

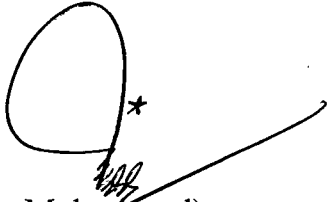
20.07.2022

Learned counsel for the appellant present. Preliminary arguments heard.

Points raised need consideration. The appeal is admitted to regular hearing, subject to all just and legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments. To come up for reply/comments before the S.B on 30.08.2022.

Appellant Deposited
Security & Process Fee

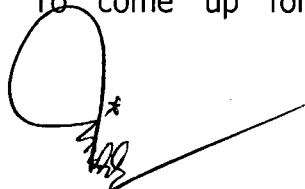
21/07/2022


(Mian Muhammad)
Member (E)

30.08.2022

Learned counsel for the appellant present. Mr. Naseer-Ud-Din Shah, Assistant Advocate General alongwith Mr. Zahid Ullah, Assistant Director for the respondents present.

Reply/comments on behalf of respondents not submitted. Representative of the respondents requested for time to submit reply/comments on the next date. Adjourned. To come up for reply/comments on 10.10.2022 before S.B.



(Mian Muhammad)
Member (E)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 1128/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	19/07/2022	<p>The appeal of Mr. Fazli Raziq resubmitted today by Mr. Pervez Khan Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 20.07.2022. Parcha peshi is given to the appellant/counsel.</p> <p>By the order of Chairman  REGISTRAR</p>

The appeal of Mr. Fazli Raziq deputy Chief Inspector of Mines Peshawar received today i.e. on 15.07.2022 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copy of departmental appeal is not attached with the appeal which may be placed on it.
- 2- Check list is not attached with the appeal.

No. 2211 /S.T,

Dt. 15/7 /2022

Amir
REGISTRAR
for SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Pervez Khan Adv.
High Court Peshawar.

*Discrepancies as per S.L. 1 & 2
removed. The case is resubmitted
accordingly*

*Registrar
Service Tribunal
K.P. Peshawar*

*Pervez Khan
Advocate High Court
19.7.2022.*

Before Chairman Service Tribunal Khyber Pakhtunkhwa.

Service Appeal No. 1128 /2022

Fazli Raziq

Deputy Chief Inspector of Mines, Peshawar.

--- Appellant

Verses

The Chief Secretary,

Government of Khyber Pakhtunkhwa, Peshawar and others

--- Respondents


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S.No	Description of Document	Annexure	Page
1.	Appeal and Affidavit		1-7
2.	PMDC service certificate from 03.11.1990 to 31.01.1995	A	8
3.	PMDC last pay certificate dated. 29.12.1996	B	9
4.	Departmental Permission Certificate dated 19.10.1993	C	10
5.	Government of NWFP Mineral Department, appointment letter dated. 04.01.1995	D	11,12
6.	Relieving advice from PMDC on 24.01.1995	E	13
7.	Assuming the Charge of Inspector of Mines at Inspectorate of Mines on 01.02.1995	F	14
8.	Government of Finance Division Notification dated. 12.8.2002	G	15
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13.	The Khyber Pakhtunkhwa Service Tribunal judgement in Service Appeal No. 476/2014 dated. 07.03.2017	L	23-25
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15.	Notification of Government of Khyber Pakhtunkhwa Finance Department dated. 15.16.2019	N	29
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18.	Government of Khyber Pakhtunkhwa Mineral Development Department letter No. SOE/MDD/1-18/21995/2635-37 dated 28.06.2022	Q	39,40
19.	Government of Khyber Pakhtunkhwa Finance Department letter No. FD(SOSR-1)12-4/2021/Fazli Raziq dated 27.01.2022	R	41

APPELLANT
 (Engr. Fazli Raziq)
 Deputy Chief Inspector Mines,
 Khyber Pakhtunkhwa,
 Peshawar.

Through


Pervez Khan
 Advocate High Court
 Ch: District Court Peshawar
 Cell No.03005952216

Dated: 15/07/2022

①

Before Chiarman Service Tribunal Khyber Pakhtunkhwa.

Service Appeal No. 1128 /2022

Fazli Raziq

Deputy Chief Inspector of Mines, Peshawar.

Appellant

Verses

1. The Chief Secretary,
Government of Khyber Pakhtunkhwa, Peshawar.
2. The Secretary to Government of Khyber Pakhtunkhwa,
Finance Department, Peshawar.
3. The Secretary to Government of Khyber Pakhtunkhwa,
Establishment Department, Peshawar.
4. The Secretary to Government of Khyber Pakhtunkhwa,
Minerals Development Department, Peshawar.
5. The Chief Inspector of Mines,
Inspectorate of Mines, Peshawar.

--- Respondents

SERVICE APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT 1974 AGAINST MINERAL DEVELOPMENT DEPARTMENT LETTER NO. SOE/MDD/1-18/21995 DATED 28.06.2022 ISSUED IN LIGHT OF FINANCE DEPARTMENT LETTER NO. FD(SOSR-1) 12-4/2021/FAZLI RAZIQ DATED 27/01/2022 REFERRING FINANCE DEPARTMENT CIRCULAR LETTER NO. FD(SR-1)12-1/2011 DATED 04/06/2011 WHEREBY THE APPEAL OF THE APPELLANT FOR PROTECTION OF PAY IN AUTONOMOUS BODY WAS DECLARE NOT ADMISIBLE.

Respectively Shewth

Short facts giving rise to this application are as under:

1. **That**, the appellant remained employee of Pakistan Mineral Development Corporation (PMDC) w.e.f. 03.11.1990 to 31.01.1995 (Annexure-A).
2. **That**, the last pay certificate (LPC) of PMDC is at Annexure-B.
3. **That**, the Inspectorate of Mines Labour Welfare of Khyber Pakhtunkhwa advertised the post of Inspector of Mines (BPS-17) through Khyber Pakhtunkhwa Public Service Commission and the appellant applied through proper channel for the said post & qualified (Annexure-C).

4. **That**, the appellant was appointed as Inspector of Mines vide Notification Endst. No. SOI (IND) 6-1/90/379 dated 04.01.1995 (**Annexure-D**).
5. **That**, the appellant was relieved from duty w.e.f. 18.01.1995 as Assistant Mining Engineer (BPS-17) vide order No. Ap-Fr-Tr/Officer-Supervisor/Jatta/480 dated 24.01.1995 to assume the new assignment. (**Annexure-E**).
6. **That**, the appellant assumed the charge of post of Inspector of Mines w.e.f. 01.02.1995 vide notification No. SOI (IND) 6-1/90/2680 dated 26.02.1995 (**Annexure-F**).
7. **That**, the Finance Division Government of Pakistan as a result of Superior Courts judgements issued Office Memorandum No F.4(2) R-2/96 dated 12.08.2002 on the subject "**fixation /Protection of pay on appointment from one post to another thereby allowing pay protection/fixation of the employees of the autonomous organisation**" which are established through a resolution may be extended the benefit of pay in a manner set out in FR-22 and 22(A) on their subsequent appointment in the Government service if they have adopted Government pay scales/schemes in totality. This benefit cannot be extended to the employees of such autonomous organization which are created under an Act/Ordinance or an Executive Order under the authority of an Act/Ordinance (**Annexure-G**).
8. **That**, the Federal Service Tribunal vide judgement in Service appeal No. 192(R)CS/2005 in respect of Mr. Sajjad Rashid & others allowed pay protection /fixation of pay of the appellants and the Secretary Finance Division (Regulation Wing) who was Respondent No 2 in the said Appeal was directed to modify within two (2) months the O.M. dated 12.08.2002 by removing the discrimination inherent therein (**Annexure-H**).
9. **That**, the Para 2 of the Office Memorandum No F.4(2) R-2/96 dated 12.08.2002 (as mentioned in Para 7 above) issued by Finance Division Government of Pakistan, was re-considered and substituted accordingly and the Government of Pakistan Finance Division, Islamabad issued updated office Memorandum No. FNo.4(2)R-2/1996-235/2010, dated 08.06.2010 (**Annexure-I**).
10. **That**, as a sequel to formulate uniform policy to regulate the cases of fixation of pay as instructed in Government of Pakistan Finance Division, Islamabad letter No. FNo.4(2)R-2/1996-235/2010, dated 08.06.2010 and in light of the Federal Service Tribunal judgement dated 01.08.2009 in Service Appeal No.

192 (R) CS/2005 in respect of Mr. Sajjad Rashid & others, the Government of Khyber Pakhtunkhwa issued Fixation/Protection of Pay on appointment from one post to another Notification No. FD(SR-1)12-1/2011 dated 04.06.2011 (Annexure-J).

11. **That**, malifidy of the Petitioner No. 2 can be seen from the fact that soon after the issuing of Notification as mentioned in Para-10 above, he inserted word "hence forth" thereby substituting the Notification for the same number and date. This act deprived the respondent from getting the benefit of pay protection for his past service performed in Pakistan Mineral Development Corporation (PMDC) (Annexure-K).
12. **That**, the Service Tribunal vide judgment in **Service Appeal No.476/2014** dated 07.03.2017 allowed the protection of pay to Mian Farooq Iqbal from the date of appointment from the post of lecturer to the post of Inspector of Mines with effect from 10.07.1989 (Annexure-L).
13. **That**, the Apex Supreme Court of Pakistan, while hearing **CA No. 1308/2019** on **27.11.2019** dismiss the appeal filed by Government of KP and maintained the Service Tribunal Judgment dated **07.03.2017** (Annexure-M).
14. **That**, the appellant is entitled for fixation protection of pay, of appointment one post of to another in light of Notification of Finance Department dated. 04.06.2011 and Notification No. FD (SOSR-I)/12-4/2020 dated. 15.06.2020 (Annexure-N).
15. **That**, the Service Tribunal also protected pay in another case of Mumtaz Khan Khalil, employee of Pakistan Mineral Development Corporation (PMDC) w.e.f 26.12.1979 to 20.10.1983 who was transferred to Government Service in Inspectorate of Mines Government of Khyber Pakhtunkhwa vide its judgment in **Service Appeal No. 7371/2021** dated **21.04.2022** title Mumtaz Khan vs Chief Secretary and Others (Annexure O).
16. **That**, the Appellant appeal was rejected by Respondent No. 4 vide its letter No. SOE/MDD/1-18/21995 dated 28.06.2022 in light of Respondent No. 2 letter No. FD(SOSR-1) 12-4/2021/Fazli Raziq dated 27.01.2022 referring their own circular letter No. FD(SR-1)12-1/2011 dated 04.06.2011 stating that," the subject request of the Appellant has been examined under the Finance Department, Khyber Pakhtunkhwa Policy Circular letter bearing No. FD(SR-1)12-1/2011 dated 04.06.2011 which is not covered under the said policy, because the said policy issued by the Finance Department on 04.06.2011 contains word "henceforth" and the Appellant request for pay

protection in his previous service rendered in the PMDC is prior to said circular that is with effect from 03.11.1990 to 31.01.1995 (Copy of Mineral department, Finance Department letter and circular as **Annexure P, Q, R and K respectively**)

The decision of the respondents is discriminatory, unconstitutional, unreasonable, vindictive, arbitrary without jurisdiction, without lawful authority, malafide, illegal, based on ulterior motives, against the principles of natural justice, arbitrary therefore feeling aggrieved by the decision of Respondent, the Appellant has no other door to knock but to approach to this August Tribunal, hence this Appeal on the following grounds:-

Grounds:

1. **Because**, the appellant was serving in Pakistan Mineral Development Corporation (PMDC), which is an Autonomous body.
2. **Because**, the appellant rendered service in the interest of Province/Country.
3. **Because**, the Appellant was serving as Assistant Engineer (BPS-17), and joined the Government Department as Inspector of Mines (BPS-17), both the post are of the same grade and has same time scale as notified by the Government.
4. **Because**, all the criteria mentioned in the Finance Letter dated 04.06.2011 was fulfilled by the Appellant before joining the Government Service.
5. **Because**, the PMDC has adopted scheme of basic pay scale in toto as to that of Government.
6. **Because**, the Appellant has applied through proper channel and was relieved of his duties upon selection as Inspector of Mines.
7. **Because**, the Federal Service Tribunal vide judgement in Service appeal No. 192(R) CS/2005 in respect of Mr. Sajjad & others allowed pay protection /fixation of pay of the appellants.
8. **Because**, the Service Tribunal vide judgment in **Service Appeal No.476/2014** dated 07.03.2017 allowed the protection of pay to Mian Farooq Iqbal from the date of appointment from the post of lecturer to the post of Inspector of Mines with effect from 10.07.1989.

9. **Because**, the Apex Supreme Court of Pakistan, while hearing CMA No. 1308/2019 on 27.11.2019 dismiss the appeal filed by Government of KP and maintained the Service Tribunal Judgment dated 07.03.2017.
10. **Because**, this Service Tribunal vide judgment dated 21.04.2022 allowed protection of pay to Mumtaz Khan Khalil who was PMDC former employee
11. **Because**, the appellant is entitled for fixation protection of pay, of appointment one post of to another in light of Notification of Finance Department dated. 04.06.2011 and Notification No. FD (SOSR-I)/12-4/2020 dated. 15.06.2020.
12. **Because**, the Appellant was an employee of PMDC (an autonomous body) which has adopted scheme of **basic pay scale into-to** in their appointment, and that the Appellant also applied **through proper channel**, therefore the Appellant is entitled for fixation/protection of pay of appointment of one post to another in light of the aforementioned notification of Finance Department, Khyber Pakhtunkhwa and apex Supreme Court of Pakistan Judgment dated 27.11.2019.
13. **Because**, the Finance Department has adopted discriminatory and double standard where on one hand they allowed protection of pay to the appointees after the Notification but on the other hand deprived the employees before the Notification. This is against the Natural Justice, basic Civil Rights as described in the Constitution of Pakistan, that every Citizen has equal rights.
14. **Because**, the laid down principle of consistency enunciated in 1996 SCMR is relevant and quite apt to be reproduced “ **if the Tribunal or the Supreme Court decides a point of law relating to the terms and conditions of a civil servant who litigated, and there were other civil servants, who may not have taken any legal proceedings, in such a case, the dictates of justice and rule of good governance demand that the benefit of the said decision be extended to other civil servants also, who may, not be parties to that litigation, instead of compelling them to approach the Tribunal or any other legal forum**”


It is therefore humbly prayed that acceptance of this appeal, the appellant last pay drawn to the tune of Rs. 4538/- p.m as Assistant Mining Engineer in the PMDC, Government of Pakistan may kindly be protected retrospectively from 03.11.1990 i.e. upon joining the post of Inspector of Mines, where the initial basic pay was fixed to the tune of Rs. 3880/- p.m. and

(6)

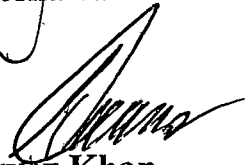
the service rendered in PMDC may be counted toward length of service in order to save the appellant from financial loss.

Any other relief which this August Tribunal may deem fit and appropriate may also very graciously be awarded.

Dated: 15 July, 2022


APPELLANT
(Engr. Fazli Raziq)
Deputy Chief Inspector Mines,
Khyber Pakhtunkhwa,
Peshawar.

Through


Pervez Khan
Advocate High Court
Ch: District Court Peshawar
Cell No.03005952216

Before Chairman Service Tribunal Khyber Pakhtunkhwa.

Service Appeal No. _____/2022

Fazli Raziq

Deputy Chief Inspector of Mines Peshawar APPELLANT

VERSUS

Chief Secretary, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar & Others

.....RESPONDENT

AFFIDAVIT OF FACTS

I, Fazli Raziq, Appellant do hereby solemnly affirm and declare as under:-

1. That, the contents of the concise statement is true and correct to the best of my knowledge and belief.
2. That the facts have been obtained by perusal of the case and information furnished by the concerned authority (Additional Registrar, University of Engineering & Technology, Peshawar.

SWORN AT PESHAWAR

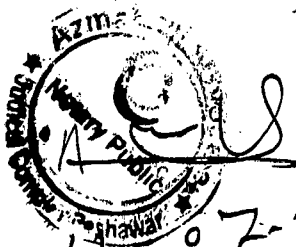
Dated/ July, 2022


APPELLANT

(Engr. Fazli Raziq)
Deputy Chief Inspector Mines,
Khyber Pakhtunkhwa,
Peshawar

ATTESTED

Through




Pervez Khan

Advocate High Court
Ch: District Court Peshawar
Cell No.03005952216

Tele : 250928 - 250929 - 250930
Fax : 051- 855374
Telex : 54064 PMDC PK



Head Office
13, H-9,
Islamabad. 44790

Ref. No. PMDC/ADM-594


Date 21.10.1996

(8) Annexure A

PAKISTAN MINERAL DEVELOPMENT CORPORATION (PVT) LTD.

TO WHOM IT MAY CONCERN

It is certified that Mr. Fazli Raziq s/o Abdul Aziz served in PMDC as Assistant Mining Engineer w.e.f. 3.11.1990 to 31.1.1995 when he resigned from the service of this Corporation on his appointment as Inspector of Mines in the Government of NWFP.


(R.D. Choudhry)
Acting Secretary

CA/16/ 375

⑨
PMDC SALT QUARRIES JATTA(KARAK).

Annexure B

28 - 12.1995.

LAST PAY CERTIFICATE

Last Pay Certificate of Mr. Fazal Raziq
EX-Asstt. Mining Enger: PMDC Salt Quarries Jatta, transferred
to Mineral Development vide PMDC H.O. letter No. PMDC/ADM-594
dated 18.01.1995.

He has been paid upto 31.01.1995 at following
rates:-

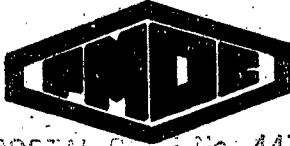
Pay Scale	4050-244-7710
B. Pay	4538.00
10% pay	453.80
Conveyance allow:	<u>403.50</u>
	5395.30
	=====

He has Relieved of his duties at Jatta on 31.01.95(AN).
~~Advance against of TA/DA Nil.~~

Ismail
(Muhammad Ismail)
Project Accountant

PMDC SALT QUARRIES JATTA(KARAK).

* Mr. Fazal Raziq Ex- A.M.E.



PAKISTAN MINERAL DEVELOPMENT CORPORATION (Pvt) Ltd.

POSTAL CODE No: 44790

Head Office
13, H-9,
P.O. Box Shaigan,
Islamabad.

Ref No. PMDC/ADM-594/

Date 19.10.1993

The Secretary,
NWFP Public Service Commission,
Peshawar.

Subject: CERTIFICATE OF DEPARTMENTAL PERMISSION

Dear Sir,

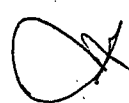
We forward herewith two certificates of departmental permission in respect of Mr. Fazli Razik, Assistant Mining Engineer, PMDC Salt Quarries, Jatta for the post of Inspector of Mines in Inspectorate of Mines and Labour Welfare and Mineral Development Officer in the Directorate of Industries Commerce and Mineral Development, NWFP Peshawar, with the remarks that in case of his selection for the post applied for he shall have to resign from the post held by him in PMDC.

Thanking you,

Yours faithfully,


(R.D. Choudhry)
for Secretary

NWF

 13/11/93

- cc: 1) General Manager(Salt) PMDC, Islamabad.
2) Project Manager, PMDC Salt Quarries, Jatta with reference to his letter No.Ap-Pr/Tr/Officer/Jatta dated 4.10.1993.
3) Mr. Fazli Razik, AME, PMDC Salt Quarries, Jatta.



GOVERNMENT OF N.-W.F.P.
INDUSTRIES, COMMERCE, MINERAL DEVELOPMENT,
LABOUR AND TRANSPORT DEPARTMENT.

Dated Peshawar the ... 4/1/1995

(11)

Annexure-D

To

Mr. Fazli Raziq, S/O Abdul Aziz,
Village Zoorbandar (Lakhti),
Tehsil and P.O. Khar,
Bajaur Agency.

SUBJECT:- APPOINTMENT AS INSPECTOR OF MINES (BPS-17)
IN INSPECTORATE OF MINES LABOUR WELFARE, NWFP.

On the basis of recommendations of the NWFP Public Service Commission, you are offered a temporary post (likely to continue) of Inspector of Mines (BPS-17) in the Inspectorate of Mines, Labour Welfare, NWFP on the following terms and conditions:-

- a. You will be allowed a minimum of BPS-17 (Rs. 3880-290-7360) plus other allowances as admissible under the Rules.
- b. You will be governed by such rules and orders relating to leave, T.A. and Medical Attendance as may be prescribed by the Government for the category of Government Servants of your status from time to time.
- c. You will be on probation initially for a period of two years extendable upto three years.
- d. You will be liable for continuous and eventual confirmation as Inspector of Mines on satisfactory completion of probation including the extendable period of probation.
- e. Your services will be liable to termination at any time without assigning any reason before the expiry of probation if your work is not found satisfactory. In such an event you will be given a month's notice for termination of service or one month's pay in lieu thereof. In case you wish to resign a month's notice shall be necessary or in lieu thereof month's pay shall be forfeited.
- f. You will be governed by the NWFP Government servants (Efficiency and Discipline) Rules, 1973 and Government Servants (Conduct) Rules, 1987 and any other instructions which may be issued by the Government from time to time.



GOVERNMENT OF N.-W.F.P.
INDUSTRIES, COMMERCE, MINERAL DEVELOPMENT,
LABOUR AND TRANSPORT DEPARTMENT.

Dated Peshawar the

- g. You will join duty on your own expenses.
- h. You will be liable to serve anywhere in NWFP including FATA.
- i. You will have to produce Medical Fitness Certificate before joining your duties.

If the above terms and conditions of appointment are acceptable to you, you should report to the Chief Inspector of Mines, Labour Welfare, NWFP, Peshawar/This Department within 30 days of the issuance of this letter, failing which the offer of appointment shall be deemed to have been cancelled.

(AHMED HASSAN)
SECTION OFFICER.(ADMN)

(13)


Annexure E

PAKISTAN MINERAL DEVELOPMENT CORPORATION
SALT QUARRIES JATTA (KARAK).

Ref No. Ap-Fr-Tr/Officer-Supervisor/Jatta/483 Dated 29-A-1995.

RELIEVING ADVICE.

In compliance to the Secretary PMDC,
Head Office letter No. PMDC/ADM-594/ dated 18.1.1995,
Mr. Fazal Raziq Assistant Mining Engineer, PMDC, Salt
Quarries Jatta is hereby relieved of his duties w.e.f.
31.01.1995 (A.M).


(Mushtaq Ahmed Akhtar)
Project Manager

To:-

Mr. Fazal Raziq,
Asstt. Mining Engineer
PMDC Jatta.

Copy to:-

1. The Secretary, PMDC, H.O. Islamabad.
2. The General Manager(Salt), PMDC, H.O. Islamabad.
3. The Project Accountant PMDC Jatta.
4. ADMA: Section.
5. P.File.

7/2

INSPECTORATE OF MINES LABOUR WELFARE
INSPECTION OF MINES
(LAWI HAZI)
MHP, PESHAWAR.

[Handwritten signature]

- (1) The Secretary to Govt of MHP, Industries, Commerce, Mineral Development, Labour and Transport Department Peshawar.
- (2) The Secretary to Govt of MHP, Social Peshawar.
- (3) The Accountant General MHP, Peshawar.
- (4) The Chief Inspector of Mines, MHP, Peshawar.

Copy to:-

Dated Peshawar, the 1-2-1995

Reference No. 6171-74

INSPECTORATE OF MINES LABOUR WELFARE
INSPECTION OF MINES
(LAWI HAZI)
MHP, PESHAWAR.

[Handwritten signature]

7/2

In pursuance of Government of M.A.P.F. Industries, Commerce, Mineral Development, Labour and Transport Department, Notification No. 801(IND)5-1/90/379 dated 4.1.1995, I Mr. Lawi Hazi assumed the charge of duties as Inspector of Mines in the Inspectorate of Mines M.A.P.F. Peshawar to-day the, 1-2-1995(A.M.).

CHIEF ASSISTANT SECRETARY

SUBJECT:-

NO. 10-02-1995
Dated

INSPECTORATE OF MINES LABOUR WELFARE
6-OLD BABA ROAD UNIVERSITY TOWN,
PESHAWAR.

Annexure - F

14

Government of Pakistan
Finance Division
(Regulation Wing)

Islamabad, the 12th August, 2002.

No.F. 4 (2) R-2/96

OFFICE MEMORANDUM

Subject: - FIXATION/PROTECTION OF PAY ON APPOINTMENT
FROM ONE POST TO ANOTHER.

The undersigned is directed to say that initial substantive pay of a government servant on appointment from one post to another is regulated under the provisions of FR-22 and FR-22 (A). These rules provide for protection of substantive pay of the old post held by him provided the conditions prescribed therein are fulfilled.

2. The benefit of protection of pay to the employees of autonomous bodies, on their subsequent appointment in government service is not admissible as the employees of autonomous bodies are not civil servant within the meaning of Civil Servant Act, 1973.

3. The superior courts have however, held that the autonomous bodies created through resolutions stand at a different footing as compared to the autonomous bodies incorporated either by a Statute/Act/Ordinance or by an Executive Order under the authority delegated by an Act/Ordinance.

4. With a view to formulate a uniform policy to regulate the cases of fixation of pay, it has been decided that henceforth, the employees of such autonomous organization which are established through a resolution may be extended the benefit of fixation of pay in the manner set out in FR-22 and 22 (A) on their subsequent appointment in the government service if they have adopted government pay scales/schemes in totality. This benefit cannot be extended to the employees of such autonomous organizations which are created under an Act/Ordinance or an Executive Order under the authority of an Act/Ordinance.

5. Since the powers of fixation of initial pay of Government Servants have been delegated to concern Ministries/Divisions/Departments, no formal approval of Finance Division is required for initial fixation/protection of pay if covered under the relevant rules/government instructions. The concerned Ministries/Divisions are empowered for fixation/protection of pay under the relevant rules and government instructions in consultation with the concerned Accounts/Audit Office.

6. The cases settled earlier may be treated as final and may not be reopened or cited as precedent.

Sd/-

(MALIK HAMID NAWAZ)
SECTION OFFICER (R-2)

ALL MINISTRIES/DIVISIONS/DEPARTMENTS

(16)

Annexure-H

Judgement Sheet

IN THE FEDERAL SERVICE TRIBUNAL, ISLAMABAD

Appeal No. 1921(R)CS/2005

Date of Institution : 13.12.2005

Date of Hearing : 30.07.2009

Date of Judgement : 01.08.2009

Appellant : Sajjad Rashid

- Respondents :
1. Additional Director (Admn), National Accountability Bureau, Islamabad.
 2. Secretary, Finance Division (Regulation Wing), Islamabad.
 3. Accounts Officer (Pay Fixation Party) Accountant General, Pakistan Revenues, Islamabad.

Before : Syed Bilal Ahmed and Mr. Ismail Hassan Niazi, Members.

Present : Mr. Haider Hussain, Advocate for appellant.
Mr. Javed Aziz Sandhu, Standing Counsel for the respondents with Mr. Butay Khan Kokab, AAO, AGPR and Syed Farukh Sair, Assistant, M/o Finance, DRs.

JUDGEMENT

SYED BILAL AHMED, MEMBER : Appellant has assailed impugned order dated 31.08.2005 relating to fixation of his pay. Appellant submitted representation dated 6.10.2005, for protection of his pay drawn by him in the University of Arid Agriculture, Rawalpindi, on the grounds that he joined NAB through proper channel. His representation dated 6.2.2005 was rejected on 8.11.2005.

2. Brief facts of the case as given in the memo of appeal are that the appellant was appointed as Stenographer (BPS-12) in the University of Arid Agriculture, Rawalpindi vide appointment letter dated 29.4.1998. That he applied through proper channel for the post of Stenotypist in NAB. He was appointed vide NAB Order dated 26.4.2003. That he had earned five annual increments in BS-12 before joining NAB. That his substantive pay was Rs. 3,720/- according to LPC issued by the University, for joining NAB.

3. Appellant has assailed impugned orders inter alia on the grounds that the University has adopted Government Pay Scales and the University was established under Act of 1995. That the appellant was allowed pay last drawn for two years and; therefore, the respondents could not reduce the pay drawn under the principle of *locus poenitentiae*. That the respondents could not make recovery of the pay allowed to him for two years. Reliance was placed on 2003 TD (Service) 270, 2003 PLC (CS) 97 and 2003 PLC (CS) 921. That impugned Office Order has been issued in violation of FR 22.

Rashid

TESTED

Assistant Registrar
Federal Service Tribunal
Islamabad

4. Respondent No.2 contested the appeal on the grounds that University of Arid Agriculture is an autonomous body established through Act of 1995 passed by the Provincial Assembly of Punjab and NAB has also been established under Ordinance 1999 and that according to instructions, the benefit of pay protection cannot be extended to employees of autonomous organisations created through an Act/Ordinance or an Executive Order under the Authority of an Act/Ordinance. That Finance Division O.M. dated 12.8.2002 did not allow benefit of pay protection to the employees of such autonomous organisations. Respondent No.3 also opposed the appeal placing reliance on Finance Division O.M. dated 12.8.2002. That Show Cause Notice is required to be served in case of disciplinary proceedings and correct fixation of pay was not due to any disciplinary proceedings therefore, issue of Show Cause Notice was not required. That over payment on account of wrong fixation of pay are liable to be recovered.

5. At the bar learned counsel for the appellant emphasised the principle of *locus poenitentiae* and placed reliance on the following Judgements of this Tribunal.

- (i) Judgement dated 19.4.2002 in Appeal No.295(R)CS/2000.
- (ii) Judgement dated 30.6.2009 in Appeal No. 1991(R)CS/07 and 962(R)CS/2006
- (iii) Judgement dated 5.5.2009 in Appeal No.699(R)CS/2007.

Whereas, the learned Federal Counsel opposed the appeal on the grounds that the appellant was not a civil servant as an employee of University of Arid Agriculture and, therefore, he was not entitled to pay protection. He also stated that lien was necessary for pay protection and the appellant did not have any lien. That principle of *locus poenitentiae* cannot be invoked on decisions/orders that are not legal. That cases cited by the appellant were decided before the Judgement of the Hon'ble Supreme Court reported as Mubeen-us-Salam and others Vs. Federation of Pakistan. That pay fixation has been made strictly in terms of Finance Division O.M. dated 12.8.2002 and the Tribunal had no jurisdiction to set aside or modify the O.M. which is based on the policy of the Government.

6. Arguments heard and record perused.

7. We would first like to decide the plea of the learned Federal Counsel as made at the bar that the Tribunal is not competent to set aside the O.M.'s issued by the Government or amendments made therein. The assertion is not correct. We place reliance on several judgements of the Hon'ble Supreme Court. In the case of Muhammad Hashim Khan Vs. Province of Balochistan (PLD 1976 Quetta 59), it was held that "the Tribunal under Section 5 of the said Act is deemed to be a Civil Court for the purpose of deciding any appeal before it with all the powers under the Code of Civil Procedure; as any other Civil Court or Tribunal, to our mind, will have jurisdiction to

Riaz Ali

TESTED

Assistant Registrar
National Service Tribunal
Islamabad

examine whether or not a law is void by reason of its conflict with the Fundamental Rights or is otherwise ultra vires or that the order made is mala fide."

The Hon'ble Supreme Court approved the view of the High Court of Balochistan in the case of Iqan Ahmad Khurram v. Government of Pakistan (PLD 1980 SC 153). The Hon'ble Supreme Court in Muhammad Mubcen-us-Salam and others v. Federation of Pakistan through Secretary, M/o Finance and others (PLD 2006 SC 602) held as follows:-

"Upon careful perusal of both these judgments, one can safely conclude that under Section 5 of the STA, 1973, the Service Tribunal is competent to adjudge the validity of a statute, therefore, the Supreme Court while granting leave to appeal under Article 212(3) of the Constitution, being an appellate forum, cannot logically be denied the same power as an appeal is always considered to be continuation of the original proceedings."

In the Judgement cited as PLD 2006 602 the Hon'ble Supreme Court also quoted case of Nazrul Hassan Siddiqui v. Federation of Pakistan (2000 PLC (CS) 189).

The relevant portion of para 66 of the Judgement in Muhammad Mubeen-us-Salam v. Federation of Pakistan is reproduced as follows:-

"High Court of Sindh in the case of Nazrul Hassan Siddiqui v. Federation of Pakistan (2000 PLC (CS) 189, after having surveyed the judgments on the point concluded that "the Federal Service Tribunal had the jurisdiction to determine the vires of a statute." That being the case, the Supreme court certainly would have jurisdiction to determine the vires of a statute in exercise of its jurisdiction under Article 212(3) of the Constitution."

8. In view of the Judgements of the Hon'ble Supreme Court, this Tribunal has "jurisdiction to examine whether or not a law is void by reason of its conflict with the fundamental rights or is otherwise ultra vires or that the order made is mala fide." The Service Tribunal is, therefore, competent "to adjudge the validity of a statute," and that "the Federal Service Tribunal has the jurisdiction to determine the vires of a statute." Needless to say that Rules and O.M's are on much lower footing than the status of a statute. Therefore, the ground taken by the learned Federal Counsel at the bar has no force and is rejected.

9. Judgements cited by the learned counsel for the appellant are distinguishable from the facts of this case, inasmuch as, the cited judgements relate to departments/organisations of the Federal Government, whereas, in this appeal, the appellant seeks protection of pay drawn in an organisation which was established by an Act passed by the Provincial Assembly of Punjab.

10. On merits of the case, the fact of the matter is that the Government of Pakistan introduced National Scales of Pay. The National Scales of pay were adopted by the Provinces. Same scales of pay are being followed for the employees in the Federal as

Burai Ali

ATTESTED

Assistant Registrar
Federal Service Tribunal
Islamabad

well as all the Provincial Governments. Revision of Pay Scales as made from time to time have always been adopted by the Provincial Governments. In view of the established uniformity in the Pay Scales, at the Federal and Provincial level, protection of pay is allowed in practice even to the employees of the Provincial Governments.

11. The Hon'ble Supreme Court allowed protection of pay in Judgements reported as 1998 SCMR 1442 and 2008 SCMR 14. In the former case pay was protected as drawn in the Pakistan Council of Research in Water Resources, whereas, in the later case pay was protected as drawn in the Pakistan Broadcasting Corporation which was established through an Ordinance. The Apex Court also protected pay in case of employee of State Bank of Pakistan who was transferred to Government service in the Federal Bureau of Statistic, Statistics Division (2000 SCMR 1864 as mentioned in para 6 of the Judgement reported as 2008 SCMR 14). We, therefore, cannot permit loss of increments to the appellant on the hyper technical grounds taken by Respondent No.2 by creating a distinction between the employees of autonomous organisations established through a Resolution and employees of organisations created under an Act/Ordinance or an Executive Order under the authority of an Act/Ordinance. The distinction drawn between the employees of autonomous organisations established through a Resolution and employees of organisations created under an Act/Ordinance or an Executive Order under the authority of an Act/Ordinance for protection of pay is clearly discriminatory and in violation of Article 25 of the Constitution of Pakistan.

12. The appellant was drawing pay in Basic Pay Scale (BS-12) when he was appointed in BS-12 in NAB which is a Government organisation. His appointment was made through proper channel. He had earned increments in BS-12 before joining NAB. In NAB, the appellant drew pay last drawn for two years. Fixation of his salary at the minimum of BS-12 is against the established principle of *locus-poentitiae*. The O.M. of Finance Division dated 12.8.2002 is discriminatory and violative of Article 25 of the Constitution in as much as it discriminates between employees of organisations drawing salary in Basic Pay Scales. The O.M. dated 12.8.2002 is also violative of the judgements of the Hon'ble Supreme Court referred in para 11 supra. The impugned order is, therefore, set aside. Respondents are directed to fix salary of the appellant on the basis of LPC dated 4.5.2003 Respondent No.2 is directed to modify within two months the O.M. dated 12.8.2002, by removing the discrimination inherent therein. The appeal succeeds.

13. No order as to costs. Parties be informed.

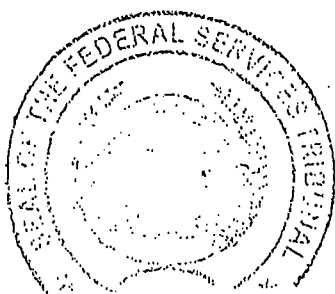
Sd -
MEMBER - U

Sd -
MEMBER

CERTIFIED TRUE COPY.

Assistant Registrar
Federal Service Tribunal
Islamabad

178



FEDERAL SERVICE TRIBUNAL	
ISLAMABAD	
Application No.	1690/2018
Date of Filing	4-9-2018
No.	24
Cop.	4
Urg.	2
Fee	0
Pr.	4-9-2018
U.	4-9-2018
Ch.	As per J. T. J. J.

(20)

Annexure I

BETTER COPY

Government of Pakistan
Finance Division
(Regulation Wing)

F.No. 4 (2) R-2/1996-235/2010

Islamabad, the 08th June, 2010.

OFFICE MEMORANDUM

Subject: - Fixation/Protection Of Pay on Appointment From One Post to Another.

The undersigned is directed to refer to Finance Division's O.M No. 4(2)R-2/96 dated 12th August, 2002 on the subject noted above and to say that in terms of the provisions in para-2 of aforesaid O.M, the benefit of pay protection on their subsequent appointment in Government service is not admissible to the employees of autonomous organizations which are established under the Act/Ordinance or an executive order under the authority delegated by the Act/Ordinance.

2. The mater has now been re-considered in light of judgment dated 01-08-2009 of Federal Service Tribunal, Islamabad in appeal No.1921(R)CS/2005 in respect of Mr. Sajjad Rashid and other. It has been decided that henceforth the benefit of pay protection will be extended to the employees of such Autonomous Organizations who have adopted Basic Pay Scales scheme in toto and who are appointed in Government Departments through proper channel. In view of the aforesaid position, para-2 of the Finance Division's O.M No. F. 4(2)R-2/96 Dated 12th August, 2002 may be substituted as under:-

"2. The benefit of protection of pay to the employees of autonomous bodies on their subsequent appointment in government service is not admissible as the employees of autonomous bodies are not civil servant within the meaning of civil Servant Act, 1973. However, the benefit of pay protection will be admissible to employees of such autonomous organization who have adopted scheme of basic pay scale in toto on their appointment in government offices provided they have applied for the post through proper channel".

Sd/-

(M. UZAIR SOOMRO)
SECTION OFFICER (R-2)
Ph.9263179

All Ministries/Divisions/Departments.



(21)

Annexure J

GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

(REGULATION WING)

CSW Form
11.310
07/6/11

NO. FD (SR-1) 12-1/2011
Dated Peshawar the: 4th June, 2011

TO:

1. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
2. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
3. The Secretary to Governor, Khyber Pakhtunkhwa.
4. The Secretary to Chief Minister, Khyber Pakhtunkhwa.
5. The Secretary, Provincial Assembly, Khyber Pakhtunkhwa.
6. The Secretary Finance FATA, FATA Secretariat, Peshawar.
7. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
8. All Heads of Attached Departments in Khyber Pakhtunkhwa.
9. All District Coordination Officers in Khyber Pakhtunkhwa.
10. All Political Agents / District & Sessions Judges in Khyber Pakhtunkhwa.
11. The Registrar, Peshawar High Court, Peshawar.
12. The Chairman, Public Service Commission, Khyber Pakhtunkhwa.
13. The Chairman, Services Tribunal, Khyber Pakhtunkhwa.

Subject: FIXATION / PROTECTION OF PAY ON APPOINTMENT FROM ONE POST TO ANOTHER.

Dear Sir,

I am directed to refer to the Government of Pakistan, Finance Division, Islamabad letter No.FNo.4(2)R-II/1996-235/2010, dated 08-06-2010 and Judgment dated 01-08-2009 of Federal Service Tribunal, Islamabad in appeal No.1921(R) CS/2005 in respect of *Mr. Sajjad Rashid* and others on the subject noted above and to state that in pursuance of the above quoted letter, the Government of Khyber Pakhtunkhwa has decided that the benefit of protection of pay to the employees of autonomous bodies on their subsequent appointment in Government Service is not admissible as the employees of autonomous bodies are not civil servants within the meaning of Civil Servant Act 1973. However, the benefit of pay protection will be admissible to employees of such autonomous organizations who have adopted scheme of basic pay scales in to-to on their appointment in government offices, provided they have applied for the post through proper channel.

(MASOOD KHAN)
Deputy Secretary (Reg-II)

Endst: of even No. & date.

Copy forwarded for information to:

1. All the Heads of Autonomous / Semi Autonomous Bodies of Khyber Pakhtunkhwa.
2. Director, Local Fund Audit, Khyber Pakhtunkhwa, Peshawar.
3. Director, Treasuries and Accounts, Khyber Pakhtunkhwa, Peshawar.
4. All District Comptrollers of Accounts, Senior District Accounts Officers and District/Agency Accounts Officer in Khyber Pakhtunkhwa / FATA.
5. Director, FMIU, Finance Department
6. PS to Minister Finance, Khyber Pakhtunkhwa.
7. P.S to Secretary Finance.
8. PA to Spl. Secretary Finance.

(KHURSHID ALAM)
Section Officer (SR-I)

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Annexure - R

TO BE SUBSTITUTED FOR THE SAME NUMBER AND DATE



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

NO. FD (SR-1) 12-1/2011
Dated Peshawar the: 4th June, 2011

TO:

1. All Administrative Secretaries to Govt: of Khyber Pakhtunkhwa.
2. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
3. The Secretary to Governor, Khyber Pakhtunkhwa
4. The Secretary to Chief Minister, Khyber Pakhtunkhwa.
5. The Secretary, Provincial Assembly, Khyber Pakhtunkhwa.
6. The Secretary Finance FATA, FATA Secretariat, Peshawar.
7. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
8. All Heads of Attached Departments in Khyber Pakhtunkhwa.
9. All District Coordination Officers in Khyber Pakhtunkhwa.
10. All Political Agents / District & Sessions Judges in Khyber Pakhtunkhwa
11. The Registrar, Peshawar High Court, Peshawar.
12. The Chairman, Public Service Commission, Khyber Pakhtunkhwa.
13. The Chairman, Services Tribunal, Khyber Pakhtunkhwa.

Subject: **FIXATION / PROTECTION OF PAY ON APPOINTMENT FROM ONE POST TO ANOTHER.**

Dear Sir,

I am directed to refer to the Government of Pakistan, Finance Division, Islamabad letter No.FNo.4(2)R-II/1996-235/2010, dated 08-06-2010 and Judgment dated 01-08-2009 of Federal Service Tribunal, Islamabad in appeal No.1921(R) CS/2005 in respect of *Mr. Sajjad Rashid* and others on the subject noted above and to state that in pursuance of the above quoted letter, the Government of Khyber Pakhtunkhwa has decided that **henceforth** the benefit of protection of pay to the employees of autonomous bodies on their subsequent appointment in Government Service is not admissible as the employees of autonomous bodies are not civil servants within the meaning of Civil Servant Act 1973. However, the benefit of pay protection will be admissible to employees of such autonomous organizations who have adopted scheme of basic pay scales in to-to on their appointment in government offices, provided they have applied for the post through proper channel.

Yours Faithfully,


(MASOOD KHAN)
Deputy Secretary (Reg-II)

Endst: of even No. & date.

Copy forwarded for Information to:

1. All the Heads of Autonomous / Semi Autonomous Bodies of Khyber Pakhtunkhwa.
2. Director, Local Fund Audit, Khyber Pakhtunkhwa, Peshawar.
3. Director, Treasuries and Accounts, Khyber Pakhtunkhwa, Peshawar.
4. All District Comptrollers of Accounts, Senior District Accounts Officers and District/Agency Accounts Officer in Khyber Pakhtunkhwa / FATA.
5. Director, FMIU, Finance Department
6. PS to Minister Finance, Khyber Pakhtunkhwa.
7. P.S to Secretary Finance.
8. PA to Spl: Secretary Finance.


(SHAUKAT ULLAH)
Section Officer (SR-II)

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Annexure - 2

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

SERVICE APPEAL NO. 476/2014

Date of Institution ... 02.04.2014

Date of Judgment ... 07.03.2017



Mian Farooq Iqbal, Officer on Special Duty,
Establishment Department, government of Khyber Pakhtunkhwa,
Civil Secretariat, Peshawar.

... (Appellant)

VERSUS

1. The Chief Secretary, Govt: of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. The Secretary Finance, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
3. The Secretary Establishment, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
4. The Secretary Mineral Development Department, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
5. The Director General, Directorate General Mines and Mineral, Khyber Pakhtunkhwa, Peshawar.

... (Respondents)

APPEAL UNDER SECTION-4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, AGAINST THE FINANCE DEPARTMENT GOVERNMENT OF KHYBER PAKHTUNKHWA LETTER NO. FD(SOSR-1)12-4/2014 DATED 10.02.2014 WHEREBY THE APPLICATION OF THE PETITIONER FOR PROTECTION OF PAY AND COUNTING OF SERVICE RENDERED IN AUTONOMOUS BODY IN TOTAL SERVICE PERFORMED IN PROVINCIAL GOVERNMENT DEPARTMENT AS CIVIL SERVANT WAS DECLARED NOT ADMISSIBLE.

Mr. Muhammad Asif Yousfzai, Advocate.

... For appellant.

Mr. Muhammad Adeel Butt, Additional Advocate General

... For respondents.

MR. MUHAMMAD AAMIR NAZIR

... MEMBER (JUDICIAL)


MR. ASLIFAQUE TAJ

... MEMBER (JUDICIAL)

JUDGMENT

MUHAMMAD AAMIR NAZIR, MEMBER: Mian Farooq Iqbal, Officer on Special Duty Establishment Department, hereinafter referred to as appellant, through the instant appeal under section-4 of Khyber Pakhtunkhwa Service Tribunal Act 1974, has impugned order dated 10.02.2014 vide which the application of the appellant for protection of pay and counting of service rendering by him in autonomous body was turned down by the respondents.

ATTESTED


EXAMINER
Khyber Pakhtunkhwa

2. Brief facts of the case giving rise to the instant appeal are that initially the appellant was employed as Lecturer (BPS-17) in NWFP University of Engineering and Technology Peshawar in the year 1986. Subsequently, the appellant applied through proper channel for the post of Inspector of Mines(BPS-17). That after qualifying the competitive exam, the appellant was relieved and he assumed the charge of the post of Inspector of Mines in the Inspectorate of Mines Labour Welfare NWFP Peshawar on 10.07.1989. That the appellant was drawing basic salary @ Rs. 3460/- P.M while after joining the post of Inspector of Mines, the salary was fixed @ Rs. 2065/- Per month. That vide letter dated 04.06.2011, the Finance Department allowed the benefits of protection of pay to the employees of autonomous bodies on their subsequent appointment in Government Service. The appellant filed an appeal before respondent No.1 for protection of pay and counting of service rendered as Lecturer University of Engineering and Technology in the light of Finance Department letter referred above. That appeal of the appellant was rejected by respondent No.2 vide letter dated 10.02.2014 without any justification, hence the instant appeal.

03.17

3. Learned counsel for the appellant argued before the court that before joining the Government Service, the appellant was serving as Lecturer in University of Engineering and Technology and after obtaining NOC, the appellant applied through proper channel for the post of Inspector Mines. That the appellant was appointed to the post of Inspector Mines (BPS-17) through proper channel, there-after he was relieved by the University to join his new assignment. That as per Finance Department notification dated 04.06.2011 the appellant was entitled for benefits of pay and protection even then his appeal was rejected which illegal, hence the appeal of the appellant be accepted as prayed for.

4. In rebuttal, learned Additional Advocate General argued before the court that the appellant is not entitled for pay protection and his appeal to this respect was rightly turned down by the competent authority. Though the Finance Department vide letter dated 04.06.2011 has allowed the benefits of pay protection to the employees of autonomous bodies on their subsequent appointment in government service, but the pay protection to the appellant is not admissible on the ground that he has joined provincial government service prior to the issuance

ATTACHED
 EXAMINED
 Kyber Pakhtunkhwa
 Service Tribunal
 Peshawar

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of the above referred notification. That the appeal in hand is without any substance, hence be dismissed.

5. We have heard arguments of learned counsel for the appellant and learned Additional Advocate General for the respondents and have gone through the record available on file.

6. Perusal of the case file reveals that the appellant was initially appointed as Lecturer in BPS-17 in NWFP University of Engineering and Technology in the year 1986. Later on, the appellant applied for the post of Inspector of Mines (BPS-17) in the Inspectorate of Mines Labour Welfare NWFP Peshawar through proper channel. The appellant after qualifying the Public Service Commission exam was appointed as Inspector of Mine in BPS-17 vide order dated 21.06.1989. Afterwards, the Finance Department issued a notification dated 04.06.2011 in which benefits of pay protection was allowed to the employees of the autonomous body on their subsequent appointment in Government Service who have adopted scheme of basic pay scale in to-to, provided that they have applied for the post through proper channel. The above referred notification was based on the judgment of Federal Service Tribunal Islamabad in appeal No. 1921(R) CS/2005 in case titled Sajjad Rashid and others. It is evident that the appellant was employee of University of Engineering and Technology Peshawar which was an autonomous body and has adopted scheme of basic pay scale in to-to in their appointment. The appellant applied through proper channel and after qualifying Public Service Commission was appointed as Inspector of Mines (BPS-17), therefore he is entitled for fixation/protection of pay of appointment of one post to another in light of notification of the finance department dated 04.06.2011. The appeal in hand is accepted in the light of the above discussion. Parties are however left to bear their own costs. File be consigned to the record room.

sd/- M. Amir Nigro, Member *DR*
IR
sd/- Ashfaqul Taj, Member

ANNOUNCED
07.03.2017

Certified to be true copy
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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Annexure - M.

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT

Mr. Justice Gulzar Ahmed
Mr. Justice Maqbool Baqar

Civil Appeal No. 1308/2019

(Against the judgment dated
07.03.2017 of the Khyber
Pakhtunkhwa Service Tribunal,
Peshawar passed in Appeal No.
476/2014)

Chief Secretary Govt. of KP Civil Appellant(s)
Secretariat, Peshawar & others

Versus

Mian Farooq Iqbal Respondent(s)

For the Appellant(s) : Mr. Zahid Yousaf Qureshi, Addl AG, KP

For the Respondent(s) : In person

Date of Hearing : 27.11.2019

ORDER

Gulzar Ahmed, J. We have heard the learned Additional Advocate General, KP. In support of his submission that the benefit of pay protection and counting of service was not available to the respondent, he has relied upon the letter dated 04.06.2011 (available at page 21 of the paper book) issued by the Regulation Wing of the Finance Department, Government of Khyber Pakhtunkhwa. Such letter is scanned below:

ATTESTED

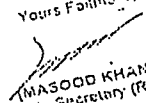
Senior Court Associate
Supreme Court of Pakistan
Islamabad

TO BE SUBMITTED FOR THE SAME NUMBER AND DATE
GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)
NO. FD (SR-1) 12-1/2011
Dated Peshawar (tho: 3rd June, 2011)

- TO:
1. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
 2. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
 3. The Secretary to Government, Khyber Pakhtunkhwa.
 4. The Secretary to Chief Minister, Khyber Pakhtunkhwa.
 5. The Secretary, Provincial Assembly, Khyber Pakhtunkhwa.
 6. The Secretary Finance FATA, FATA Secretariat, Peshawar.
 7. The Secretary General, Khyber Pakhtunkhwa.
 8. The Accountant General, Khyber Pakhtunkhwa.
 9. All Heads of Attached Departments in Khyber Pakhtunkhwa.
 10. All District Coordination Officers in Khyber Pakhtunkhwa.
 11. All Political Agents / District & Sessions Judges in Khyber Pakhtunkhwa.
 12. The Registrar, Peshawar High Court, Peshawar.
 13. The Registrar, Public Service Commission, Khyber Pakhtunkhwa.
 14. The Chairman, Services Tribunal, Khyber Pakhtunkhwa.

Subject: FIXATION / PROTECTION OF PAY ON APPOINTMENT FROM ONE POST TO ANOTHER.

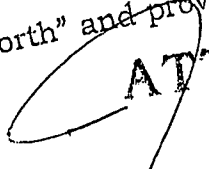
Dear Sir, I am directed to refer to the Government of Pakistan, Finance Division, Islamabad letter No. F.No.4(2)R-III/1886-235/2010, dated 08-06-2010 and Judgment dated 01-06-2009 of Federal Service Tribunal, Islamabad in appeal No. 1921(F) CS/2005 in respect of Mr. Sajid Rashid and others on the subject noted above and to state that in pursuance of the above quoted letter, the Government of Khyber Pakhtunkhwa has decided that henceforth the benefit of protection of pay to the employees of autonomous bodies on their subsequent appointment in Government Service is not admissible as the employees of autonomous bodies are not civil servants within the meaning of Civil Servant Act 1973. However, the benefit of pay protection will be admissible to employees of such autonomous organizations who have adopted scheme of basic pay scales in to-to on their appointment in government services, provided they have applied for the post through proper channel.

Yours Faithfully,

MASOOD KHAN
Deputy Secretary (Reg II)

Ends of even No. & date.
Copy forwarded for information to:

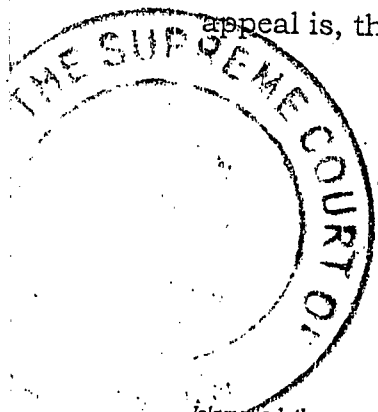
1. All the Heads of Autonomous / Semi Autonomous Bodies of Khyber Pakhtunkhwa
2. Director, Local Fund Audit, Khyber Pakhtunkhwa, Peshawar.
3. Director, Treasuries and Accounts, Khyber Pakhtunkhwa, Peshawar.
4. All District Comptrollers of Accounts, Senior District Accounts Officers and District/Agency Accounts Officer in Khyber Pakhtunkhwa / FATA.
5. Director, FIAU, Finance Department
6. PS to Minister Finance, Khyber Pakhtunkhwa.
7. P.S to Secretary Finance
8. PA in Sd. Secretary Finance

2. Learned Additional Advocate General has stated that the respondent was appointed as a Lecturer in the University of Engineering and Technology, Peshawar on 03.12.1986. The respondent applied for being appointed as Inspector Mines through proper channel in the Mines Department and ultimately, succeeded in the same and was appointed as an Inspector Mines vide order dated 21.06.1989. Learned Addl. AG further contends that by virtue of the letter dated 04.06.2011, as reproduced above, the respondent was not entitled to pay protection. This letter has been considered by the Service Tribunal in its impugned judgment and even on our own reading, we are unable to agree with the learned Addl. AG that this has affected the case of the respondent for that, the very letter used the word "henceforth" and provides to


ATTESTED
Senior Court Assoc.
Supreme Court of Pak.
Islamabad

discontinue the benefit of pay protection of the employees of autonomous bodies. However in the last line it gives such benefit of pay protection to the employees of such autonomous organizations who have adopted the Scheme of Basic Pay Scale in toto on their appointment in Government Offices. In the first place, the very letter shows that it will apply from 04.06.2011 and will not affect the employees who have already been employed in Government service from the autonomous organizations and the case of the respondent being that of appointed on 21.06.1989, the same is not affected. Further, it is also an admitted fact that the University, in which the respondent was working, has adopted the Scheme of Basic Pay Scale in toto in the Government service. Besides, the respondent has applied for the post through proper channel, therefore, the condition of applying through proper channel has been satisfied.

3. After considering all aspects of the matter, we are of the firm view that no illegality has been committed in the impugned judgment of the Tribunal. The same is maintained. The appeal is, therefore, dismissed with no order as to costs.



Islamabad, the
27th November, 2019
Rizwan

2/12/19

Sd/-J
Sd/-J

Certified to be True Copy

Senior Court Associate
Supreme Court of Pakistan
Civil, Islamabad

SR No: 818P/19
Date of Decree: 29.11.19
No of Pages: 9
No of Exhibits: 9
Remuneration: 5000
Costs: 5000
Total: 10000

27/11/19
4/12/19



(29) Annexure-N

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

Dated Peshawar the 15.06.2020

NOTIFICATION

No.FD(SOSR-I)/12-4/2020. In pursuance of Khyber Pakhtunkhwa Service Tribunal Judgement in Service Appeal No.476/2014 announced on 07.03.2017 and Supreme Court of Pakistan Judgement in CP No.1308/2019 dated 27.11.2019, the Finance Department with the approval of the competent authority (Chief Minister Khyber Pakhtunkhwa) is pleased to accord sanction to continuation of service and protection of basic pay of Rs.3460/- (Three Thousand Four Hundred and Sixty Only) last drawn by Mian Farooq Iqbal as Lecturer (BPS-17), Department of Mining Engineering University of Engineering and Technology, Peshawar on his appointment as Inspector of Mines (BPS-17) in Inspectorate of Mines, in the pay scale of Rs.2065-155-3925 w.e.f 10.07.1989.

2- The earlier notification of even No. dated 07.12.2018 of this Department stands withdrawn.

**SECRETARY TO GOVERNMENT
OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT**

ENDST: NO. & DATE EVEN.

Copy for information and necessary action is forwarded to the:-

1. Registrar, Service Tribunal, Khyber Pakhtunkhwa.
2. The Accountant General, Khyber Pakhtunkhwa, Peshawar.


(Musharraf Khan Marwat)
Addl: Secretary (Regulation)
FINANCE DEPARTMENT

ENDST: NO. & DATE EVEN.

Copy of the above is forwarded for information and necessary action to the:-

1. PS to Secretary, Finance Department, Khyber Pakhtunkhwa.
2. PS to Special Secretary, Finance Department, Khyber Pakhtunkhwa.
3. PS to Secretary, Minerals Development Department, Peshawar with reference to the letter No.SO Appeal(MDD)/1-1175/2020 dated 18-05-2020.
4. Section Officer (Lit-II) Finance Department, Peshawar via his file No.SO(Lit-II)/FD/2-1474/2014.
5. PA to DS (Reg-I), Finance Department, Peshawar.
6. Officer concerned.

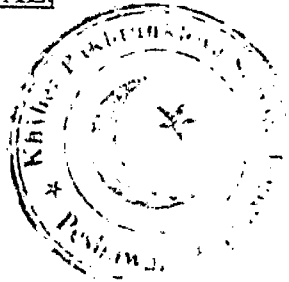

SECTION OFFICER (SR-I)
FINANCE DEPARTMENT

30

Annexure 0

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

Service Appeal No. 7371/2021



BEFORE: KALIM ARSHAD KHAN --- CHAIRMAN
MIAN MUHAMMAD --- MEMBER(E)

**Mr. Mumtaz Khan, (Rtd) Special Secretary (BS-20), Industries
Department, Peshawar.**

.....(*Appellant*)

VERSUS

1. The Chief Secretary Khyber Pakhtunkhwa, Peshawar.
2. The Secretary Mineral Development Department Khyber Pakhtunkhwa Peshawar.
3. The Secretary Finance Department Khyber Pakhtunkhwa, Peshawar.

..... (*Respondents*)

Present:

TAIMUR ALI KHAN,
Advocate --- For Appellant.

M. RIAZ KHAN PAINDAKHEL,
Assistant Advocate General --- For respondents.

Date of Institution.....01.09.2021
Date of Hearing.....20.04.2022
Date of Decision.....21.04.2022

JUDGEMENT.

MIAN MUHAMMAD, MEMBER(E):- The service appeal in hand has been instituted under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the impugned order dated 24.08.2021 whereby his departmental appeal for pay protection alongwith arrears of previous service as Assistant Mining Engineer (BS-17) in Pakistan Mineral Development Corporation (PMDC) w.e.f 26.12.1979 to 02.10.1983, was rejected.

02. Brief facts, as per memorandum of appeal. are that the appellant was initially appointed in Pakistan Mineral Development

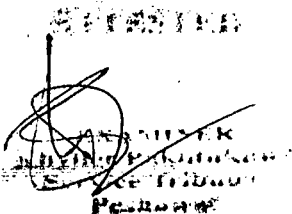
Corporation (PMDC) as apprentice/ Assistant Mining Engineer (BS-17) on .08.03.1979 and then appointed Assistant Mining Engineer (PMDC) vide order dated 26.12.1979. The appellant applied through proper channel for the post of Mines Safety Engineer (BS-18) in Directorate of Labour Welfare, Khyber Pakhtunkhwa advertized by the Khyber Pakhtunkhwa Public Service Commission in 1982. On selection by the Public Service Commission. he was appointed as Mines Safety Engineer (BS-18) vide notification dated 24.09.1983 and was relieved by the PMDC on 02.10.1983 who assumed the charge of the post of Mines Safety Engineer (BS-18) on 03.10.1983. The appellant during his service in Directorate of Labour Welfare Mineral Development Department got elevation in cadre up to BS-20 as Director General and retired when posted as Special Secretary (BS-20), on attaining the age of superannuation on 07.05.2012. Taking a precedented case of Mian Farooq Iqbal of the same department, the appellant requested for pay protection of the previous service and claimed it under the Finance Department notification dated 04.06.2011. After inter-departmental correspondence between the administrative department, Finance and Law Department. the request of appellant was finally regretted vide impugned order dated 24.08.2021 where-after he approached the Service Tribunal for redressal of his grievances, on 01.09.2021.

03. Respondents were put on notice who submitted written replies/comments on contents of the appeal. We have heard learned counsel for the appellant as well Assistant Advocate General and

RECEIVED
 EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

perused the case file with connected documents minutely and thoroughly.

04. Learned counsel for the appellant argued that the appellant had served PMDC as Assistant Mining Engineer (BS-17) from 26.12.1979 to 02.10.1983 who applied to the post of Mines Safety Engineer (BS-18) in Directorate of Labour Welfare Peshawar through proper channel. On selection through Khyber Pakhtunkhwa Public Service Commission, he was properly relieved by PMDC. Since then the appellant rendered regular service of more than 33 years till he stood retired as DG (BS-20) on attaining the age of superannuation on 07.05.2012. However, his previous service rendered in PMDC was not counted for the purpose of pay protection despite the fact that his case was covered under the Finance department circular No. FD (SR-I) 12-1/2011 dated 04.06.2011. He quoted the case of one Mian Farooq Iqbal of the same department having the same facts and circumstances whose previous service as Lecturer (BS-17) in University of Engineering and Technology Peshawar had been protected on the basis of Service Tribunal Judgement dated 07.03.2017 in service appeal No. 476/2014 duly maintained by the Apex Court vide its judgement dated 27.11.2019. He also referred to another judgement of this Service Tribunal dated 27.12.2019 delivered in service appeal No. 980/2016 of Muhammad Ismail where the same question of law was decided following the principle of consistency, laid down in service appeal No. 476/2014. Moreover, the recent judgement of this Service Tribunal dated 07.12.2021 delivered in service appeal No. 463/2017 titled Syed Shenshah, Accounts officer LG & RDD versus

SEVEN

 SERVICE TRIBUNAL
 PESHAWAR

Government of Khyber Pakhtunkhwa was relied on as precedent being a case of similarly placed official of the provincial government. He contested that how could a similarly placed person like the present appellant be denied the benefits of pay protection, availed by others duly granted by the respondents; particularly when a point of law relating to the terms of service of a civil servant, had been decided. He relied on 1996 SCMR 1185 and 2009 SCMR 1, while concluding his arguments.

05. Learned Assistant Advocate General while referring to para-5 of written defense of the respondents did not deny facts and circumstances of the service appeal. He also contended that the question of retrospectivity and prospectivity relating to Finance Department circular dated 04.06.2011 had been decided by the Apex Court in civil Appeal No: 1308/2019 dated 27.11.2019 of Mian Farooq Iqbal. He therefore did not press his arguments and conceded facts of the case to have been of similarly placed person.

07. Perusal of record revealed that the appellant had applied for the post of Mines Safety Engineer (BS-18) in 1982 through proper channel and on appointment he was properly relieved by PMDC on 02.10.1983. So, there was no gap or break between his previous service and new appointment through Khyber Pakhtunkhwa Public Service Commission. The question of law arising out of the Finance department circular dated 04.06.2011 with regard to its retrospectivity or prospectivity had been decided by the Apex Court in the Civil Appeal No. 1308/2019 of Mian Farooq Iqbal. Astonishingly, the respondents had implemented it vide notification No. FD (SOSR-

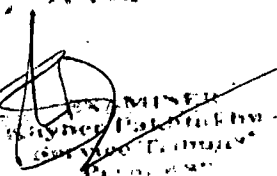
[Handwritten Signature]
 ASSISTANT ADVOCATE GENERAL
 GOVERNMENT OF KHYBER PAKHTUNKHWA
 PUBLIC SERVICE COMMISSION

I)/12-4/2020 dated 15.06.2020 but in the case of present appellant unnecessary and protracted inter departmental correspondence were resorted to for unknown reasons, driven the appellant from pillar to post. The laid down principle of consistency enunciated in 1996 SCMR is relevant and quite apt to be reproduced:

If the Tribunal or the Supreme Court decides a point of law relating to the terms and conditions of a civil servant who litigated, and there were other civil servants, who may not have taken any legal proceedings, in such a case, the dictates of justice and rule of good governance demand that the benefit of the said decision be extended to other civil servants also, who may, not be parties to that litigation, instead of compelling them to approach the Tribunal or any other legal forum.

08. It is observed that despite the above clear verdict of Apex Court and the respondent-departments had precedented case of Mian Farooq Iqbal to whom benefits of pay protection of previous service were granted vide Notification dated 15.06.2020, the case of similarly placed appellant was treated as a shuttle cock. It is pathetic and deplorable to note that despite legal opinion of Advocate General office dated 05.04.2021 communicated to respondent No.3 through Law department, respondent No.3 shifted responsibility when advised respondent No.2 "to grant proper sanction for pay protection being administrative department of the present appellant" ignoring the fact that being a financial matter falling in its ambit of functions under the Rules of Business (1985) and it had already exercised that authority when issued Notification dated 15.06.2020 in respect of Mian Farooq Iqbal. It is therefore, imperative to advise the Chief Secretary, Khyber Pakhtunkhwa to issue elaborate instructions to all departments in

ATTESTED


 CHIEF MINISTER
 Khyber Pakhtunkhwa
 Peshawar


general and regulatory departments in particular to adhere to the distribution of functions assigned to these departments under the Khyber Pakhtunkhwa Government Rules of Business (1985) framed under Article 139 of the Constitution; especially in litigation cases when there are clear directions and elaborate judgements in unequivocal terms by the hon'ble superior judiciary.

09. As a sequel to the preceding paras. we have arrived at the conclusion that the prayer of appellant for pay protection is covered under the existing scheme of things duly upheld by the Apex Court. He was therefore entitled for the benefits of pay protection of previous service rendered under PMDC w.e.f 26.12.1979 to 02.10.1983. The service appeal is therefore, allowed as prayed for and the impugned order dated 24.08.2021 is set aside. Copy of this judgement be also issued to respondent No.1 for compliance. Costs shall follow the event. Consign.

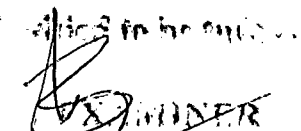
10. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 21st day of April, 2022.*




(KALIM ARSHAD KHAN)
CHAIRMAN


(MIAN MUHAMMAD)
MEMBER(E)

Name of Presenter of Application _____
Number of Voids 2400 13-7-22
Copying Fee 26/-
Urgent 4/-
Total 30/-
Name of Copyist _____
Date of Completion of Copy 13-7-22
Date of Delivery of Copy 13-7-22


MIAN MUHAMMAD
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

(36)

Annexure - 'P'



**INSPECTORATE OF MINES
KHYBER PAKHTUNKHWA, PESHAWAR**

Attached Department, near Judicial Complex
Khyber Road, Peshawar
Ph: 091-9211404

No: COM/CIM/PF/(1)42/admin 5918

Dated: 27/10/2020

To,

The Section Officer (Establishment),
Minerals Development Department,
Government of Khyber Pakhtunkhwa
Peshawar.

Subject: **APPEAL FOR PAY PROTECTION ON APPOINTMENT FROM ONE POST
TO ANOTHER.**

I am directed to refer to the subject noted above and to enclose herewith an original application along with its enclosures in respect of Engr. Fazli Raziq, Deputy Chief Inspector of Mines (BPS-19), Khyber Pakhtunkhwa for further necessary action in the matter please.

**Assistant Director
(Administration)
Inspectorate of Mines
Khyber Pakhtunkhwa**



(37)

**INSPECTORATE OF MINES
KHYBER PAKHTUNKHWA, PESHAWAR**

Attached Department, near Judicial Complex
Khyber Road, Peshawar
Ph: 091-9211404

No: COM/CIM/PF/(1)42/admin

Dated: /10/2020

To

The Secretary,
Minerals Development Department
Government of Khyber Pakhtunkhwa
Peshawar.

Subject: **APPEAL FOR PAY PROTECTION ON APPOINTMENT FROM ONE POST TO ANOTHER.**

Respected Sir,

Please refer to the above noted subject and to state that:-

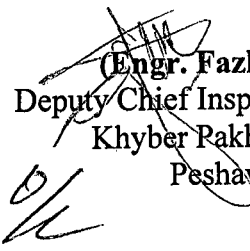
1. I was appointed as Assistant Mining Engineer at Pakistan Mineral Development Corporation (PMDC) on 3-11-1990 vide letter No. PMDC/ADM/594 dated 21.10.1990 (**Annexed-A**).
2. I remained employee of Pakistan Mineral Development Corporation (PMDC) w.e.f 03.11.1990 to 31.01.1995 (**Annexure-B**).
3. The last pay certificate (LPC) of Pakistan Mineral Development Corporation (PMDC) is at (**Annexed-C**).
4. The Inspectorate of Mines Labour Welfare of Khyber Pakhtunkhwa advertised the post of Inspector of Mines (BPS-17) through Khyber Pakhtunkhwa Public Service Commission. I applied through proper channel for the said post & qualified (**Annexure-D**).
5. I was appointed as Inspector of Mines vide Notification Endst. No. SOI (IND) 6-1/90/388 dated 04.01.1995 (copy of the letter enclosed as **Annexed-E**).
6. I was relieved from duty w.e.f. 18.01.1995 as Assistant Mining Engineer (BPS-17) vide order No. Ap-Fr-Tr/Officer-Supervisor/Jatta/480 dated 24.01.1995 to assume my new assignment. (**Annexure-F**).
7. I assumed the charge of post of Inspector of Mines w.e.f. 01.02.1995 (**Annexure-G**).
8. The Finance Department, Khyber Pakhtunkhwa issued a notification dated 04.06.2011, in which benefit of pay protection was allowed to the employees of the autonomous body on their subsequent appointment in Government Service, who have adopted scheme of basic pay scale into-to provided that they have applied for the post through proper channel. (**Annexure-H**).
9. The Service Tribunal vide judgment in **Service Appeal No.476/2014** dated 07.03.2017 allowed the protection of pay to Mian Farooq Iqbal from the date of appointment from the post of lecturer to the post of Inspector of Mines with effect from 10.07.1989 (**Annexure-I**).

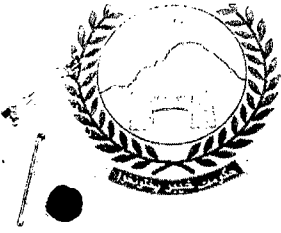
10. The Apex Supreme Court of Pakistan, which hearing CMA No.1308/2019 on 27.11.2019 dismiss the appeal filed by Government of KP and maintained the Service Tribunal Judgment dated 07.03.2017 (Annexure-J).

11. As the undersigned is entitled for fixation protection of pay, of appointment one post of to another in light of Notification of Finance Department dated 04.06.2011 and Notification No. FD (SOSR-1)/12-4/2020 dated. 05.06.2020 (Annexure-K).

Keeping in view the above facts, since I was an employee of Pakistan Mineral Development Corporation (PMDC) (an autonomous body) which has adopted scheme of basic pay scale into-to in their appointment, and that I have also applied through proper channel, therefore I am entitled for fixation/protection of pay of appointment of one post to another in light of the aforementioned notification of Finance Department, Khyber Pakhtunkhwa and apex Supreme Court of Pakistan Judgement dated. 27.11.2019.

It is therefore humbly requested that the relevant Department may be approached to allow the undersigned for fixation/protection of pay of appointment of one post to another in light of the above mentioned notification in judgment please.


(Engr. Fazli Raziq)
Deputy Chief Inspector of Mines,
Khyber Pakhtunkhwa
Peshawar



Government of
Khyber Pakhtunkhwa
Minerals Development Department

No.SOE/MDD/1-18/21995
Dated Peshawar, 28.06.2022


26 Annexure.

To

The Chief Inspector of Mines,
Inspectorate of Mines,
Khyber Pakhtunkhwa.

Subject: - GRANT OF PAY PROTECTION/ FIXATION BENEFIT SERVED IN
PMDC PROJECT SERVICE.

I am directed to refer to your letter No.COM/CIM/PF/(1)42/Admin/5918 dated 27.10.2020 on the subject noted above and to state that as per advice of the Finance Department the subject request of Mr. Fazli Raziq, Deputy Chief Inspector of Mines (BS-19) has been examined under the Finance Department, Khyber Pakhtunkhwa policy circular letter bearing No.FD(SR-1) 12-1/2011 dated 04.06.2011 (copy enclosed), which is not covered under the said policy, because the said policy issued by the Finance Department on 04.06.2011 henceforth and the applicant requested for pay protection in his previous service rendered in the PMDC with effect from 03.11.1990 to 31.01.1995, please.


(Hafiz Abdul Jalil)
Section Officer (Estt.)

Encl: As above.

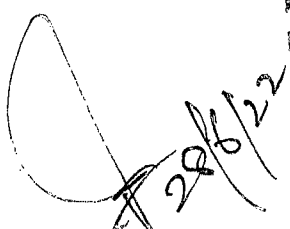
Endst: No & Date even:

Copy for information to the:-

1. Section Officer (SR-I) Finance Department Government of Khyber Pakhtunkhwa w.r.t. letter No.FD(SO SR-I)12-4/2021/Fazli Raziq dated 31.05.2022.
2. PS to Secretary, Minerals Development Department.

Diary No. 2928
Dated 28/06/2022
Inspectorate of Mines
Khyber Pakhtunkhwa
Peshawar.

Section Officer (Estt.)


28/6/22
A-D (Admin)

40

TO BE SUBSTITUTED FOR THE SAME NUMBER AND DATE



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

NO. FD (SR-1) 12-1/2011

Dated Peshawar the: 4th June, 2011

TO:

1. All Administrative Secretaries to Govt: of Khyber Pakhtunkhwa.
2. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
3. The Secretary to Governor, Khyber Pakhtunkhwa
4. The Secretary to Chief Minister, Khyber Pakhtunkhwa.
5. The Secretary, Provincial Assembly, Khyber Pakhtunkhwa.
6. The Secretary Finance FATA, FATA Secretariat, Peshawar.
7. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
8. All Heads of Attached Departments in Khyber Pakhtunkhwa.
9. All District Coordination Officers in Khyber Pakhtunkhwa.
10. All Political Agents / District & Sessions Judges in Khyber Pakhtunkhwa
11. The Registrar, Peshawar High Court, Peshawar.
12. The Chairman, Public Service Commission, Khyber Pakhtunkhwa.
13. The Chairman, Services Tribunal, Khyber Pakhtunkhwa.

Subject: **FIXATION / PROTECTION OF PAY ON APPOINTMENT FROM ONE POST TO ANOTHER.**

Dear Sir,

I am directed to refer to the Government of Pakistan, Finance Division, Islamabad letter No.FNo.4(2)R-II/1996-235/2010, dated 08-06-2010 and Judgment dated 01-08-2009 of Federal Service Tribunal, Islamabad in appeal No.1921(R) CS/2005 in respect of *Mr. Sajjad Rashid* and others on the subject noted above and to state that in pursuance of the above quoted letter, the Government of Khyber Pakhtunkhwa has decided that henceforth the benefit of protection of pay to the employees of autonomous bodies on their subsequent appointment in Government Service is not admissible as the employees of autonomous bodies are not civil servants within the meaning of Civil Servant Act 1973. However, the benefit of pay protection will be admissible to employees of such autonomous organizations who have adopted scheme of basic pay scales in to-to on their appointment in government offices, provided they have applied for the post through proper channel.

Yours Faithfully,

(MASOOD KHAN)
Deputy Secretary (Reg-II)

Endst: of even No. & date.

Copy forwarded for information to:

1. All the Heads of Autonomous / Semi Autonomous Bodies of Khyber Pakhtunkhwa.
2. Director, Local Fund Audit, Khyber Pakhtunkhwa, Peshawar.
3. Director, Treasuries and Accounts, Khyber Pakhtunkhwa, Peshawar.
4. All District Comptrollers of Accounts, Senior District Accounts Officers and District/Agency Accounts Officer in Khyber Pakhtunkhwa / FATA.
5. Director, FMIU, Finance Department
6. PS to Minister Finance, Khyber Pakhtunkhwa.
7. P.S to Secretary Finance.
8. PA to Spl: Secretary Finance.

(SHAUKAT ULLAH)
Section Officer (SR-I)

41

Annexure - PR



GOVERNMENT OF KHYBER PAKHTUNKHWA FINANCE DEPARTMENT

Finance Department Civil Secretariat Peshawar

<http://www.finance.gkp.pk>

[facebook.com/GoKPF](https://www.facebook.com/GoKPF)

twitter.com/GoKPF

NO. FD(SOSR-1)12-4/2021/Fazli Raziq
Dated Peshawar the: 27-01-2022

To

The Section Officer (Estt),
Minerals Development Department,
Govt: of Khyber Pakhtunkhwa

enc (copy) 27-2-22
[Signature]

Subject: - APPEAL FOR PAY PROTECTIO ON APPOINTMENT FROM ONE POST TO ANOTHER

I am directed to refer to your Department letter No.SO(E)MMD/1-18/Fazli Razq/11690WE dated 05.01.2020 on the subject noted above and to advise that the case may be examined in light of Finance Department's circular letter No. FD (SR-I)12-1/2011 Dated 4.06.2011(copy enclosed), please.

Encl:A.A

Yours faithfully,

014
[Signature]

(REHMAT KHAN)
SECTION OFFICER (SR-1)

قیمت 50 روپے	29161			
ایڈوکیٹ: <i>Feroz Khan</i>		پشاور بار ایسوسی ایشن، خیبر پختونخواہ		
بار کونسل / ایسوسی ایشن نمبر: <i>BC-18-1592</i>				
رابطہ نمبر: <i>03005952216</i>				
K.P Chairman Service Tribunal Peshawar				
بعدالت جناب:				

مخاطب: <i>Appellant</i>	دعویٰ: <i>Service Appeal</i>
علت نمبر: <i>15-7-2022</i>	مورخہ: <i>15-7-2022</i>
جرم:	جرم:
تھانہ:	تھانہ:
باعث تحریر آگے	

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ آن مقام *Peshawar* کیلئے *Feroz Khan Adv.* کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ با اختیار انت حاصل ہوں گے اور اس کا بناختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقدمہ دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکیل صاحب کو یہ نامہ لکھ کر دیا گیا ہے۔

المرقوم: *2022*

پشاور

Peshawar

مقام کے لیے منظور ہے۔

21103-1275358-9
Fazal Raziq

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

"A"

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

No.

SE

APPEAL No.....1125..... of 20 22

Engr. Kazim

Appellant/Petitioner

Versus

Chief Secy Govt of KP Peshawar

RESPONDENT(S)

Notice to Appellant/Petitioner

*Removal as Chief Inspector of Mines
Inspectorate of Mines Peshawar*

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 30/07/2022 at 9:30am

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

Copy of appeal is attached

*3540
10-8-022*

[Signature]

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

"A"

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

No.

1128

APPEAL No..... of 20²²

Fazli Raziq

Appellant/Petitioner

Versus

Chief Secy Govt of KPK Peshawar.

RESPONDENT(S)

Respondent (1)

Chief Secy Govt of KPK Peshawar.

Notice to Appellant/Petitioner.....

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 30/08/2022 at 9:00 am

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

For Reply

Copy of appeal is attached

[Signature]
10/08/2022

[Signature]

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

"A"

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

No.

APPEAL No.....117..... of 20.....

.....
Appellant/Petitioner

Versus

.....
RESPONDENT(S)

.....
Notice to Appellant/Petitioner

.....
Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on..... at.....

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

.....
Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

“A”

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

No.

APPEAL No. 1028 of 20 22

Tezhi Baidy

Appellant/Petitioner

Versus

Chof. Secy Govt of KPK Peshawar.

RESPONDENT(S)

Board of (3)

Secy Establishment Govt of KPK

Notice to Appellant/Petitioner

Peshawar.

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 30/09/2022 at 9:00 AM

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

For Reply

*Copy of appeal
is attached*

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

[Handwritten signature]