


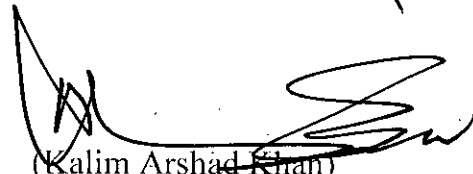
ORDER

04.10.2022 1. Counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for respondents present.

2. Arguments were heard at great length. Learned counsel for the appellant submitted that in view of the judgment of august Supreme Court of Pakistan dated 24.02.2016, the appellant was entitled for all back benefits and seniority from the date of regularization of project whereas the impugned order of reinstatement dated 05.10.2016 has given immediate effect to the reinstatement of the appellant. Learned counsel for the appellant was referred to Para-5 of the representation, wherein the appellant himself had submitted that he was reinstated from the date of termination and was thus entitled for all back benefits whereas, in the referred judgement apparently there is no such fact stated. When the learned counsel was confronted with the situation that the impugned order was passed in compliance with the judgment of the Hon'ble Peshawar High Court decided on 26.06.2014 and appeal/CP decided by the august Supreme Court of Pakistan by way of judgment dated 24.02.2016, therefore, the desired relief if granted by the Tribunal would be either a matter directly concerning the terms of the above referred two judgments of the august Hon'ble Peshawar High Court and august Supreme Court of Pakistan or that would, at least, not coming under the ambit of jurisdiction of this Tribunal to which learned counsel for the appellant and learned Additional AG for respondents were unanimous to agree that as review petitions against the judgment of the august Supreme Court of Pakistan dated 24.02.2016, were still pending before the august Supreme Court of Pakistan and any judgment of this Tribunal in respect of the impugned order may not be in conflict with the same. Therefore, it would be appropriate that this appeal be adjourned sine-die, leaving the parties at liberty to get it restored and decided after decision of the review petitions by the august Supreme Court of Pakistan. Order accordingly. Parties or any of them may get the appeal restored and decided either in accordance with terms of the judgment in review petitions or merits, as the case may be. Consign.

3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 4th day of October, 2022.*


(Fareeha Paul)
Member (I)


(Kalim Arshad Khan)
Chairman

28.03.2022

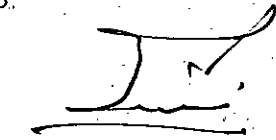
Learned counsel for the appellant present.

Mr. Ahmadyar Khan Assistant Director, (Litigation) alongwith Mr. Kabir Ullah Khattak Additional Advocate General for the respondents present.

File to come up alongwith connected Service Appeal No.695/2017 titled Rubina Naz Vs. Government of Khyber Pakhtunkhwa on 23.06.2022 before the D.B.



(Rozina Rehman)
Member (J)

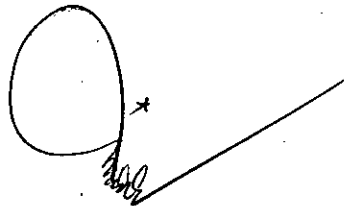


(Salah-Ud-Din)
Member (J)

23.06.2022

Junior of learned counsel for the appellant present. Mr. Ahmad Yar Khan, Assistant Director (Litigation) alongwith Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

File to come up alongwith connected Service Appeal No. 695/2017 titled Rubina Naz Vs. Government of Khyber Pakhtunkhwa on 03.10.2022 before D.B.



(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

03.10.2022

Junior to counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for respondents present.

Junior to counsel for the appellant requested for adjournment on the ground that senior counsel is not available today. Last chance is given, failing which the case will be decided on available record without the arguments. To come up for arguments on 04.10.2022 before D.B.



(Farecha Paul)
Member (E)



(Kalim Arshad Khan)
Chairman


11.03.2021

Appellant present through counsel.

Kabir Ullah Khattak learned Additional Advocate General alongwith Ahmadyar Khan A.D for respondents present.

File to come up alongwith connected appeal No.695/2017 titled Robinaz Vs. Government of Khyber Pakhtunkhwa, on 01.07.2021 before D.B.


(Mian Muhammad)
Member (E)



(Rozina Rehman)
Member (J)

01.07.2021

Appellant present through counsel.

Kabir Ullah Khattak learned Additional Advocate General for respondents present.

File to come up alongwith connected Service Appeal No.695/2017 titled Rubina Naz Vs. Government of Khyber Pakhtunkhwa, on 29.11.2021 before D.B.


(Rozina Rehman)
Member(J)



Chairman

29.11.2021

Appellant present through counsel.

Kabir Ullah Khattak learned Additional Advocate General alongwith Ahmad Yar A.D for respondents present.

File to come up alongwith connected Service Appeal No.695/2017 titled Rubina Naz Vs. Government of Khyber Pakhtunkhwa, on 28.03.2022 before D.B.


(Atiq ur Rehman Wazir)
Member (E)

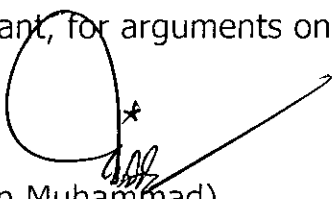

(Rozina Rehman)
Member (J)


29.09.2020

Appellant present through counsel.

Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Ahmad Yar Khan A.D for respondents present.

An application seeking adjournment was filed in connected case titled Anees Afzal Vs. Government on the ground that his counsel is not available. Almost 250 connected appeals are fixed for hearing today and the parties have engaged different counsel. Some of the counsel are busy before august High Court while some are not available. It was also reported that a review petition in respect of the subject matter is also pending in the august Supreme Court of Pakistan, therefore, case is adjourned on the request of counsel for appellant, for arguments on 16.12.2020 before D.B


(Mian Muhammad)
Member (E)


(Rozina Rehman)
Member (J)


16.12.2020

Junior to counsel for the appellant present. Additional: AG alongwith Mr. Ahmad Yar Khan, AD(Litigation) for respondents present.

Former requests for adjournment as learned senior counsel for the appellant is engaged today before the Hon'able High Court, Peshawar in different cases.

Adjourned to 11.03.2020 for arguments before D.B.


(Mian Muhammad)
Member (E)


Chairman

25.02.2020

Learned counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 03.04.2020 before D.B.


Member


Member

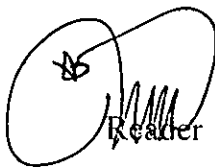
02.04.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 30.06.2020 before D.B.


Reader

30.06.2020

Due to Covid-19, the case is adjourned. To come up for the same on 29.09.2020 before D.B.


Reader

29.07.2019 Junior to counsel for the appellant present, stated that identical nature appeals have been fixed for hearing on 26.09.2019 and sought adjournment. Adjourn. To come up for arguments on 26.09.2019 before D.B.


Member


Member

26.09.2019 Junior counsel for the appellant and Mr. Kabirullah Khattak, Additional AG for the respondents present. Junior counsel for the appellant requested for adjournment on the ground that learned senior counsel for the appellant is busy before the Hon'ble Peshawar High Court and cannot attend the Tribunal today. Adjourned to 11.12.2019 for arguments before D.B.


(HUSSAIN SHAH)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER

11.12.2019 Lawyers are on strike on the call of Khyber Pakhtunkhwa Bar Council. Adjourn. To come up for further proceedings/arguments on 25.02.2020 before D.B.


Member


Member

31.1.2019

Mr. Azhar Abbas Advocate for appellant and Asstt. AG alongwith Zakiullah, Senior Auditor for the respondents present.

Learned counsel for the appellant requests for adjournment to furnish rejoinder to the reply of respondents. Adjourned to 10.04.2019 for arguments before the D.B. The appellant may furnish rejoinder within a fortnight, if so advised.


Member


Chairman

10.04.2019

Learned counsel for the appellant and Mr. Riaz Paindakhel learned Assistant Advocate General for the respondent present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for argument on 16.05.2019 before D.B



Member


Member

16.05.2019

Counsel for the appellant and Mr. Ziullah, DDA alongwith Saghir Musharaf, A.D for the respondents present.

Due to demise of his father, learned Member of the Bench (Mr. Hussain Shah) is on leave. Adjourned to 29.07.2019 for further proceedings before the D.B.


Chairman

05.09.2018

Counsel for the appellant and Mr. Kabirullah Khattak, Additional Advocate General alongwith, Mr. Sagheer Musharaf, AD litigation & Mr. Zakiullah Senior Auditor, for the official respondents present. Written reply submitted on behalf of the respondent No. 4. Written reply not submitted on the remaining respondents. Adjournment requested. Adjourned. To come up for written reply/comments on 29.10.2018 before S.B.

MA
(Muhammad Amin Kundi)

Member

29-10-18

Due to retirement of Honorable Chairman the Tribunal is non functional therefore the case is adjourned to come up for the same on 13-12-2018

Reeder

13.12.2018

Counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Sagheer Musharaf, AD for the respondents No. 2 & 3 present. Representative of respondents No. 2 & 3 submitted written reply today. Representative of the respondents No. 2 & 3 also rely on the written reply submitted by respondents No. 2 & 3 on behalf of respondent No. 1. Written reply by respondent No. 4 has already submitted. Adjourned. The appeal is assigned to D.B-I for rejoinder and arguments for 31.01.2018.

MA
Muhammad Amin Khan Kundi
Member

12.04.2018

Counsel for the appellant present. Preliminary arguments heard and case file perused. Initially the appellant was appellant as Family Welfare Assistant in a project on contract basis on 28.02.2012. Thereafter the project was converted on current budget in 2014. Employees of project were not regularized so they went into litigation. Finally in pursuance of judgment of august Supreme Court of Pakistan services of the appellant and others were regularized with immediate effect vide impugned order dated 05.10.2016. They are demanding regularization w.e. from the date of appointment. Departmental appeal was preferred on 20.05.2016 which was not responded within stipulated, hence, the instant service appeal. The appellant has not been treated according to law and rules.

Appellant Deposited
Security & Process Fee

Points urged need consideration. Admit subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 04.06.2017 before S.B.

04.06.2018

Counsel for the appellant and Addl: ~~AG~~ (AHMAD HASSAN) MEMBER present. Written reply not submitted. Requested for adjournment. Adjourned. To come up for written reply/comments on 25.07.2018 before S.B.

(Ahmad Hassan)
Member

25.07.2018

Since the 25th July 2018 has been declared as public holiday in connection with General Election 2018, therefore the case is adjourned to 05.09.2018 for the same.





Reader

Form-A

FORM OF ORDERSHEET

Court of _____

Case No. 175/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	07/02/2018	<p>The appeal of Mr. Bakht Multaj resubmitted today by Mr. Athar Abbas Advocate may be entered in the Institution Register and put up to Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	08/02/18.	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>19/02/18</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	19.02.2018	<p>Junior counsel for the appellant present and seeks adjournment. Adjourned. To come up for preliminary hearing on 21.03.2018 before S.B.</p> <p style="text-align: right;"> (Gul Zeb Khan) Member</p>
21.03.2018		<p>Appellant ab sent present and seeks adjournment as his counsel is not available. Adjourn. To come up for preliminary hearing on 12.04.2018 before S.B</p> <p style="text-align: right;"> Member</p>


Member

The appeal of Mr. Bakht Multaj son of Gul Taj Khan R/O Batara Distt. Buner received today i.e. on 02.02.2018 is incomplete on the following score which is returned to the counsel for the appellants for completion and resubmission within 15 days.

- 1- Memorandum of the appeal may be got signed by the appellants.
- 2- Copy of fresh appointment order in respect of appellants mentioned in the memo of appeal is not attached with the appeal which may be placed on it.
- 3- Annexures- C, D, E and G of the appeal are illegible which may be replaced by legible/better one.

No. 258 /S.T,

Dt. 06/02 /2018



REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

^{Athar}
Mr. Akhtar Abbas Adv. Pesh.

The above observation has been removed the identical appeals are already admitted, the same may be clubbed if admitted in the preliminary hearing.

Submitted for fixation of next date, please.

Registrar
Service Tribunal


07-02-2018

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL PESHAWAR.

In Ref. S.A 175 /2018

BAKHT MULTAJ
Versus
GOVT: OF KP & OTHERS


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4	Memo Of Addresses		9
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6	Copy of termination order	B	11
7	Copy of W.P No. 293B /2014 & order dated: <u>16/12</u> /2014	C	12 To 19
8	Copy of CPLA No.496-P/2014	D	20-52
9	Copy of re-instatement order Dated:05/10/2016	E	53
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Dated: 01-2-2018

غیر مناج
APPELLANT

Through


ASSAD, ULLAH, KHAN,
Advocate,
High Court Peshawar.


Athar Abbas
Assad Ullah Khan
Advocates Peshawar High Court
Peshawar.

①

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL PESHAWAR.

In Ref. S.A 175 /2018

Khyber Pakhtunkhwa
Service Tribunal

Bakht Multaj S/O Gul Taj khan
R/O Batara, District Bunner.

Diary No. 169

Dated 02-02-2018

.....APPELLANT

VERSUS

1. Govt: of Khyber Pakhtunkhwa Through Chief Secretary, Civil Secretariat Peshawar.
2. Secretary Population Welfare Department, Khyber Pakhtunkhwa, Peshawar.
3. Director General, Population Welfare, Plot No.18, Sector E-8, Phase-VII, Hayatabad, Peshawar.
4. Accountant General, Khyber Pakhtunkhwa, Peshawar.

~~District Account Officer, Account Office, District Bunner.~~

District Population Welfare officer Bunner.

.....RESPONDENTS

Filed to-day

Registrar

7/2/18

Re-submitted to -day
and filed.

Registrar

7/2/18

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL ACT 1974 FOR GIVING RETROSPECTIVE EFFECT TO THE APPOINTMENT ORDER DATED: 05/10/2016 IN ORDER TO INCLUDE PERIOD SPENT SINCE BRINGING THE PROJECT IN QUESTION ON CURRANT SIDE W.E.F 01/07/2014 TILL THE APPOINTMENT ORDER DATED:05/10/2016 WITH ALL BACK BENEFITS, IN TERMS OF ARREARS, PROMOTIONS AND SENIORITY, IN THE LIGHT OF JUDGMENT AND ORDER DATED: 24/02/2016 RENDERED BY HON'BLE SUPREME COURT OF PAKISTAN IN CPLA 605 OF 2015.

RESPECTFULLY SHEWETH:

The appellatnt most humbly submit as under: -

1. That the appellant was initially appointed as Chowkidar (BPS-1) (FWC Project) (Fixed Pay) on contract basis in the District Population Welfare Office, Bunner vide order No.F.No.1(2)/2011-12/Admn dated: 28/02/2012.

(Copy of the appointment order is annexed as "A").

2. That it is pertinent to mention here that in the initial appointment order the appointment was although made on contract basis and till project life, but no project was mentioned therein in the appointment order. However the services of the appellant alongwith hundreds of other employees were carried and confined to the project "Provisions for population Welfare Program in Khyber Pakhtunkhwa (2011-14)".
3. That later on, the project in question was brought from developmental side to current and regular side vide Notification in the year 2014 and the life of the project in question was declared to be culminated on 30/06/2014.
4. That instead of regularizing the services of the appellant, the appellant was terminated vide the impugned office order No.F.No.1(2)/Admn/2013-14 dated: 13/06/2014 and the service of the appellant was terminated w.e.f 30/06/2014. Alongwith the present appellant the services of other project employees of the same ADP Scheme were also terminated and the project was brought on current side.

(Copy of completion of project is annexed as "B").

5. That feeling aggrieved from such termination of the project employees most of the employees filed identical writ petitions before Peshawar High Court Peshawar and before Bannu bench W.P No.1730-P/2014 and W.P No.293-B/2014 respectively which were allowed in the favour of the petitioners vide order/judgment dated:26/06/2014 writ petition 1730-P/2014 all project employees of the ADP scheme remained on regular post of the said scheme as brought on regular side.

(Copy of W.P and order are annexed as "C").

6. That the respondents impugned the same before the Hon'ble Apex Court of the country in CPLA No.496-P/2014, but here again good fortune of the employees prevailed and the CPLA was dismissed vide judgment and order dated:24/02/2016.

(Copy of CPLA is annexed as "D").

7. That all the ex-employees of the ADP Scheme were re-instated in the light of the judgments of the High Court and Supreme Court of Pakistan and a partial impugned order No.SOE(PWD)4-9/7/2014/HC dated: 05/10/2016 was issued, but with immediate effect instead w.e.f 01/02/2012 i.e. initial appointment or at least 01/07/2014 i.e. date of regularization of the project in question as laid down in the judgment of the August Supreme Court of Pakistan.

(Copy of the impugned office re-instatement order is annexed as "E").

8. That feeling aggrieved the appellant prepared a departmental appeal, but in spite of laps of statutory period no findings were made upon the same, but the appellant time and again visited to inquire about the department appeal but the fate of departmental appeal was not decided till yet and mere assurance was given to the appellant that the same may be decided in favour of the appellant in light of the Judgment of the apex Court and the appellant still wait for the decision of the appellate authority, which caused delay in filing the instant appeal before this Hon'ble Tribunal and on the other hand the department appeal was also either not decided or the decision is not communicated or intimated to the appellant.

(Copy of the appeal is annexed as "F").

9. That feeling aggrieved the appellant prefers the instant appeal for giving retrospective effect to the appointment order dated 05/10/2016, upon the following ground inter alia:

GROUND:

- A. That the impugned appointment order dated 05/10/2016 to the extent of giving "immediate effect" is illegal, unwarranted and is liable to be modified to that extent.
- B. That in another CPLA No.605 of 2015 the Apex Court held that not only the affected employee is to be re-instated into service but also give them all back benefits etc, that is

"the appellant shall be reinstated in service from the date of their termination and are also held entitled to the back benefits for the period they have worked with the project or the KPK government. The service of the appellant for the intervening period i.e. from the date of their termination till the date of their reinstatement shall be computed towards their pensioner benefits"

vide judgment and order dated: 24/02/2016. It is pertinent to mention here that this CPLA No.605 of 2015 had been decided alongwith CPLA of 496 of 2014 of the Appellant on the same date.

(Copy of CPLA No.605 of 2015 is annexed as "G")

- C. That thus by virtue of 2009 SCMR page 01 the appellant is entitled for equal treatment and is thus fully entitled for back benefits for the period, the appellant worked in the project or with the Government of KPK.

- D. That were the posts of the appellant went on regular side, then from not reckoning the benefits from that day to the appellant is not only illegal and void, but is illogical as well.
- E. That where the termination was declared as illegal and the appellant was declared to be re-instated into service vide judgment and order dated: 26-06-2014, then how the appellant can be reinstated on 05/10/2016 and that too with immediate effect.
- F. That attitude of the respondents compelled the appellant and his colleagues to knock the doors of the Hon'ble High Court again and again and were even out to appoint blue eyed ones to fill the posts of the appellant and at last when strict directions were issued by Hon'ble court, the Respondents vent out their spleen by giving immediate effect to the reinstatement order of the appellant, which approach under the law is illegal.
- G. That were the appellant has worked, regularly and punctually and thereafter got regularized then under rule 2.3 of the pension Rules 1963, the appellant is entitled for back benefits as well.
- H. That from every angle the appellant is fully entitled for the back benefits for the period that the appellant worked in the subject project or with the Government of KPK, by giving retrospective effect to the re-instatement order dated: 05/10/2016.
- I. That any other ground not raised here may graciously be allowed to be raised at the time of arguments.

It is, therefore, most humbly prayed that on acceptance of the instant appeal the partial impugned reinstatement order no. SOE(PWD)4-9/7/2014/HC, dated 05/10/2016 may graciously be modified to the extent of "immediate effect" and the reinstatement of the appellant be given effect w.e.f 01/07/2014 date of regularization of the project in question and converting the post of the appellant from developmental to non-developmental/regular side, with all back benefits in terms of arrears, seniority and promotion as accorded vide CPLA 605 of 2015 order dated: 24/02/2016.

5

Any other relief not specifically asked for may also graciously be awarded in favour of the appellant in the circumstances of the case.

Dated: 01-2-2013

مور و منافع
APPELLANT


Through

~~ASSAD, ULLAH KHAN~~
Advocate
High Court Peshawa.

Athar Abbas
Assad Ullah Khan
Advocates Peshawar High Court
Peshawar.

NOTE:

No such like appeal for same appellant, upon the same subject matter has been filed by me, prior to the instant one, before this Hon'ble Tribunal.

Advocate

ASSAD, ULLAH KHAN
Advocate
High Court Peshawa.

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL PESHAWAR.**

In Ref. S.A _____/2017

Bakht Multaj

Versus

GOVT: OF KP & OTHERS

=====

APPLICATION FOR CONDONATION OF DELAY

=====

Respectfully Sheweth:

1. That the Petitioner/Appellant is filing the accompanying Service Appeal, the contents of which may graciously be considered as integral part of the instant petition.
2. That delay in filing the accompanying appeal was never deliberate, but due to reason for beyond control of the petitioner.
3. That after filing departmental appeal on 20/05/2016, the appellant with rest of their colleagues regularly attended the Departmental Appellate Authority and every time was extended positive gestures by the worthy departmental Authority for disposal of the departmental appeal, but in spite of lapse of statutory rating period and period thereafter till filing the accompanying service appeal before this Hon'ble Tribunal, the same were never decided or if decided not intimated to the petitioner.
4. That besides the above as the accompanying Services appeal is about the back benefits and arrears and being a financial matters, therefore the financial questions are involved which affect the

current salary package regularly etc of the appellant, so is having a repeatedly reckoning cause of action as well.


5. That besides the above, law always favour adjudication on merits and technicalities must always be eschewed in doing justice and deciding cases on merits.


It is therefore, most humbly prayed that the acceptance of the instant petition, the delay in filing of the accompanying service appeal may graciously be condoned and the accompanying service appeal may very graciously be decided on merits.

Dated:12/10/2017

APPELLANT

Through


ASSAD ULLAH KHAN
Advocat.
High Court Peshawar


Athar Abbas
Assad Ullah Khan
Advocates Peshawar High Court
Peshawar.

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL PESHAWAR.**

In Ref. S.A _____/2017

Bakht Multaj

Versus

GOVT: OF KP & OTHERS

AFFIDAVIT

I, Mr. Bakht Multaj, Chowkidar (BPS-01) Office Of The District Population Welfare Officer Bunner, do hereby solemnly affirm and declare that all the contents of the accompanied appeal are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Hon'ble Tribunal.

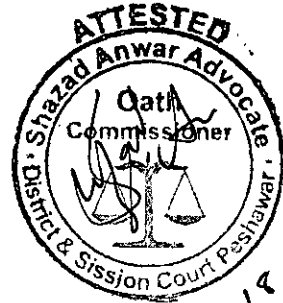
بخت ملتانج

DEPONENT

CNIC: 15101-72 18 505.2

Identified by:

Ather Abbas
Advocate High Court Peshawar.



01-02-17

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL PESHAWAR.**

In Ref. S.A _____/2017

Bakht Multaj

Versus

GOVT: OF KP & OTHERS

=====

MEMO OF ADDRESSES

=====

APPELLANT:

Bakht Multaj S/O Gul Taj khan
R/O Batara, District Bunner.

RESPONDENTS:


1. Govt: of Khyber Pakhtunkhwa Through Chief Secretary, Civil Secretariat Peshawar.
2. Secretary Population Welfare Department, Khyber Pakhtunkhwa, Peshawar.
3. Director General, Population Welfare, Plot No.18, Sector E-8, Phase-VII, Hayatabad, Peshawar.
4. Accountant General, Khyber Pakhtunkhwa, Peshawar.
5. District Account Officer, Account Office, District Hangu.
6. District Population Welfare officer Hangu.

Dated:

APPELLANT

Through


ASSAD ULLAH KHAN
 Advocate
 High Court Peshawar.


Athar Abbas
 Assad Ullah khan
 Advocates Peshawar High Court
 Peshawar.

10

"A"

OFFICE OF THE
DISTRICT POPULATION WELFARE OFFICER,
BUNNER

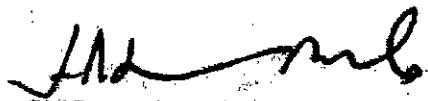
Dated Bunner the 18/2 2012.

OFFER OF APPOINTMENT

No. 1(2)/2011-12/Admn.-Consequent upon the recommendation of the Departmental Selection Committee (DSC), you are offered for appointment as Chowkidar (BPS-1) on contract basis in Family Welfare Centre Project (ADP 2011-2012) in District Population Welfare Office, Bunner for the project life on the following terms and conditions.

TERMS & CONDITIONS


1. Your appointment against the post of Chowkidar (BPS-1) is purely on contract basis for the project life. This Order will automatically stand terminated unless extended. You will get pay in BPS-1 (4800-150-9300) plus usual allowances as admissible under the rules.
2. Your services will be liable to termination without assigning any reason during the currency of the agreement. In case of resignation, 14 days prior notice will be required, otherwise your 14 days pay plus usual allowances will be forfeited.
3. You shall provide Medical Fitness Certificate from the Medical Superintendent of the DHQ Hospital, Bunner before joining service.
4. Being contract employee, in no way you will be treated as Civil Servant and in case your performance is found un-satisfactory or found committed any mis-conduct, your service will be terminated with the approval of the competent authority without adopting the procedure provided in Khyber Pakhtunkhwa (E&D) Rules, 1973 which will not be challengeable in Khyber Pakhtunkhwa Service Tribunal / any court of law.
5. You shall be held responsible for the losses accruing to the Project due to your carelessness or in-efficiency and shall be recovered from you.
6. You will neither be entitled to any pension or gratuity for the service rendered by you nor you will contribute towards GP Fund or CP Fund.
7. This offer shall not confer any right on you for regularization of your service against the post occupied by you or any other regular posts in the Department.
8. You have to join duty at your own expenses.
9. If you accept the above terms and conditions, you should report for duty to the District Population Welfare Officer, Bunner within 15 days of the receipt of this offer failing which your appointment shall be considered as cancelled.
10. You will execute a surety bond with the Department.


(Habib-ur-Rehman Sariddeia)
District Population Welfare Officer,
Bunner.

Mr. Bakht. Multaj S/O Gul Taj Khan
Batara, District Bunner

Copy forwarded to the:-

1. PS to Director General, Population Welfare Department, Peshawar.
2. District Accounts Officer, Bunner.
3. Accountant (Local), DPW Office, Bunner.
4. Master File.


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District Population Welfare Officer,
Bunner.

(11)

"B"

OFFICE OF THE
DISTRICT POPULATION WELFARE
OFFICER BUNER

F.No. 1(2)/Admn/2013-14

Dated 13/06/2014


To,

Mr. Bakht Multaj,
Chowkidar.

Subject:- **COMPLETION OF ADP PROJECT i.e PROVISION FOR
POPULATION WELFARE DEPARTMENT, KHYBER
PAKHTUNKHWA.**

The subject project is going to be complete on 30/06/2014.

Therefore, the enclosed office order No. 4(35)/2013-14/Admn dated 13/06/2014 may be treated as fifteen days notice in advance for the termination of your service as on 30/06/2014 (A.N).


(MOHAMMAD TARIQ KHAN)
DISTRICT POPULATION WELFARE
OFFICER BUNER

Copy to:-

1. Accountant (Local) for necessary action.
2. P/F of the official concerned.

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DISTRICT POPULATION WELFARE
OFFICER BUNER

11-a



OFFICE OF THE
DISTRICT POPULATION WELFARE
OFFICER BUNER

F.No. 1(2)/Admn/2016-17/737

Dated: 24/10/2016

OFFICER ORDER

In compliance to Secretary, Population Welfare Department, Government of Khyber Pakhtunkhwa, Peshawar notification No: SOE (PWD) 4-9/7/2014/HC dated 05/10/2016. The following posting / transfers is hereby made in the public interest with immediate effect and till further orders.

S.No	Name of official	From	To
1	Mrs. Syed Ishraq FWA (M)	Reinstate	FWC Nawagai
2	Mrs. Rahat Bibi, Dai	Reinstate	FWC Dewana Baba
3	Miss. Bakhti Jehan, Dai	FWC Dewana Baba	FWC Changlai
4	Mrs. Gul Hasia, Dai	Reinstate	FWC Amnawar
5	Bakht Multaj, Chowkidar	Reinstate	FWC Batara
6	Jan Sher Khan, Chowkidar	Reinstate	FWC Amnawar
7	Qamar Zaman, Chowkidar	Reinstate	FWC Changlai

(SAJJAD AHMAD)
DISTRICT POPULATION WELFARE
OFFICER BUNER

Copy to:

1. PS to Deputy Commissioner, Buner for information please.
2. PS to Director General, Population Welfare Department, Government of KPK, Peshawar for information please.
3. I/C, FWCs Concerned for information & compliance.
4. Officials Concerned for information & compliance.
5. Personal File of the Officials

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DISTRICT POPULATION WELFARE
OFFICER BUNER

not marked

12

"C"

Writ Petition No. 293-B
BANNU High Court

IN THE PESHAWAR HIGH COURT BANNU BENCH BANNU

Writ Petition No. 293-B/2014



- ✓ 3) Mst. Sunab Anvari D/O Late Ullah Abbas D/O Shamsi Chet Bannu
- ✓ 4) Mst. Matroon W/O Adnan Khan R/O Hibak Sherza Khan Bannu
- ✓ 5) Mst. Shajwara Bibi D/O Gulam Khan D/O Village 74 R/O Ghani District Bannu
- ✓ 6) Mst. Musade Begum D/O Muhammad Noor Khan R/O Kuchki Waz Khan Bannu
- 7) Mst. Nisbat Jahan W/O Rasabax Tahir R/O Khujari Daber Tehsil District Bannu
- ✓ 8) Mst. Tehzaron D/O Muhammad Sahib Ullah Khan R/O House No. 100 D/L Michalla Jaman Road Jaid Abadi Bannu
- ✓ 9) Hazrat Bilal Shah S/O Syed Khumar Shah R/O Village Kori Satti Bannu
- ✓ 10) Adnan S/O Muhammad Younis Khan R/O Gora Amir Kala R/O Chizra Bazar Bannu
- 11) Ahmad Nawaz S/O Rasid Khan R/O Taj Kala Bannu
- ✓ 12) Amal Khan S/O Angrez Khan R/O Lohani Khairi Chas Bannu District Bannu
- 13) Adnan Khan S/O Shahzad Khan R/O Hibak Sherza Khan Bannu
- 14) Farman Ullah S/O Get Zaman R/O Keston Hotel Jaman Road Bannu

Filed Today
Additional Registrar
21.3.14

ATTESTED
JUDGE
Peshawar High Court
Bannu Bench

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IN THE SUPREME COURT OF PAKISTAN
CONSTITUTIONAL BENCH

IN RE: *[Faint text]*
..... (Petitioner)

VERSUS

[Faint text]
.....

[Faint text]
.....

[Faint text]
.....

[Faint text]
.....

..... (Respondents)

COURT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF
ISLAMIC REPUBLIC OF PAKISTAN, 1973.

PRAYER: ON ACCEPTANCE OF INSTANT WRIT PETITION, THIS
HONOURABLE COURT MAY VERY GRACIOUSLY BE PLEASED
TO SET ASIDE GOVT ORDER NO. 4 (S) 7019-14/ADMIN
DATED PESHAWAR THE 13/02/2014 AND GOVT ORDER NO.

ATTACHED
Peshawar High Court
Nanau Bench

[Signature]
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(14)

280, 281, 279, 276, 277, 274 DATED 14/06/2014 BY
DECLARING THE PETITIONERS REGULAR EMPLOYEES AS PER
ADVERTISEMENT DATED 13/04/2012 IN POPULATION
WELFARE DEPARTMENT AS PER REGULATION OF OTHER
STAFF IN SIMILAR PROJECT ON THE STRENGTH OF ABOVE
ADVERTISEMENT; THIS HONOURABLE COURT MAY FURTHER
BE PLEASED TO DECLARE THE COMPLETION OF PROJECT I.E
ON 30/06/2014 AS ILLEGAL, WITHOUT LAWFUL AUTHORITY
BASED ON MALICE, MISREPRESENTATION AND VIOLATIVE
UPON THE RIGHTS OF PETITIONERS, BESIDE THOSE THE
PETITIONERS MAY VERY KINDLY BE DECLARED AS REGULAR
CIVIL SERVANTS AND THEY MAY VERY KINDLY BE ALLOWED
THE BENEFITS OF CIVIL SERVANTS.

INTERIM RELIEF; THIS HONOURABLE COURT MAY VERY GRACIOUSLY
BE PLEASED TO SUSPEND THE OPERATION OF
IMPUGNED NOTIFICATIONS/ORDERS AND THE
PETITIONERS MAY VERY KINDLY BE ALLOWED TO
PERFORM THEIR DUTIES WITH THE BENEFIT OF
SALARIES.

NOTE: ANY OTHER REMEDY THOUGH MAY NOT BE
SPECIFICALLY BE ASKED FOR MAY VERY KINDLY ALSO
BE ALLOWED IF THIS HONOURABLE COURT DEEMS
APPROPRIATE IN CIRCUMSTANCES.

Note: The Addresses of the parties given in the heading of
the petition are sufficient for the purpose of service of
summons and notice etc.

Filed in the
Muzungu
21-6-14

ATTACHED
Peshawar High Court
Islamabad Bench

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P-17

Respectfully Sheweth;

Brief facts of the case are:-

1) That in response of advertisement for the different posts in District ... by Respondent No. 3, ... Population Welfare Department the petitioners applied and submitted their testimonials and being successful in the process conducted by Departmental selection Committee they were appointed being eligible and qualified.

(Copies of advertisement, testimonials and appointment orders are hereby annexed as Annexure-A, B & C)

2) That after appointment, the Petitioners being regular, contract employees of the project joined their duties, service books were prepared and they were allowed to draw their salaries against their posts.

(Copies of service books and pay slips are hereby annexed as Annexure-D & E)

That due to hard work and efficiency of the Petitioners, the aims and goals of the objects were mostly achieved and the provincial government then took serious interest to turn the project on regular side and thus the senior Minister by announcing the project approved the creation of 560 posts on regular side, it is pertinent to mention here that 560 employees are already working in the said project.

(Copies of News-cutting is hereby annexed as Annexure-F)

3) That the Petitioners were waiting for their fruit but all of a sudden they were surprised with the impugned notices/orders which are illegal, unlawful, unwarranted of no legal effect and having no authority upon the rights of Petitioners, and having...

Signature

Filed Today
Additional Registrar
21-6-64

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K. K. ...
Kashwan High Court,
Ranau Bench

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(16)

namely, to be appointed to the posts of this
Higher Grade... (text is faint and partially obscured)

CONCLUSIONS

That the... (text is faint and partially obscured)
... (text is faint and partially obscured)
... (text is faint and partially obscured)
... (text is faint and partially obscured)

(Copies of appointment letters are hereby annexed as Annexure-
G)

That the Apex Court... (text is faint and partially obscured)
... (text is faint and partially obscured)
... (text is faint and partially obscured)

That according to... (text is faint and partially obscured)
... (text is faint and partially obscured)
... (text is faint and partially obscured)

(Copy of PC-1 is hereby annexed as Annexure-H)

That as the Government... (text is faint and partially obscured)
... (text is faint and partially obscured)

Handwritten notes:
Additional Remarks
21-6-44

THAT
...
...
Banno Bench

ATTACHED
to be...

P 19

post otherwise the financial action of the Respondents will adversely affect the career of the Petitioners and they will become overage for any fresh appointment.

That the Petitioners fulfilled the criteria for appointment as civil servants and they have been appointed on the same criteria and prescribed manner which is crystal clear from their appointment orders, hence, they have been entitled to be regularized on the above stated circumstances and should not be suffered from any illegal administrative orders of the Respondents.

For the aforesaid reasons and others to be stated at the time of arguments, it is, therefore, most humbly prayed that on acceptance of instant writ petition, pass an order as prayed in the heading of the petition with costs throughout.

PETITIONERS

THROUGH

SPECIAL ATTORNEY

THROUGH

[Signature]
ZAHID UL HAQ

ADVOCATE HIGH COURT

Dated: 21/06/2014

PP 20

Filed Today
Additional Registrar
21-6-14

ATTESTED

[Signature]
JUDICIAL OFFICER
Peshawar High Court
Bannu Bench

BANNU

[Signature]
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FORM OF ORDER SHEET

Date of
order
presented
16.12.2014

Order of other proceedings with signature of
Justice (J)

W.P. No. 3953 of 2014
Present

Zahid ul Haq advocate for petitioners
Muhammad Faeedh Dy. District Officer
Population Welfare Officer, Ghanpurh Sd
or Refusal Khattak, Addl. A for official
respondents.

MUHAMMAD DAUD KHAN, J. Through instant writ
petition under Article 199 of the Constitution of Islamic
Republic of Pakistan, the petitioners seek issuance of an
appropriate writ for declaration to the effect that they
have been validly appointed on the posts under the
Scheme of Provision of Population Welfare Programme
which has been brought on regular budget and the
posts on which the petitioners are working have
become regular/ permanent posts. hence, the
petitioners are entitled to be regularized in line with the
Regularization of other staff in similar projects and
reluctance to this effect on the part of the respondents
in regularization of the petitioners is illegal, malafide
and fraud upon their legal rights and as a consequence
petitioners be declared as regular and servants for all

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JANAMER
Peshawar High Court
Bannu Bench

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P.21

intent and purposes.

Learned Counsel for petitioners produced copy of order of this Court passed in WP No. 1773-P of 2014 dated on 20.06.2014, whereby petitioner's petition was allowed subject to the final decision of the august Supreme Court in CP No. 344-P of 2014. The learned counsel for petitioner stated that as the instant petition is alike nature, hence, this petition be given same treatment. The learned Adh. A.G. referred to the proposition

In view of the concurrence of the learned counsel for respondents and following the ratio of the said order, the instant petition is allowed subject to the final decision of the august Supreme Court in CP No. 344-P of 2014, so as to maintain consistency with the said order.

Announced
12/10/14

[Handwritten signatures]

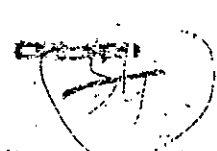
CERTIFIED TO BE TRUE COPY

[Official stamp]
The Union, District Order 1994

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PP-22

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1

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:
MR. JUSTICE ANWAR ZAHEER, JAGTAJI, WAO
MR. JUSTICE MIAN SAQIB NISAR
MR. JUSTICE AMIR HANIF KULLANI
MR. JUSTICE ISHAK HAMEED UR RAHMAN
MR. JUSTICE TAJUDDIN AHMED BOSSANI

CIVIL APPEAL NO. 134-P OF 2013
(On appeal against the judgment dated 24-03-2012 passed by the Peshawar High Court, Peshawar, in Writ Petition No. 103/2009 in W.P. No. 32/2009)
Govt. of KPK thr. Secy. Agriculture Vs. Aduanullah and others

CIVIL APPEAL NO. 135-P OF 2013
(On appeal against the judgment dated 22-09-2011 passed by the Peshawar High Court, Peshawar, in Writ Petition No. 2170/2011)
Chief Secy. Govt. of KPK & others Vs. Anwar Hussain and others

CIVIL APPEAL NO. 136-P OF 2013
(On appeal against the judgment dated 07-03-2012 passed by the Peshawar High Court, Peshawar, in Writ Petition No. 1897/2011)
Govt. of KPK and others Vs. Muhammad Younas and others

CIVIL APPEAL NO. 137-P OF 2013
(On appeal against the judgment dated 13-03-2012 passed by the Peshawar High Court, Abbottabad Bench, in Writ Petition No. 306-A/2012)
Govt. of KPK and others Vs. Aftabullah Khan and others

CIVIL APPEAL NO. 138-P OF 2013
(On appeal against the judgment dated 20-10-2012 passed by the Peshawar High Court, Mingora Bench (District Bench), Swat in W.P. No. 189-K/2012)
Govt. of KPK thr. Secy. Agriculture Vs. Muhammad Ayub Khan Livestock Peshawar and others

CIVIL APPEAL NO. 139-P OF 2013
(On appeal against the judgment dated 5-12-2012 passed by the Peshawar High Court, Peshawar in Writ Petition No. 308/2011)
Govt. of KPK thr. Chief Secretary Vs. Qalbe Abbas and another and others

CIVIL APPEAL NO. 140-P OF 2013
(On appeal against the judgment dated 10-05-2012 passed by the Peshawar High Court, Mingora Bench (District Bench), Swat in Writ Petition No. 2674/2011)
District Officer Communist Development Department (Social Welfare) and others Vs. Ghani Rehman and others

CIVIL APPEAL NO. 141-P OF 2013
(On appeal against the judgment dated 05-05-2012 passed by the Peshawar High Court, Mingora Bench (District Bench), Swat, in Writ Petition No. 2991/2009)
Govt. of KPK thr. Secretary Vs. Bikhari Hussain and others

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Court Associate
Supreme Court of Pakistan
Islamabad

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P.P. 23

(21)

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138

Livestock and others

CIVIL APPEAL NO. 113-P OF 2013
(On appeal against the judgment dated 17-05-2013 passed by the Peshawar High Court, Mingora Bench (Din-ul-Qaen) No. 2346/2009)
Govt. of KPK thr. Secretary, I.E. Vs. Muhammad Azhar and others

CIVIL APPEAL NO. 231 OF 2013
(On appeal against the judgment dated 24-04-2014 passed by the Peshawar High Court, D.I. Khan Bench, in Writ Petition No. 37-D/2013)
Govt. of KPK thr. Secy. Agriculture, Vs. Saifdar Zaman and others
Livestock, Peshawar and another

CIVIL APPEAL NO. 232 OF 2013
(On appeal against the judgment dated 24-04-2014 passed by the Peshawar High Court, D.I. Khan Bench, in Writ Petition No. 97-D/2013)
Govt. of KPK thr. Secy. Agriculture, Vs. Innayarullah and others
Livestock, Peshawar and another

CIVIL PETITION NO. 600-P OF 2013
(On appeal against the judgment dated 06-06-2013 passed by the Peshawar High Court, Peshawar, in Writ Petition No. 1818/2011)
Govt. of KPK thr. Chief Secy. and others Vs. Noman Adil and others

CIVIL PETITION NO. 496-P OF 2014
(On appeal against the judgment dated 26-06-2014 passed by the Peshawar High Court, Peshawar, in Writ Petition No. 1730-P/2014)
Govt. of KPK thr. Chief Secretary Vs. Muhammad Nadeem Jai and others
Peshawar and others

CIVIL PETITION NO. 34-P OF 2015
(On appeal against the judgment dated 23-09-2014 passed by the Peshawar High Court, Peshawar, in Writ Petition No. 141-P/2014)
Dean, Pakistan Institute of Community Ophthalmology (PICO), HMC and another Vs. Muhammad Imran and others

CIVIL PETITION NO. 526-P OF 2013
(On appeal against the judgment dated 12-3-2013 passed by the Peshawar High Court, Peshawar, in Writ Petition No. 176-P/12)
Govt. of KPK through Chief Secretary Peshawar and others Vs. Mst. Safia

CIVIL PETITION NO. 527-P OF 2013
(On appeal against the judgment dated 12-3-2013 passed by the Peshawar High Court, Peshawar, in Writ Petition No. 377-P/2012)
Govt. of KPK through Chief Secy. Vs. Mst. Rehab Khattak
Peshawar and others

CIVIL PETITION NO. 528-P OF 2013
(On appeal against the judgment dated 12-03-2013 passed by the Peshawar High Court, Peshawar, in Writ Petition No. 578-P/2012)
Govt. of KPK through Chief Secy Vs. Haseeb Khan
Peshawar and others

CIVIL PETITION NO. 23-P OF 2014
(On appeal against the judgment dated 19-09-2013 passed by the Peshawar High Court, Peshawar, in Writ Petition No. 1000-P/2013)

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Supreme Court of Pakistan
Islamabad

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P.I.P.1

High Court, Mingora Bench (Dera-ut-Qara) Swat, Writ Petition No.4535-P/2010)
Govt. of KPK through Chief Secy. Vs. Rabimullah and others
Peshawar and others

CIVIL PETITION NO.214-P OF 2014
(On appeal against the judgment dated 30-01-2014 passed by the Peshawar
High Court Peshawar, in Writ Petition No.2131-P/2013)

Govt. of KPK through Chief Secy. Vs. Mst. Farzila Azif
Peshawar and others

CIVIL PETITION NO.621-P OF 2013
(On appeal against the judgment dated 09-10-2013 passed by the Peshawar
High Court, Abbottabad Bench, in Writ Petition No.55-A/2013)

Govt. of KPK through Chief Secy. Vs. Mst. Mulika Hijab Chishti
Peshawar and others

CIVIL PETITION NO.368-P OF 2014
(On appeal against the judgment dated 01-01-2014 passed by the Peshawar
High Court Peshawar, in Writ Petition No.351-P/2013)

Govt. of KPK through Chief Secy. Vs. Imtiaz Khan
Peshawar and others

CIVIL PETITION NO.369-P OF 2014
(On appeal against the judgment dated 01-04-2014 passed by the Peshawar
High Court Peshawar, in Writ Petition No.352-P/2013)

Govt. of KPK through Chief Secy. Vs. Waqar Ahmad
Peshawar and others

CIVIL PETITION NO.370-P OF 2014
(On appeal against the judgment dated 01-04-2014 passed by the Peshawar
High Court Peshawar, in Writ Petition No.353-P/2013)

Govt. of KPK through Chief Secy. Vs. Mst. Nafessa Bibi
Peshawar and others

CIVIL PETITION NO.371-P OF 2014
(On appeal against the judgment dated 01-04-2013 passed by the Peshawar
High Court Peshawar, in Writ Petition No.2454-P/2013)

Govt. of KPK through Chief Secy. Vs. Mst. Naima
Peshawar and others

CIVIL PETITION NO.419-P OF 2014
(On appeal against the judgment dated 18-09-2014 passed by the Peshawar
High Court Peshawar, in Writ Petition No.2428-P/2013)

Govt. of KPK through Chief Secy. Vs. Muhammad Azeem and others
Peshawar and others

CA/134-P/2013
For the appellant(s)

Mr. Waqar Ahmed Khan, Addl. AG KPK
Syed Masood Shah, SO Litigation
Haliz Attal Mameen, SO Litigation (Fin)
Muhammad Khalid, AD (Litigation)
Abdul Hadi, SO (Litigation)

For the Respondent(s)

Mr. Imtiaz Ali, ASC
Mr. Ghulam Nabi Khan, ASC
Mr. Ayub Khan, ASC

(Res. No.186, 188, 191)

(CMA 496-P/13)

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Supreme Court of Pakistan
Islamabad

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740

CA 558-P/2013
For the appellant(s)

For the Respondent(s)

Mr. Waqar Ahmed Khan, Addl. AG KPK

Hafiz S. A. Rehman, Sr. ASC
Mr. Imtiaz Ali, ASC

CA 126-P/2013
For the appellant(s)

For the Respondent(s)

Mr. Waqar Ahmed Khan, Addl. AG KPK

Hafiz S. A. Rehman, Sr. ASC
Mr. Imtiaz Ali, ASC

CA 137-P/2013
For the appellant(s)

For Respondents (2 to 6)

Mr. Waqar Ahmed Khan, Addl. AG KPK

Mr. Ijaz Anwar, ASC

CA 138-P/2013
For the appellant(s)

For the Respondent(s)

Mr. Waqar Ahmed Khan, Addl. AG KPK

Not represented.

CA 52-P/2013
For the appellant(s)

For Respondent No. 1

Mr. Waqar Ahmed Khan, Addl. AG KPK

In person (Absent)

For Respondent No. 2

Not represented.

CA 1-P/2013
For the appellant(s)

For Respondents
(1-4, 7, 8, & 10-13)

Mr. Waqar Ahmed Khan, Addl. AG KPK

Mr. Ghulam Nabi Khan, ASC
Mr. Khushdil Khan, ASC

CA 133-P/2013
For the appellant(s)

For Respondents
(1-3, 5 & 7)

Mr. Waqar Ahmed Khan, Addl. AG KPK

Mr. Ghulam Nabi Khan, ASC

For respondents
(4, 8, 9 & 10)

Not represented.

CA 113-P/2013
For the appellant(s)

For the Respondent(s)

Mr. Waqar Ahmed Khan, Addl. AG KPK

Ghulam Nabi Khan, ASC

CA 231-P/2015
For the appellant(s)

For Respondents (1-3)

Mr. Waqar Ahmed Khan, Addl. AG KPK

Mr. Shouib Shaheen, ASC

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Court Associate
Supreme Court of Pakistan
Islamabad

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CA 232-P/2015
For the appellants(s)

For Respondent No.

CP 600-P/2014
For the Petitioner(s)

For the Respondent(s)

CP 496-P/2014
For the Petitioner(s)

For the Respondent(s)

CP 34-P/2014
For the Petitioner(s)

For the Respondent(s)

CPs 524 to 528-P/2014
For the Petitioner(s)

For the Respondent(s)

CP 28-P/2014
For the Petitioner(s)

For the Respondent(s)

CPs 214-P/2014, 368-P/2014 and 619-P/2014 & 621-P/2015
For the Petitioner(s)

For the Respondent(s)

Date of hearing

Mr. Waqar Ahmed Khan, Addl. AG KPK

Mr. Shoaib Shaheen, ASC

Mr. Waqar Ahmed Khan, Addl. AG KPK

Ms. Sadia Raza (in person)

Mr. Waqar Ahmed Khan, Addl. AG KPK
Noor Akmal, Director, Population Welfare Department.

Mr. Khushdil Khan, ASC

Mr. Shakeel Ahmed, ASC

Syed Rifaqat Hussain Shah, AOR

Mr. Waqar Ahmed Khan, Addl. AG KPK

Mr. J. Anwar, ASC

Mr. Waqar Ahmed Khan, Addl. AG KPK

Mr. Ghulam Nubi Khan, ASC
Mr. Khushdil Khan, ASC

Mr. Waqar Ahmed Khan, Addl. AG KPK

Not represented.

24-02-2016

JUDGMENT

AMIR HANI MUSLIM, J.- Through this common

judgment, we intend to decide the titled Appeals/Petitions, as common questions of law and facts are involved therein.

ATTESTED

Court Associate
Supreme Court of Pakistan
Islamabad

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CA 134-P/2013
On Farm Water Management Project, KPK.

2. On 27.10.2004, various posts in the "On Farm Water Management Project" were advertised. In response to the advertisement, the Respondent, Ahamuliab, applied for the post of Accountant (BPS-1) for which he was selected and appointed for with effect from 31.12.2004. This appointment was initially for a period of one year and later was consistently extended from time to time on recommendation of the Petitioner. In the year 2006, a proposal was moved for creation of 302 regular vacancies to accommodate the contract employees working in different Projects. The Chief Minister KPK approved the proposal of 275 regular posts for this purpose with effect from 1.7.2007. During the interregnum, the Government of NWFP (now KPK) promulgated Amendment Act IX of 2009, thereby amending Section 19(2) of the NWFP Civil Servants Act, 1973 and NWFP Employees (Regularization of Services) Act, 2009. However, the newly created regular posts did not include the Respondent's post. Feeling aggrieved, he filed a Writ Petition which was allowed (on the conceding statement of Addl. Advocate General) with the direction that if the Respondent was eligible, his services should be regularized, subject to verification of his domicile. The Review Petition filed by the Govt. of KPK was dismissed being time barred. Thereafter, leave was granted in the Petition filed by the Government of KPK before this Court.

CA No. 135-P/2013 & Civil Petition No. 600-P of 2013
On Farm Water Management Project, KPK.

3. On 23.05.2004, the Secretary, Agriculture, got published an advertisement in the press, inviting Applications for filling up the posts of Water Management Officers (Engineering) and Water Management

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Court Associate
Supreme Court of Pakistan
Islamabad

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Officers (Agriculture) in BS-17, in the NWFP for the "On Farm Water Management Project" on contract basis. The Respondents applied for the said posts and in November, 2004, and February, 2005 respectively, they were appointed for the aforementioned posts on contract basis, initially for a period of one year and later extendable to the remaining Project period, subject to their satisfactory performance and on the recommendations of the Departmental Promotion Committee after completion of requisite one month pre-service training. In the year 2006, a proposal for restructuring and establishment of Regular Offices for the "On Farm Water Management Department at District level was made. A summary was prepared for the Chief Minister, KPK, for creation of 302 regular vacancies with the recommendation that eligible temporary/contract employees working on different Projects may be accommodated against regular posts on the basis of their seniority. The Chief Minister approved the summary and accordingly, 275 regular posts were created in the "On Farm Water Management Department" at District level w.e.f. 01.07.2007. During the interregnum, the Government of NWFP (now KPK) promulgated Amendment Act IX of 2009, thereby amending Section 19(2) of the NWFP Civil Servants Act, 1973 and NWFP Employees (Regularization of Services) Act, 2009. However, the services of the Respondents were not regularized. Feeling aggrieved, they filed Writ Petitions before the Peshawar High Court, praying that employees placed in similar posts had been granted relief, vide judgment dated 22.12.2008, therefore, they were also entitled to the same treatment. The Writ Petitions were disposed of, vide impugned orders dated 27.09.2011 and 05.06.2012, with the direction to consider the case of the Respondents in the light of the judgment dated

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22.12.2008, and 03.12.2009. The Appellants filed Petition for leave to Appeal before this Court in which leave was granted; hence this Appeal and Petition.

C.A.No.136-P of 2011 to 138-P of 2012
On Farm Water Management Project, KPK

4. In the years 2004-2005, the Respondents were appointed on various posts on contract basis, for an initial period of one year and extendable for the remaining Project period subject to their satisfactory performance. In the year 2006, a proposal for restructuring and establishment of Regular Offices of "On Farm Water Management Department" was made at District level. A summary was prepared for the Chief Minister, KPK, for creation of 302 regular vacancies, recommending that eligible temporary/contract employees who, at that time, were working on different Projects may be accommodated against regular posts on the basis of seniority. The Chief Minister approved the proposed summary and accordingly 275 regular posts were created in the "On-Farm Water Management Department" at District level w.e.f 01.07.2007. During the interregnum, the Government of NWFP (now KPK) promulgated Amendment Act IX of 2009, thereby amending Section 19(2) of the NWFP Civil Servants Act, 1973 and NWFP Employees (Regularization of Services) Act, 2009. However, the services of the Respondents were not regularized. Feeling aggrieved, they filed Writ Petitions before the Peshawar High Court, praying therein that employees placed in similar posts had been granted relief, vide judgment dated 22.12.2008, therefore, they were also entitled to the same treatment. The Writ Petitions were disposed of, vide impugned orders dated 07.03.2012, 13.03.2012 and

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20.06.2012, with the direction to consider the case of the Respondents in the light of the judgment dated 22.12.2008 and 03.12.2009. The Appellants filed Petition for leave to Appeal before this Court in which leave was granted; hence these Appeals.

Civil Petition No. 19-P-2014
Establishment & Database Development Based on Electronic Tools (Project)

3. In the year 2010 and 2011, in pursuance of an advertisement, upon the recommendations of the Project Selection Committee, the Respondents were appointed as Data Base Developer, Web Designer and Naib Qasid, in the Project namely "Establishment of Data Base Development Based on Electronic Tools" including "MIS, Social Welfare and Women Development Department", on contract basis, initially for one year, which period was extended from time to time. However, the services of the Respondents were terminated, vide order dated 04.07.2013, irrespective of the fact that the Project life was extended and the posts were brought under the regular Provincial Budget. The Respondents impugned their termination order by filing Writ Petition No.2428 of 2013, before the Peshawar High Court, which was disposed of by the impugned judgment dated 18.09.2014, holding that the Respondents would be treated at par, if they were found similarly placed, as held in judgments dated 30.01.2014 and 01.04.2014 passed in Writ Petitions No.2131 of 2013 and 353-P of 2013. The Appellants challenged the judgment of the learned High Court before this Court by filing Petition for leave to Appeal.

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Civil Petition No. 251-P of 2013, P. 371-P of 2013
Industrial Training Centre Garhi Shehsdad and Industrial Training Centre Garhi Tajak,
Peshawar

6. In the year 2008, upon the recommendations of the Departmental Selection Committee, after fulfilling all the codal formalities the Respondents were appointed on contract basis on various posts in Industrial Training Centre Garhi Shehsdad and Industrial Training Centre Garhi Tajak, Peshawar. Their period of contract was extended from time to time. On 04.09.2012, the Scheme in which the Respondents were working was brought under the regular Provincial Budget, but the services of the Respondents despite regularization of the Scheme were terminated vide order dated 19.06.2012. The Respondents filed Writ Petitions No. 351-P, 352, 353 and 251-P of 2013, against the order of termination and for regularization of their services on the ground that the posts against which they were appointed stood regularized and had been converted to the regular Provincial Budget, with the approval of the Competent Authority. The learned Peshawar High Court, vide common judgment dated 01.04.2014, allowed the Writ Petitions, reinstating the Respondents in Service from the date of their termination with all consequential benefits. Hence these Petitions by the Petitioners.

Civil Petition No. 214-P of 2014
Welfare Home for Destitute Children, Charsadda.

7. On 17.03.2009, a post of Superintendent BS-17 was advertised for "Welfare Home for Destitute Children", Charsadda. The Respondent applied for the same and upon recommendations of the Departmental Selection Committee, she was appointed at the said post on 30.04.2010, on contractual basis till 30.06.2011, beyond which period her contract was extended from time to time. The post against which the

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Respondent was serving was brought under the regular Provincial Budget w.e.f 01.07.2012. However, the services of the Respondent were terminated, vide order dated 14.06.2012. Feeling aggrieved, the Respondent filed Writ Petition No.2131 of 2013, which was allowed, vide impugned judgment dated 30.01.2014, whereby it was held that the Respondent would be appointed on conditional basis subject to final decision of this apex Court in Civil Petition No.344-P of 2012. Hence this Petition by the Govt. of KPK.

Civil Petition No.621-P of 2015
Duar-ul-Aman Haripur

S. On 17.05.2009, a post of Superintendent No-17 was advertisement for "Duar-ul-Aman", Haripur. The Respondent applied for the said post and upon recommendations of the Departmental Selection Committee she was appointed w.e.f. 30.04.2010, initially on contract basis till 30.06.2011, beyond which her period of contract was extended from time to time. The post against which the Respondent was serving was brought under the regular Provincial Budget w.e.f 01.07.2012. However, the services of the Respondent were terminated, vide order dated 14.06.2012. Feeling aggrieved, the Respondent filed Writ Petition No.55-A of 2015, which was allowed, vide impugned judgment dated 08.10.2015, holding that "we accept this writ Petition and pass same order as has already been passed by this Court in W.P.No2131-P of 2013 decided on 30.01.2014 and direct the respondents to appoint the Petitioner on conditional basis subject to final decision of the Apex Court in Civil Petition No.344-P of 2012." Hence this Petition by the Govt. of KPK.

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Civil Petition No. 20-P of 2013
Darul Kafala, Swat.

9. In the year 2005, the Government of KPK decided to establish Darul Kafalas in different districts of the Province between 01.07.2005 to 30.06.2010. An advertisement was published to fill in various posts in Darul Kafala, Swat. Upon recommendations of the Departmental Selection Committee, the Respondents were appointed on various posts on contract basis for a period of one year w.e.f 01.07.2007 to 30.06.2008, which period was extended from time to time. After expiry of the period of the Project in the year 2010, the Government of KPK has regularized the Project with the approval of the Chief Minister. However, the services of the Respondents were terminated, vide order dated 23.11.2010, with effect from 31.12.2010. The Respondents challenged the aforesaid order before the Peshawar High Court, *inter alia*, on the ground that the employees working in other Darul Kafalas have been regularized except the employees working in Darul Kafala, Swat. The Respondents contended before the Peshawar High Court that the posts of the Project were brought under the regular Provincial Budget, therefore, they were also entitled to be treated at par with the other employees who were regularized by the Government. The Writ Petition of the Respondents was allowed, vide impugned judgment dated 19.09.2013, with the direction to the Petitioners to regularize the services of the Respondents with effect from the date of their termination.

Civil Petitions No. 526 to 528-P of 2013
Centre for Mentally Retarded & Physically Handicapped (MR&PH), Nowshera, and Welfare Home for Orphan Female Children Nowshera.

10. The Respondents in these Petitions were appointed on contract basis on various posts upon the recommendations of the

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Departmental Selection Committee in the Schemes titled "Centre for Mentally Retarded & Physically Handicapped (MR&PH)" and "Welfare Home for Orphan Female Children", Nowshera, vide Order dated 23.08.2005 and 29.08.2006, respectively. Their initial period of contractual appointment was for one year till 30.06.2007, which was extended from time to time till 30.06.2011. By notification dated 08.01.2011, the above-titled Schemes were brought under the regular Provincial Budget of the N.W.F.P. (now KPK) with the approval of the Competent Authority. However, the services of the Respondents were terminated w.e.f 01.07.2011. Feeling aggrieved, the Respondents filed Writ Petitions No.376, 377 and 378-P of 2012, contending that their services were illegally dispensed with and that they were entitled to be regularized in view of the KPK Employees (Regularization of Services) Act, 2009, whereby the services of the Project employees working on contract basis had been regularized. The learned High Court, while relying upon the judgment dated 22.03.2012, passed by this Court in Civil Petitions No.562-P to 578-P, 588-P to 589-P, 606-P to 608-P of 2011 and 55-P, 56-P and 60-P of 2012, allowed the Writ Petitions of the Respondents, directing the Petitioners to reinstate the Respondents in service from the date of their termination and regularize them from the date of their appointments. Hence these Petitions.

Civil Appeal No.52-P of 2015

11. On 23.06.2004, the Secretary, Agriculture, published an advertisement in the press, inviting Applications for filling up the posts of Water Management Officers (Engineering) and Water Management Officers (Agriculture), BS-17, in the NWFP in the "On Farm Water

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Management Project" on contract basis. The Respondent applied for the said post and was appointed as such on contract basis, on the recommendations of the Departmental Promotion Committee after completion of a requisite one month pre-service training, for an initial period of one year, extendable till completion of the Project, subject to his satisfactory performance. In the year 2006, a proposal for restructuring and establishment of Regular Offices of the "On Farm Water Management Department" at District level was made. A summary was prepared for the Chief Minister, KPK, for creation of 302 regular vacancies, recommending that eligible temporary/contract employees working on different Projects may be accommodated against regular posts on the basis of their seniority. The Chief Minister approved the summary and accordingly, 275 regular posts were created in the "On Farm Water Management Department" at District level w.e.f 01.07.2007. During the interregnum, the Government of NWFP (now KPK) promulgated Amendment Act IX of 2009, thereby amending Section 19(2) of the NWFP Civil Servants Act, 1973 and enacted the NWFP Employees (Regularization of Services) Act, 2009. However, the services of the Respondent were not regularized. Feeling aggrieved, he filed Writ Petition No.3087 of 2011 before the Peshawar High Court, praying that employees on similar posts had been granted relief, vide judgment dated 22.12.2008, therefore, he was also entitled to the same treatment. The writ Petition was allowed, vide impugned order dated 05.12.2012, with the direction to the Appellants to regularize the services of the Respondent. The Appellants filed Petition for leave to Appeal before this Court in which leave was granted; hence this Appeal.

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Civil Appeal No. 11-P of 2012
Welfare Home for Female Children, Malakand at Batkhela and Industrial Training Centre at Garhi Usman Khel, Dargai.

12. In response to an advertisement, the Respondents applied for different positions in the "Welfare Home for Female Children", Malakand at Batkhela and "Female Industrial Training Centre" at Garhi Usman Khel. Upon the recommendations of the Departmental Selection Committee, the Respondents were appointed on different posts on different dates in the year 2006, initially on contract basis for a period of one year, which period was extended from time to time. However, the services of the Respondents were terminated, vide order dated 09.07.2011, against which the Respondents filed Writ Petition No.2474 of 2011, *inter alia*, on the ground that the posts against which they were appointed had been converted to the budgeted posts, therefore, they were entitled to be regularized along with the similarly placed and positioned employees. The learned High Court, vide impugned order dated 10.05.2012, allowed the Writ Petition of the Respondents, directing the Appellants to consider the case of regularization of the Respondents. Hence this Appeal by the Appellants.

Civil Appeals No. 133-P
Establishment and Upgradation of Veterinary Outlets (Phase-III)-ADP

13. Consequent upon recommendations of the Departmental Selection Committee, the Respondents were appointed on different posts in the Scheme "Establishment and Up-gradation of Veterinary Outlets (Phase-III)ADP", on contract basis for the entire duration of the Project, vide orders dated 4.4.2007, 13.4.2007, 17.4.2007 and 19.6.2007, respectively. The contract period was extended from time to time when on 05.06.2009, a

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notice was served upon them, intimating them that their services were no longer required after 30.06.2009. The Respondents invoked the constitutional jurisdiction of the Peshawar High Court, by filing Writ Petition No.200 of 2009, against the order dated-05.06.2009. The Writ Petition of the Respondents was disposed of, by judgment dated 17.05.2012, directing the Appellants to treat the Respondents as regular employees from the date of their termination. Hence this Appeal by the Appellants.

Civil Appeal No.113-P of 2012

Establishment of One Science and One Computer Lab in Schools/Colleges of NWFP

14. On 26.09.2006 upon the recommendations of the Departmental Selection Committee, the Respondents were appointed on different posts in the Scheme "Establishment of One Science and One Computer Lab in School/Colleges of NWFP", on contract basis. Their terms of contract appointments were extended from time to time when on 06.06.2009, they were served with a notice that their services were not required any more. The Respondents filed Writ Petition No.2380 of 2009, which was allowed on the analogy of judgment rendered in Writ Petition No.2001 of 2009 passed on 17.05.2012. Hence this Appeal by the Appellants.

Civil Appeals No.231 and 232-P of 2015

National Program for improvement of Water Courses in Pakistan

15. Upon the recommendations of the Departmental Selection Committee, the Respondents in both the Appeals were appointed on different posts in "National Program for Improvement of Water Courses in Pakistan", on 17th January 2005 and 19th November 2005, respectively. Initially on contract basis for a period of one year, which was extended

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from time to time. The Appellants terminated the service of the Respondents w.e.f 01.07.2011, therefore, the Respondents approached the Peshawar High Court, mainly on the ground that the employees placed in similar posts had approached the High Court through W.Ps.No.43/2009, 84/2009 and 21/2009, which, Petitions were allowed by judgment dated 21.01.2009 and 04.03.2009. The Appellants filed Review Petitions before the Peshawar High Court, which were disposed of but still disqualified the Appellants filed Civil Petitions No.85, 86, 87 and 91 of 2010 before this Court and Appeals No.834 to 837/2010 arising out of said Petitions were eventually dismissed on 01.03.2011. The learned High Court allowed the Writ Petitions of the Respondents with the direction to treat the Respondents as regular employees. Hence these Appeals by the Appellants.

Civil Petition No.495-P of 2011
Provision of Population Welfare Programme

16. In the year 2012, consequent upon the recommendations of the Departmental Selection Committee, the Respondents were appointed on various posts in the project namely "Provision of Population Welfare Programme" on contract basis for the entire duration of the Project. On 08.01.2012, the Project was brought under the regular Provincial Budget. The Respondents applied for their regularization on the touchstone of the judgments already passed by the learned High Court and this Court on the subject. The Appellants contended that the posts of the Respondents did not fall under the scope of the intended regularization, therefore, they preferred Writ Petition No.1730 of 2014, which was disposed of, in view of the judgment of the learned High Court dated 30.01.2014 passed in Writ.

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Petition No.2131 of 2013 and judgment of this Court in Civil Petition No.344-P of 2012. Hence these Appeals by the Appellants.

Civil Petition No.301 of 2015

Pakistan Institute of Community Ophthalmology Hayatabad Medical Complex, Peshawar

17. The Respondents were appointed on various posts in the "Pakistan Institute of Community Ophthalmology Hayatabad Medical Complex"; Peshawar, in the years 2001, 2002 and from 2007 to 2012, on contract basis. Through advertisement dated 10.01.2014, the said Medical Complex sought fresh Applications through advertisement against the posts held by them. Therefore, the Respondents filed Writ Petition No.141 of 2004, which was disposed of more or less in the terms as state above. Hence this Petition.

18. Mr. Waqar Ahmed Khan, Addl. Advocate General, KPK, appeared on behalf of Govt. of KPK and submitted that the employees in these Appeals/ Petitions were appointed on different dates since 1980. In order to regularize their services, 302 new posts were created. According to him, under the scheme the Project employees were to be appointed stage wise on these posts. Subsequently, a number of Project employees filed Writ Petitions and the learned High Court directed for issuance of orders for the regularization of the Project employees. He further submitted that the concessional statement made by the then Addl. Advocate General, KPK, before the learned High Court to "adjust/regularize the petitioners on the vacant post or posts whenever falling vacant in future but in order of seniority/eligibility." was not in accordance with law. The employees were appointed on Projects and their appointments on these Projects were to be terminated on the expiry of the Project as it was stipulated that they will not

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claim any right of absorption in the Department against regular posts as per existing Project policy. He also referred to the office order dated 31.12.2004 regarding appointment of Mr. Adnanullah (Respondent in CA No.134-P/2013) and submitted that he was appointed on contract basis for a period of one year and the above mentioned office order clearly indicates that he was neither entitled to pension nor GP Fund and furthermore, had no right of seniority and or regular appointment. His main contention was that the nature of appointment of these Project employees was evident from the advertisement, office order and their appointment letters. All these reflected that they were not entitled to regularization as per the terms of their appointments.

In the month of November 2006, a proposal was floated for restructuring and establishment of Regular Offices of "On Farm Water Management Department" at District level in NWFP (now KPK) which was approved by the then Chief Minister KPK; who agreed to create 302 posts of different categories and the expenditure involved was to be met out of the budgetary allocation. The employees already working in the Projects were to be appointed on seniority basis on these newly created posts. Some of the employees working since 1980 had preferential rights for their regularization. In this regard, he also referred to various Notifications since 1980, whereby the Governor KPK was pleased to appoint the candidates upon the recommendations of the KPK Public Service Commission on different Projects on temporary basis and they were to be governed by the KPK Civil Servants Act 1973 and the Rules framed thereunder. 302 posts were created in pursuance of the summary of 2006, out of which 254 posts

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were filed on seniority basis, 10 through promotion and 38 by way of Court orders passed by this Court and the learned Peshawar High Court. He referred to the case of Govt. of NWFP vs. Abdullah Khan (2011 SCMR 898) whereby, the contention of the Appellants (Govt. of NWFP) that the Respondents were Project employees appointed on contractual basis were not entitled to be regularized, was not accepted and it was observed by this Court that definition of "Contract appointment" contained in Section 2(1)(aa) of the NWFP Employees (Regularization of Service) Act, 2009, was not attracted in the cases of the Respondent employees. Thereafter, in the case of Government of NWFP v. Kaleem Shah (2011 SCMR 1004), this Court followed the judgment of Govt. of NWFP vs. Abdullah Khan (*ibid*). The judgment, however, was wrongly decided. He further contended that KPK Civil Servants (Amendment) Act 2005, (whereby Section 19 of the KPK Civil Servants Act 1973, was substituted), was not applicable to Project employees. Section 5 of the KPK Civil Servants Act 1973, states that the appointment to a civil service of the Province or to a civil post in connection with the affairs of the Province shall be made in the prescribed manner by the Governor or by a person authorized by the Governor in that behalf. But in the cases at hand, the Project employees were appointed by the Project Director, therefore, they could not claim any right to regularization under the aforesaid provision of law. Furthermore, he contended that the judgment passed by the learned Peshawar High Court is liable to be set aside as it is solely based on the facts that the Respondents who were originally appointed in 1980 had been regularized. He submitted that the High Court erred in regularizing the employees on the touchstone of Article 25 of the Constitution of the Islamic Republic of Pakistan as the

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employees appointed in 2005 and those in 1980 were not similarly placed and, therefore, there was no question of discrimination. According to him, they will have to come through fresh inductions to relevant posts if they wish to fall under the scheme of regularization. He further contended that any wrongful action that may have taken place previously, could not justify the commission of another wrong on the basis of such plea. The cases where the orders were passed by DCO without lawful authority could not be said to have been made in accordance with law. Therefore, even if some of the employees had been regularized due to previous wrongful action others could not take plea of being treated in the same manner. In this regard, he has relied upon the case of Government of Punjab vs. Zafar Iqbal Doyar (2011 SCMR 1239) and Abdul Wahid vs. Chairman CBR (1998 SCMR 882).

20. Mr. Ghulam Nabi Khan, learned ASC, appeared on behalf of Respondent(s) in C.As.134-P/2013, 1-P/2013 and C.P.28-P/2014 and submitted that all of his clients were clerks and appointed on non-commissioned posts. He further submitted that the issue before this Court had already been decided by four different benches of this Court from time to time and one review petition in this regard had also been dismissed. He contended that fifteen Hon'ble Judges of this Court had already given their view in favour of the Respondents and the matter should not have been referred to this Bench for review. He further contended that no employee was regularized until and unless the Project on which he was working was not put under the regular Provincial Budget as such no regular posts were created. The process of regularization was started by the Government itself

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without intervention of this Court and without any Act or Statute of the Government. Many of the decisions of the Peshawar High Court were available, wherein the directions for regularization were issued on the basis of discrimination. All the present cases before this Court are related to the category in which the Project became part of the regular Provincial Budget and the posts were created. Thousands of employees were appointed against these posts. He referred to the case of Zulfiqar Ali Bhutto Vs. The State (PLD 1995 SC 741) and submitted that a review was not justifiable, notwithstanding error being apparent on face of record, if judgment or finding, although suffering from an erroneous assumption of facts, was sustainable on other grounds available on record.

21. Hafiz S. Ali Rehman, Sr. ASC, appeared on behalf of Respondent(s) in Civil Appeal Nos. 135-136-P/2013 and on behalf of all 174 persons who were issued notice vide leave granting order dated 13.06.2013. He submitted that various Regularization Acts i.e. KPK Adhoc Civil Servants (Regularization of Services) Act, 1987, KPK Adhoc Civil Servants (Regularization of Services) Act, 1988, KPK Employees on Contract Basis (Regularization of Services) Act, 1989, KPK Employees on Contract Basis (Regularization of Services) (Amendment) Act, 1990, KPK Civil Servants (Amendment) Act, 2005, KPK Employees (Regularization of Services) Act, 2009, were promulgated to regularize the services of contractual employees. The Respondents, including 174 to whom he was representing, were appointed during the year 2003/2004 and the services of all the contractual employees were regularized through an Act of legislature i.e. KPK Civil Servants (Amendment) Act, 2005 and the KPK Employees

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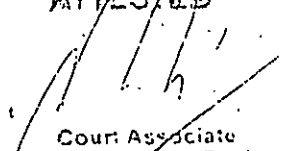
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(Regularization of Services) Act, 2009, was not applicable to present Respondents. He referred to Section 19(2) of the KPK Civil Servants Act, 1973, which was substituted vide KPK Civil Servants (Amendment) Act, 2005, provides that "A person though selected for appointment in the prescribed manner to a service or post on or after the 1st day of July, 2001, till the commencement of the said Act, but appointment on contract basis, shall, with effect from the commencement of the said Act, be deemed to have been appointed on regular basis." Furthermore, vide Notification dated 11.10.1989 issued by the Government of NWFP, the Governor of KPK was pleased to declare the "On Farm Water Management Directorate" as an attached Department of Food, Agriculture, Livestock and Cooperation, Department, Govt of NWFP. Moreover, it was also evident from the Notification dated 03.07.2013 that 116 employees were regularized under section 19 (2) of the Khyber Pakhtunkhwa Civil Servants (Amendment) Act, 2005 and Regularization Act, 2009 from the date of their initial appointment. Therefore, it was a past and closed transaction. Regarding summaries submitted to the Chief Minister for creation of posts, he clarified that it was not one summary (as stated by the learned Addl. Advocate General KPK) but three summaries submitted on 11.06.2006, 04.01.2012 and 20.06.2012, respectively, whereby total 734 different posts of various categories were created for these employees from the regular budgetary allocation. Even through the third summary, the posts were created to regularize the employees in order to implement the judgments of Hon'ble Peshawar High Court dated 15.09.2011, 8.12.2011 and Supreme Court of Pakistan dated 22.3.2012. Approximately, 20-30% employees were

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recruited through KPK Public Service Commission and the Public Service Commission is only meant to recommend the candidates on regular posts.

22. Mr. Imtiaz Ali, learned ASC, appearing on behalf of the Respondent in CA No. 134-P/2013, submitted that there was one post of Accountant which had been created and that the Respondent, Adnanullah, was the only Accountant who was working there. He contended that, even otherwise, judgment dated 21.9.2009 in Writ Petition No. 59/2009, was not questioned before this Court and the same had attained finality. He further submitted that his Writ Petition was allowed on the strength of Writ Petition No. 356/2008 and that no Appeal has been filed against it.

23. Mr. Ayub Khan, learned ASC, appeared in C.M.A 496-P/2013 on behalf of employees whose services might be affected (to whom notices were issued by this Court vide leave granting order dated 13.06.2013) and adopted the arguments advanced by the senior learned counsels including Hafiz S. A. Rehman.

24. Mr. Ijaz Anwar, learned ASC, appeared in C.A 137-P/2013 for Respondents i.e. 2 to 6, CPs: 526-P to 528-P/2013 for Respondents and for Appellant in Civil Appeal No. 605-P/2015 (JR) and submitted that the Regularization Act of 2005, is applicable to his case and if benefit is given to some employees then in light of the judgment of this Court titled Government of Punjab Vs. Samina Parveen (2009 SCMR 1), wherein it was observed that if some point of law is decided by Court relating to the terms and conditions of a Civil Servant who litigated and there were other who had not taken any legal proceedings, in such a case the dictates of justice

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and rules of good governance demand that the benefit of the said decision be extended to others also who may not be parties to that litigation. Furthermore, the judgment of Peshawar High Court which included Project employees as defined under Section 19(2) of the KPK Civil Servants Act 1973 which was substituted vide KPK Civil Servants (Amendment) Act, 2005, was not challenged. In the NWFP Employees (Regularization of Services) Act, 2009, the Project employees have been excluded but in presence of the judgment delivered by this Court, in the cases of Govt. of NWFP vs. Abdullah Khan (ibid) and Govt. of NWFP vs. Kaleem Sheff (ibid), the Peshawar High Court had observed that the similarly placed persons should be considered for regularization.

25. While arguing Civil Appeal No. 605-P/2015, he submitted that in this case the Appellants/Petitioners were appointed on contract basis for a period of one year vide order dated 18.11.2007, which was subsequently extended from time to time. Thereafter, the services of the Appellants were terminated vide notice dated 30.05.2011. The learned Bench of the Peshawar High Court refused relief to the employees and observed that they were expressly excluded from the purview of Section 2(1)(b) of KPK (Regularization of Services) Act, 2009. He further contended that the Project against which they were appointed had become part of regular Provincial Budget. Thereafter, some of the employees were regularized while others were denied, which made out a clear case of discrimination. Two groups of persons similarly placed could not be treated differently. In this regard he relied on the judgments of Abdul Samad vs.

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Federation of Pakistan (2002 SCMR 71) and Engineer Nariandas vs. Federation of Pakistan (2002 SCMR 82).

26. We have heard the learned Law Officer as well as the learned ASCs, representing the parties and have gone through the relevant record with their able assistance. The controversy in these cases pivots around the issue as to whether the Respondents are governed by the provisions of the North West Frontier Province (now KP) Employees (Regularization of Services) Act, 2009, (hereinafter referred to as the Act). It would be relevant to reproduce Section 3 of the Act:

"3. Regularization of Services of certain employees.—All employees including recommendees of the High Court appointed on contract or adhoc basis and holding that position 31st December, 2008, or till the commencement of this Act shall be deemed to have been validly appointed on regular basis having the same qualification and experience."

27. The aforesaid Section of the Act reproduced hereinabove clearly provides for the regularization of the employees appointed either on contract basis or adhoc basis and were holding contract appointments on 31st December, 2008 or till the commencement of this Act. Admittedly, the Respondents were appointed on one year contract basis, which period of their appointments was extended from time to time and were holding their respective posts on the cut-off date provided in Section 3 (*ibid*).

28. Moreover, the Act contains a non-obstante clause in Section 4A which reads as under:

"4A. Overriding effect.—Notwithstanding any thing to the contrary contained in any other law or

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Supreme Court of Pakistan
Islamabad

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... for the time being in force, the provisions of this Act shall have an overriding effect and the provisions of any such law or rule to the extent of inconsistency to this Act shall cease to have effect.

29. The above Section expressly excludes the application of any other law and declares that the provisions of the Act will have overriding effect, being a special enactment. In this background, the cases of the Respondents squarely fall within the ambit of the Act and their services were mandated to be regulated by the provisions of the Act.

30. It is also an admitted fact that the Respondents were appointed on contract basis on Project posts but the Projects, as conceded by the learned Additional Advocate General, were funded by the Provincial Government by allocating regular Provincial Budget, prior to the promulgation of the Act. Almost all the Projects were brought under the regular Provincial Budget Schemes by the Government of KPK and summaries were approved by the Chief Minister of the KPK for operating the Projects on permanent basis. The "On Farm Water Management Project" was brought on the regular side in the year 2006 and the Project was declared as an attached Department of the Food, Agriculture, Livestock and Co-operative Department. Likewise, other Projects were also brought under the regular Provincial Budget Scheme. Therefore, services of the Respondents would not be affected by the language of Section 2(a) and (b) of the Act, which could only be attracted if the Projects were abolished on the completion of their prescribed tenure. In the cases in hand, the Projects initially were introduced for a specified time whereafter they were transferred on permanent basis by attaching them with Provincial

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Supreme Court of Pakistan
Islamabad

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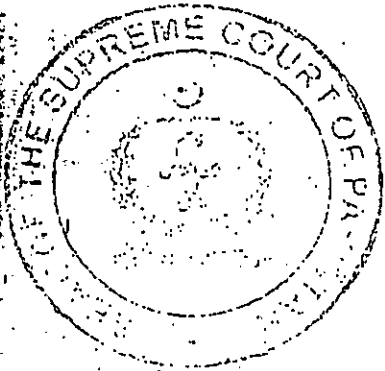
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Government departments. The employees of the same Project were adjusted against the posts created by the Provincial Government in this behalf:

31. The record further reveals that the Respondents were appointed on contract basis and were in employment/service for several years and Projects on which they were appointed have also been taken on the regular Budget of the Government, therefore, their status as Project employees has ended once their services were transferred to the different attached Government Departments; in terms of Section 3 of the Act. The Government of KP was also obliged to treat the Respondents at par, as it cannot adopt a policy of cherry picking to regularize the employees of certain Projects while terminating the services of other similarly placed employees.

32. The above are the reasons of our short order dated 24.2.2016, which reads as under:-

"Arguments heard. For the reasons to be recorded separately, these Appeals, except Civil Appeal No.605 of 2015, are dismissed. Judgment in Civil Appeal No.605 of 2015 is reserved"



Islamabad the
24-02-2016
Approved for reporting

Sd/- Anwar Zaheer Jamali, J
Sd/- Mian Saqib Nisar, J
Sd/- Amir Hani Muslim, J
Sd/- Iqbal Hameedur Rahman, J
Sd/- Khilji Arif Hussain, J

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Supreme Court of Pakistan
Islamabad

11565/16 Civil/Criminal

No of Sessions: 24-02-16

No of Sessions: 24-02-16

Requisition: 24

Copy Recd: 27-08

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48
IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:
MR. JUSTICE ANWAR ZAHEER JAMALI, H.C.J.
MR. JUSTICE ILMAN SAQEB NISAR
MR. JUSTICE AMIR HANI MUSLIM
MR. JUSTICE IQBAL HAMEED UR RAHMAN
MR. JUSTICE KHILJI ARIF HUSSAIN

CIVIL APPEAL NO. 134-P OF 2013
Govt. of KPK thr. Secy. Agriculture and others - Vs. Adnanullah

CIVIL APPEAL NO. 135-P OF 2013
Chief Secy. Govt. of KPK & others - Vs. Anif Hussain and others

CIVIL APPEAL NO. 136-P OF 2013
Govt. of KPK and others - Vs. Muhammad Younis and others

CIVIL APPEAL NO. 137-P OF 2013
Govt. of KPK and others - Vs. Attaullah Khan and others

CIVIL APPEAL NO. 138-P OF 2013
Govt. of KPK thr. Secy. Agriculture and others - Vs. Muhammad Ayub Khan

CIVIL APPEAL NO. 52-P OF 2015
Govt. of KPK thr. Chief Secretary and others - Vs. Qalbe Abbas and another

CIVIL APPEAL NO. 1-P/2013
District Officer Community Development Department (Social Welfare) and others - Vs. Ghani Rehman and others

CIVIL APPEAL NO. 133-P OF 2013
Govt. of KPK thr. Secretary Livestock and others - Vs. Htikhar Hussain and others

CIVIL APPEAL NO. 143-P OF 2013
Govt. of KPK thr. Secretary Livestock and others - Vs. Muhammad Azhar and others

CIVIL APPEAL NO. 605 OF 2015
Rizwan Javed and others - Vs. Secy. Agriculture Livestock and Corporation Department KPK, Peshawar and others

CIVIL APPEAL NO. 231 OF 2015
Govt. of KPK thr. Secy. Agriculture, Livestock, Peshawar and another - Vs. Safdar Zaman and others

Bar Association
Supreme Court of Pakistan
Islamabad

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CA 133-P/2013
For the appellant(s)

For Respondents
(1-3, 5 & 7)

For respondents
(8, 9, 10 & 16)

Mr. Waqar Ahmed Khan, Addl. AG KPK
Mr. Ghulam Nabi Khan, ASC

Not represented

CA 173-P/2015
For the appellant(s)

For the Respondent(s)

CA 605-P/2015
For the appellant(s)

For Respondents (4-7)

CA 731-P/2015
For the appellant(s)

For Respondents (1-3)

CA 232-P/2015
For the appellant(s)

For Respondent No. 1

CP 140-P/2013
For the Petitioner(s)

For the Respondents

CP 496-P/2013
For the Petitioner(s)

For the Respondent(s)

CP 34-P/2014
For the Petitioner(s)

For the Respondent(s)

CPs 526 to 528-P/2013
For the Petitioner(s)

For the Respondent(s)

CP 48-P/2011
For the Petitioner(s)

For the Respondent(s)

Mr. Waqar Ahmed Khan, Addl. AG KPK
Ghulam Nabi Khan, ASC

Mr. Ejaz Anwar, ASC
Mr. M. S. Khattak, AOR

Mr. Waqar Ahmed Khan, Addl. AG KPK

Mr. Waqar Ahmed Khan, Addl. AG KPK

Mr. Shoaib Shahzad, ASC

Mr. Waqar Ahmed Khan, Addl. AG KPK

Mr. Shoaib Shahzad, ASC

Mr. Waqar Ahmed Khan, Addl. AG KPK

Mr. Nadeem Rehman (in person)

Mr. Waqar Ahmed Khan, Addl. AG KPK
Nour Afzal, Director, Population Welfare
Department.

Mr. Khushdil Khan, ASC

Mr. Shauket Ahmed, ASC

Syed Rifaqat Hussain Shah, AOR

Mr. Waqar Ahmed Khan, Addl. AG KPK

Mr. Ejaz Anwar, ASC

Mr. Waqar Ahmed Khan, Addl. AG KPK

Mr. Ghulam Nabi Khan, ASC
Mr. Khushdil Khan, ASC

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Secretary
The Court of District
Judges

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CIVIL PETITION NO. 371-P OF 2014

Govt. of KPK through Chief Secy. Vs. Mr. Naima Peshawar and others

CIVIL PETITION NO. 619-P OF 2014

Govt. of KPK through Chief Secy. Vs. Muhammad Azam and others

CA 131-P/2013

For the appellant(s)
For the Respondent(s)

Mr. Waqar Ahmed Khan, Addl. AG KPK
Syed Masood Shah, SO Litigation

Hafiz Attaul Memon, SO Litigation (Fin)
Muhammad Khalid, AD (Litigation)
Abdul-Hadi, SO (Litigation)

Mr. Ayub Khan, ASC

(CMA 426-2013)

CA 135-P/2013

For the appellant(s)
For the Respondent(s)

Mr. Waqar Ahmed Khan, Addl. AG KPK

Hafiz S. A. Rehman, Sr. ASC
Mr. Imtiaz Ali, ASC
In person

Nemo.

Respondent No. 1

Respondents 2-11

CA 136-P/2013

For the appellant(s)
For the Respondent(s)

Mr. Waqar Ahmed Khan, Addl. AG KPK

Hafiz S. A. Rehman, Sr. ASC
Mr. Imtiaz Ali, ASC

CA 137-P/2013

For the appellant(s)
For Respondents (2 to 6)

Mr. Waqar Ahmed Khan, Addl. AG KPK

Mr. Jaz Anwar, ASC

CA 138-P/2013

For the appellant(s)
For the Respondent(s)

Mr. Waqar Ahmed Khan, Addl. AG KPK

Not represented.

CA 52-P/2013

For the appellant(s)
For Respondent No. 1

Mr. Waqar Ahmed Khan, Addl. AG KPK

In person.

For Respondent No. 2

CA 1-P/2013

For the appellant(s)
For Respondents (1-4, 7, 8, & 10-13)
For Respondents 5, 6 & 9

Not represented.

Mr. Waqar Ahmed Khan, Addl. AG KPK

Mr. Ghulam Nabi Khan, ASC
Mr. Khushdil Khan, ASC

In person (absent)

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Chief Associate
Supreme Court of Pakistan
Islamabad

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(51)
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CIVIL APPEAL NO. 231 OF 2013
Govt. of KPK thr. Secy Agriculture, Vs. Inayatullah and others
Livestock, Peshawar and another

CIVIL PETITION NO. 600-P OF 2013
Govt. of KPK thr. Chief Secy and Vs. Noorun Adil and others
others

CIVIL PETITION NO. 496-R OF 2014
Govt. of KPK thr. Chief Secretary Vs. Muhammad Nadeem Jan and
Peshawar and others others

CIVIL PETITION NO. 34-P OF 2015
Dear, Pakistan Institute of Vs. Muhammad Inam and others
Community Ophthalmology (PICO),
IMC and another

CIVIL PETITION NO. 526-P OF 2013
Govt. of KPK through Chief Vs. Mst. Safia
Secretary Peshawar and others

CIVIL PETITION NO. 527-P OF 2013
Govt. of KPK through Chief Secy. Vs. Mst. Rehab Khattak
Peshawar and others

CIVIL PETITION NO. 528-P OF 2013
Govt. of KPK through Chief Secy. Vs. Faisal Khan
Peshawar and others

CIVIL PETITION NO. 28-P OF 2014
Govt. of KPK through Chief Secy. Vs. Raimullah and others
Peshawar and others

CIVIL PETITION NO. 214-P OF 2014
Govt. of KPK through Chief Secy. Vs. Mst. Fauzia Aziz
Peshawar and others

CIVIL PETITION NO. 621-P OF 2014
Govt. of KPK through Chief Secy. Vs. Mst. Malika Hijab Chishti
Peshawar and others

CIVIL PETITION NO. 368-P OF 2014
Govt. of KPK through Chief Secy. Vs. Imtiaz Khan
Peshawar and others

CIVIL PETITION NO. 369-P OF 2014
Govt. of KPK through Chief Secy. Vs. Waqar Ahmed
Peshawar and others

CIVIL PETITION NO. 370-P OF 2014
Govt. of KPK through Chief Secy. Vs. Mst. Nafesa Bibi
Peshawar and others

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Joint Secretaries
Peshawar Court of Sessions
Peshawar

(S2)

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ANWAR ZAHIR

CIS 214-P/2014, 368-
171-P/2014 and 619-
P/2014 & 621-P/2015
For the Petitioner(s)

Mr. Waqar Ahmed Khan, Addl. Adv. KPE

For the Respondent(s)

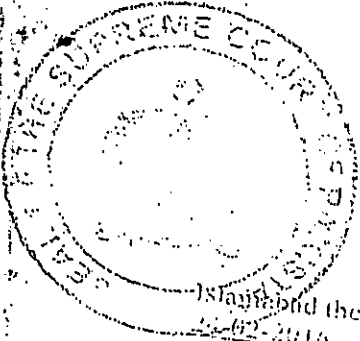
Not represented

Date of hearing

24-03-2016

ORDER

ANWAR ZAHIR JAMALI CJ.- Arguments heard for the reasons to be recorded separately, these Appeals, except Civil Appeal No.605 of 2015, are dismissed. Judgment in Civil Appeal No.505 of 2015 is reserved.



Islamabad the
24-03-2016
Not approved for reporting

- Sd/- Anwar Zaheer Jamali, FICJ
- Sd/- Mina Saqib Nisar, J
- Sd/- Amir Hani Mushir, J
- Sd/- Iqbal Hameedur Rahman, J
- Sd/- Khilji Arif Hussain, J

Charged to his/ her/ them
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Date of Pressing of copy

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Date of Court

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(S3)

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FROM :

EPK NO. 9223622

05 Oct. 2016



GOVERNMENT OF KHYBER PAKHTUNKHWA
POPULATION WELFARE DEPARTMENT
02nd Floor, Abdul Wali Khan Multiplex, Civil Secretariat, Peshawar

Amir

Dated Peshawar the 05th October, 2016.

OFFICE ORDER

No. SOE (PWD) 4-P/7/2014/HC. In compliance with the judgments of the Hon'ble Peshawar High Court, Peshawar dated 26-06-2014 in W.P No. 1730-P/2014 and August Supreme Court of Pakistan dated 24-07-2016 passed in Civil Petition No. 496-P/2014, the ex-ADP employees, of ADP Scheme titled "Provision for Population Welfare Programme in Khyber Pakhtunkhwa (2011-14)" are hereby reinstated against the sanctioned regular posts, with immediate effect, subject to the fate of Review Petition pending in the August Supreme Court of Pakistan.

SECRETARY
GOVT. OF KHYBER PAKHTUNKHWA
POPULATION WELFARE DEPARTMENT

Andst: No. SOE (PWD) 4-9/7/2014/HC/

Dated Peshawar the 05th Oct. 2016

Copy for information & necessary action to the:-

1. Accountant General, Khyber Pakhtunkhwa.
2. Director General, Population Welfare, Khyber Pakhtunkhwa, Peshawar.
3. District Population Welfare Officers in Khyber Pakhtunkhwa.
4. District Accounts officers in Khyber Pakhtunkhwa.
5. Officials Concerned.
6. PS to Advisor to the CM for PWD, Khyber Pakhtunkhwa, Peshawar.
7. PS to Secretary, PWD, Khyber Pakhtunkhwa, Peshawar.
8. Registrar, Supreme Court of Pakistan, Islamabad.
9. Registrar Peshawar High Court, Peshawar.
10. Master file.

SECTION OFFICER (ESTT)
PHONE NO. 091-9223623

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P.P.33

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" F "

To

The Chief Secretary,
Govt: of Khyber Pakhtunkhwa,
Peshawar.

Subject: **DEPARTMENTAL APPEAL**

Respected Sir,

With due respect the undersigned submits as under:

1. That the undersigned alongwith others have been reinstated in service with immediate effects vide order dated: 05/10/2016.
2. That the undersigned and other officials were regularized by the Hon'ble High Court, Peshawar vide judgment/order dated: 26/06/2014 whereby it was stated that petitioner shall remain in service.
3. That against the said judgment an appeal was preferred to the Hon'ble Supreme Court but the Govt: appeals were dismissed by the larger bench of Supreme Court vide judgment dated: 24/02/2016.
4. That now the applicant is entitle for all back benefits and the seniority is also require to be reckoned from the date of regularization of project instead of immediate effect.
5. That the said principle has been discussed in detail in the judgment of August Supreme Court of Pakistan vide order dated:24/02/2016 whereby it was held that appellants are reinstated in service from the date of termination and are entitle for all back benefits.
6. That said principles are also required to be follow in the present case in the light of 2009 SCMR 01.

It is therefore, humbly prayed that on acceptance of this appeal the applicant/petitioner may graciously be allowed all back benefits and his seniority be reckoned from the date of regularization of project instead of immediate effect.

Dated: 20/05/2016

Yours Sincerely,

بکھت ملتاچ
Bakht Multaj
Chowkidar
Population Welfare Department
Peshawar
Office of District Welfare
Officer Bunner

(56)

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

9

PRESENT:

MR. JUSTICE ANWAR ZAHEER JAMALI, HCJ
MR. JUSTICE MIAN SAQIB NISAR
MR. JUSTICE AMIR HANI MUSLIM
MR. JUSTICE IQBAL HAMEEDUR RAHMAN
MR. JUSTICE KHILJI ARIF HUSSAIN

CIVIL APPEAL NO. 605 OF 2015

(On appeal against the judgment dated 18.2.2015
Passed by the Peshawar High Court Peshawar, in
Writ Petition No.1961/2011)

Rizwan Javed and others Appellants

VERSUS

Secretary Agriculture Livestock etc Respondents

For the Appellant : Mr. Ijaz Anwar, ASC
Mr. M. S. Khattak, AOR

For the Respondents : Mr. Waqar Ahmed Khan, Addl. AG KPK

Date of hearing : 24-02-2016

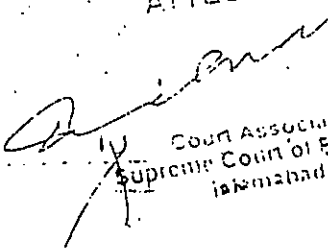
ORDER

AMIR HANI MUSLIM, J.- This Appeal by leave of the Court is directed against the judgment dated 18.2.2015 passed by the Peshawar High Court, Peshawar, whereby the Writ Petition filed by the Appellants was dismissed.

2. The facts necessary for the present proceedings are that on 25-5-2007, the Agriculture Department, KPK got an advertisement published in the press, inviting applications against the posts mentioned in the advertisement to be filled on contract basis in the Provincial Agri-Business Coordination Cell (hereinafter referred to as 'the Cell'). The Appellants alongwith others applied against the various posts. On various


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Court Associate
Supreme Court of Pakistan
Islamabad

dates in the month of September, 2007, upon the recommendations of the Departmental Selection Committee (DSC) and the approval of the Competent Authority, the Appellants were appointed against various posts in the Cell, initially on contract basis for a period of one year, extendable subject to satisfactory performance in the Cell. On 6.10.2008, through an Office Order the Appellants were granted extension in their contracts for the next one year. In the year 2009, the Appellants' contract was again extended for another term of one year. On 26.7.2010, the contractual term of the Appellants was further extended for one more year, in view of the Policy of the Government of KPK, Establishment and Administration Department (Regulation Wing). On 12.2.2011, the Cell was converted to the regular side of the budget and the Finance Department, Govt. of KPK agreed to create the existing posts on regular side. However, the Project Manager of the Cell, vide order dated 30.5.2011, ordered the termination of services of the Appellants with effect from 30.6.2011.

3. The Appellants invoked the constitutional jurisdiction of the learned Peshawar High Court, Peshawar, by filing Writ Petition No. 196/2011 against the order of their termination, mainly on the ground that many other employees working in different projects of the KPK have been regularized through different judgments of the Peshawar High Court and this Court. The learned Peshawar High Court dismissed the Writ Petition of the Appellants holding as under :-

"6. While coming to the case of the petitioners, it would reflect that no doubt, they were contract employees and were also in the field on the above said cut of date but they were project employees, thus, were not entitled for regularization of their services as explained above. The august Supreme Court of Pakistan in the case of Government of Khyber

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Court Associate
Supreme Court of Pakistan
Islamabad

*Public Health, Agriculture, Forestry and Commercial
Department through its Secretary and others vs. Ahmad
Ibrahim Khattar* (Civil Appeal No. 68/2011 decided on
20.12.10), by distinguishing the cases of *Government of
NWFP vs. Abdullah Khan* (2011 SCMR 989) and
Government of NWFP (now KPK) vs. Kaleem Shah (2011
SCMR 1004) has categorically held so. The concluding para
of the said judgment would require reproduction, which
reads as under:-

"In view of the clear statutory provisions the respondents cannot seek regularization as they were admittedly project employees and thus have been expressly excluded from purview of the Regularization Act. The appeal is therefore allowed, the impugned judgment is set aside and writ petition filed by the respondents stands dismissed."

In view of the above, the petitioners cannot seek regularization being project employees, which have been expressly excluded from purview of the Regularization Act. Further instant Writ Petition being devoid of merit is hereby dismissed.

4. The Appellants filed Civil Petition for leave to Appeal No. 1090 of 2015 in which leave was granted by this Court on 01.07.2015. Hence this Appeal.

5. We have heard the learned Counsel for the Appellants and the learned Additional Advocate General, KPK. The only distinction between the case of the present Appellants and the case of the Respondents in Civil Appeals Nos. 54-F of 2013 etc. is that the project in which the present Appellants were appointed was taken over by the KPK Government in the year 2011 whereas most of the projects in which the aforesaid Respondents were appointed, were regularized before the cut-off date provided in North West Frontier Province (now KPK) Employees (Regularization of Services) Act, 2009. The present Appellants were appointed in the year 2007 on contract basis in the project and after completion of all the requisite conditions, the period of their contract appointments was extended from

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COURT ASSOCIATE
SUPREME COURT OF PAKISTAN
ISLAMABAD

time to time up to 30.06.2011, when the project was taken over by the KPK Government. It appears that the Appellants were not allowed to continue after the change of hands of the project. Instead, the Government by cherry picking, had appointed different persons in place of the Appellants. The case of the present Appellants is covered by the principles laid down by this Court in the case of Civil Appeals No.134-P of 2013 etc. (Government of KPK through Secretary, Agriculture vs Aunaulat and others), as the Appellants were discriminated against and were also similarly placed project employees.

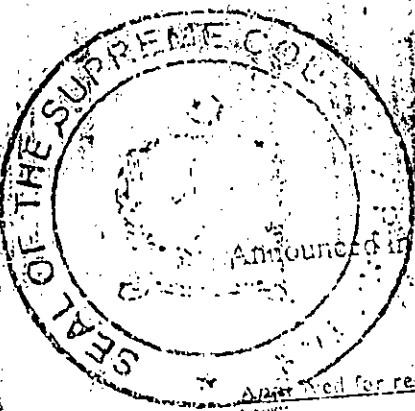
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7. We for the aforesaid reasons, allow this Appeal and set aside the impugned judgment. The Appellants shall be reinstated in service from the date of their termination and are also entitled to the back benefits for the period they have worked with the project for the KPK Government. The service of the Appellants for the intervening period, i.e. from the date of their termination till the date of their reinstatement, shall be completed with all the professional benefits.

Sd/- Arwyn Zabeer Jamali,
Sd/- Mian Saqib Nisar,
Sd/- Amir Hamid Muslim,
Sd/- Iqbal Hameedur Rahman,
Sd/- Khuram Aarif Hussain,

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Court Associate
Supreme Court of Pakistan
Islamabad



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Announced in open Court on

Authorized for reporting

GR No: _____
Date of _____
No of _____
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Court Fee _____
Date _____

11685/16

Civil/Criminal
6.6.16
5.00
7.00
6-6-2016
6-6-2016

def. S. Khattar, AOR

قیمت 50 روپے	 	25488
ایڈوکیٹ: <u>اطہر عباس</u>	پشاور بار ایسوسی ایشن، خیبر پختونخواہ	
بار کونسل ایسوسی ایشن نمبر: <u>702</u>		
رابطہ نمبر: <u>0312 8818812</u>		

بعدالت جناب: سروس ٹریبونل کیشور

مخاطب: <u>پارٹنر</u>	دعویٰ: <u>سروس ایپل</u>
<u>محنت ملنا</u>	علت نمبر: _____
<u>بنام</u>	مورخہ: _____
<u>کھوسہ کے پی</u>	جرم: _____
	تھانہ: _____

باعت تحریر آنکہ

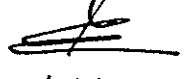
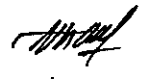
مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ
 آن مقام پشاور کیلئے اطہر عباس / اسد اللہ خان ایڈووکیٹس کو وکیل مقرر
 کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو
 راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق
 زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا ایپل کی برآمدگی اور منسوخی، نیز
 دائر کرنے ایپل 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 اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا
 دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے
 باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: 01-02-2018

العبد _____ واہ شد _____ العبد

مقام پشاور کے لیے منظور ہے۔

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

Attested & Accepted
 by 
 Asad Ullah Khan Adv Athar Abbas Adv

محنت ملنا



Before the Khyber Pakhtunkhwa Service Tribunal Peshawar

Appeal No.175/2018

Bakht Mukhtaj.....Appellant.

VERSUS

The Chief Secretary, Government of Khyber Pakhtunkhwa & othersRespondents.

(Reply on Behalf of respondent No.4)

Respectfully Sheweth:-

Para No. 01 to 9. No Comments.

Being an administrative matter, the issue relates to respondent No. 1, 2 & 3. Hence, they are in a better position to redress the grievances of the appellant. Besides, the appellant has raised no grievances against Respondent No.4.

Keeping in view the above mentioned facts, it is humbly prayed that the appellant may be directed to approach respondent No.1,2 & 3 for the satisfaction of his grievances and the appeal in hand may be dismissed with cost.



**ACCOUNTANT GENERAL
KHYBER PAKHTUNKHWA**

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IN THE HONORABLE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,
PESHAWAR.

In Appeal No.1166/2017.

Bakht Multaj , Chowkidar (BPS-01).....

(Appellant)

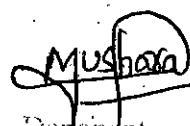
VS

Govt. of Khyber Pakhtunkhwa and others

(Respondents)

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Deponent
Sagheer Musharraf
Assistant Director (Lit)

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

In Appeal No.176/2018.

Bakht Multaj , Chowkidar (BPS-01).....

(Appellant)

VS

Govt. of Khyber Pakhtunkhwa and others

(Respondents)

Joint para-wise reply/comments on behalf of the respondents No.2, 3 & 6.

Respectfully Sheweth,

Preliminary Objections.

1. That the appellant has got not locus standi to file the instant appeal.
2. That no discrimination / injustice has been done to the appellant.
3. That the instant appeal is bad in the eye of law.
4. That the appellants has not come to the Tribunal with clean hands..
5. That re-view petition is pending before The Supreme Court of Pakistan, Islamabad.
6. That the appeal is bad for non-joinder & mis-joinder of unnecessary parties.
7. That the tribunal has no jurisdiction to adjudicate the matters.

On Facts.

1. Incorrect. That the appellant was initially appointed on project post as Chowkidar in BPS-01 on contract basis till completion of project life i.e. 30/06/ 2014 under the ADP Scheme Titled” Provision for Population Welfare Program in Khyber Pakhtunkhwa (2011-14)”. It is also pertinent to mention that during the period under reference, there was no other such project in / under in Population Welfare Department with nomenclature of posts as Chowkidar. Therefore name of the project was not mentioned in the offer of appointment.
2. Incorrect. As explained in para-1 above.
3. Incorrect. The project in question was completed on 30/06/2014, the project posts were abolished and the employees were terminated. According to project policy of Govt. of Khyber Pakhtunkhwa on completion of scheme, the employees were to be terminated which is reproduced as under: “On completion of the projects the services of the project employees shall stand terminated. However, they shall be re-appointed on need basis, if the project is extended over any new phase of phases. In case the project posts are converted into regular budgetary posts, the posts shall be filled in according to the rules. prescribed for the post through Public Service Commission or The Departmental Selection Committee, as the case may be: Ex-Project employees shall have no right of adjustment against the regular posts. However, if eligible, they may also apply and compete for the post with other candidates. However keeping in view requirement of the Department, 560 posts were created on current side for applying to which the project employees had experience marks which were to be awarded to them.
4. Correct to the extent that after completion of the project the appellant alongwith other incumbents were terminated from their services as explained in para-3 above.
5. Correct to the extent that the Honorable Court allowed the subject writ petitions on 26/06/2014 & 16/12/2014 in the terms that the petitioners shall remain on the post subject to the fate of C.P No.344-P/2012 as identical proposition of facts and law is involved therein. And the services of the employees neither regularized by the Court no by the competent forum.

Correct to the extent that the CPLA No.496-P/2014 was dismissed but the Department is of the view that this case was not discussed in the Supreme Court of Pakistan as the case

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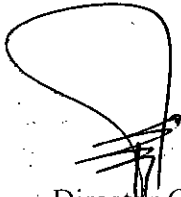
F. Incorrect. Verbatim based on distortion of facts. As explained in Ground-E above.

G. Incorrect. They have worked against the project post and the services of the employees neither regularized by the court nor by the competent forum hence nullifies the truthfulness of their statement.

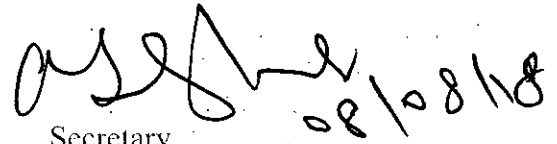
H. Incorrect. The appellant alongwith other incumbents have taken all the benefits for the period, they worked in the project as per project policy.

I. The respondents may also be allowed to raise further grounds at the time of arguments.

Keeping in view the above, it is prayed that the instant appeal may kindly be dismissed in the Interest of merit as a re-view petition is still pending before the Supreme Court of Pakistan.



Director General
Population Welfare Department
Respondent No 3



Secretary
Population Welfare Department
Government of Khyber Pakhtunkhwa
Respondent No 2

IN THE HONORABLE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,
PESHAWAR.

In Appeal No.1166/2017.

Bakht Multaj , Chowkidar (BPS-01).....

(Appellant)

VS

Govt. of Khyber Pakhtunkhwa and others

Respondents)

Affidavit

I Mr. Sagheer Musharraf, Assistant Director (Litigation), Directorate General of Population Welfare Department do solemnly affirm and declare on oath that the contents of para-wise comments/reply are true and correct to the best of my knowledge and available record and nothing has been concealed from this Honorable Tribunal.



Deponent

Sagheer Musharraf
Assistant Director (Lit)

Before the Khyber Pakhtunkhwa Service Tribunal Peshawar

Appeal No.175/2018

Bakht Mukhtaj.....Appellant.

VERSUS

The Chief Secretary, Government of Khyber Pakhtunkhwa & othersRespondents.

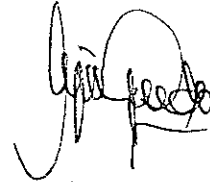
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ACCOUNTANT GENERAL
KHYBER PAKHTUNKHWA