ur-Rehman,**
District Officer (B-17),
On Farm Water Management, District Tank.
- ✓ 11. **Saeed-ur-Rehman,**
Assistant Director (B-17),
Office of Deputy Director,
On Farm Water Management, District Nowshera.
12. **Hamidullah,**
Assistant Director (B-17),
Office of Deputy Director,
On Farm Water Management, District Swat.
13. **Muhammad Anwar,**
Assistant Director (B-17),
Office of Deputy Director,
On Farm Water Management, District Charsadda.
14. **Abdul Hafeez,**
Assistant Director (B-17),
Office of Director Officer,
On Farm Water Management, District Hangu.
15. **Raja Muhammad Javed Arif,**
Assistant Director (B-17),
Office of Deputy Director,
On Farm Water Management, District Chitral.
16. **Muhammad Asif,**
Assistant Director (B-17),
Office of Director General,
On Farm Water Management, KPK, Peshawar.
17. **Irfan Hussain,**
Assistant Director (B-17),
Office of Deputy Director,
On Farm Water Management, District Kohistan.
18. **Imtiaz Khan,**
Assistant Director (B-17),
Office of Deputy Director,
On Farm Water Management, District Swabi.
19. **Sultan Muhammad,**
Assistant Director (B-17),
Office of Deputy Director,
On Farm Water Management, District Malakand.

20. **Riaz Gul,**
Assistant Director (B-17),
Office of Deputy Director,
On Farm Water Management, District Mardan.
21. **Muhammad Ghafoor,**
Assistant Director (B-17),
Office of Deputy Director,
On Farm Water Management, District Lakki Marwat.
- ✓ 22. **Rabnawaz,**
Assistant Director (B-17),
Office of Deputy Director (F),
On Farm Water Management, District Peshawar.
- ✓ 23. **Mansoor Nasir**
Planning Officer (B-17),
District Government Nowshera.....**RESPONDENTS.**

APPEAL u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the impugned seniority list No. 5324-97/DG/OFWM dated 26.12.2012 wherein the appellant has been placed at serial No. 28 below the respondents No. 3 to 23. And the appeal / representation filed by the appellant against the impugned seniority list has not been replied to so far.

PRAYER IN APPEAL: That names of respondents No. 3 to 23 being contract employees may be deleted / removed from the impugned seniority list and respondents No. 1 and 2 may kindly be ordered to place the name of the appellant being regular employee at the top of seniority list in accordance with the seniority position vis-à-vis other employees in accordance with law and rules.

Respectfully Sheweth:

1. **THAT** on the recommendation of Departmental Selection Committee, the Government of Khyber Pakhtunkhwa, Agriculture, Livestock and Cooperative Department, the appellant amongst others were appointed against the newly created posts of Water

Management Officers (BPS-17) on contract basis in the Project titled "*National Program for Improvement / Lining of Watercourses in Pakistan (KPK component)*" vide notifications dated 24.11.2004, copy Annexure "A".

2. **THAT** respondents No. 3 to 23 had also been appointed in the same project on similar terms and conditions but during the year 1994 to 1996. Copies of appointment orders of some of the respondents are enclosed marked "B" and "B-1".
3. **THAT** in the year 2007, Government of KPK, Agriculture, Livestock and Cooperative Department in consultation with Finance Department accorded sanction for creation of 275 posts in the office of On Farm Water Management w.e.f. 01.07.2007 vide two notifications of even number dated 21.04.2007 and 30.04.2007. It was stated in the said notifications that, after filling of posts on current budget side even number of posts on development side shall automatically stand abolished and *that all the posts shall be filled as per government policy in vogue*. Copy of notifications dated 21.04.2007 and 30.04.2007 are enclosed marked "C" and "C-1".
4. **THAT** through two notifications dated 31.07.2007 and 03.09.2007, respondents No. 3 to 23 were adjusted / transferred against the aforesaid newly created posts on current budget. Copies of the notifications dated 31.07.2007 and 03.09.2007 are enclosed marked "D" and "D-1".
5. **THAT** appellant alongwith some of his other colleagues filed writ petitions before the Hon'ble Peshawar High Court, Peshawar seeking regularization of their services. The writ petitions were allowed by the High Court with the direction to the official respondents to regularize the petitioners therein including appellant in due course on the vacant posts or the posts whenever falling vacant in future.

6. **THAT** official respondents / Government of KPK preferred Review Petitions against the aforesaid judgments but the same were dismissed by holding that the petitioners therein came within the ambit of section 19 of the Civil Servants Act, 1973 as amended through the NWFP Civil Servants (Amendment) Act, 2005 and had, therefore, become regular civil servants by force of law vide judgment dated 01.12.2009.
7. **THAT** the judgment of the Peshawar High Court dated 01.12.2009 was in turn questioned before august Supreme Court of Pakistan through Civil Appeals No. 834 to 837 of 2010. The said appeals were dismissed by august Supreme Court of Pakistan vide judgment dated 01.03.2011 by upholding the judgment Hon'ble Peshawar High Court, Peshawar. The judgment of Supreme Court is reported as **2011 SCMR 898**. Copy of the said judgment is enclosed marked **"E"**.
8. **THAT** the judgment of august Supreme Court of Pakistan was implemented by the Government through notification No. SOE(AD)17-131/2009 dated 07.06.2011 whereby services of the appellant alongwith his fifteen other colleagues were regularized w.e.f. 24.11.2004. Copy of notification dated 07.06.2011 is enclosed marked **"F"**.
9. **THAT** it was in the above background that vide seniority list dated 26.12.2012, conveyed on 06.01.2013, the appellant has been included in the said list of officers of BPS-17 (Assistant Directors / Water Management Officers) as on December, 2012. The appellant was, however, astonished to find that respondents No. 3 to 23 had been shown at serial No. 3 to 23 of the seniority list while appellant has been placed at serial No. 28. This is despite the fact that the said respondents are still contract employees whose services were never regularized by any judgment of the court or under any of the provision of service laws, as they had only been adjusted / transferred against the newly created regular / sanctioned posts. Copy of the impugned seniority list is annexed marked **"G"**.

10. **THAT** appellant preferred departmental appeal / representation to the competent authority through proper channel expressing his grievance against the impugned seniority list but the same has not yet been responded within the prescribed statutory period. Copy of appeal / representation is enclosed marked "H".
11. **THAT** on the basis of impugned seniority list, department is processing the case of private respondents for their promotion to the next higher post(s) ignoring legal status of respondent No. 3 to 23 and due seniority of the appellant.
12. **THAT** mortally aggrieved of aforesaid seniority list, appellant is constrained to invoke the jurisdiction of this Hon'ble Tribunal against the same, on the following amongst other: -

GROUND:

- A. **THAT** appellant is regular employee of the department while respondents No. 3 to 23 are still contract employees having never been regularized, therefore, their very inclusion in the seniority list and placing them senior to the appellant is illegal hence of no legal effect.
- B. **THAT** respondents No. 3 to 23 being contract employees under no circumstances could be considered for promotion and any exercise towards that end undertaken by official respondents is without lawful authority and in violation of the rules.
- C. **THAT** in view of the fact that appellant has been regularized in pursuance to the judgment of the Supreme Court of Pakistan vide notification dated 07.06.2011 w.e.f. 24.11.2004, therefore, his name is required to be placed at the top of the seniority list.

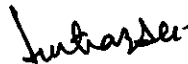
- D. **THAT** even if for the sake of arguments, it is presumed that respondents No. 3 to 23 were deemed to have been regularized on their adjustment against the newly created sanctioned posts (which fact though is not conceded by appellant), still appellant is senior to them because they were adjusted against regular posts in the year 2007 while services of appellant have been regularized w.e.f. 24.11.2004 and therefore, appellant was required to be placed senior to the said respondents.
- E. **THAT** appellant seeks leave of this Hon'ble Tribunal to take further additional grounds at the time of arguments in this appeal.

In view of the above, it is, therefore, respectfully prayed that on acceptance of the appeal, names of respondents No. 3 to 23 being contract employees may be deleted / removed from the impugned seniority list and respondents No. 1 and 2 may kindly be ordered to place the name of the appellant being regular employee at the top of seniority list in accordance with the seniority position vis-à-vis other employees in accordance with law and rules.

Any other relief deemed appropriate in the circumstances of the case may also be granted.

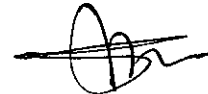


Appellant
through



Imtiaz Ali
Advocate Supreme Court of Pakistan

And



Sardar Shoukat Hayat
Advocate High Court

Dated: 20.05.2013

M. SARDAR KHAN AND ASSOCIATES
ADVOCATES & LEGAL CONSULTANTS.
Flats # 6 & 7, First Floor, Cantonment Commercial
Complex, Saddar Road, Peshawar Cantt.
Tel: 5276528, 5275946
Cell No. 0300-5020417

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

In Re: Service Appeal No. / 2013.

Abdullah Khan.....APPELLANT.

Versus

**Director General,
On Farm Water Management and others.....RESPONDENTS.**

AFFIDAVIT of Abdullah Khan, Water Management Officer (B-17),
Office of Deputy Director (F), On Farm Water Management
District Bannu.

I, Abdullah Khan, Water Management Officer (B-17), Office of
Deputy Director (F), On Farm Water Management District Mardan do
hereby solemnly declare and state: -

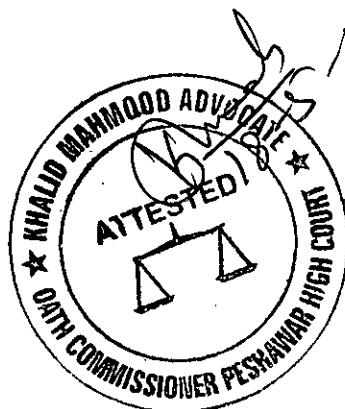
1. That the enclosed service appeal has been drafted under my instructions.
2. That I am personally conversant with the facts and circumstances of the case as contained therein.
3. That the facts and circumstances mentioned in the enclosed service appeal are true and correct to the best of my knowledge and belief.

Abdullah Khan
Deponent

VERIFICATION:

The contents of the above affidavit are true and correct to the best of my knowledge and belief.

Verified on Oath at Peshawar this ¹³ day of May, 2013.



Abdullah Khan
Deponent

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

In Re: Service Appeal No. / 2013.

Abdullah Khan.....APPELLANT.

Versus

**Director General,
On Farm Water Management and others.....RESPONDENTS.**

MEMO OF ADDRESS

Abdullah Khan, Water Management Officer (B-17),
Office of Deputy Director (F),
On Farm Water Management District Mardan.....**Appellant.**

Versus

1. Director General, On Farm Water Management,
Khyber Pakhtunkhwa, Peshawar.
2. Secretary to Govt of Khyber Pakhtunkhwa,
Agriculture, Livestock and Cooperative Department, Peshawar.
3. Mohammad Jamil, Assistant Director (B-17),
Office of Deputy Director, On Farm Water Management,
District Mansehra.
4. Muhammad Ishaq, Assistant Director (B-17),
Office of Deputy Director, On Farm Water Management,
District Abbottabad.
5. Masud-ur-Rehman, Assistant Director (B-17), c/o Director General,
On Farm Water Management, Peshawar.
6. Bakhtawar Shah, Assistant Director (B-17),
Office of Deputy Director, On Farm Water Management,
District Buner.

7. Bakht Ali, Assistant Director (B-17),
Office of Deputy Director, On Farm Water Management,
District Kohat.
8. Zahidullah, Assistant Director (B-17), Water Management Training
Centre, District D.I. Khan.
9. Shad Muhammad, Assistant Director (B-17),
c/o Director General, On Farm Water Management, Peshawar.
10. Habib-ur-Rehman, District Officer (B-17),
On Farm Water Management, District Tank.
11. Saeed-ur-Rehman, Assistant Director (B-17),
Office of Deputy Director, On Farm Water Management,
District Nowshera.
12. Hamidullah, Assistant Director (B-17),
Office of Deputy Director, On Farm Water Management,
District Swat.
13. Muhammad Anwar, Assistant Director (B-17),
Office of Deputy Director, On Farm Water Management,
District Charsadda.
14. Abdul Hafeez, Assistant Director (B-17),
Office of Director Officer, On Farm Water Management,
District Hangu.
15. Raja Muhammad Javed Arif, Assistant Director (B-17),
Office of Deputy Director, On Farm Water Management,
District Chitral.
16. Muhammad Asif, Assistant Director (B-17),
Office of Director General, On Farm Water Management,
KPK, Peshawar.
17. Irfan Hussain, Assistant Director (B-17),
Office of Deputy Director, On Farm Water Management,
District Kohistan.
18. Imtiaz Khan, Assistant Director (B-17),
Office of Deputy Director, On Farm Water Management,
District Swabi.
19. Sultan Muhammad, Assistant Director (B-17),
Office of Deputy Director, On Farm Water Management,
District Malakand.

20. Riaz Gul, Assistant Director (B-17),
Office of Deputy Director,
On Farm Water Management, District Mardan.
21. Muhammad Ghafoor, Assistant Director (B-17),
Office of Deputy Director, On Farm Water Management,
District Lakki Marwat.
22. Rabnawaz, Assistant Director (B-17),
Office of Deputy Director (F), On Farm Water Management,
District Peshawar.
23. Mansoor Nasir, Planning Officer (B-17),
District Government Nowshera.....**Respondents.**

Abdullah
Appellant
through

Imtiaz Ali

Imtiaz Ali
Advocate Supreme Court of Pakistan

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

In Re: C.M. No. / 2013, in
Service Appeal No. / 2013.

Abdullah Khan.....APPELLANT.

Versus

**Director General,
On Farm Water Management and others.....RESPONDENTS.**

APPLICATION for restraining respondents No. 1 and 2 from processing illegally the promotion cases of respondents No. 3 to 23 to the higher posts in BS-18 till the final disposal of instant appeal.

Respectfully Sheweth:

1. **THAT** the above titled service appeal is filed today, which is yet to be fixed for preliminary hearing.
2. **THAT** on the facts and grounds urged in the body of the main appeal which may kindly be read with and as integral part of this application, applicant / appellant has a prima facie case in his favour.
3. **THAT** balance of convenience also lies in favour of applicant / appellant being a regular employee of the department. In case respondents No. 1 and 2 are not restrained from promoting contract employees (respondents No. 3 to 23) to the higher posts in BS-18, the applicant shall suffer irreparable loss.

It is, therefore, humbly prayed that on acceptance of the instant application, respondents No. 1 and 2 may graciously be restrained from processing the cases of respondents No. 3 to 23 for promotion to the posts of BPS-18 till final disposal of the accompanying appeal.

Abdullah

Appellant
through

Imtiaz Ali

Imtiaz Ali

Advocate Supreme Court of Pakistan

And

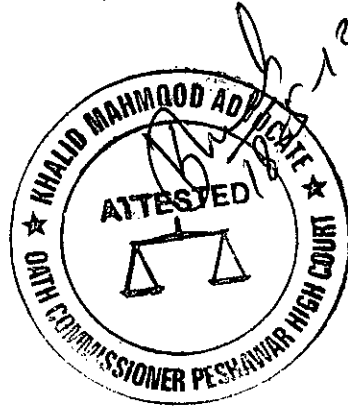
Sardar Shoukat Hayat

Sardar Shoukat Hayat
Advocate High Court

Dated: 20.05.2013

AFFIDAVIT:

I, Abdullah Khan, Water Management Officer (B-17), Office of Deputy Director (F), On Farm Water Management District Mardan do hereby solemnly declare and affirm that the contents of the application above are true and correct to the best of my knowledge and belief.



Abdullah Khan
Deponent

A/14

Government of NWFP
Agriculture, Livestock and Cooperatives
Department
Peshawar dated the 24th November, 2004.

Notification

No. No. SOE(AD)11 (2) 70 / 2004. On the recommendation of the Departmental Selection Committee, Government of NWFP, Agriculture, Livestock & Cooperatives Department is pleased to appoint the following candidates against the newly created posts of Water Management Officers (Eng.) BPS-17 purely on contract basis in the project titled National Program for improvement/ lining of water courses in Pakistan (project for NWFP) for a period of one year, from the date of assuming the charge of the post, extendable to the remaining project period subject to their satisfactory performance.

1. Muqsit-un- Naseer S/o Irfan-ud-Din Village, Tehsil P.O Timergara Moh: Miagulan Distt: Dir Lower.
2. Jehan Zeb S/o Aslam Khan C/o Assistant Director Water Management Near Mall Lara Stop Jehangira Road Swabi.
3. Abdul Malik S/o Ghazi Khan C/o Abdul Wahab Village Amin Khel (Chockara) P.O Ghundi Kala Tehsil Tahli Nasrali Distt: Karak.
4. Mohammad Tufail S/o Nadar Khan Village Masti Khan Banda P/O Khojaki Killa Tehsil T/Nasrali Distt: Karak.
5. Nisar Ahmad S/o Sarfaraz Ahmad House No. C/445 near Government Primary School No. 5 street Khawrs brothers Mohallah Kalraji walla D.I. Khan.
6. Abdullah Khan S/o Ghulam Muhammad Village Janga C/o Usinan Cloth House Lund Khawar P.O Lund Khawar Teh: Takhl Bhai Distt: Mardan.
7. Allab Ahmad Khan S/O Abdul Rashid Khan Distt. D.I. Khan. C/O Ina mullah Khan AD FIA Peshawar Air Port.
8. Mohammad Farooq Khan S/O Qamar Khan Moh: Tauskhani village and P.O Lahore Distt: Swabi.
9. Waseemullah S/O Mohammad Saeed Village Kachkol Asad Khan P.O Torka Tehsil and District Bannu.
10. Shaheen Iqbal S/o Mir Khatam Village and P.O Haji Zai Tehsil and Distt: Charsadda.
11. Moeen Uddin S/O Mohammad Mukhtar of Dir Lower.
12. Hidayat Ali S/O Haji Shamroz K... House No. 1070/3 new Mohalla near Jamia mosque Nowshera Cantt.
13. Tahir Khan S/O Zulfarehah District: Tangla.
14. Anwar Saeed S/O Mohibullah Khan, Distt: Karak Tehsil Teh-e-Nasrali Village Nadar Kila P.O Manzeeni Banda.
15. Qiaish Ahmad S/O Faqir Saib sector, E/91 Sheikh Malloon Town distt. Mardan
16. Shahid Mahmood S/o Muhammad Ishaq H.No. 389 Sector C Sheikh Malloon Town Mardan.
17. Ghulam Bilal S/O Karim Dad Khan P.O Paroa D.I. Khan.
18. Qayyum Khan S/O Awal Mir Shah. House No. 81/LG in front of Railway Signal O/S Distt: Bannu.
19. Munir Ahmad S/o Saeed Ahmad Opposite to the GHS No.2. Kulachi Teh Kulachi Distt: D.I. Khan.

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-2-

20. Saeed Shah S/o Jaffar Shah Distt: Mardan Teh Takht Bhai P.O Sattar Khan Colony Mahal Jamra Hashtnagro Kali.
21. Rafiq Ahmad Ghuncha S/o Ghulam Sarwar House No. 2528 Moh: Roshan Chiragh D.I. Khan.
22. Mohammed Shoaib S/o Muhammad Raizan House No. T-145 Street Saddique Abad Near Mirch Mandi Peshawar City.
23. Mirza Muhammad S/o Muhammad Inam Moh: Naway Cham Vill: & P.O Shahmansoor Tehsil and Distt: Swabi.
24. Jehan Zeb S/o Muqaid Jan Mugh Pati House New Bazar Chitral.
25. Saïd Muhammad S/o Mir Muhammad Village and P.O Urmār Payan Moh: Ali Khel Distt. Peshawar.
26. Fazal Saltar S/O Nasir Ud Din Khan. Village Galkore P.O Gsheri Teh: Dir Distt: Dir Upper.
27. Abdus Subhan S/O Abdur Razaq. C/O Dr. Aziz ug Rehman Village and P.O Paniala Distt: D.I.Khan.
28. Muhammad Tahir S/O Noor Wahab r/o Malakand Agency.
29. Mr. Muhammad Nadeem S/O Muhammad Khan. Village Paniala Tehsil and District D.I.Khan.
30. Amir Rabbani S/o Rehmatullah H: No. 448 Sarafa Bazar Abbotabad.
31. Muhammad Khalil Akbar S/o Abdur Rafiq Moh: Ismail Khel Village Garhi Daulat Zai P.O Garhi Kapura Tehsil and Distt: Mardan.
32. Muhammad Uzair Khan S/o Mohabat Khan Moh: Danda Village and P.O Charbagh Distt: Swat.
33. Hidayatullah S/o Muhammad Iqbal House No. 372 Armour Colony Manki Road Nowshera Cantt.
34. Zulfqar Ali S/O Akbar Ali Khan P.O Kachi Paind Khan Midat Khel House Hanif Town Waqas Colony Diyai Road D.I Khan.
35. Zahid Khaleeq S/o Khaleeq-uz- Zaman House No. 30/D, Muhammad Jan Street Bannu.
36. Bakht Jamair S/o Shad Muhammad Khan C/o Bilal Book Store Village and P.O Jowar. Tehsil Daggar Distt: Buner.
37. Irfanullah S/o Muhammad Hanif Mohallah Saeed Khel. Teh and Distt: L/Marwal.
38. Anjad Masood S/o Sheikh Ahmad Dab No. 1 Behind Ara Machine Shailia Road Manshra.
39. Muhammad Rahmatullah Khan S/o Rohullah Khan Ismatullah LS-I F-Block Flat No. 6 (C.A.E.B) Shami Road Wapda Colony Peshawar.
40. Kifayat Zaman S/o Shahi Zaman Street I A Hakeem Village and P.O Gujrat Teh and Distt: Mardan.
41. Anjan Khan S/o Pekhwaray Khan Village and P.O Pir Baba Pacha Kalay Tehsil Daggar Distt: Buner.
42. Ihsan Ullah Khan S/O Said Khumar Khan Village and P.O Kol Beli Tehsil and Distt: Bannu.



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43. Atta Ullah S/o Manaras Khan C/O Major H/W New Madyan Road Mingora District Swat.
44. Muhammad Idress S/o Abdul Kabir Bacha Village and P.O Mian Brangola Tehsil Adenzai Distt: Dir.
45. Irfanullah S/o Faqir Muhammad Khan(Late) Amjad Shaheed Colony Village and P.O Thana Malakand Agency.
46. Zailul Haq S/o Muhammad Zaman Village Burghando P.O and Tehsil Lal Qilla Distt: Dir Lower.
47. Amjad Ali S/o Muhammad Salim Mohr: Irfan Abad /Salim Abad P.O Balthela Malakand Agency.
48. Shahdad Khan S/o Abdur Rashid C/O Mian Mohammed -Iqbal H.No.172 Street -8 Sector J/3 Phase No.2 Hayatabad Peshawar.

2. Their appointment shall be governed by the following terms and conditions:

- a. Their appointment shall be on contract basis initially for a period of One year. The contract shall stand automatically terminated on the expiry of the initial period. Fresh contract would be executed if the services of any of the above named candidates were further required.
- b. The appointment shall be subject to the medical fitness report by the standing Medical Board and satisfactory completion of pre-service training.
- c. They shall undergo One month pre-service training in one of the training centers at OFWM training centre D.I.Khan/Agricultural Training Institute Peshawar/Agricultural University Peshawar / NWFP Engineering University Peshawar. During training, they shall be paid stipend as per approved PC-1.
- X d. They shall be governed by such rules, regulations, orders, acts and ordinances etc relating to appointment, promotion, transfer, leave, T.A., Medical Attendance, seniority, efficiency & discipline and conduct as have been/may be prescribed by the Government for the category of Government servants of their status, from time to time and as interpreted by the Government.
- e. Their pay will be fixed in the Basic Pay Scale 17 i.e. Rs. 6210-465-15510 from the date of their taking over the charge of the post.
- f. Their services shall be liable to termination on the following conditions:
 - i. At any time without notice and without assigning any reasons during the period of their contract appointment if their work during this period was not found satisfactory.
 - ii. On One month notice by the Government on one side and by them on the other. In case the notice on either side is less than One month, a sum equivalent to the pay for the period by which the notice falls short of One month, will be paid by the Government to them or in lieu thereof One month pay shall be forfeited.
 - iii) By Government without previous notice if it is satisfied on material evidence that they are unfit and/or likely to remain unfit for a considerable period by reasons.

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of ill health or physical disability to discharge their duties. The decision of the Government as to what constitutes considerable period shall be final.

- g. They shall not be entitled to any Traveling Allowance/Daily Allowance on their first appointment/posting.
- h. They shall not contribute to G.P Fund and will not be entitled to pension, gratuity benefits.
- i. This does not constitute inter se seniority and the appointees shall not be entitled to seniority as against any other Government Servant.

3. If the above terms and conditions are acceptable to the above named selected candidates, they should convey their willingness individually and attend office of the Director OFWM for signing the Contract Agreement on or before 10.12.2004 positively, where after the candidates shall be assigned to one of the above mentioned training centers by the Directorate of OFWM. In case of non submission of acceptance/ signing of Contract Agreement, the offer will stand cancelled.

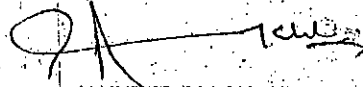
Sd/+++
(ZAIBULLAH KHAN)

SECRETARY AGRICULTURE

Endst: No. No. SOE(AD)11(2) 70 / 2004. Dated Peshawar the, 24th November, 2004

Copy of the above is forwarded to the:-

1. Accountant General, NWFP, Peshawar.
2. Director General Health Services, NWFP Peshawar, He is requested to kindly arrange for an early medical examination of the above named appointees through the Standing Medical Board and supply their medical examination certificates to this Department for record.
3. Director General, Federal Water management cell almarkaz F-8 Islamabad.
4. Director, On Farm Water Management Department NWFP, Peshawar w/r to his memo No.11674 dated, 04-10-2004 with the request to furnish the posting proposal of the above appointees on successful completion of the training at the earliest.
5. All appointees as per list given in para-1 of the notification.
6. PS to Chief Secretary, NWFP.
7. PS to Minister for Agriculture, NWFP.
8. PS to Additional Chief Secretary, F&D department.
9. PS to Secretary Agriculture.
10. PS to Special Secretary to Chief Minister/ Provincial Coordinator.
11. Master file.


(AKHTER ALI SHAH)
SECTION OFFICER (ESTT.)

attentive to
Tree crop

huti

Last contract period
of the petitioners
was 30-6-2009
which has already
been expired.



B/18

DATED PESHAWAR 7/11/1994

NOTIFICATION

NO. 308 (AD) 2(2) G2/KC: Consequent upon the recommendation of the NWFP Public Service Commission, the Governor NWFP is pleased to appoint the following candidates as Inter Management Extension specialists in Basic Pay Scale No. 17 (No. 3800-290-7300/-) on temporary basis with effect from the date of their taking over the charge:-

Sl. No.	Name/Father's Name of the candidate.	Address
1-	Mr. Bakht Ali Khan S/O Muhammad Ali Khan.	Village S.P.O. Ahmadabad, Tehsil & District Karak C/O Khurshid Public School, Ahmadabad.
2-	Mr. Sahidullah S/O Rahim Dad Khan.	i) C/O Haji Aalam Khan, Rahat Abad, Balidar Colony, Street No. 4, House No. 6, near Porcupine College Peshawar. ii) Village Abdullah Jan Killa, Tehsil & Distt. Bannu, P.O. Zam Killa.
3-	Mr. Shah Muhammad S/O Shafiullah Khan.	Village Dandi Alai P.O. Karz Alai, Tehsil Datargram Distt. Mangohra.
4-	Mr. Shafiqat Zaman S/O Badi Zaman.	Mohallah Khoo Haripur Distt. Haripur.
5-	Mr. Habibur Rehman S/O Ghani-ur-Rahman.	C/O Ghani-ur-Rahman, Karyana Main Bazar Tank.
6-	Mr. Saeedur Rehman S/O Habibur Rehman.	i) Rehman House, Phase-III Sector-II, House. 193 Hayatabad Peshawar. ii) Village and P.O. Dabban, Tehsil Lahore Distt. Swabi.
7-	Mr. Hanidullah Khan S/O Haji Malook.	Haji Malook Dera, Haji Baba Road Mingora Swat.
8-	Mr. Mohammad Jawar S/O Madud Khan	Distt. Charsadda Tehsil Tangi Village and P.O. Har Chand.
9-	Mr. Abdul Hafooz S/C Ghulam Habi.	Distt. & Tehsil Mardan, Village and P.O. Toran, Mohallah Perani Gari.

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2- Their appointment is subject to the verification of character/ antecedents and following terms and conditions:-

- i) Their appointment against the Project posts will not confer on them the rights of seniority, regularization of their services or absorption also where and on expiry/completion of Project/work, their services can be terminated on 14 days notice without assigning any reason. In case they wish to resign at any time without 14 days notice, their pay shall be forfeited.
- ii) They shall be governed by the provision of NWFP Civil Servant, Act, 1973 (NWFP Act No. XVII of 1973) and, in matters not specifically mentioned in this Notification, shall be governed by such rules and regulations relating to leave, P.A, Medical Attendance, etc, as have been or may be proscribed from time to time by Government.
- iii) They shall be governed by the Government Servants conduct Rules, 1987 the NWFP Government Servants (Efficiency and Discipline) Rules, 1973 and any other instructions on the subject as may be issued by the Government of NWFP from time to time.

True Copy
 (Signature)

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B/18

GOVERNMENT OF N.W.F.P.
AGRICULTURE, FOOD AND COOPERATIVE
DEPARTMENT

DATED PESHAWAR 07 / 11 / 1994

NOTIFICATION.

No. SOE(AD)2(2)62/KC. Consequent upon the recommendation of the NWFP Public Service Commission, the Governor NWFP is pleased to appoint the following candidates as Water Management Extension specialists in Basic Pay Scale No. 17 (Rs. 3880-290-7360) on temporary basis with effect from the date of their taking over the charge: -

Sl: No.	Name / Father's Name of the candidate	Address
1.	Mr. Bakht Ali Khan S/o Muhammad Ali Khan	Village & P.O. Ahmad Abad, Tehsil & District Karak C/O Khurshid Public School, Ahmad Abad.
2.	Mr. Zahidullah S/o Rahim Dad Khan	i) C/O Haji Aslam Khan, Rahat Abad, Haider Colony, Street No. 4, House No. 6 Near Forest College Peshawar. ii) Village Abdullah Jan Killa, Tehsil & Distt: Bannu, P.O. Azam Killa.
3.	Mr. Shah Muhammad S/o Shafiullah Khan	Village Bandi Allai, P.O. Karg Allai, Teshil Batagram, Distt, Mansehra.
4.	Mr. Shafqat Zaman S/o Badiu Zaman	Mohallah Khoj Haripur Distt: Haripur.
5.	Mr. Habibur Rehman S/o Ghani-ur-Rehman	C/o Ghani-ur-Rehman, Kiryana Main Bazar Tank.
6.	Mr. Saeedur Rehman S/o Habibur Rehman	i) Rehman House, Phase-III, Sector-II, House 193, Hayatabad Peshawar. ii) Village and P.O. Dabian, Tehsil Lahore Distt: Swabi.
7.	Mr. Hamidullah Khan S/o Haji Malook.	Haji Malook Sons, Haji Baba Road Mingora Swat.
8.	Mr. Mohammad Anwar S/o Madad Khan	Distt: Charsadda Tehsil Tangi Village and P.O. Hari Chang.
9.	Mr. Abdul Hafceez S/o Ghulam Nabi.	Distt: & Tehsil Mardan, Village and P.O. Toru, Mohallah Parani Gari.

2- Their appointment is subject to the verification of character / antecedents and following terms and conditions: -

- i) Their appointment against the Project posts will not confer on them the rights of seniority, regularization of their services or absorption else where and on expiry / completion of Project / work, their services can be terminated on 14 days notice without assigning any reason. In case they wish to resign at any time without 14 days notice, their pay shall be forfeited.
- ii) They shall be governed by the provision of NWFP Civil Savant Act, 1973 (NWFP Act No. XVII of 1973) and, in matters not specifically mentioned in this Notification, shall be governed by such rules and regulations relating to leave, T.A, Medical Attendance, etc, as have been or may be prescribed from time to time by Government.
- iii) They shall be governed by the Government Servants Conduct Rules, 1987 the NWFP Government Servants (Efficiency & Discipline) Rules, 1973 and any other instructions on the subject as may be issued by the Government of NWFP from time to time.

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(MISRA AT SETHI)
SECTION OFFICER (ESTABLISHMENT)

27/11/94

8- Personal files of the Officers concerned
1- This N.SOR (AD) (3) 5
6- Office order file
5- Major Government Building, New Delhi, New Delhi
4- Director, National Institute of Public Administration, New Delhi
3- All District Accounts Officers/ Agency Accounts Officers in NRIE
2- Accounting General, NRIE, New Delhi
1- Secretary, NRIE Public Service Commission, New Delhi
Copy forwarded to the
Mandate No. SOR (AD) (2) 62/KC
Dated New Delhi the 27/11/1994

PROBATIONARY APPOINTMENT

If the above terms and conditions of appointment are acceptable to them they should immediately comment on their acceptance in writing to this Department on or before 21.12.1994 at the latest, failing which their appointment order may be treated as cancelled in respect of the candidate concerned.

VI) They shall be liable to serve any where within or outside NRIE in any post under the Federal Government or any Provincial Government or Local Authority or a Corporation or body set up or established by any such Government.

V) They shall not be entitled to any prevailing Allowance/ Daily Allowance on their first appointment except in case of Government Government Organization etc.

IV) They have not been previously dismissed or removed from the service of Government, India, Local Body or Government or Local Organization etc.

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- iv) They have not been previously dismissed or debarred from the service of Government, Board, Local Body or Autonomous or Semi-Autonomous Organization etc.
- v) They shall not be entitled to any Traveling Allowance / Daily Allowance on their first appointment except in case of permanent Government servants.
- vi) They shall be liable to serve any where within or outside NWFP in any post under the Federal Government or any Provincial Government or Local Authority or a Corporation or Body set up or established by any such Government.

If the above terms and conditions of appointment are acceptable to them they should immediately communicate their acceptance in writing to this Department on or before 22.12.1994 at the latest, failing which their appointment order may be treated as cancelled in respect of the candidates concerned.

SECRETARY TO GOVT: OF NWFP
FOOD & AGRICULTURE DEPTT:

ENDST NO. SOE(AD)2(2)62/KC/

Dated Peshawar the 27 / 11 / 1996.

Copy forwarded to the: -

- 1- Secretary, NWFP Public Service Commission, Peshawar w/r to his No. 30038- Agri-94/18626 dated 13/7/1994.
- 2- Accountant General, NWFP, Peshawar.
- 3- All Distt: Accounts Officers / Agency Accounts Officers in NWFP.
- 4- Director Water Management, NWFP, Peshawar. He is requested to furnish the proposal of posting of these officers.
- 5- Manager Government Printing Press, NWFP, Peshawar.
- 6- Office order file.
- 7- File No. SOE(AD)/3(3)5.
- 8- Personal files of the officers concerned.

Sd/- 27/11-94
(NISAR ALI SHAH)
SECTION OFFICER (ESTABLISHMENT)

DATED PESHAWAR THE _____/1996.

NOTIFICATION.

NO. SOE(AD)2(2)62/KC. Consequent upon the recommendation of the NWFP Public Service Commission, the Governor NWFP is pleased to appoint the following candidates as Water Management Officers in Basic Pay Scale No.17 (Rs.3880-290-7360) with effect from the date of their taking over the charge:-

Sl. No.	Name/Father's Name of the candidate	Address
1.	Mr. Muhammad Asif S/o Fazli Subhan.	House No.111 Sector J 4 Street 4 Phase-2 Hayatabad, Peshawar.
2.	Mr. Irfan Hussain S/o Iltaf Hussain.	House No.2300 Mohallah Qazi Khelan, Peshawar City.
3.	Mr. Muhammad Nawaz S/o Nisar Muhammad.	Vill: & P.O. Yar Hussain Teh: Lahore Distt: Swabi. Moh: Baba Khel.
4.	Mr. Irfanullah Khan S/o Ayubi Khan.	Vill: Daraz Kela Khawajamad Manadan Bannu.
5.	Mr. Imtiaz Khan S/o Ali Khan.	House No.148, Moh: Muqam Khan Bari Cham Hoti, Mardan.
6.	Mr. Sultan Muhammad S/o Saïd Muhammad.	Vill Agra P.O. Agra, Malakand Agency.
7.	Mr. Ahmad Shah S/o Sharif Khan.	Vill: & P.O. Kuza Bandai C/O Bakhtawar Medicose, Teh: Kabal District Swat.
8.	Mr. Riaz Gul S/O Wazir Zada.	Asif Jamal House Moh: Doctor Latif Bicket Gung Mardan.
9.	Mr. Rehmanullah S/O Niaz Mir Khan.	C/O Majeedur Rehman Class-7th Al-Hadi High Public School Vill: Haider Khef Tehsil & P.O. Mirali North Waziristan Agency.
10.	Mr. Mohammad Ghaffoor Khan S/O Hakim Khan.	Vill: & P.O. Idak, Teh: Mirali North Waziristan Agency.
11.	Mr. Munir Wali Shah S/O Mir Wali Shah.	House No.412/B-A Mohallah Lady Park Bannu City.
12.	Mr. Rob Nawaz S/o Aurangzeb Khan.	Vill: & P.O. Bhogar Mang Teh: & Distt: Mansehra.

2- Their appointment is subject to the verification of character/antecedent & following terms and conditions:-

- i) Their appointment against the Project post will not confer on them the right of seniority, regularization of their services or absorption quaq where and on expiry/ completion of Project/work, their services can be terminated on 14 days notice without assigning any reason. In case they wish to resign at any time without 14 days notice, their pay shall be forfeited.

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GOVERNMENT OF NWFP
FOOD, AGRICULTURE, LIVESTOCK & COOP:
DEPARTMENT

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B-1/20

DATED PESHAWAR THE _____ / 1996

NOTIFICATION.

No. SOE(AD)2(2)62/KC. Consequent upon the recommendation of the NWFP Public Service Commission, the Governor NWFP is pleased to appoint the following candidates as Water Management Officers in Basic Pay Scale No. 17 (Rs. 3880-290-7360) with effect from the date of their taking over the charge: -

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2.	Mr. Irfan Hussain S/o Iltaf Hussain.	House No. 2300 Mohallah Qazi Khelan, Peshawar City.
3.	Mr. Muhammad Nawaz S/o Nisar Muhammad	Vill: & P.O. Yar Hussain Teh: Lahore District Swabi Moh: Baba Khel.
4.	Mr. Irfanullah Khan S/o Ayub Khan	Vill: Daraz Khela Khawajamad Manadan Bannu.
5.	Mr. Imtiaz Khan S/o Ali Khan.	House No. 148, Moh: Muqam Khan Bari Cham Hoti, Mardan.
6.	Mr. Sultan Muhammad S/o Said Muhammad.	Vill Agra P.O. Agra, Malakand Agency.
7.	Mr. Ahmad Shah S/o Sharif Khan.	Vill: & P.O. Kuza Bandai C/O Bakhtawar Medicose, The: Kabal District Swat.
8.	Mr. Riaz Gul S/o Wazir Zada.	Asif Jamal House Moh: Doctor Latif Bicket Gung Mardan.
9.	Mr. Rehmanullah S/o Niaz Mir Khan.	C/O Majeedur Rehman Class-7 th Al-Hadi High Public School Vill: Haider Khel Tehsil & P.O. Mirali North Waziristan Agency.
10.	Mr. Mohammad Ghafoor Khan S/O Hakim Khan	Vill: & P.O. Idak, Teh: Mirali North Waziristan Agency.
11.	Mr. Munir Wali Shah S/o Mir Wali Shah	House No. 412/B-A Mohallah Lady Park Bannu City.
12.	Mr. Rab Nawaz S/o Aurangzeb Khan	Vill: & P.O. Bhogar Mang Teh: & Distt: Mansehra.

2- Their appointment is subject to the verification of character / antecedents & following terms and conditions: -

- i) Their appointment against the Project posts will not confer on them the right of seniority, regularization of their services or absorption else where and on expiry / completion of Project / work, their services can be terminated on 14 days notice without assigning any reason. In case they wish to resign at any time without 14 days notice, their pay shall be forfeited.

0	133400.00
0	317500.00
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3	292600.00

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- ii) They shall be governed by the provision of NWFP Civil Servant Act, 1973 (NWFP Act, 1973) and, in matters not specifically mentioned in this Notification, shall be governed by such rules and regulations relating to leave, T.A, Medical Attendance, etc, as have been or may be prescribed from time to time by Government.
- iii) They shall be governed by the Government Servants conduct Rules, 1987, the NWFP Government Servants (Efficiency & Discipline) Rules, 1973 and any other instructions on the subject as may be issued by the Government of NWFP from time to time.
- iv) They have not been previously dismissed or debarred from the service of Government, Board, Local Body or Autonomous or Semi-Autonomous Organization etc.,
- v) They shall not be entitled to any Travelling Allowance/Daily Allowance on their first appointment except in case of permanent Government Servants.
- vi) They shall be liable to serve any where within or outside NWFP in any post under the Federal Government or any Provincial Government or Local Authority or a Corporation or Body set up or established by any such Government.

3- If the above terms and conditions of appointment are acceptable to them they should immediately communicate their acceptance in writing to this Department on or before 24.9.1996 at the latest, failing which their appointments order may be treated as cancelled.

SECRETARY TO GOVT: OF NWFP
FOOD & AGRICULTURE DEPTT:

Dated Peshawar the 29/8/1996.

ENDST: NO. PCE(AD)2(2)62/KC/

Copy forwarded to the:-

- 1- Secretary, NWFP Public Service Commission, Peshawar w/r to his No. PSC-30046-Agri-94/8769, Dated 06/6/1996.
- 2- Accountant General, N.W.F.P., Peshawar.
- 3- Director Water Management, NWFP, Peshawar.
- 4- Manager Government Printing Press, NWFP, Peshawar.
- 5- Candidates concerned.
- 6- Personal Files of the officers.
- 7- Office order file.

(Signature) 29/8/96

(NISAR ALI SHAH)
SECTION OFFICER (ESTABLISHMENT)

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- ii) They shall be governed by the provision of NWFP Civil Savant Act, 1973 (NWFP Act No. XVIII of 1973) and, the matters not specifically mentioned in this Notification, shall be governed by such rules and regulations relating to leave, T.A, Medical Attendance, etc, as have been or may be prescribed from time to time by Government.
- iii) They shall be governed by the Government Servants Conduct Rules, 1987, the NWFP Government Servants (Efficiency & Discipline) Rules, 1973 and any other instructions on the subject as may be issued by the Government of NWFP from time to time.
- iv) They have not been previously dismissed or debarred from the service of Government, Board, Local body or Autonomous or Sem-Autonomous Organization etc.
- v) They shall not be entitled to any Traveling Allowance / Daily Allowance on their first appointment except in case of permanent Government Servants.
- vi) They shall be liable to serve any where within or outside NWFP in any post under the Federal Government or any Provincial Government or Local Authority or a Corporation or Body set up or established by any such Government.

3. If the above terms and conditions of appointment are acceptable to them they should immediately communicate their acceptance in writing to this Department on or before 24.9.1996 at the latest, failing which their appointments order may be treated as cancelled.

SECRETARY TO GOVT: OF NWFP
FOOD & AGRICULTURE DEPTT:

ENDST NO. SOE(AD)2(2)62/KC/

Dated Peshawar the 29 / 8 / 1996.

Copy forwarded to the: -

- 1- Secretary, NWFP Public Service Commission, Peshawar w/r to his No. PSC-30046-Agri-94/8769, Dated 06/6/1996.
- 2- Accountant General, N.W.F.P, Peshawar.
- 3- Director Water Management, NWFP, Peshawar.
- 4- Manager Government Printing Press, NWFP, Peshawar.
- 5- Candidates concerned.
- 6- Personal Files of the officers.
- 7- Office order file.

Sd/- 29/8/96
(NISAR ALI SHAH)
SECTION OFFICER (ESTABLISHMENT)

C/22

GOVERNMENT OF NWFP
AGRI: LIVESTOCK AND COOP: DEPTT:
Dated Peshawar, the 21-4-2007.

NOTIFICATION.

No. SOE(AD)23-3/2006. In consultation with the Government of NWFP, Finance Department, the competent authority is pleased to accord sanction to the creation of the following posts in the offices of One-Farm Water Management (District level) with effect from 1st July, 2007, during next financial year 2007-08 subject to the observance of all codal formalities required under the rules. After the No. of posts so filled on current budget side, equal number of posts on Development side shall automatically stand abolished and all the posts shall be filled as per Government policy in vogue:-

Sl. No	Name of Post with BPS	Peshawar	Mardan	DIKhan	Swat	Total
1	District Officer (BS-18)	0	0	1	0	1
2	Assistant Director (BS-17)	1	1	0	1	3
3	Sub-Engineer (B-11/16)	1	2	0	2	5
4	KPO (B-10)	1	1	1	1	4
5	Senior Clerk (BS-7)	1	0	0	0	1
Total:-		4	4	2	4	14

2. In addition to above, the remaining 150 posts in the following Districts as per details given below are hereby created with effect from 1st July, 2007 during next financial year, 2007-2008:-

S. No	Name of post with BS	Bannu	Kohat	Lakki Marwat	Nowshera	Charsadda	Swabi	Buner	Dir. Lower	Chitral	Manshera	Total
1	Distt:Officer BS-18	1	1	1	1	1	1	1	1	1	1	10
2	Asstt:Director (BS-17)	1	1	1	1	1	1	1	1	1	1	10
3	Water Management Officer(B-17)	1	1	1	1	1	1	1	1	1	1	10
4	Sub-Engineer (B-11/16)	2	2	2	2	2	2	2	2	2	2	20
5	Office Asstt/ Acctt: (B-11)	1	1	1	1	1	1	1	1	1	1	10
6	K.P.O(B-10)	1	1	1	1	1	1	1	1	1	1	10
7	Sr.Clerk(BS-7)	1	1	1	1	1	1	1	1	1	1	10
8	F/Asstt (B-6)	1	1	1	1	1	1	1	1	1	1	10
9	J/Celrk (B-5)	1	1	1	1	1	1	1	1	1	1	10
10	Driver (B-4)	1	1	1	1	1	1	1	1	1	1	10
11	Rodamn (B-1)	2	2	2	2	2	2	2	2	2	2	20
12	Chowkidar (B-1)	1	1	1	1	1	1	1	1	1	1	10
13	N/Qasid (B-1)	1	1	1	1	1	1	1	1	1	1	10
Total:-		15	15	15	15	15	15	15	15	15	15	150

3. The expenditure involved will be met out under head of account, 04-Economic affairs, 042-Agriculture Food, irrigation, Forestry & Fishing, 0421-Agriculture 042103-Agriculture Research and extension services Grant No.18 Agriculture On-Farm Water Management during the year, 2007-2008.

Sd/-XXX
SECRETARY AGRICULTURE.

Endst.No. BOVII/FD/2-3/2006-07/Agri.

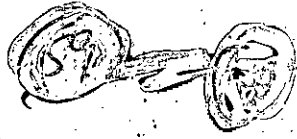
Dated Peshawar, the 21-4-2007

Copy forwarded for information and necessary action to:-

1. The Accountant General, NWFP, Peshawar.

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2. The District Accounts Officers, Bannu, Kohat, Lakki Marwat, Nowshera, Charsadda, Swabi, Buner Dir Lower, Chitral, Mansehra, Peshawar, Mardn, DIKhan and Swat.

(MUHAMMAD IQBAL)
BUDGET OFFICER-VII
FINANCE DEPARTMENT.

Endst. No. SOE(AD)23-3/2006.

Dated Peshawar, the 21-4-2007

Copy forwarded for information and necessary action to:-

1. The Director General, On-Farm Water Management, NWFP, Peshawar.
2. The District Coordination Officers, Bannu, Kohat, Lakki Marwat, Nowshera, Charsadda, Swabi, Buner Dir Lower, Chitral, Mansehra, Peshawar, Mardn, DIKhan and Swat.
3. The Executive District Officers (Finance & Planning), Bannu, Kohat, Lakki Marwat, Nowshera, Charsadda, Swabi, Buner Dir Lower, Chitral, Mansehra, Peshawar, Mardn, DIKhan and Swat.
4. The Executive District Officers (Agriculture), Bannu, Kohat, Lakki Marwat, Nowshera, Charsadda, Swabi, Buner Dir Lower, Chitral, Mansehra, Peshawar, Mardn, DIKhan and Swat.
5. The District Officers Water Management, Bannu, Kohat, Lakki Marwat, Nowshera, Charsadda, Swabi, Buner Dir Lower, Chitral, Mansehra, Peshawar, Mardn, DIKhan and Swat.
6. The Budget Officer-VII, Government of NWFP, Finance Department w/r to his letter No. BOVII/FD/2-3/2006-07/Agri: dated 26-3-2007.
7. PS to Secretary Agriculture.


(JAVAID MAQBOOL BUTT)
SECTION OFFICER-ESTT:

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2011

GOVERNMENT OF NWFP
AGRI.: LIVESTOCK AND COOP. DEPT.
Dated: Peshawar, the 30 / 7 / 2007.

NOTIFICATION.

No. SOE(AD)23-3/2006.

In consultation with the Government of NWFP, Finance Department, the competent authority is pleased to accord sanction to the creation of the following posts in the offices of On-Farm Water Management (District level) with effect from 1st July, 2007 subject to the observance of all codal formalities required under the rules. After the No. of posts so filled on current budget side, equal number of posts on Development side shall automatically stand abolished and all the posts shall be filled as per Government policy in vogue:-

Sl. No	Name of Post with BPS	Malakand	Battagram	H/Pur	A. Abad	Tank	Karak	Hangu	U/Dir	Kohistan	Total
1	District Officer (BS-18)	1	1	1	1	1	1	1	1	1	9
2	Assistant Director (US-17)	1	1	1	1	1	1	1	1	1	9
3	Water Management Officer (BS-17)	1	1	1	1	1	1	1	1	1	9
4	Sub-Engineer (BS-11/16)	2	2	2	1	1	1	1	1	1	12
5	Office Asstt./Acctt. (BS-11)	1	1	1	1	1	1	1	1	1	9
6	KPO (BS-10)	1	1	1	1	1	1	1	1	1	9
7	Sr. Clerk (BS-7)	1	1	1	0	0	0	0	0	0	3
8	Field Assistant (BS-6)	1	1	1	0	0	0	0	0	0	3
9	Jr. Clerk (BS-5)	1	1	1	1	1	1	1	1	1	9
10	Driver (BS-4)	1	1	1	1	1	1	1	1	1	9
11	Rodman (BS-1)	2	2	2	1	1	1	1	1	1	12
12	Chowkidar (BS-1)	1	1	1	1	1	1	1	1	1	9
13	Naib Qasid (BS-1)	1	1	1	1	1	1	1	1	1	9
Total:-		15	15	15	11	11	11	11	11	11	111

3. The expenditure involved will be met out under head of account, 04-Economic affairs, 042-Agriculture Food, irrigation, Forestry & Fishing, 0421-Agriculture 042103-Agriculture Research and extension services Grant No.18 Agriculture On-Farm Water Management during the year, 2007-2008.

Sd/-XXX
SECRETARY AGRICULTURE.

Endst.No. BOVII/FD/2-3/2006-07/Agri.

Dated Peshawar, the 30 / 7 / 2007

Copy forwarded for information and necessary action to:-

1. The Accountant General, NWFP, Peshawar.
2. The District/Agency Accounts Officers, Malakand, Battagram, Haripur, Abbottabad, Tank, Karak, Hangu, Upper Dir and Kohistan.

(MUHAMMAD IQBAL)
BUDGET OFFICER-VII
FINANCE DEPARTMENT.


Endst. No. SOE(AD)23-3/2006.

Dated Peshawar, the 30 / 7 / 2007

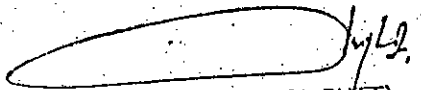
Copy forwarded for information and necessary action to:-

1. The Director General, On-Farm Water Management, NWFP, Peshawar.
2. The District Coordination Officers, Malakand, Battagram, Haripur, Abbottabad, Tank, Karak, Hangu, Upper Dir and Kohistan.
3. The Executive District Officers (Finance & Planning), Malakand, Battagram, Haripur, Abbottabad, Tank, Karak, Hangu, Upper Dir and Kohistan.
4. The Executive District Officers (Agriculture), Malakand, Battagram, Haripur, Abbottabad, Tank, Karak, Hangu, Upper Dir and Kohistan.
5. The District Officers Water Management, Malakand, Battagram, Haripur, Abbottabad, Tank, Karak,

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- 6. The Budget Officer-VII, Government of NWFP, Finance Department w/r to his letter No.BOVII /FD /2 3/2006-07/Agri: dated 20-7-2007.
- 7. PS to Secretary Agriculture.


(JAVAI MAQBOOL BU) (T)
SECTION OFFICER-ESTT:

Dr. Nawaz

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GOVERNMENT OF NWFP
AGRICULTURE LIVESTOCK AND COOP. DEPTT.

Dated Peshawar, the 31-7-2007.

NOTIFICATION.

NO. SOE(AD)3(3)5/2007.

The competent authority is pleased to order posting/transfer of the following Officers with immediate effect in the interest of public service:-

Sl. No	Name of Officer	From	To	Remarks.
1.	Mr. Muhammad Ramzan BS-18	Project Director, Water Management, Training Centre, DIKhan.	Director (HRD) BS-19, Water Management Training Centre, DIKhan (in his own pay & scale)	Newly created post.
2.	Mr. Muhammad Azeem BS-17	Asstt: Director, Water Management, Training Centre, DIKhan.	Project Director, Water Management, Training Centre, DIKhan(ops)	Vice No.1
3.	Mr. Gulistan Khan BS-18	Distt: Officer, Water Management (NP), Bannu.	District Officer, Water Management, Bannu.	Newly created post.
4.	Mr. Muhammad Baksh BS-18	Distt: Officer, Water Management (NP), Kohat.	Distt: Officer, Water Management, Kohat.	--do--
5.	Mr. Muhammad Khurshid Afridi. BS-17	Distt: Officer, Water Management (NP), Charsadda.	Distt: Officer, Water Management, Charsadda (ops).	--do--
6.	Mr. Muhammad Ismail BS-17	Distt: Officer, Water Management (NP), Lakki Marwat.	Distt: Officer, Water Management, Lakki Marwat (ops).	--do--
7.	Mr. Javed Iqbal BS-17	Distt: Officer, Water Management (NP), Nowshera.	Distt: Officer, Water Management, Nowshera(ops).	--do--
8.	Mr. Shamshad Khan BS-17	Distt: Officer, Water Management (NP), Swabi.	Distt: Officer, Water Management, Swabi (ops).	--do--
9.	Mr. Zahir Ali BS-17	Distt: Officer, Water Management (NP), Buner.	Distt: Officer, Water Management, Buner (ops).	--do--
10.	Mr. Muhammad Jarnil Khan. BS-17	Distt: Officer, Water Management (NP), Dir Lower.	Distt: Officer, Water Management, Dir Lower (ops).	--do--
11.	Mr. Salar Khan BS-17	Distt: Officer, Water Management (NP), Mansehra.	Distt: Officer, Water Management, Mansehra (ops).	--do--
12.	Dr. Akh Bakhsh BS-17	Distt: Officer, Water Management (NP), DIKhan.	Distt: Officer, Water Management, DIKhan (ops).	--do--
13.	Malik Muhammad Salim BS-17	Asstt: Director o/o Distt: Officer WM (NP), Mansehra.	Asstt: Director o/o Distt: Officer WM: Mansehra.	--do--
14.	Mr. Ulaidullah BS-17	Asstt: Director o/o Distt: Officer WM (NP), Mardan.	Asstt: Director o/o Distt: Officer WM Mardan.	--do--
15.	Mr. Jehangir Khan BS-17	Asstt: Director o/o Distt: Officer WM (NP), Charsadda.	Asstt: Director o/o Distt: Officer WM: Charsadda.	--do--
16.	Mr. Muhammad Anwar BS-17	Asstt: Director o/o Distt: Officer WM (NP), Charsadda.	WMO o/o Distt: Officer WM: Charsadda.	--do--
17.	Mr. Hameedullah BS-17	Water Management Officer o/o Dy: Director, WM: Swat.	Asstt: Director o/o Dy: Director, WM: Swat.	--do--
18.	Mr. Hayat Khan BS-17	Asstt: Director o/o Distt: Officer WM (NP), Swabi.	Asstt: Director o/o Distt: Officer WM: Swabi.	--do--

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

No. 5324-97/DG/OFWM

dated Peshawar

the, 26/12/2012.

To,

1. Director (HRD),
On Farm Water Management,
Training Center D.I.Khan
2. All Deputy Directors;
Water Management in Khyber Pakhtunkhwa.
3. All District Officers,
On Farm Water Management in Khyber Pakhtunkhwa.
4. All Assistant Directors/Water Management Officers in Khyber Pakhtunkhwa.

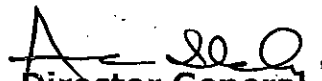
Subject: - **SENIORITY LIST OF OFFICERS OF ON FARM WATER MANAGEMENT DEPARTMENT AS STOOD ON 30-11-2012.**

Memo,

Enclosed please find herewith copy of the draft seniority list of On Farm Water Management Department as stood on December, 2012.

Any discrepancy/omission in the seniority list may please be intimated to this office within a week time positively for necessary correction, otherwise the same will be considered as undisputed/ final and will be submitted to the Admn: Department for approval.

Encl: **As above**


Director General
On Farm Water Management
Khyber Pakhtunkhwa Peshawar

No. _____/DG/OFWM dated Peshawar the, _____/2012.

Copy to the Section Officer (Estt:) Government of Khyber Pakhtunkhwa, Agri:, L/Stock & Coop: Deptt: Peshawar with reference to his letter No. SOE(AD)II(2)391/2011 dated 11/09/2012.

Director General
On Farm Water Management
Khyber Pakhtunkhwa Peshawar

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List

DIRECTORATE GENERAL ON FARM WATER MANAGEMENT KHYBER PAKHTUNKHWA PESHAWAR

38

SENIORITY LIST OF OFFICERS BS-17 (ASSISTANT DIRECTOR /WATER MANAGEMENT OFFICER) AS ON DECEMBER, 2012

S. No.	Officers' Name	Academic Qualification	Home District/ Agency	Date of Birth	Date of Joining	Present Posting	Date of Superannuation
1	2	3	4	5	6	7	8
1	Mr. Mohammad Jamil	B.Sc. Agriculture Engineering	Nowshera	05/01/1957	30/04/1987	Assistant Director o/o DO OFWM Mansehra	04/01/2017
2	Mr. Muhammad Ishaq	M.Sc.(Hons) Agriculture	Swat	25/12/1964	09/12/1990	Assistant Director (BS-17 Supervisory) o/o DO OFWM District Abbottabad	24/12/2024
3	Mr. Masud-ur-Rehman	M.Sc.(Hons) Agriculture (Water Management)	Karak	07/04/1967	20/01/1992	Long Leave	06/04/2027
4	Mr. Bakhtawar Shah	M.Sc.(Hons) Agriculture	Buner	02/02/1963	19/01/1992	Assistant Director (BS-17 Supervisory) o/o DO OFWM District Buner	01/02/2023
5	Mr. Bakht Ali	M.Sc.(Hons) Agriculture	Karak	06/10/1967	27/11/1994	Assistant Director (BS-17 Supervisory) o/o DO OFWM District Kohat	05/10/2027
6	Mr. Zahidullah	M.Sc.(Hons) Agriculture	FR Bannu	04/06/1968	27/11/1994	Assistant Director (BS-17 Supervisory) Water Management Training Center D.I.Khan	03/06/2028
7	Mr. Shad Muhammad	M.Sc.(Hons) Agriculture	Battagram	10/05/1965	01/01/1995	Long Leave	09/05/2025
8	Mr. Habib-ur-Rehman	M.Sc.(Hons) Agriculture	Tank	01/12/1969	27/11/1994	District Officer OFWM Tank (Own Pay Scale)	30/11/2029
9	Mr. Saeed-ur-Rehman	M.Sc.(Hons) Agriculture	Swabi	01/08/1968	27/11/1994	Assistant Director (BS-17 Supervisory) o/o DO OFWM District Nowshera	31/07/2028
10	Mr. Hamidullah	M.Sc.(Hons) Agriculture	Swat	01/01/1965	27/11/1994	Assistant Director (BS-17 Supervisory) o/o Dy. Director OFWM District Swat	31/12/2024
11	Mr. Muhammad Anwar	M.Sc.(Hons) Agriculture	Charsadda	09/04/1967	27/11/1994	Assistant Director (BS-17) Supervisor o/o DO OFWM District Charsadda	08/04/2027
12	Mr. Abdul Hafeez	M.Sc.(Hons) Agriculture	Mardan	22/06/1963	27/11/1994	Assistant Director (BS-17 Supervisory) o/o District Officer OFWM Hangu(OPS)	21/06/2023
13	Raja Muhammad Javed Arif	B.Sc. Agriculture (Water Management)	Haripur	03/04/1965	26/01/1995	Assistant Director (BS-17 Supervisory) o/o DO OFWM District Chitral	02/04/2025

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S. No.	Officers' Name	Academic Qualification	Home District/ Agency	Date of Birth	Date of Joining	Present Posting	Date of Superannuation
1	2	3	4	5	6	7	8
14	Mr. Muhammad Asif	M.Sc. Agriculture Engineering	Peshawar	01/03/1970	01/10/1996	Assistant Director (BS-17 Supervisory) o/o DG OFWM Khyber Pakhtunkhwa Peshawar	28/02/2030
✓ 15	Mr. Irfan Hussain	M.Sc.(Hons) Agriculture (Water Management)	Peshawar	14/04/1965	01/10/1996	Assistant Director (BS-17 Supervisory) DO OFWM Kohistan (OPS)	13/04/2025
16	Mr. Imtiaz Khan	M.Sc.(Hons) Agriculture (Water Management)	Mardan	06/06/1964	01/10/1996	Assistant Director (BS-17 Supervisory) o/o DO OFWM District Swabi.	05/06/2024
✓ 17	Mr. Sultan Muhammad	M.Sc.(Hons) Agriculture (Water Management)	Malakand Agency	01/02/1969	01/10/1996	Assistant Director (BS-17 Supervisory) o/o DO OFWM District Malakand	31/01/2029
✓ 18	Mr. Riaz Gul	M.E Irrigation Engineering & Management (Phillipine)	Mardan	15/04/1967	01/10/1996	Assistant Director (BS-17 Supervisory) o/o Dy. Director District Mardan	14/04/2027
✓ 19	Mr. Muhammad Ghafoor	M.Sc.(Hons) Agriculture (Water Management)	North Waziristan	07/02/1969	01/10/1996	Assistant Director (BS-17 Supervisory) o/o DO OFWM District Lakki Marwat	06/02/2029
✓ 20	Mr. Rabnawaz	M.Sc.(Hons) Agriculture (Water Management)	Mansehra	10/04/1968	01/10/1996	Assistant Director (BS-17 Supervisory) o/o Dy. Director (F) WM Peshawar.	09/04/2028
21	Mr. Mansoor Nasir	M.Sc.(Hons) Agriculture	Nowshera	1/4/1966	13/6/1995 Adjusted from defunct FVDB	Planning Officer (BS-17) District Government Nowshera	31/3/2026
22	Mr. Wajid Ali	M.Sc.(Hons) Agriculture	Nowshera	15/02/1971	24/11/2004	Water Management Officer (BS-17) o/o Distt: Officer OFWM District Nowshera.	14/02/2031
23	Mr. Atta-ul-Haq	M.Sc.(Hons) Agriculture	Nowshera	1/9/1972	24/11/2004	Water Management Officer (BS-17) o/o Distt: Officer OFWM District Swabi.	31/08/2032
24	Mr. Farmanullah Khan	M.Sc.(Hons) Agriculture	Bannu	10/4/1968	24/11/2004	Water Management Officer (BS-17) o/o Distt: Officer OFWM District Bannu.	09/04/2028
25	Mujeeb-ur-Rehman	M.Sc.(Hons) Agriculture	D.I.Khan	12/3/1973	24/11/2004	Water Management Officer (BS-17) o/o Distt: Officer OFWM District Karak.	11/3/2033
26	Mr. Wakeel Khan	M.Sc.(Hons) Agriculture	Lakki Marwat	1/3/1978	24/11/2004	Water Management Officer (BS-17) o/o Distt: Officer OFWM District Kohat.	1/3/2038
27	Muhammad Shahid Nawaz	M.Sc.(Hons) Agriculture	D.I.Khan	2/3/1977	24/11/2004	Water Management Officer (BS-17) o/o Distt: Officer OFWM District Hangu.	1/3/2037

S. No.	Officers' Name	Academic Qualification	Home District/ Agency	Date of Birth	Date of Joining	Present Posting	Date of Superannuation
1	2	3	4	5	6	7	8
28	Mr. Abdullah Khan	B.Sc. Agriculture Engineering	Mardan	3/3/1968	24/11/2004	Water Management Officer (BS-17) o/o Distt: Officer OFWM District Mardan.	2/3/2028
29	Mr. Aftab Ahamad	B.Sc. Agriculture Engineering	D.I.Khan	15/09/1974	24/11/2004	Water Management Officer (BS-17) o/o Distt: Officer OFWM District Tank.	14/09/2034
30	Mr. Shahid Mehmood	B.Sc. Agriculture Engineering	Abbottabad	18/12/1967	24/11/2004	Water Management Officer (BS-17) o/o Distt: Officer OFWM District Mansehra.	17/12/2027
31	Mr. Ghulam Bilal	B.Sc. Agriculture Engineering	D.I.Khan	5/1/1974	24/11/2004	Water Management Officer (BS-17) o/o Distt: Officer OFWM District Lakki Marwat.	4/1/2034
32	Mr. Qayyum Khan	B.Sc. Agriculture Engineering	FR Bannu	6/4/1965	24/11/2004	Water Management Officer (BS-17) o/o Deputy Director (F)OFWM District Peshawar.	5/4/2025
33	Mr. Rafiq Ahmad Ghuncha	B.Sc. Agriculture Engineering	D.I.Khan	10/4/1968	24/11/2004	Water Management Officer (BS-17) o/o Distt: Officer OFWM District Shangla.	9/4/2028
34	Mr. Said Muhammad	B.Sc. Agriculture Engineering	Peshawar	2/10/1970	24/11/2004	Water Management Officer (BS-17) o/o Distt: Officer OFWM District Abbottabad.	1/10/2030
35	Muhammad Nadeem	B.Sc. Agriculture Engineering	D.I.Khan	20/02/1975	24/11/2004	Water Management Officer (BS-17) o/o Distt: Officer OFWM District Malakand.	19/2/2035
36	Mr. Amir Rabbani	B.Sc. Agriculture Engineering	Abbottabad	14/12/1967	24/11/2004	Water Management Officer (BS-17) o/o Distt: Officer OFWM District Kohistan.	13/12/2027
37	Mr. Zahid Khaleeq	B.Sc. Agriculture Engineering	Bannu	1/5/1970	24/11/2004	Water Management Officer (BS-17) o/o Distt: Officer OFWM District Charsadda.	30/4/2030
38	Mr. Javed Iqbal Shah	Three Years Diploma of Associate Engineer	D.I.Khan	1/8/1957	1/6/1981	Water Management Officer (BS-17) o/o Distt: Officer OFWM District Dir Lower.	31/07/2017
39	Mr. Tabbasum Nawaz	Three Years Diploma of Associate Engineer	D.I.Khan	7/9/1959	21/11/1981	Water Management Officer (BS-17) o/o Distt: Officer OFWM District Kohistan.	6/9/2019
40	Mr. Tahir Qureshi	Three Years Diploma of Associate Engineer	D.I.Khan	20/04/1960	23/11/1981	Water Management Officer (BS-17) o/o Distt: Officer OFWM District Battagram.	19/4/2020
41	Mr. Sohail Raza Shah	Three Years Diploma of Associate Engineer	D.I.Khan	4/7/1960	23/11/1981	Water Management Officer (BS-17) o/o Distt: Officer OFWM District Dir Upper.	3/7/2020

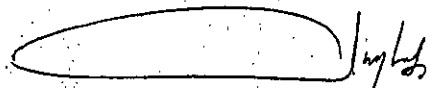
9	19.	Mr. Saad-ur-Rehman BS-17	Asstt. Director o/o Distt. Officer WM (NP), Swabi.	Asstt. Director o/o Distt. Officer WM :Swabi.	--do--
15	20.	Mr. Irfan Hussain BS-17	Asstt. Director, WM: Project Sprinkle Irrigation, Peshawar.	Asstt. Director, WM: o/o DG-OFWM. He will also hold addl: charge of the Sprinkle Irrigation Project.	--do--
20	21.	Mr. Rabnawaz Khan BS-17	Asstt. Director (Admn: & Vegl:)o/o DG-OFWM, Peshawar.	Assistant Director o/o Dy:Director, WM(Field)Peshawar. He will also hold addil: charge of Asst: Director (Admn: & Vegl) o/o DG(NP),NWFP.	--do--
19	22.	Mr. Muhammad Ghafoor BS-17	Asstt. Director o/o Distt: Officer WM (NP), Swat.	Asstt: Director o/o Distt: Officer WM : Bannu.	--do--
17	23.	Mr. Muhammad Sultan BS-17	Asstt: Director o/o Distt: Officer WM (NP), Malakand.	Asstt: Director o/o Distt: Officer WM: Dir Lower.	--do--
18	24.	Mr. Riaz Gul BS-17	Asstt: Director o/o Dy: Director, WM (NP) Swat.	Asstt: Director o/o District Officer WM: Buner.	--do--
	25	Mr. Zia-ud-Din	Water Management Officer (waiting for posting)	Assistant Director, Water Management (NP) Kohistan.	Against vacant post.

Sd/-
SECRETARY AGRICULTURE.

Endst. of even No. & Date.

Copy forwarded for information and necessary action to:-

1. The Director General, On-Farm Water Management, NWFP, Peshawar.
2. The Director General, Water Management (NP), NWFP, Peshawar.
3. The Accountant General, NWFP, Peshawar.
4. The Project Director, Water Management, Training Centre, DIKhan.
5. The Deputy Director, Water Management, Swat and Mardan.
6. The Deputy Director, Water Management (Field), Peshawar.
7. The District Officers; Water Management, Mansehra, Mardan, Charsadda, Swabi, Nowshera, Bannu, Dir Lower, Kohistan and Buner.
8. The District Accounts Officers, DIKhan, Bannu, Kohat, Charsadda, Lakki Marwat,, Nowshera, Swabi, Buner, Dir Lowr, Mardan, Kohistan and Swat.
9. Officers concerned.
10. PS to Minister for Agriculture, NWFP.
11. PS to Secretary Agriculture.


(JAVAID MAQBOOL BUTT)
SECTION OFFICER-ESTT:

Di Nawar

True copy
L. A.



(5)

GOVERNMENT OF NWFP
AGRICULTURE LIVESTOCK AND COOP: DEPTT:

D-1/28

Dated Peshawar, the 3-9-2007.

NOTIFICATION.

NO.SOE(AD)3(3)5/2007.-

The competent authority is pleased to order
re-assignment/transfer of the following Officers with immediate effect in the interest
of public service:-

Sl. No.	Name of Officer	From	To	Remarks.
1.	Mr. Dawar Khan BS-17	Distt: Officer WM NPIWIC District Malakand.	Distt: Officer WM (BS-18) District Malakand (ops).	Newly created post on current budget.
2.	Mr. Muhammad Afzal BS-17.	Distt: Officer WM NPIWIC District Battagram.	Distt: Officer WM (BS-18) District Battagram (ops).	--do--
3.	Mr. Muhammad Suleman (BS-17).	Distt: Officer WM NPIWIC District Haripur.	Distt: Officer WM (BS-18) District Haripur (ops).	--do--
4.	Mian Ghulam Hussain BS-17.	Asstt: Director WM NPIWIC District Abbottabad.	District Officer WM (BS-18) District A/Abad (ops).	--do--
5.	Mr. Zia-ud-Din BS-17	Asstt: Director WM (NP) Kohistan.	Asstt: Director WM (NP) District Swat.	Against vacant post.
5.	Mr. Bakht Ali BS-17.	Asstt: Director WM (NP) Dir Upper.	Asstt: Director (BS-17) WM District Kohat.	Newly created post on c/budg.
7.	Mr. Javed Ali BS-17	Asstt: Director WM (NP) Tank.	Distt: Officer WM (BS-18) Tank (ops).	--do--
8.	Mr. Nasob-ur- Rehman BS-17	Asstt: Director WM (NP) Distt: Karak.	District Officer WM (BS-18) District Dir. Upper (ops).	--do--
9.	Syed Ghulam Abhass Shah BS-17	Asstt: Director WM, DI Khan.	Distt: Officer WM (BS-18) District Karak (ops).	--do--
3	10. Mr. Masoud-ur- Rehman BS-17	Asstt: Director WM (NP) District Hangu.	Distt: Officer WM (BS-18) District Hangu (ops).	--do--
4	11. Mr. Bakhtawar Shah BS-17	Asstt: Director WM(NP) District Buner.	Asstt: Director (BS-17) WM District Buner.	Vice No.12
12.	Mr. Riaz Gul BS-17.	Asstt: Director WM District Buner.	Asstt: Director WM (BS-17) Abbottabad.	Newly created post on c/budg.

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13.	Mr. Muhammad Nawaz BS-17	Asstt: Director WM (NP) District Buner.	Asstt: Director WM (BS-17) District Battagram.	--do--
14	Raja Muhammad Arif BS-17	Asstt: Director WM (NP) District Haripur.	Asstt: Director WM (BS-17) District Haripur.	--do--
15	Mr. Muhammad Ishaq BS-17	Asstt: Director WM(NP) District Malakand.	Asstt: Director WM (BS-17) District Malakand.	--do--
16.	Mr. Ahmed Zeb BS-17	WMO (NP) District Dir Lower.	Asstt: Director WM (NP) District Malakand.	Vice No. 15

Sd/-

SECRETARY AGRICULTURE.

Enclst. of even No. & Date.

Copy forwarded for information and necessary action to:-

1. The Director General, On-Farm Water Management, NWFP, Peshawar.
2. The Director General, Water Management (NP), NWFP, Peshawar.
3. The Accountant General, NWFP, Peshawar.
4. The District Officers, Water Management, Malakand, Battagram, Haripur, Abbottabad, Shangla, Kohat, Tank, Dir Upper, Karak Hangu, Swat and Buner.
5. The District /Agency Accounts Officers, Malakand, Battagram, Haripur, Abbottabad, Shangla, Kohat, Tank, Dir Upper, Karak Hangu, Swat and Buner.
6. Officers concerned.
7. PS to Minister for Agriculture, NWFP.
8. PS to Secretary Agriculture.

(JAVAI MAQBOOL BUTT)
SECTION OFFICER-ESTT.

Dil Nawaz

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E/30

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Javed Iqbal
Mr. Justice Raja Fayyaz Ahmed
Mr. Justice Asif Saeed Khan Khosa

Civil Appeals No. 834 to 837 of 2010

(On appeal from the judgment dated 01.12.2009 of the Peshawar High Court, Peshawar passed in Review Petitions No. 64, 68, 69 and 66 of 2009 in Writ Petitions No. 1645/2007, 29/2009, 84/2009 and 43 of 2009)

**Government of North-West Frontier Province through
Secretary, Agriculture, Live Stock and Cooperatives
Department, Peshawar, etc.**

(in all cases)

...Appellants

versus

1. **Abdullah Khan, etc.** (in CA. 834/2010)
2. **Wakil Khan** (in CA. 835/2010)
3. **Amir Rabbani** (in CA. 836/2010)
4. **Atta-ul-Haq, etc.** (in CA. 837/2010)

...Respondents

For the appellants: Qazi Muhammad Anwar, ASC
(in all cases)

For the respondents: Mr. Gul Zarin Kiani, ASC with
(in all cases) Mr. Waseem-ud-Din Khattak, ASC

Date of hearing: 01.03.2011

JUDGMENT

Asif Saeed Khan Khosa, J.: The respondents in the present appeals had been selected for appointment in the prescribed manner on or after the first day of July, 2001 and before the 23rd day of July, 2005 but they had all been appointed on contract basis and upon enactment of subsection (2) of section

ATTESTED

Superintendent
Supreme Court of Pakistan
ISLAMABAD

19 of the North-West Frontier Province Civil Servants (Amendment) Act, 2005 they were to be deemed to have been appointed on regular basis but upon failure of the Provincial Government to treat them as such they and some others filed different Writ Petitions before the Peshawar High Court, Peshawar which Writ Petitions had been allowed by a learned Division Bench of the said Court through a consolidated judgment dated 01.12.2009 with a direction to treat the said respondents as regular employees. On that occasion the learned Additional Advocate-General appearing for the Provincial Government had conceded the claim of the respondents and others to be treated as regular employees. Instead of challenging that judgment of the Peshawar High Court, Peshawar before this Court the appellants herein chose to file Review Petitions before the Peshawar High Court, Peshawar but all such Review Petitions were dismissed by a learned Division Bench of the said Court through a consolidated judgment dated 01.12.2009. The said consolidated judgment dismissing the appellants' Review Petitions has been assailed by the appellants before this Court through the present appeals after obtaining leave of the Court on 14.09.2010.

2. We have heard the learned counsel for the parties at some length and have gone through the relevant record of the case with their assistance.

3. The main contention of the learned counsel for the appellants is that the respondents were project employees appointed on contractual basis and, thus, they were not entitled to

ATTESTED

Signature
Superintendent
Supreme Court of Pakistan
ISLAMABAD

be regularized in service and in this regard he has referred to the provisions of the North-West Frontier Province Employees (Regularization of Services) Act, 2009. We have, however, remained unable to subscribed to this submission of the learned counsel for the appellants inasmuch as according to clause (aa) of subsection (1) of section 2 of the North-West Frontier Province Employees (Regularization of Services) Act, 2009 "contract appointment" meant appointment of a duly qualified person made "otherwise than in accordance with the prescribed method of recruitment". It is admitted at all hands that the appointments of the respondents were made in accordance with the prescribed method of recruitment and through the Departmental Selection Committee and, thus, their case did not attract the above mentioned definition of "contract appointment" contained in clause (aa) of subsection (1) of section 2 of the said Act of 2009. It may be true that the definition of "employee" contained in clause (b) of subsection (1) of section 2 of the said Act of 2009 excluded the employees appointed for a "project post" but before the Peshawar High Court, Peshawar as well as before this Court the appellants have utterly failed to produce anything to establish their assertion that the respondents had in fact been appointed for any project post. All that the appellants could produce before the Peshawar High Court, Peshawar in that regard were some salary slips and payrolls but such salary slips or payrolls could not been accepted as proper substitute for positive and definite proof of the nature of the respondents' appointment or employment.

ATTESTED

Superintendent
Supreme Court of Pakistan
ISLAMABAD

4. We have found that the case of the respondents was in fact squarely covered by the provisions of subsection (2) of section 19 of the North-West Frontier Province Civil Servants (Amendment) Act, 2005 because the respondents had been appointed on contract basis in a manner in accord with the prescribed procedure and that they had been appointed between the period which was catered for by the said Act of 2005. In this view of the matter we have found the learned Division Bench of the Peshawar High Court, Peshawar to be quite justified in allowing the respondents' Writ Petitions and in dismissing the appellants' Review Petitions and also in directing the appellants to treat the respondents as regular employees.

5. We have unmistakably noticed that during the hearing of the respondents' Writ Petitions before the Peshawar High Court, Peshawar the claim of the respondents and the legal position applicable to them had been conceded by the learned Additional Advocate-General appearing for the Provincial Government and, therefore, the appellants cannot be allowed at this stage to turn around and to try to wriggle out of that concession which we have otherwise found to be quite correct and fair.

6. It is not disputed before us that the original consolidated judgment passed by the Peshawar High Court, Peshawar in the respondents' Writ Petitions had not been assailed by the appellants before this Court and they have now approached this Court challenging the consolidated judgment passed by the Peshawar High Court, Peshawar dismissing their Review Petitions. In our

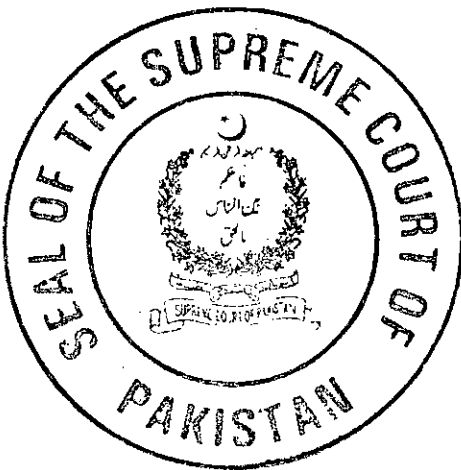
ATTESTED


Superintendent
Supreme Court of Pakistan
ISLAMABAD

364

considered opinion the appellants' Review Petitions had been dismissed by the Peshawar High Court, Peshawar quite correctly as no error patent on the face of the record had been pointed out by the appellants and the consolidated judgment passed by the Peshawar High Court, Peshawar in the Writ Petitions filed by the respondents stands unchallenged before this Court on its merits till date. The appellants cannot now be allowed to assail the consolidated judgment passed in the respondents' Writ Petitions while disregarding the rigours of the law of limitation.

7. For what has been discussed above all these appeals are dismissed with no order as to costs.



Sd/- Javed Farhad, J
Sd/- Raja Fayyaz Ahmed, J
Sd/- Asif Saeed Khan Khosa, J

Certified to be True Copy

Superintendent
Supreme Court of Pakistan
ISLAMABAD

10/3/11

ISLAMABAD

01.03.2011

Not approved for reporting.

M. Yasin

7/3/11

JR NO:	2120/11	Civil/Crimina
Date of Presentation:	2-3-11	
No. of Words:	1500	
No. of folios:	15	
Requisition Fee Rs:	5.00	
Copy Fee In:	9.30	
Court Fee stamps:	14.30	
Date of Completion of Copy:	11.3.11	
Date of delivery of Copy:	11.3.11	
Compared by:		
Received by:		

Dated Peshawar, the 7/6/2011

F/35

NOTIFICATION.

NO. SOE (AD) 17-131/2009.- In pursuance to the judgement of the Hon' able Supreme Court of Pakistan in civil appeals No. 834 to 837 of 2010, the Competent authority is pleased to regularize the services of the following Water Management Officers (BS-17) appointed on contract basis in the project "National Program for Improvement of Watercourses in Pakistan (Khyber Pakhtunkhwa Component) as provided under section-19 sub-section (2) of the NWFP Employees (Regularization of Services) Act, 2005 with effect from 24-11-2004:-

Sl. No.	Name of Officer
1.	Mr. Wajid Ali
2.	Mr. Atta-ul-Haq
3.	Mr. Farmanullah
4.	Mr. Mujeeb-ur-Rehman
5.	Mr. Wakeel Khan
6.	Mr. Muhammad Shahid Nawaz
7.	Mr. Abdullah Khan
8.	Mr. Aftab Ahmad Khan
9.	Mr. Shahid Mehmood
10.	Mr. Ghulam Bilal
11.	Mr. Qayyum Khan
12.	Mr. Rafiq Ahmad Ghuncha
13.	Mr. Said Muhammad
14.	Mr. Muhammad Nadeem
15.	Mr. Amir Rabbani
16.	Mr. Zahid Khaliq

2. Terms & Conditions of their regularization in service are as under:-
- Their services will be considered regular but without pensionary or Gratuity benefits in term of Section-19 of the NWFP Civil Servant Act, 1973 as amended vide NWFP Civil Servants (Amendment) Act, 2005. They will however be entitled to contribute to Contributory Provident Fund in such a manner and at such rates as prescribed by the Government.
 - Their services will be liable for termination on one month's notice from either side. In case of resignation without notice, two month's pay/allowances shall be refunded to Government.
 - They will be governed under such rules and regulations as may be issued from time to time by the Government.
 - In case of misconduct, they will be proceeded against the NWFP Removal from Service (Special Powers) Ordinance, 2000 and the Rules framed there under from time to time.
 - Charge report should be submitted by the officers concerned.

- vi. Their posting orders will be issued subsequently after approval of the competent authority.

SECRETARY AGRICULTURE.

36

Endst. of even No. & Date.

Copy forwarded for information and necessary action to:-

1. The Registrar, Hon' able Peshawar High Court, Peshawar.
2. The Director General, On-Farm Water Management, Khyber Pakhtunkhwa, Peshawar.
3. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
4. The Director General, (National Program) Water Management, Khyber Pakhtunkhwa, Peshawar.
5. The Manager, Government Printing Press, Peshawar.
6. All the District Officers / Deputy Directors, On-Farm Water Management, in Khyber Pakhtunkhwa.
7. All the District Accounts Officers, in Khyber Pakhtunkhwa.
8. Officers concerned.

hms
(SAKHI-UR-REHMAN)
SECTION OFFICER-ESTT:

H/41

To

The Director General
On Farm Water Management
Khyber Pakhtunkhwa Peshawar

Through Proper Channel

Subject: SENIORITY LIST OF OFFICERS OF ON FARM WATER MANAGEMENT DEPARTMENT AS
STOOD ON 30-11-2012.

Memo,

Reference to your letter No.5324-97/DG/OFWM, dated 26/12/2012 received on 31-01-2013. It is submitted that the undersigned has observed some mistakes /discrepancies in the subjected draft seniority list.

1. The name of the undersigned is placed in the seniority list on S/No. 28 among the officers of grade 17, whilst all the officers from S/No. 22 to 27 are junior to the under signed according to their date of birth. The date of joining of the officers is the same in this category Or if the seniority is based on merit of interview then the undersigned has more marks than S/No 25,26 & 27(List attached).
2. Similarly in the same category of BPS-17, officers from S/No. 6 to 21 are not regular employees of the department but they are placed at top in the seniority list..The services of the undersigned was regularized by the competent authority w.e.f 24-11-2004 through a notification SOE (AD) 17-131/2009 dated 07-06-2011 in compliance with the judgement of honourable Supreme Court of Pakistan (Copy attached), whereas above mentioned officers had no permanent status at the time of my date of joining.

Keeping the above reservation in view, it is requested that an impartial and sympathetic consideration is required to revise and correct the seniority list in the best interest of the department.

I'll be highly indebted to you for this consideration please.

Your's Truly,

Abdullah Khan 4/2/2013

Abdullah Khan

Water Management Officer

On Farm Water Management Mardan.

U/K
4/2/2013

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PLD 1992 CS 825

31-1-2013
2-2-2013

POWER OF ATTORNEY

IN THE Khyber Pakhtunkhwa Service Tribunal

In Re D.S Appeal of 20/13

Abdullah Khan

- [Plaintiff
- [Appellant
- [Petitioner
- [Complainant
- [Decree Holder

Versus

Director General and others

- [Defendant
- [Respondent
- [Accused
- [Judgment Debtor

I/We Abdullah Khan Appellant the above named hereby appoint Mr. Imtiaz Ali, Advocate in the above mentioned case, to do all or any of the following acts, deeds and things.

1. To appear, act, and plead for me/us in the above mentioned case in this Court/Tribunal or any other court/tribunal in which the same may be tried or heard, and any other proceedings arising out of or connected therewith.
2. To sign, verify and file or withdraw all proceedings, petitions, appeals, affidavits, and applications for compromise or withdrawal, or for submission to arbitration of the said case, or any other documents, as may be deemed necessary or advisable by them for the conduct, prosecution or defence of the said case at all its stages.
3. To receive payment of, and issue receipts for, all money that may be or become due and payable to us during the course or on the conclusion of the proceedings.

To do all other acts and things which may be deemed necessary or advisable during the course of the proceedings.

AND HEREBY AGREE:

- a. to ratify whatever the said Advocate may do in the proceedings.
- b. not to hold the Advocate responsible if the said case be proceeded ex-parte or dismissed in default in consequence of their absence from the Court/Tribunal when it is called for hearing.
- c. that the Advocate shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fees remains unpaid.

In witness whereof I/We have signed this Power of Attorney/ Vakalatnama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this 20th day of May 2013 at Peshawar

Abdullah Khan
Signature of executant/s

Imtiaz Ali
 Accepted subject to the term regarding payment of fee.
Mr. Imtiaz Ali
Advocate High Court, Peshawar.



GOVERNMENT OF
KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS
AND HUMAN RIGHTS DEPARTMENT

No.Lit/LD/8-3(2)Agric/2013/ 1708-11
Dated Peshawar the 31/01/2013.

To

Advocate General,
Khyber Pakhtunkhwa, Peshawar.

SUBJECT:- WRIT PETITION NO.18-P/2012 WITH C.M 9-P/2012 WRIT PETITION NO.145/2011 WAJID KHAN VS GOVERNMENT OF KHYBER PAKHTUNKHWA AND OTHERS.

Dear Sir,

I am directed to refer to letter No.SO(Lit)AD/1-162/2012, dated 17/01/2013 on the subject noted above and to request you to file CPLA Appeal along with application for suspension of execution and condonation of delay, if any in the Supreme Court of Pakistan against the judgment dated 19/11/2012 passed by the Peshawar High Court, Peshawar (copy attached) in the subject case at an early date, please.

Yours faithfully,

SECTION OFFICER (Lit)

Endst: NO.& Date even.

Copy forwarded to the:

1. Secretary to Government of Khyber Pakhtunkhwa Agriculture Department with reference quoted above with the request to direct the departmental representative not below the rank of BPS-17 to attend the office of the Advocate General Khyber Pakhtunkhwa, Peshawar along with the Original/Attested relevant record of the said case forthwith for filing of CPLA / Appeal in the subject case.
2. PS to Secretary to Government of Khyber Pakhtunkhwa Law, Parliamentary Affairs & Human Rights Department.
3. PA to Deputy Solicitor Law Department.

SECTION OFFICER (Lit)

Secretary Agriculture

Diary

No. 1190

Dated 01-02-13

50(Lit)

2/1/2

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

MR. JUSTICE NASIR-UL-MULK
MR. JUSTICE SARMAJ JALAL OSMANY
MR. JUSTICE IQBAL HAMEEDUR RAHMAN

CIVIL PETITION NO. 302-P OF 2011

(on appeal from the judgment of the Peshawar High Court, Peshawar dated 24.03.2011 passed in Review Petition No. 103 of 2011 in W.P. No. 59 of 2009)

AND

C.M.A. NO. 17-P OF 2012 AND

CIVIL PETITION NO. 572-P OF 2011

(on appeal from the judgment of the Peshawar High Court, Peshawar dated 22.09.2011 in W.P. No. 2170 of 2011)

AND

C.M.A. NO. 267-P OF 2013 AND

CIVIL PETITION NO. 221-P OF 2012

(on appeal from the judgment of the Peshawar High Court, Peshawar dated 07.03.2012 in W.P. No.1897 of 2011)

AND

C.M.A. NO. 264-P OF 2013 AND

CIVIL PETITION NO. 222-P OF 2012

(on appeal from the judgment of the Peshawar High Court, Abbottabad Bench dated 13.03.2012 in W.P. No. 200-A of 2012)

Government of KPK through
Secretary Agriculture & others

...Petitioners/Applicants.

VERSUS

Adnanullah
Amir Hussain & others
Muhammad Younas and others
Atta Ullah Khan & others

(in CP 302-P/11)
(in CP 572-P/12)
(in CP 221-P/12)
(in CP 222-P/12)

...Respondents.

For the Petitioners:

Mr. Zahid Yousaf, Addl. AG. KPK.
a/w Sahibzada Alamgir, Director.

For the Respondents:

(in CP 302-P/11
and CP 221-P/12)

Mr. Imtiaz Ali, ASC.

(in CP 572-P/11)
(in CP 222-P/12)

Mr. Waseem-ud-Din Khattak; ASC.
Mr. Ejaz Anwar, ASC.

(CMA 267-P of 2013)

Nemo.

ATTESTED



Deputy Registrar

Supreme Court of Pakistan,
Peshawar.

Date of Hearing: 13.06.2013


ORDER

NASIR-UL-MULK, J.— These petitions for leave to appeal were heard on a number of dates. In order to appreciate the points involved in them, background facts need to be stated in some details with reference to previous litigation on the same subject.

2. The controversy relates to regularization of employees of the "N.W.F.P. On-Farm Water Management Projects/National Programme for Improvement of Watercourses in Pakistan (NWFP Component)". For the sake of facility the employees are divided into two groups, the "project employees" and the "regular employees". It may however be clarified that the status of the latter as to whether they were regular or project employees is disputed by the other group and is subject to determination. All these employees were appointed on different dates between the years 1980 to 2006. In order to regularize some of them, a Summary was prepared for the then Chief Minister, N.W.F.P. (now KPK) for the creation of 302 new posts against which the employees in the 'Development Projects', numbering more than 500 who have served for 10 to 30 years, would be appointed stage wise in three years. The Summary was approved on 21.12.2006. In order to give effect to it notifications were issued by the Finance Department for the creation of the posts.

3. During the course of hearing, we were informed that against the newly created posts, 254 of the "regular employees" were appointed. A number of "project employees" filed Writ Petition No. 1645 of 2007 in the Peshawar High Court, praying for appointment against such newly created posts. Their Writ Petition was allowed on 22.12.2008, the Court directing, on the concessional statement made by the then Additional Advocate General KPK, to "adjust/regularize the petitioners in due course

ATTESTED

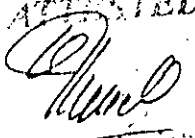


Attesting Officer,
Peshawar High Court,
Peshawar.

on the vacant posts or posts whenever falling vacant in future but in order of seniority/eligibility". Against the said judgment and other similar orders passed by the High Court, Review Petitions were filed by the Provincial Government. The same were dismissed on 01.12.2009. The Government by leave of the Court filed Civil Appeal Nos. 834 to 837 of 2010 titled Government of NWFP through Secretary Agriculture Livestock & Cooperative Department etc. v. Abdullah Khan etc. which were dismissed on 01.03.2011 on the ground that the services of the respondents before it stood regularized under the North-West Frontier Province Employees (Regularization of Services) Act, 2009 (hereinafter referred as to the Act of 2009), as there was nothing on the record produced either before the High Court or this Court that the said respondents were appointed on 'project posts'.

4. Later 16 Writ Petitions by a large number of "project employees" were filed which were decided by a common judgment delivered in Writ Petition No. 360 of 2009. The petitions were allowed on the basis of the N.W.F.P. Civil Servants (Amendment) Act, 2005 (hereinafter referred as to the Act of 2005) and the Act of 2009, which provided for regularization of ad-hoc and contractual employees. This judgment was assailed before this Court. With reference to the afore-stated statutes, petitions for leave to appeals were dismissed through a common judgment delivered in Civil Petition Nos. 562-P to 571-P etc. of 2012 Government of KPK Agriculture Livestock & Cooperative Department etc. v. Amir Hussain and others on 22.03.2012 and the judgment of the High Court was maintained.

5. The judgment of the High Court in Writ Petition No. 1645 of 2007 dated 22.12.2008 as maintained by this Court in Civil Appeal Nos. 834 to 837 of 2010 dated 01.03.2011 was again followed by the High Court in Writ Petition No. 733 of 2011 decided on 08.12.2011. The High

ACCEPTED

Deputy Registrar,
Supreme Court of Pakistan,
Peshawar.

Court in similar case again granted relief in Writ Petition No. 1897 of 2011 decided on 07.03.2012. The present petition for leave to appeal arises from Writ Petition No. 59 of 2009, where direction was given on the concession of the Additional Advocate General KPK on 21.01.2007 to adjust the petitioners. This decision was based on a similar direction given in Writ Petition No. 357 of 2008. The Government of KPK had filed Review Petition No. 103 of 2011 against the judgment of 21.01.2009 passed in Writ Petition No. 59 of 2009. The same was dismissed on 24.03.2011. The said judgment now impugned in C.P. No. 302 of 2011. The same or similar questions are involved in the other connected petitions.

6. During the course of hearing of the present matters, it came to light that the total numbers of employees serving in National Programme for Improvement of Watercourses in Pakistan (NWFP Component) were 755. Against 302 newly created posts 254 of the "regular employees" have been appointed. Out of the balance of 48 posts, 10 were reserved for promotion quota, whereas the remaining 38 project employees were appointed pursuant to the judgments and orders passed by the High Court and this Court. However these were insufficient to adjust the many project employees granted relief by the Courts. Thus additional 155 employees had to be adjusted in Surplus Pool due to non-availability of posts. Upon our query, we were provided with a list of 31 Writ Petitions now pending before the Peshawar High Court, whereby the "Project Employees" have prayed for regularization of their services. Total number of the petitioners in these petitions are 264. If such Writ Petitions are also allowed on the touchstone of the judgments already delivered, the total number of employees to be appointed would add up to 673 against the newly created 302 posts. It seems that the said figures were not brought to the notice of the Courts when afore-stated

ATTESTED



Deputy Registrar,
Supreme Court of Pakistan,
Peshawar.

Judgments were delivered. The appointment letters of the "project employees" showed that they were appointed on contract basis for the Projects. As regards "regular employees", though they were appointed after selection through Public Service Commission but their letters of appointment also make reference to the Projects.

7. It may be stated that Section 3 read with clause (f) of Sub-Section (1), of Section 2 of the Act of 2009 provides for regularization of those employed on contract or ad-hoc basis on "posts under the Government or in connection with the affairs of the Government to be filled in on the recommendations of the N.W.F.P. Public Service Commission." From the judgments of this Court both in Civil Appeals No. 834 to 837 of 2010 (ibid) and Civil Petition Nos. 562-P to 571-P etc. of 2012 (ibid) it appears that it was not brought to the notice of the Court that the respondents were "project employee". In view of the circumstances that now emerges, the judgments delivered by the High Court as well as this Court need to be re-examined or revisited. Leave to appeal in all these cases is granted, *inter alia*, to consider whether:

- i.) the "project employees" as well as the "regular employees" were appointed on "project posts" or "regular posts" and in case the latter were appointed against "regular posts" would they be entitled to be appointed on the newly created posts in preference to the other group;
- ii.) in the event it is found that all the employees were appointed in Projects, should the 302 posts created be filled up on the basis of seniority;
- iii.) the "project employees" who were granted relief by the High Court were entitled to have their services regularized under the Act of 2009;
- iv.) in case the appellants are to be restricted to the 302 newly created posts and appointed on the basis of seniority, would those who have been appointed on the orders of the Courts and are to be excluded on account of

ATTESTED



Deputy Registrar,

Supreme Court of Pakistan,

Peshawar.

their seniority position, would their appointments be reversed.

8. As the decision on Paragraph 6(iv) might effect the appointments of such employees, notices need to be issued to them in accordance with the list to be provided by the learned Additional Advocate General. The appeals be heard on the present record, with liberty to the parties to file additional documents.

9. Since the judgments of this Court in Civil Appeals No. 834 to 837 of 2010 (ibid) and Civil Petition Nos. 552-P to 571-P etc. of 2012 (ibid) were delivered by three Members Benches, let the matter be placed before the Honourable Chief Justice of Pakistan for constitution of a Larger Bench.

C.M.A. NOs. 17-P of 2012 and 264-P of 2013

These applications for filing additional documents and clubbing Civil Petition No.222-P of 2012 with the above titled appeals respectively are allowed and both the applications are disposed off.

C.M.A. NO. 267-P of 2013

The application for impleadment as respondents is dismissed for non-prosecution.

Sd/- Nasir-ul-Mulk J.
Sd/- Sarmad Talal Osmani J.
Sd/- Abdul Hamidur Rahman J.

Verified to be the copy

25-6-2013
Deputy Registrar,
Supreme Court of Pakistan,
Peshawar

PESHAWAR
13th June, 2013.

Mudassar

"Not approved for reporting."

their seniority position, would their appointments be reversed.

8. As the decision on Paragraph 6(iv) might effect the appointments of such employees, notices need to be issued to them in accordance with the list to be provided by the learned Additional Advocate General. The appeals be heard on the present record, with liberty to the parties to file additional documents.

9. Since the judgments of this Court in Civil Appeals No. 834 to 837 of 2010 (ibid) and Civil Petition Nos. 562-P to 571-P etc. of 2012 (ibid) were delivered by three Members Benches, let the matter be placed before the Honourable Chief Justice of Pakistan for constitution of a Larger Bench.

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Sd/- Masir-ul-Mulk J.
Sd/- Sarmad Jalal Osmani J.
Sd/- Akmal Hameedur Rahman J.
Certified to be a true copy
25.6.2013
Deputy Registrar,
Supreme Court of Pakistan,
Peshawar

PESHAWAR
13th June, 2013.
Mudassar

"Not approved for reporting."

Before KPK Service Tribunal, Peshawar

In the matter of:

ABDULLAM KHAN

Versus

DG OFWM & OTHERS

POWER OF ATTORNEY

KNOW ALL to whom these present shall come that I, the undersigned,
Do hereby appoint and constitute

Barrister Masroor Shah
B.A; LL.B (Hons) (UK); PGD (London)
Bar - at - Law (Lincoln's Inn, London)
Advocate Supreme Court of Pakistan

BARRISTER MASROOR SHAH & COMPANY
Advocates & Legal Consultants

Office 2, Level 02, Ginza Centre
Blue Area, Jinnah Avenue
Islamabad

- 16 ~~Mohammad Asif~~
- 17 Irfan Hussain
- 18 Imtiaz Khan
- 19 Sultan Muhammad
- 20 Riaz Gul
- 21 Muhammad Ghaffar
- 22 Rab Nawaz

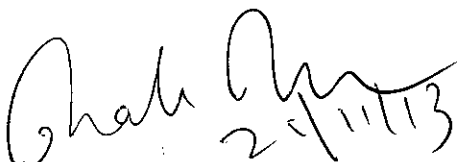
- 7. Baloch Ali
- 8. Zahidullah
- 9. Shad Mohammad
- 10. Habib-ur-Rehman
- 11. Saeed-ur-Rehman
- 12. Hamidullah
- 13. Mahmood Anwar
- 14. Abdul Nafeez
- 15. Raja Muhammad Javed Anwar

To be the advocate for Respondent 3-23 in the above mentioned case to do all the following acts, deeds and things or any one of them, that is to say: -

1. To act, appear and plead on our behalf in the above mentioned cause in this Court or any other Court in which the same may be tried or heard in the first instance or in appeal or review or revision or execution or at any other stage of its progress until its final decision.
2. To present pleadings, statements, appeals, cross objections or petitions for execution review, revision, withdrawal, compromise or other petitions or affidavits or other documents as shall be deemed necessary or advisable for the prosecution of the said cause in all its stages.
3. To employ any other Legal Practitioner authorizing him to exercise the power and authorities hereby conferred on the Advocate wherever he may think fit to do so.

And I hereby agree to ratify whatever the advocate or his substitute shall to do in the said premise.

IN THE WITNESS WHERE OF I hereunto set my hand to these present the contents of which have been explained to and understood by us, this 21 Day of Nov 2013


21/11/13

Accepted
Barrister Masroor Shah & Company
Advocates & Legal Consultants

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeals No: 917 - 921/2013

In the matter of:

ABDULLAH KHAN

...Appellant

Versus

DIRECTOR GENERAL, ON FARM WATER MANAGEMENT AND OTHERS

....Respondents

APPEAL u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the Impugned Seniority List No: 5324-97/DG/OFWM; dated: 26.12.2012 wherein the Appellant has been placed at Serial No: 28 below the Respondent No: 3 to 23 And the Appeal/Representation filed by the Appellant against the Impugned Seniority List has not been replied to so far

APPLICATION FOR SINE DIE ADJOURNMENT ON BEHALF OF RESPONDENTS NO: 7 - 22

INDEX

No	Particulars	Annex	Page
1	Application for Sine Die Adjournment	-	1 - 3
2	Order of SCP dated: 13.06.2013 in C.P No: 302-P/11, 572-P/11, 221-P/12 and 222-P/12	A	4 - 9

Respondents No: 3 - 23

Through:



Barrister Masroor Shah
B.A; LL.B (Hons.) (UK); PGD (London)
Bar at Law (Lincoln's Inn)
Advocate Supreme Court of Pakistan

BARRISTER MASROOR SHAH & COMPANY
Advocates & Legal Consultants

www.barristermasroor.com

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**PESHAWAR**

Service Appeals No: 917 - 921/2013

In the matter of:**ABDULLAH KHAN***...Appellant***Versus****DIRECTOR GENERAL, ON FARM WATER MANAGEMENT AND OTHERS***....Respondents*

APPEAL u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the Impugned Seniority List No: 5324-97/DG/OFWM, dated: 26.12.2012 wherein the Appellant has been placed at Serial No: 28 below the Respondent No: 3 to 23

And the Appeal/Representation filed by the Appellant against the Impugned Seniority List has not been replied to so far

APPLICATION FOR SINE DIE ADJOURNMENT ON BEHALF OF RESPONDENTS NO: 7 - 22

Respectfully Sheweth:

1. That the edifice of the entire Appeal of the Appellants is purportedly raised on the foundation of judgment, dated: 01.03.2011, rendered by the August Supreme Court of Pakistan in Civil Appeals No: 834 to 837 of 2010. Para 7 of the Memo of Appeal may graciously be perused for reference in respect thereof.
2. That vide Order, dated: 13.06.2013, rendered by the August Supreme Court of Pakistan in C.P No: 302-P/11, C.P No: 572-P/12, C.P No: 221-P/12 and C.P No: 222-P/12 the very judgment, 01.03.2011, delivered in C.A 834 to 837 of 2010 has been called into question and the matter has become *subjudice* again before the August Court. Relevant excerpts from the Order of the Supreme Court, dated: 13.06.2013, are set out hereinafter:

"7. From the judgments of this Court both in **Civil Appeals no: 834 to 837 of 2010** (ibid) and Civil Petition No: 562-P to 571-P etc of 2012 (ibid) it appears that it was not brought to the notice of the Court that the respondents were "project employee". In view of the circumstances that now emerges, **the judgments delivered by the High Court as well as this Court need to be re-examined or revisited.** Leave to appeal in all these cases is granted inter alia to consider whether:

- i) the "project employees" as well as the "regular employees" were appointed on "project posts" or "regular posts" and in case the latter were appointed against "regular posts" would they be entitled to be appointed on the newly created posts in preference to the other group;
- ii) in the event it is found that all the employees were appointed in Projects, should the 302 posts created be filled up on the basis of seniority;
- iii) the "project employees" who were granted relief by the High Court were entitled to have their services regularized under the Act of 2009;
- iv) in case the appellants are to be restricted to the 302 newly created posts and appointed on the basis of seniority, would those who have been appointed on the orders of the Courts and are to be excluded on account of their seniority position, would their appointment be reversed.

8. ...

9. Since the judgments of this Court in Civil Appeals No: 834 to 837 of 2010 (ibid) and Civil Petitions No: 562-P to 571-P etc. of 2012 (ibid) were delivered by three Member Benches, **let the matter be placed before the Honourable Chief Justice of Pakistan for constitution of a Larger Bench."**

Copy of Order, dated: 13.06.2013, rendered by the August Supreme Court of Pakistan in C.P No: 302-P/11, C.P No: 572-P/12, C.P No: 221-P/12 and C.P No: 222-P/12 is annexed herewith and marked "**A**".

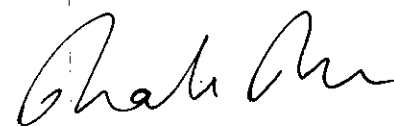
3. That in light of Order of the Supreme Court of Pakistan, particulars whereof set out hereinbefore, any further proceeding in respect of the instant Appeal shall not only amount to travesty of justice but shall also amount to interference with the jurisdiction of the August Court and pre-empting judgment thereof.

PRAYER:

WHEREFORE in view of the aforesaid, it is prayed that the instant Appeal may graciously be adjourned till the final adjudication of Civil Appeals No: 834 to 837 of 2010 whereupon the edifice of the entire case of the Appellant is raised, by the Larger Bench of the August Supreme Court of Pakistan, in the large interest of justice.

Respondents No: 7 - 22

Through:



Barrister Masroor Shah
B.A; LL.B (Hons.) (UK); PGD (London)
Bar at Law (Lincoln's Inn)
Advocate Supreme Court of Pakistan

BARRISTER MASROOR SHAH & COMPANY
Advocates & Legal Consultants

Office 2, Level 02, Ginza Centre
Blue Area Jinnah Avenue
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Cell: 0308 8888 737
Voice: (051) 2272138
Facsimile: (051) 2272943

Email: barristermasroor@gmail.com
Web: www.barristermasroor.com

Date of Hearing:

13.06.2013

ORDER

NASIR-UL-MULK, J. — These petitions for leave to appeal were heard on a number of dates. In order to appreciate the points involved in them, background facts need to be stated in some details with reference to previous litigation on the same subject.

2. The controversy relates to regularization of employees of the "N.W.F.P. On-Farm Water Management Projects/National Programme for Improvement of Watercourses in Pakistan (NWFP Component)". For the sake of facility the employees are divided into two groups, the "project employees" and the "regular employees". It may however be clarified that the status of the latter as to whether they were regular or project employees is disputed by the other group and is subject to determination. All these employees were appointed on different dates between the years 1980 to 2006. In order to regularize some of them, a Summary was prepared for the then Chief Minister, N.W.F.P. (now KPK) for the creation of 302 new posts against which the employees in the 'Development Projects', numbering more than 500 who have served for 10 to 30 years, would be appointed stage wise in three years. The Summary was approved on 21.12.2006. In order to give effect to it notifications were issued by the Finance Department for the creation of the posts.

3. During the course of hearing, we were informed that at that time the newly created posts, 254 of the "regular employees" were appointed. A number of "project employees" filed Writ Petition No. 1645 of 2007 in the Peshawar High Court, praying for appointment against such newly created posts. Their Writ Petition was allowed on 22.12.2008. The Court directed on the concessional statement made by the then Additional Advocate General KPK, to "adjust/regularize the petitioners in due course".


13/06/2013
JUDGE
MIRAN

148

on the vacant posts or posts whenever falling vacant in future but in order of seniority/eligibility". Against the said judgment and other similar orders passed by the High Court, Review Petitions were filed by the Provincial Government. The same were dismissed on 01.12.2009. The Government by leave of the Court filed Civil Appeal Nos. 834 to 837 of 2010 titled Government of NWFP through Secretary Agriculture Livestock & Cooperative Department etc. v. Abdullah Khan etc. which were dismissed on 01.03.2011 on the ground that the services of the respondents before it stood regularized under the North-West Frontier Province Employees (Regularization of Services) Act, 2009 (hereinafter referred as to the Act of 2009), as there was nothing on the record produced either before the High Court or this Court that the said respondents were appointed on 'project posts'.

4. Later 16 Writ Petitions by a large number of "project employees" were filed which were decided by a common judgment delivered in Writ Petition No. 360 of 2009. The petitions were allowed on the basis of the N.W.F.P. Civil Servants (Amendment) Act, 2005 (hereinafter referred as to the Act of 2005) and the Act of 2009, which provided for regularization of ad-hoc and contractual employees. This judgment was assailed before this Court. With reference to the afore-stated statutes, petitions for leave to appeals were dismissed through a common judgment delivered in Civil Petition Nos. 562-P to 571-P etc. of 2012 Government of KPK Agriculture Livestock & Cooperative Department etc. v. Amir Hussain and others on 22.03.2012 and the judgment of the High Court was maintained.


5. The judgment of the High Court in Writ Petition No. 1645 of 2007 dated 22.12.2008 as maintained by this Court in Civil Appeal Nos. 834 to 837 of 2010 dated 01.03.2011 was again followed by the High Court in Writ Petition No. 733 of 2011 decided on 08.12.2011. The High

ATTESTED

Deputy Registrar,
Supreme Court of Pakistan,
Peshawar.

Court in similar case again granted relief in Writ Petition No. 1897 of 2011 decided on 07.03.2012. The present petition for leave to appeal arises from Writ Petition No. 59 of 2009, where direction was given on the concession of the Additional Advocate General KPK on 21.01.2007 to adjust the petitioners. This decision was based on a similar direction given in Writ Petition No. 357 of 2008. The Government of KPK had filed Review Petition No. 103 of 2011 against the judgment of 21.01.2009 passed in Writ Petition No. 59 of 2009. The same was dismissed on 24.03.2011. The said judgment now impugned in C.P. No. 302 of 2011. The same or similar questions are involved in the other connected petitions.

6. During the course of hearing of the present matters, it came to light that the total numbers of employees serving in National Programme for Improvement of Watercourses in Pakistan (NWFP Component) were 755. Against 302 newly created posts 254 of the "regular employees" have been appointed. Out of the balance of 48 posts, 10 were reserved for promotion quota, whereas the remaining 38 project employees were appointed pursuant to the judgments and orders passed by the High Court and this Court. However these were insufficient to adjust the many project employees granted relief by the Courts. Thus additional 155 employees had to be adjusted in Surplus Pool due to non-availability of posts. Upon our query, we were provided with a list of 31 Writ Petitions now pending before the Peshawar High Court, whereby the "Project Employees" have prayed for regularization of their services. Total number of the petitioners in these petitions are 264. If such Writ Petitions are also allowed on the touchstone of the judgments already delivered, the total number of employees to be appointed would add up to 673 against the newly created 302 posts. It seems that the said figures were not brought to the notice of the Courts when afore-stated

ATTESTED



Deputy Commissioner
Peshawar

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- iv.) in case the appellants are to be restricted to the 302 newly created posts and appointed on the basis of seniority, would those who have been appointed on the orders of the Courts and are to be excluded on account of

ATTESTED


Deputy Registrar,

Supreme Court of Pakistan,
Peshawar.

their seniority position, would their appointments be reversed.

8. As the decision on Paragraph 6(iv) might effect the appointments of such employees, notices need to be issued to them in accordance with the list to be provided by the learned Additional Advocate General. The appeals be heard on the present record, with liberty to the parties to file additional documents.

9. Since the judgments of this Court in Civil Appeals No. 834 to 837 of 2010 (ibid) and Civil Petition Nos. 562-P to 571-P etc. of 2012 (ibid) were delivered by three Members Benches, let the matter be placed before the Honourable Chief Justice of Pakistan for constitution of a Larger Bench.

C.M.A. NOs. 17-P of 2012 and 264-P of 2013

These applications for filing additional documents and clubbing Civil Petition No.222-P of 2012 with the above titled appeals respectively are allowed and both the applications are disposed off.

C.M.A. NO. 267-P of 2013

The application for impleadment as respondents is dismissed for non-prosecution. /

Sd/- Nasir-ul-Mulk, J.
Sd/- Sarmad Jalal Osmani, J.
Sd/- Iqbal Hameedur Rahman, J.

Certified to be true copy

25.6.2013
Deputy Registrar,
Supreme Court of Pakistan,
Peshawar.



Mudassar

"Not approved for reporting."

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

IN RE:

Service Appeal No. 917 / of 2013

Abdullah Khan... .. Appellant

VERSUS

DG On Farm Water Management and others... .. Respondents

INDEX

Ser	Description of documents	Annexures	Pages
1.	Body of Application		1 - 2
2.	Affidavit		3
3.	Copy of the judgment of the august Supreme Court of Pakistan dated 13.6.2013	'R/1'	4-9
4.	Vakalat Nama (on original file)		

Applicant/respondent No.23

Through:

Mian Muhibullah Kakakhel
Senior Advocate,
Supreme Court of Pakistan

And

Muhammad Farooq Afridi
Advocate High Court,

Dated: .12.2013

Kakakhel Law Associates
(Advocates & Legal Consultants)
36-C, 2nd Floor Cantonment Plaza,
Saddar Road, Peshawar Cantt
Cell # 0333-9167424

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

IN RE:

Service Appeal No. 917 / of 2013

Abdullah Khan... ..

Appellant

VERSUS

DG On Farm Water Management and others... ..

Respondents

APPLICATION ON BEHALF OF RESPONDENT NO. 23
FOR THE DISMISSAL OF SERVICE APPEAL ON THE
GROUND OF NON MAINTAINABILITY.

Respectfully Sheweth:

1. That the above mentioned Service Appeal is fixed for 12.12.2013 for arguments on Interim Relief. It is respectfully submitted that the appeal is not maintainable and is liable to be dismissed in limine on the following grounds:-
 - a. That the appellant has challenged the draft/tentative seniority list. This Honourable Tribunal can only take cognizance of an appeal under Section 4 of Khyber Pakhtunkhwa Service Tribunal Act, 1974 against a final order of the department in respect of the terms and conditions of service of a Civil Servant . The tentative/draft seniority list cannot be challenged by the appellant being only tentative in nature and not final. Moreover there is no impugned order in the case.
 - b. The service appeal is also not maintainable as the appeal is hit by Provisions of Section 4-B(i) of the Act *ibid* as the fitness or otherwise if a person to be appointed to or to hold a particular

*Case file be
requisitioned*

*Jk
12.12.13*

*Notice be issued
to opposite party
for 09.01.14*

12.12.13

post or to be promoted to a higher post or grade has specifically been excluded from the jurisdiction of this Honourable Tribunal.

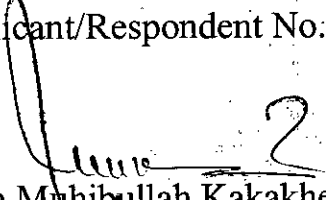
- c. The service appeal is frivolous and vexatious as the appellant is a chronic litigant who dragged all the respondents and some others including the government departments into litigation upto the Supreme Court of Pakistan. (Copy of the judgment of the august Supreme Court of Pakistan dated 13.6.2013 is attached as annexure R/1).
2. That continuation of the service appeal before this Honourable Tribunal amounts to an abuse of the process of law and Court by the appellant besides being a source of torture for the applicant.
3. That it will be in the interest of justice to dismiss the service appeal at this stage being not maintainable in view of the bar contained in Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974.

It is, therefore, respectfully prayed that on acceptance of this application service appeal filed by the appellant may be dismissed with costs being not maintainable.

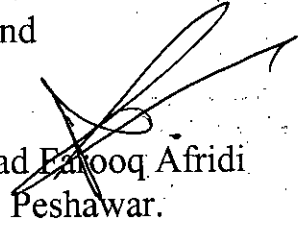
Any other order deemed appropriate in the circumstances of the case may also be passed. The applicant/respondent No.23 may be allowed to put forward any other arguments/document at the time of hearing of this application.

Through:


Applicant/Respondent No.23


Mian Muhibullah Kakakhel
Senior Advocate
Supreme court of Pakistan
And

Dated: .12.2013


Muhammad Farooq Afridi
Advocate, Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

IN RE:

Service Appeal No. 917 / of 2013

Abdullah Khan... .. Appellant

VERSUS

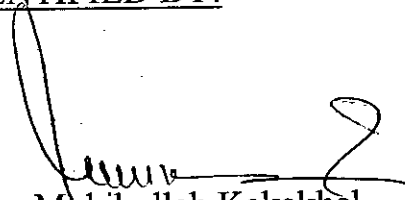
DG On Farm Water Management and others... .. Respondents

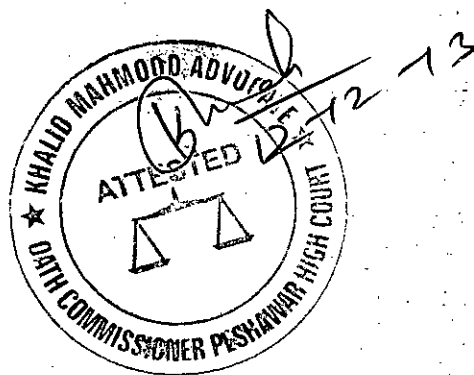
AFFIDAVIT

I, Mansoor Nasir, Water Management Officer District Government Nowshera, do hereby solemnly affirm and declare that the contents of this Application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.


Deponent

IDENTIFIED BY:


Mian Muhibullah Kakakhel
Advocate, Peshawar.



(4) Annex R/1

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

MR. JUSTICE NASIR-UL-MULK
MR. JUSTICE SARMAJ JALAL OSMANY
MR. JUSTICE IQBAL HAMEEDUR RAHMAN

CIVIL PETITION NO. 302-P OF 2011

(on appeal from the judgment of the Peshawar High Court, Peshawar dated 24.03.2011, passed in Review Petition No. 103 of 2011 in W.P. No. 59 of 2009)

AND

C.M.A. NO. 17-P OF 2012 AND CIVIL PETITION NO. 572-P OF 2011

(on appeal from the judgment of the Peshawar High Court, Peshawar dated 22.09.2011 in W.P. No. 2170 of 2011)

AND

C.M.A. NO. 267-P OF 2013 AND CIVIL PETITION NO. 221-P OF 2012

(on appeal from the judgment of the Peshawar High Court, Peshawar dated 07.03.2012 in W.P. No. 1897 of 2011)

AND

C.M.A. NO. 264-P OF 2013 AND CIVIL PETITION NO. 222-P OF 2012

(on appeal from the judgment of the Peshawar High Court, Abbottabad Bench dated 13.03.2012 in W.P. No. 200-A of 2012)

Government of KPK through
Secretary Agriculture & others

...Petitioners/Applicants.

VERSUS

Adnanullah
Amir Hussain & others
Muhammad Younas and others
Atta Ullah Khan & others

(in CP 302-P/11)
(in CP 572-P/12)
(in CP 221-P/12)
(in CP 222-P/12)
...Respondents.

For the Petitioners:

Mr. Zahid Yousaf, Addl. AG. KPK.
a/w Sahibzada Alamgir, Director.

For the Respondents:

Mr. Imtiaz Ali, ASC.

(in CP 302-P/11
and CP 221-P/12)

Mr. Waseem-ud-Din Khattak, ASC.
Mr. Ejaz Anwar, ASC.

(in CP 572-P/11
(in CP 222-P/12)

Nemo.

(CMA 267-P of 2013)

ATTESTED

Deputy Registrar

Supreme Court of Pakistan,
Peshawar.

Date of Hearing: 13.06.2013

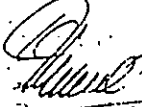
ORDER

NASIR-UL-MULK, J.— These petitions for leave to appeal were heard on a number of dates. In order to appreciate the points involved in them, background facts need to be stated in some details with reference to previous litigation on the same subject.

2. The controversy relates to regularization of employees of the "N.W.F.P. On-Farm Water Management Projects/National Programme for Improvement of Watercourses in Pakistan (NWFP Component)". For the sake of facility the employees are divided into two groups, the "project employees" and the "regular employees". It may however be clarified that the status of the latter as to whether they were regular or project employees is disputed by the other group and is subject to determination. All these employees were appointed on different dates between the years 1980 to 2006. In order to regularize some of them, a Summary was prepared for the then Chief Minister, N.W.F.P. (now KPK) for the creation of 302 new posts against which the employees in the 'Development Projects', numbering more than 500 who have served for 10 to 30 years, would be appointed stage wise in three years. The Summary was approved on 21.12.2006. In order to give effect to it notifications were issued by the Finance Department for the creation of the posts.

3. During the course of hearing, we were informed that against the newly created posts, 254 of the "regular employees" were appointed. A number of "project employees" filed Writ Petition No. 1645 of 2007 in the Peshawar High Court, praying for appointment against such newly created posts. Their Writ Petition was allowed on 22.12.2008, the Court directing, on the concessional statement made by the then Additional Advocate General KPK, to "adjust/regularize the petitioners in due course".

ATTESTED


Registrar,
Supreme Court of Pakistan,
Peshawar.

6

on the vacant posts or posts whenever falling vacant in future but in order of seniority/eligibility". Against the said judgment and other similar orders passed by the High Court, Review Petitions were filed by the Provincial Government. The same were dismissed on 01.12.2009. The Government by leave of the Court filed Civil Appeal Nos. 834 to 837 of 2010 titled Government of NWFP through Secretary Agriculture Livestock & Cooperative Department etc. v. Abdullah Khan etc. which were dismissed on 01.03.2011 on the ground that the services of the respondents before it stood regularized under the North-West Frontier Province Employees (Regularization of Services) Act, 2009 (hereinafter referred as to the Act of 2009), as there was nothing on the record produced either before the High Court or this Court that the said respondents were appointed on 'project posts'.

4. Later 16 Writ Petitions by a large number of "project employees" were filed which were decided by a common judgment delivered in Writ Petition No. 360 of 2009. The petitions were allowed on the basis of the N.W.F.P. Civil Servants (Amendment) Act, 2005 (hereinafter referred as to the Act of 2005) and the Act of 2009, which provided for regularization of ad-hoc and contractual employees. This judgment was assailed before this Court. With reference to the afore-stated statutes, petitions for leave to appeals were dismissed through a common judgment delivered in Civil Petition Nos. 562-P to 571-P etc. of 2012 Government of KPK Agriculture Livestock & Cooperative Department etc. v. Amir Hussain and others on 22.03.2012 and the judgment of the High Court was maintained.

5. The judgment of the High Court in Writ Petition No. 1645 of 2007 dated 22.12.2008 as maintained by this Court in Civil Appeal Nos. 834 to 837 of 2010 dated 01.03.2011 was again followed by the High Court in Writ Petition No. 733 of 2011 decided on 08.12.2011. The High

ATTESTED

Deputy Registrar,

Supreme Court of Pakistan,

Peshawar.

Court in similar case again granted relief in Writ Petition No. 1897 of 2011 decided on 07.03.2012. The present petition for leave to appeal arises from Writ Petition No. 59 of 2009, where direction was given on the concession of the Additional Advocate General KPK on 21.01.2007 to adjust the petitioners. This decision was based on a similar direction given in Writ Petition No. 357 of 2008. The Government of KPK had filed Review Petition No. 103 of 2011 against the judgment of 21.01.2009 passed in Writ Petition No. 59 of 2009. The same was dismissed on 21.03.2011. The said judgment now impugned in C.P. No. 302 of 2011. The same or similar questions are involved in the other connected petitions.

6. During the course of hearing of the present matters, it came to light that the total numbers of employees serving in National Programme for Improvement of Watercourses in Pakistan (NWFP Component) were 755. Against 302 newly created posts 254 of the "regular employees" have been appointed. Out of the balance of 48 posts, 10 were reserved for promotion quota, whereas the remaining 38 project employees were appointed pursuant to the judgments and orders passed by the High Court and this Court. However these were insufficient to adjust the many project employees granted relief by the Courts. Thus additional 155 employees had to be adjusted in Surplus Pool due to non-availability of posts. Upon our query, we were provided with a list of 31 Writ Petitions now pending before the Peshawar High Court, whereby the "Project Employees" have prayed for regularization of their services. Total number of the petitioners in these petitions are 264. If such Writ Petitions are also allowed on the touchstone of the judgments already delivered, the total number of employees to be appointed would add up to 673 against the newly created 302 posts. It seems that the said figures were not brought to the notice of the Courts when afore-stated

ATTESTED



Deputy Commissioner
Supreme Court of
Peshawar

judgments were delivered. The appointment letters of the "project employees" showed that they were appointed on contract basis for the Projects. As regards "regular employees", though they were appointed after selection through Public Service Commission but their letters of appointment also make reference to the Projects.

7. It may be stated that Section 3 read with clause (f) of Sub-Section (1) of Section 2 of the Act of 2009 provides for regularization of those employed on contract or ad-hoc basis on "posts under the Government or in connection with the affairs of the Government to be filled in on the recommendations of the N.W.F.P. Public Service Commission." From the judgments of this Court both in Civil Appeals No. 834 to 837 of 2010 (ibid) and Civil Petition Nos. 562-P to 571-P etc. of 2012 (ibid) it appears that it was not brought to the notice of the Court that the respondents were "project employee". In view of the circumstances that now emerges, the judgments delivered by the High Court as well as this Court need to be re-examined or revisited. Leave to appeal in all these cases is granted, *inter alia*, to consider whether:

- i.) the "project employees" as well as the "regular employees" were appointed on "project posts" or "regular posts" and in case the latter were appointed against "regular posts" would they be entitled to be appointed on the newly created posts in preference to the other group;
- ii.) in the event it is found that all the employees were appointed in Projects, should the 302 posts created be filled up on the basis of seniority;
- iii.) the "project employees" who were granted relief by the High Court were entitled to have their services regularized under the Act of 2009;
- iv.) in case the appellants are to be restricted to the 302 newly created posts and appointed on the basis of seniority, would those who have been appointed on the orders of the Courts and are to be excluded on account of

ATTESTED



Deputy Registrar,
Supreme Court of Pakistan,
Islamabad.

their seniority position, would their appointments be reversed.

8. As the decision on Paragraph 6(iv) might effect the appointments of such employees, notices need to be issued to them in accordance with the list to be provided by the learned Additional Advocate General. The appeals be heard on the present record, with liberty to the parties to file additional documents.

9. Since the judgments of this Court in Civil Appeals No. 834 to 837 of 2010 (ibid) and Civil Petition Nos. 562-P to 571-P etc. of 2012 (ibid) were delivered by three Members Benches, let the matter be placed before the Honourable Chief Justice of Pakistan for constitution of a Larger Bench.

C.M.A. NOs. 17-P of 2012 and 264-P of 2013

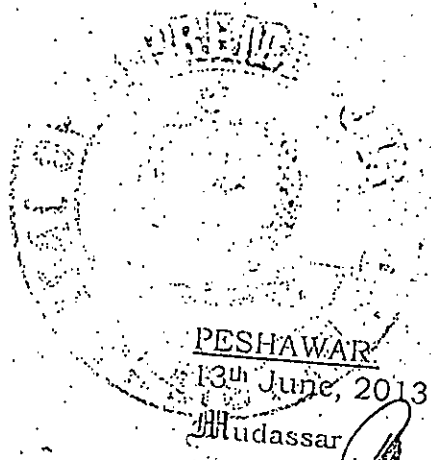
These applications for filing additional documents and clubbing Civil Petition No.222-P of 2012 with the above titled appeals respectively are allowed and both the applications are disposed off.

C.M.A. NO. 267-P of 2013

The application for impleadment as respondents is dismissed for non-prosecution.

Sd/- Nasir-ul-Mulk J
Sd/- Sarmad Talal Osmani J
Sd/- Iqbal Hameedur Rahman J
Copies to be made copy
[Signature]

25.6.2013
Deputy Registrar
Supreme Court of Pakistan
Peshawar


PESHAWAR
13th June, 2013
[Signature]
Mudassar

"Not approved for reporting."

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

Service Appeal No. 917 /2013.

Abdullah Khan

APPELLANT

Versus

Director General & Others

RESPONDENTS

APPEAL u/s 4 of the Khyber Pakhtunkhwa
Service Tribunal Act, 1974.

Next date of Hearing : 21.01.2014

**Reply to application of
respondents no.7 to 23
for sine die adjournment
of subject appeal.**

Respectfully Sheweth:

Preliminary Objections

- A. **THAT** the application in hand has been conceived in bad faith with the object of retaining ill-gotten gains for as long as possible.
- B. **THAT** there is no provision / principle of law justifying indefinite adjournment of subject appeal, in the fact and circumstances of the case.
- C. **THAT** the appellants have questioned a seniority list wherein respondent no.7 to 23 have been placed senior to the appellants. *Firstly* on the ground

that respondents 7 to 23 are contract employees, therefore, their inclusion in the seniority list is contrary to the relevant provisions of service laws / rules. And *secondly* because appellants having been regularized from a date much earlier than the one on which respondent no.3 to 23 were adjusted against regular posts. None of the grounds raised in the present appeal and referred to above are subject matter of any case pending before august Supreme Court of Pakistan, therefore, the request of the applicants is misconceived and without any factual or legal basis.

- D. **THAT** if the prayer of applicants is accepted and in the meanwhile respondents no.7 to 23 are promoted to the higher post, on the basis of defective / impugned seniority list, irreparable loss shall accrue to the appellants.

ON FACTS

1. Contents of para 1 are farthest from truth. Reference to judgment dated 1.3.2011 of august Supreme Court of Pakistan in para 7 of memo of appeal was made just by way of giving background of the case. Appellants are neither seeking implementation of such judgment by this Tribunal nor have questioned any part thereof in the present appeal. The case of appellants pertains to a seniority list wherein they have not been given proper seniority position in accordance with the notification of Provincial Government dated 7.6.2011 whereby they were regularized w.e.f. 24.11.2004.
2. Needs no comments so far as grant of leave by august Supreme Court of Pakistan vide order dated 13.6.2013 is concerned, however, the same has

no bearing upon the issues raised and to be decided by this Honorable Tribunal.

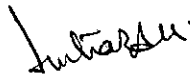
3. The contents of para 3 are vague for want of any logical reasoning. The applicants have failed to point out as to how the present appeal amounts to travesty of justice and in what sense appellants are seeking interference in jurisdiction of august court or pre-empting its judgment. The contents of para 3, therefore, do not deserve any serious consideration.

The application is misconceived, fallacious and conceived in bad faith the same may be dismissed with cost.



Appellant

through



Imtiaz Ali

Advocate Supreme Court of Pakistan

Sardar Shoukat Hayat

Advocate High Court, Peshawar.

Dated: .01.2014

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

In Re:

Service Appeal No. / 2014.

Abdullah Khan,
Water Management Officer (B-17),
Office of Deputy Director (F),
On Farm Water Management District Mardan..... **APPELLANT**

Versus

Director General,
On Farm Water Management
Khyber Pakhtunkhwa, Peshawar & Others. **RESPONDENTS**

REPLY ON BEHALF OF APPELLANT

Respectfully Sheweth:

1. Denied to the extent that the above noted appeal has already been admitted in limine for regular hearing. Notices have been issued to respondents and the instant appeal is required to be decided on merit on the following grounds: -

GROUND

- a. **THAT** the appellant are admittedly senior to the private respondent being regular since 24.11.2004, while respondents are still serving on adhoc / contract basis. Respondent Government is bent upon on making promotion of the respondents on the basis of impugned seniority list treating it a final seniority list. Respondent Government has not so far submitted is reply in the Service Tribunal to the allegation of the appellant with regard to the promotion of the respondents on the basis of impugned seniority list. Government is required to clarify the allegation

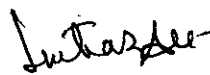
- b. Denied. The appeal filed by the appellant is for correction of the impugned seniority list. The appellant being regular employee of the Department is senior to the private respondents. The appellant has challenged the impugned seniority list, wherein, he has been shown junior to the private respondents. The appeal is quit maintainable.
- c. Denied. The appellant had approached the Hon'ble Court for redressal of his grievance in the Writ Petition, which was allowed and the Government of Khyber Pakhtunkhwa appeal against the judgment of Hon'ble Court was dismissed. Judgment of the Apex Court is already enclosed and marked as "A" with the memo of appeal.
- d. Denied. The appeal of the appellant is maintainable and has rightly been admitted for regular hearing.

In view the above it is prayed that the application under reply being frivolous and based on malafide may be dismissed.

The appellant also relies on the additional grounds at the time of arguments.


Appellant

through



Imtiaz Ali,
Advocate Supreme Court of Pakistan.

Dated: 18.02.2014

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

In Re:

Service Appeal No. / 2014.

Abdullah Khan,
On Farm Water Management District Mardan..... **APPELLANT**

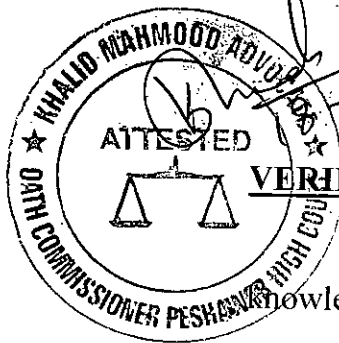
Versus

Director General,
On Farm Water Management
Khyber Pakhtunkhwa, Peshawar & Others. **RESPONDENTS**

AFFIDAVIT of Mr. Abdullah Khan, Water Management Officer (B-17), Office of Deputy Director (F), On-Farm Water Management District Mardan.

I, Abdullah Khan, Water Management Officer (B-17), Office of Deputy Director (F), On-Farm Water Management District Mardan do hereby solemnly declare and state: -

1. That the accompanying reply has been drafted under the instructions of the appellant imparted through me.
2. That I am personally conversant with the facts and circumstances of the case as contained therein.
3. That the facts and circumstances mentioned in the accompanying reply are true and correct to the best of my knowledge and belief.



VERIFICATION:

The contents of the above affidavit are true and correct to the best of my knowledge and belief.

Verified on Oath at Peshawar this day of February, 2014.

Identified by:

Advocate.

Abdullah Khan
Deponent

Abdullah Khan
Deponent

BEFORE THE K.P.K SERVICES TRIBUNAL PESHAWAR.

Appeal No.917/13

Abdullah etc.....VS.....Secretary Agricultural etc.

APPLICATION FOR ADJOURNMENT

Respectfully Sheweth:-

1. That the above titled case is pending adjudication before this honourable Tribunal and is fixed for today i.e 12.3.2014.

2. That the counsel for the respondent Masroor Shah is out of station and is busy at Supreme court of Pakistan, and therefore, unable to attend this honourable Tribunal today.

It is, therefore, humbly prayed that on acceptance of this application the case may very graciously be adjourned to some other date convenient to this honourable Tribunal.


RESPONDENT THROUGH

(ABDUL HAFEEZ DISTRICT
OFFICER W.MANAGEMENT HUNAIR

Dated:- 12.3.2014.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Service Appeals No: 917 - 921/2013

In the matter of:

ABDULLAH KHAN

...Appellant

Versus

DIRECTOR GENERAL, ON FARM WATER MANAGEMENT AND OTHERS

....Respondents

APPEAL u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the Impugned Seniority List No: 5324-97/DG/OFWM, dated: 26.12.2012 wherein the Appellant has been placed at Serial No: 28 below the Respondent No: 3 to 23 And the Appeal/Representation filed by the Appellant against the Impugned Seniority List has not been replied to so far

APPLICATION FOR ADJOURNMENT ON BEHALF OF RESPONDENTS

Respectfully Sheweth:

1. That Service Appeal, particulars whereof set out herein before, is pending adjudication before this Honorable Court.
2. That the Counsel for the Respondents is not well today hence indisposed.
3. That in the premise, the Counsel for the Respondents would not be able to put in appearance in the instant Appeal today.

PRAYER:

WHEREFORE in view of the aforesaid, it is prayed that today's hearing may graciously be adjourned to Wednesday, 23rd April 2014, in the instant Appeal in the larger interest of justice.

Respondents

Through:



Barrister Masroor Shah
B.A; LL.B (Hons) (UK); PGD (London)
Bar at Law (Lincoln's Inn)
Advocate Supreme Court of Pakistan

BARRISTER MASROOR SHAH & COMPANY
Advocates & Legal Consultants

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeals No: 917 - 921/2013

In the matter of:

ABDULLAH KHAN

...Appellant

Versus

DIRECTOR GENERAL, ON FARM WATER MANAGEMENT AND OTHERS

....Respondents

APPEAL u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the Impugned Seniority List No: 5324-97/DG/OFWM, dated: 26.12.2012 wherein the Appellant has been placed at Serial No: 28 below the Respondent No: 3 to 23 And the Appeal/Representation filed by the Appellant against the Impugned Seniority List has not been replied to so far

APPLICATION FOR TWO-DAYS ADJOURNMENT

INDEX

No	Particulars	Annex	Page
1	Application for Two Days Adjournment	-	1 - 2
2	Cause List of Supreme Court of Pakistan for 27.05.2014	A	3

CounbseI for Respondents No: 3 - 23

Through:

Barrister Masroor Shah
B.A; LL.B (Hons.) (UK); PGD (London)
Bar at Law (Lincoln's Inn)
Advocate Supreme Court of Pakistan

BARRISTER MASROOR SHAH & COMPANY
Advocates & Legal Consultants

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**PESHAWAR**

Service Appeals No: 917 - 921/2013

In the matter of:

ABDULLAH KHAN*...Appellant*

Versus

DIRECTOR GENERAL, ON FARM WATER MANAGEMENT AND OTHERS*....Respondents*

**APPEAL u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the Impugned Seniority List No: 5324-97/DG/OFWM, dated: 26.12.2012 wherein the Appellant has been placed at Serial No: 28 below the Respondent No: 3 to 23
And the Appeal/Representation filed by the Appellant against the Impugned Seniority List has not been replied to so far**

APPLICATION FOR TWO -DAYS ADJOURNMENT

Respectfully Sheweth:

1. That the Appeal, particulars whereof set out hereinbefore, is pending adjudication before this Honorable Court.
2. That the Counsel for the Respondents is busy before the Honorable Supreme Court of Pakistan in an urgent post arrest bail (Criminal Petition No: 206 of 2014 titled "Muhammad Saqlain vs. The State") which is fixed today for arguments before Bench No: I of the August Supreme Court of Pakistan, headed by the Honorable Chief Justice of Pakistan.

Copy of Supreme Court's Cause List for 27.05.2014 is annexed herewith and marked "**A**".

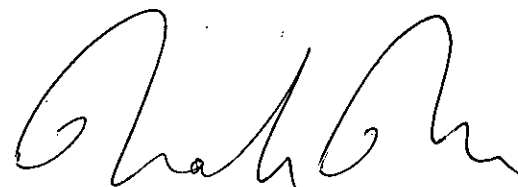
3. That in the premise, the counsel for the Defendants would not be able to put in appearance in the instant Appeal and hence seeks short adjournment till 29th May 2014.

PRAYER:

WHEREFORE in view of the aforesaid, it is respectfully prayed that the instant Appeal may graciously be adjourned to 29th May 2014, in the interest of justice.

Counsel for Respondents No: 3 - 23

Through:



Barrister Masroor Shah
B.A; LL.B (Hons.) (UK); PGD (London)
Bar at Law (Lincoln's Inn)
Advocate Supreme Court of Pakistan

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- | | | |
|---|---|--|
| C.A.601/2014
(Federal Public Service
Commission/Others)
(S.J.) | Federal Public Service Commission thr.
its Chairman, Islamabad & others v.
Muhammad Saddiq & others | Qari Abdul Rasheed, AOR
Mr. Imtiaz A. Shoukat, AOR
Mr. Ahmed Nawaz Chaudhry, AOR
Imran Fazal, ASC
Ibrar Ahmed, ASC
R - In Person
Deputy Attorney General |
| AND | | |
| C.A.602/2014
(Federal Public Service
Commission/Others)
(S.J.) | Federal Public Service Commission thr.
its Chairman, Islamabad & others v.
Muhammad Tariq Masood & others | Qari Abdul Rasheed, AOR
Mr. Imtiaz A. Shoukat, AOR
Mr. Ahmed Nawaz Chaudhry, AOR
Imran Fazal, ASC
Ibrar Ahmed, ASC
Deputy Attorney General |
| 5 Crl.P.25-P/2014
(Bail Matters/After Arrest) | Muhammad Rashid v. The State &
another | Mr. Muhammad Ajmal Khan, AOR
Mr. Abdul Fayyaz, ASC |
| 6 Crl.P.204/2014
(Bail Matters/After Arrest)
(C.O.) | Zeeshan Qasim v. The State & another | Syed Rifaqat Hussain Shah, AOR
Talat Mahmood Zaidi, ASC
Deputy Attorney General
R - Notice |
| 7 Crl.P.206/2014
(Bail Matters/After Arrest) | Sultan Muhammad & another v. The
State | Mr. Tariq Aziz, AOR
Ghulam Mehboob, ASC |
| 8 Crl.P.210/2014
(Bail Matters/After Arrest) | Muhammad Saqlain v. The State | Syed Rifaqat Hussain Shah, AOR
Barrister Masroor Shah, ASC |
| 9 Crl.P.224/2014
(Bail Matters/After Arrest) | Muneeb Qayyum v. The State &
another | Syed Zafar Abbas Naqvi, AOR
Mr. Muhammad Akram Gondal, ASC |
| 10 Crl.P.228/2014
(Bail Matters/After Arrest) | Ehsan Ameer Alam Khan v. The State
& another | Syed Rifaqat Hussain Shah, AOR
Muhammad Ilyas Siddiqi, ASC |
| 11 Crl.P.231/2014
(Bail Matters/After Arrest)
(S.J.) | Muhammad Aslam v. The State and
another | Syed Rifaqat Hussain Shah, AOR
Mian Shah Abbas, ASC |
| 12 C.P.706/2014
(Writ Petition/Others) | Noorzehra Ebrahim v. The Province of
Sindh thr. its Governor, Pakistan &
others | P - In Person |
| AND | | |
| C.R.P.61/2014 in
C.M.Appeal.39/2014
(Constitutional Petitions
Under Art. 184)
(A) Tassaduq Hussain
Jillani, HCJ+2
(Ch.O.) | Ebrahim Trust through its Trustee
Noor-e-Zohra Ebrahim v. The
President of Pakistan through its
Secretary & others | P - In Person |
| 13 C.P.753/2014
(Declaratory Suit
Matters/Others) | Khadim Hussain & others v. Ghulam
Essa & others | Syed Rifaqat Hussain Shah, AOR
Mr. Muhammad Younis Bhatti, ASC |

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 917/2013

Mr. Abdullah Khan
WMO

APPELLANT

VERSUS

Director General,
On Farm Water Management,
Khyber Pakhtunkhwa, Peshawar.

RESPONDENTS

Secretary to Govt. of Khyber Pakhtunkhwa Agriculture,
Livestock & Cooperative Deptt: Peshawar

INDEX

S.No.	Particulars	Annexure	Pages
1	Comments	-	1-5
2	Affidavit	-	6
3	Advertisement	A	7
4	Appointment order of the appellant	B	8-11
5	Project Policy & pay package as per project policy	C	12-28
6	Requisition for recruitment to PSC	D	29-34
7	Advertisement	E	35-36
8	Recommendation of PSC	F	37-39
9	Appointment order of respondents No. 03 to 22	G	40-49
10	Summary	H	50-56
11	Creation of posts	I	57-62
12	Adjustment Notification on regular posts	J	63-66
13	Seniority List	K	67-84
14	Notification of adjustment of respondent No. 23	L	85-87
15	Notification dated 07-06-2011	M	88-89
16	Decision dated 22-09-2011	N	90-93
17	Order dated 13-06-2013	O	94-99
18	Appeal dated 04-02-2013 of Abdullah Khan	P	100
19	Letter dated 26-12-2012	Q	101
20	Notified Seniority dated 16-08-2013	R	102-107
21	Notification Dated 22-02-2011	S	108-112


DEPONENT

(1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

In the matter of Service Appeal No. 917/2013 of Abdullah Khan Water Management Officer (BS-17).....**Appellant**

VERSUS

Director General On Farm Water Management, Khyber Pakhtunkhwa, Peshawar & others

Secretary to Government of Khyber Pakhtunkhwa Agriculture Livestock & Cooperative Department Peshawar.....**Respondents**

WRITTEN PARA WISE COMMENTS ON BEHALF OF RESPONDENT NO. 01& 02

Respectfully Shewith

Preliminary Objections

1. That the Appellant have no cause of action.
2. That the Appellant have no locus standi.
3. That the Appeal is premature.
4. That due to concealment of material facts and misstatement the appeal is liable to be dismissed.
5. That Appeal is time bared.

COMMENTS

1. Correct to the extent that the respondents advertised certain post of Water Management Officers (BS-17) for recruitment against the project posts in the project titled "National Program for Improvement of Watercourses (Khyber Pakhtunkhwa Component)" and the appellant along with his other colleagues were recruited as per terms and conditions specified for the project posts, their appointment was subject to yearly extension on the basis of their performance.

Moreover, as per Para-2 (I) of their appointment order "this does not constitute inter se seniority and the appointees shall not be entitled to seniority as against any other Government servant". The appellant along with others have also signed agreement with the department on **Judicial Stamp Paper** with clear cut terms and conditions. The appellant was allowed the entire project benefit i.e. fixed pay package as per project policy of the provincial government (Copies of advertisement, appointment order & project policy attached **Flag-A,B &C**). therefore, they have no right to claim seniority at the top of seniority list.

2. In correct , the respondents were never appointed on the same terms and conditions rather, respondent No. 3 to 22 were appointed upon the recommendations of Provincial Public Service Commission (PSC) in different years (copies of requisitions, advertisement, PSC recommendations and appointment order are placed at **Flag-D, E, F &G**). Later on, in 2006 a summary was moved for creation of 302 Nos new posts/vacancies (BS-1 to 19) under current budget wherein it was proposed that eligible and experienced employees of the department having 10 to 30 years service will be adjusted against the newly created posts and was approved accordingly (**Flag-H.I**). In Light of Para-6 of the approved summary, the staff was adjusted against the newly crated pots on regular basis (**Flag-J**). it was pertinent to mention her that the adjusted staff was part of the seniority list with more than 10 years continues service with the department (**Flag-K**). However, respondent No. 23 was adjusted in the department upon the approval of the competent authority of the provincial government (**Flag-L**).
3. The appellant has mentioned 275 Nos new posts which is incorrect. The fact is that total 302 Nos posts were crated in OFWM Department though a summary as mentioned in Para-2 above. The eligible and experienced employees of the of the department having 10 to 30 years service were adjusted against newly created posts in light of the approved summary. The adjusted staff was part of the seniority list with more than 10 years continues service with the department. On

the other hand, the appellants were project employees engaged for a specific project and fix time period. Therefore, the appellants do not meet the criteria set in the summary approved by the Chief Minister for the province **(Flag-I)**.

4. Pertains to record.
5. Correct to the extent that the services of appellant along with 15 other were regularized vide notification No. SOE(AD)17-131/2009 dated 07.06.2011 **(Flag-M)**. Meanwhile, some of the colleagues of the appellant challenged the above noted notification in Hon'ble Peshawar High Court Peshawar. The Hon'ble Court while deciding the case direct the respondents to reconsider and look the matter in light of the judgment of the court and the rules on the subject including the actual length of service of the employees including the petitioners and other factors permissible under the law **(Flag-N)**. The department has filed appeal against the said order of PHC which is now under trail in Hon'ble Supreme Court of Pakistan in Civil Appeal No. 135-P/2013 out of CP No. 572-P/2011 wherein leave has been granted and the case is subjudice and lying before the larger bench of final decision **(Flag-O)**.
6. Pertains to record.
7. As explained in Para-5 above.
8. Pertains to record.
9. In correct, they were never contract employees as mentioned in Para-2 above. Some of of the respondents (No. 4-7,10,11,13,15 & 17-22) working against the developmental posts were adjusted against current budget posts after approval of the competent authority in light of the approved summary **(Flag-J)**. whereas, the respondents No. 3&9 were on long leave while No. 8,12,14 &16 were already working against the current budget posts and No. 23 was working as Planning Officer in District Govt. Nowshera.

10. In correct to the extent that the appeal dated 04.02.2013 **(Flag-P)** refers to the draft seniority list issued by Directorate General OFWM vide No. 5324-97/DG/OFWM dated 26.12.2012 **(Flag-Q)** whereas in the final seniority list notified by the competent authority vide No. SOE(AD)II(2) 391/2012 dated 16.08.2013 **(Flag-R)** doesn't contain name of the appellant due to the reason that their regularization as well as inter-service seniority with his other colleagues is subjdice and under trail in Hon'ble Supreme Court of Pakistan **(Flag-O)**. The draft seniority list was circulated by the department seeking response of the offices within a week time, but the appellant response/appeal was received on 04.02.2013 **(Flag-P)**, which is already time bared.
11. Incorrect, as already mentioned above that they are having their seniority in the department since their appointment and notified by each year by the competent forum. Moreover they have already been promoted to the posts of Assistant Director (BS-17 Supervisory) on regular basis **(Flag-S)**, in contrast, the appellant along with his colleagues do not have nay seniority with the department as they were purely project employees appointed in 2004 under NPIWCs for a specific period and terms conditions.
12. As the regularization of appellant is questioned by the very bench and placed before the larger bench of Supreme Court of Pakistan for final decision where leave has been granted therefore, the appeal may kindly be rejected.

GROUND

- A. In correct.
- B. In correct.
- C. In correct. The posts crated in 2007 were meant for OFWM staff having 10 to 30 years continuous service whereas the appellant was purely a project employee having 03 years service in a specific project with break period. Moreover, being a project employee, the appellant was never part of any seniority lists issued/notified by the competent authority since his appointment whereas, the others were part of the

seniority lists previously notified since their appointment in the department (**Flag-K**). it is astonishing to note that, non of the staff including the appellant has never challenged the seniority lists issued in the past before the department or any court of law.

- D. In correct, the respondents (3-23) were part of the seniority list since their appointment in the department.

The appeal of the appellant is unjustified and without any lawful authority due to the reasons that:

- I Their seniority is subjudice.
- II Summary approved by the Chief Executive (**Flag-H.I**) was not meant for staff appointed for NPIWCs project as they were appointed for a specific project for a specific time period. Rather, the summary was approved to adjust the OFWM staff having 10 to 30 years continuous service.

It is therefore, prayed that the appeal may kindly be dismissed.


Secretary

Govt. of Khyber Pakhtunkhwa
Agriculture, Livestock & Coop: Deptt:
Peshawar
(Respondent No. 2)


Director General

On Farm Water Management
Khyber Pakhtunkhwa
Peshawar
(Respondent No. 1)

6

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 917/2013

Mr. Abdullah Khan
WMO

APPELLANT

VERSUS

Director General,
On Farm Water Management,
Khyber Pakhtunkhwa, Peshawar.

RESPONDENTS

Secretary to Govt. of Khyber Pakhtunkhwa Agriculture,
Livestock & Cooperative Deptt: Peshawar

AFFIDAVIT

I Director General On farm Water Management, Khyber Pakhtunkhwa, Peshawar do hereby solemnly declare and affirm that the respondents have not suppressed the facts and actual position of the case from this Tribunal. The contents of the comments are true and correct according to my knowledge, belief and nothing has been concealed from this Tribunal.



Director General,
On Farm Water Management,
Khyber Pakhtunkhwa, Peshawar

Notification.

No. No. SOE(AD)11 (2) 70 / 2004. On the recommendation of the Departmental Selection Committee, Government of NWFP, Agriculture, Livestock & Cooperatives Department is pleased to appoint the following candidates against the newly created posts of Water Management Officers(Eng.) BPS-17 purely on contract basis in the project titled National Program for improvement/ lining of water courses in Pakistan (project for NWFP) for a period of one year, from the date of assuming the charge of the post, extendable to the remaining project period subject to their satisfactory performance.

1. Muqsit-un- Naseer S/o Jirfan-ud-Din Village Tehsil F.D Timergara Moh: Miag
Distt: Dir Lower.
2. Jehan Zeb S/o Aslam Khan C/o Assistant Director Water Management Near Mall Lara
Stop Jehangira Road Swabi.
3. Abdul Malik S/o Ghazi Khan C/o Dr. Abdul Wahab Village Amin:Khel (Chockara) P.O.
Ghundi Kala Tehsil Tahti Nasrati Distt: Karak.
4. Mohammad Tufail S/o Nader Khan Village Masti Khan Banda P/O Khojaki Killa
Tehsil T/Nasrati Distt: Karak.
5. Nisar Ahmad S/o Sarfaraz Ahmad House No: C/445 near Government Primary School
No: 5 street Khawrs brothers Mohallah Katrain walla d.I.Khan.
6. Abdullah Khan S/o Ghulam Muhammad Village Janga C/o Usman Cloth House Lund
Khawar P.O Lund Khawar Teh: Takht Bhai Distt: Mardan.
7. Aftab Ahmad Khan S/O Abdul Rashid Khan Distt. D.I.Khan. C/O Ina mullah Khan AD,
FIA, Peshawar, Air Port.
8. Mohammad Farooq Khan S/O Q. Khan Moh: Tauskhani village and P.O Lahore
Distt: Swabi.
9. Waseemullah S/O Mohammad S. ed Village Kachkot Asad Khan P.O Torka Tehsil
and District Bannu.
10. Shaheen Iqbal S/O Mir Khatam Village and P.O Haji Zai Tehsil and Distt: Charsadda.
11. Moeen Uddin S/O Mohammad Mukhtar of Dir Lower.
12. Hidayat Ali S/O Haji Shamrcz Khan House No. 1070/3 new Mohalla near Jania
mosque Nowshera Cantt.
13. Tahir Khan S/O Zafarullah District Shangla.
14. Anwar Saeed S/O Mohibullah Khan. Distt: Karak Tehsil Teht-e-Nasrati Village Nadar
Kila P.O Manzeeni Banda.
15. Qiaah Ahmad S/O Faqir Saib sector, E/91 Sheikh Maltoon Town distt. Mardan
16. Shahid Mahmood S/O Muhammad Ishaq H.No.389 Sector C Sheikh Maltoon Town
Mardan.
17. Ghulam Bilal S/O Karim Dad Khan P.O Pappa D.I.Khan.
18. Qayyum Khan S/O Awal Mir Sha house No: 81/LG in front of Railway Signal O/S
Distt: Bannu.
19. Munir Ahmad S/O Saeed Ahmad opposite to the GHS No.2 Kulachi Teh Kulachi
Distt: D.I.Khan.

20. Saeed Shah S/o Jaffer Shah Dist: Mardan Teh Takht Bhai P.O Sattar Khan Colony Mahal Jamra Hashinagro Kail.
- ✓ 21. Rafiq Ahmad Ghuncha S/o Ghulam Sarwar House No. 2528 Moh: Roshan Chiragh D.I. Khan.
22. Mohammed Shoab S/o Muhammad Ramzan House No. T-145 Street Saddique Abad Near Mirch Mandi Peshawar City
23. Mirza Muhammad S/o Muhammad Inan Moh: Naway Cham Vill: & P.O Shahmansoor Tehsil and Distt: Swabi.
24. Jehan Zeb S/o Muqaid Jan Mughl Pati House New Bazar Chitral.
25. Saïd Muhammad S/o Mir Muhammad Village and P.O Umar Payan Moh: Ali Khel Distt. Peshawar.
26. ✓ Fazal Sattar S/O Nasir Ud Din Khan. Village Galkore P.O Osheri Teh: Dir Distt: Dir Upper.
27. Abdus Subhan S/O Abdur Razaq. C/O Dr. Aziz ur-Rehman Village and P.O Paniala Distt: D.I. Khan. ✓
28. Muhammad Tahir S/O Noor Wahab r/o Malakand Agency.
- ✓ 29. Mr. Muhammad Nadeem S/O Muhammad Khan. Village Paniala Tehsil and District D.I. Khan.
30. Amir Rabbani S/o Rehmatullah H.No. 448 Sarafa Bazar Abbotabad
31. Muhammad Khalil Akbar S/o Abdur Rafiq Moh: Ismail Khel Village Garhi Daulat Zai P.O Garhi Kapura Tehsil and Distt: Mardan.
32. ✓ Muhammad Uzair Khan S/o Mohabat Khan Moh: Danda Village and P.O Charbagh Distt: Swat.
33. Hidayatullah S/o Muhammad Iqbal House No. 372 Armour Colony Manki Road Nowshera Cantt.
34. Zulfikar Ali S/O Akbar Ali Khan P.O Kachi Paind Khan Midad Khel House Hanif Town Waqas Colony Diyal Road D.I Khan.
35. ✓ Zahid Khaleeq S/o Khaleeq Uz-Zaman House No. 30/D, Muhammad Jan Street Bannu.
36. Bakht Jamair S/o Shad Muhammad Khan C/o Bilal Book Store Village and P.O Jowar Tehsil Daggar Distt: Buner.
- ✓ 37. ✓ Ifanullah S/o Muhammad Hanif Mohallah Saeed Khel Teh and Distt: L/Marwat.
38. Amjad Masood S/o Sheikh Ahmad Dab No. 1 Behind Ara Machine Shailia Road Mansehra
39. Muhammad Rahmatullah Khan S/o Rohullah Khan Ismatullah LS-I F-Block Flat No. 6 (C.A.E.B) Shami Road Wapda Colony Peshawar.
40. Kifayat Zaman S/o Shahi Zaman Street H.A Hakeem Village and P.O Gujrat Teh and Distt: Mardan.
41. Aman Khan S/o Pekhawaray Khan Villa and P.O Pir Baba Pacha Kalay Tehsil Daggar Distt: Buner.
42. ✓ Ihsan Ullah Khan S/O Saïd Khumar Kha. Village and P.O Kot Beli Tehsil and Distt: Bannu.

- 43. Atta Ullah S/o Manaras Khan C/O Mior H/W New Madyan Road Mingora District Swat.
- 44. Muhammad Idriss S/o Abdul Kabir Macha Village and P.O Mian Brangola Tehsil Adenzai Distt: Dir.
- 45. Irfanullah S/o Faqir Muhammad Khan(Late) Amjad Shaheed Colony Village and P.O Thana Maiakand Agency.
- 46. Zailul Haq S/o Muhammad Zaman Village Burghando P.O and Tehsil Lal Qilla Distt: Dir Lower.
- 47. Amjad Ali S/o Muhammed Salim Moh: Irfan Abad /Salim Abad P.O Batkhela Malakand Agency.
- 48. Shahdad khan S/o Abdul Rashid C/O Mian Mohammed -Iqbal H.No.172 Street -8 Sector J/3 Phase No.2 Hayatabad Peshawar.

2. Their appointment shall be governed by the following terms and conditions:

- a. Their appointment shall be on contract basis initially for a period of One year. The contract shall stand automatically terminated on the expiry of the initial period. Fresh contract would be executed if the services of any of the above named candidates were further required.
- b. The appointment shall be subject to the medical fitness report by the standing Medical Board and satisfactory completion of pre-service training.
- c. They shall undergo One month pre-service training in one of the training centers at OFWM training centre D.I.Khan/Agricultural Training Institute Peshawar/Agricultural University Peshawar / NWFP Engineering University Peshawar. During training, they shall be paid stipend as per approved PC-1.
- d. They shall be governed by such rules, regulations, orders, acts and ordinances etc relating to appointment, promotion, transfer, leave, T.A., Medical Attendance, seniority, efficiency & discipline and conduct as have been/may be prescribed by the Government for the category of Government servants of their status, from time to time and as interpreted by the Government.
- e. Their pay will be fixed in the Basic Pay Scale 17 i.e. Rs. 6210-465-15510 from the date of their taking over the charge of the post.
- f. Their services shall be liable to termination on the following conditions:
 - i. At any time without notice and without assigning any reasons during the period of their contract appointment if their work during this period was not found satisfactory.
 - ii. On One month notice by the Government on one side and by them on the other. In case the notice on either side is less than One month, a sum equivalent to the pay for the period by which the notice falls short of One month, will be paid by the Government to them or in lieu thereof One month pay shall be forfeited.
 - iii) By Government without previous notice if it is satisfied on material evidence that they are unfit and/or likely to remain unfit for a considerable period by reasons.

Ar

of ill health or physical disability to discharge their duties. The decision of the Government as to what constitutes considerable period shall be final.

- g. They shall not be entitled to any Traveling Allowance/Daily Allowance on their first appointment/pooling.
- h. They shall not contribute to G.P Fund and will not be entitled to pension, gratuity benefits.
- i. This does not constitute inter se seniority and the appointees shall not be entitled to seniority as against any other Government Servant.

3. If the above terms and conditions are acceptable to the above named selected candidates, they should convey their willingness individually and attend office of the Director OFWM for signing the Contract Agreement before 10.12.2004 positively, where after the candidates shall be assigned to one of the above mentioned training centers by the Directorate of OFWM. In case of non submission of acceptance/ signing of Contract Agreement, the offer will stand cancelled.

Sd/++++
(ZAIBULLAH KHAN)

SECRETARY AGRICULTURE

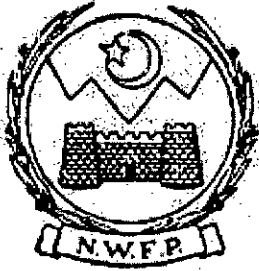
Endst: No. No. SOE(AD)11.(2) 70 / 2004.

Dated Peshawar the, 24th November, 2004

Copy of the above is forwarded to the:-

- 1. Accountant General, NWFP, Peshawar.
- 2. Director General Health Services, NWFP Peshawar, He is requested to kindly arrange for an early medical examination of the above named appointees through the Standing Medical Board and supply their medical examination certificates to this Department for record.
- 3. Director General, Federal Water management cell almarkaz F-8 Islamabad.
- 4. Director, On Farm Water Management Department NWFP, Peshawar w/r to his memo No.11674 dated: 04-10-2004 with the request to furnish the posting proposal of the above appointees on successful completion of the training at the earliest.
- 5. All appointees as per list given in para-1 of the notification.
- 6. PS to Chief Secretary, NWFP.
- 7. PS to Minister for Agriculture, NWFP.
- 8. PS to Additional Chief Secretary P. department.
- 9. PS to Secretary Agriculture.
- 10. PS to Special Secretary to Chief Minister/ Provincial Coordinator.
- 11. Master file.


(AKHTER ALI SHAH)
SECTION OFFICER (ESTT.)



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GOVERNMENT OF NWFP
ESTABLISHMENT & ADMINISTRATION
DEPARTMENT
(REGULATION WING)

No. SOR-VI/E&AD/1-25/2007
Dated Peshawar, the 2nd July 2008

To

1. The Additional Chief Secretary, NWFP.
2. The Senior Member Board of Revenue, NWFP.
3. The Additional Chief Secretary (FATA)
4. All Administrative Secretaries to Govt. of NWFP.
5. The Secretary to Governor, NWFP.
6. The Principal Secretary to Chief Minister, NWFP.
7. The Secretary Provincial Assembly NWFP Peshawar.
8. All District Coordination Officers/Political Agents in NWFP.
9. The Registrar, Peshawar High Court Peshawar.
10. The Registrar, NWFP Service Tribunal Peshawar.
11. All Heads of Attached Departments.
12. The Secretary, NWFP Public Service Commission.
13. All Heads of Autonomous/Semi-Autonomous Bodies in NWFP
14. The Director Anti-Corruption Establishment NWFP Peshawar.

Subject: POLICY GOVERNING APPOINTMENT AGAINST PROJECT POSTS.

In pursuance of the provisions of Section-25 of the NWFP Civil Servants Act, 1973 and in supersession of all instructions issued previously on the subject from time to time, the competent authority has been pleased to approve the following policy for compliance by all concerned in order to regulate appointments to posts in approved development projects under the Govt. of North West Frontier Province.

(1). **SHORT TITLE AND COMMENCEMENT.**

- (i) This policy may be called the "NWFP POLICY REGULATING APPOINTMENT TO POSTS IN DEVELOPMENT PROJECTS".
- (ii) It shall apply to all posts in the approved development projects funded fully or partially by the Provincial Government or controlled by the Provincial Government.
- (iii) It shall come into force at once and shall not effect the terms and conditions of the staff already working in the projects.

A/G
19/7/08

Erst Asstt
Secy to Govt Office.