



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 4<sup>th</sup> day of October, 2022.*

  
(Fareeha Paul)  
Member (F)

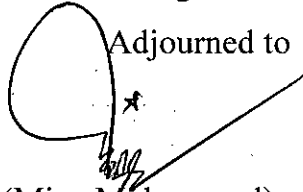
  
(Kalim Arshad Khan)  
Chairman

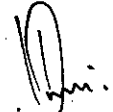
16.12.2020

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)

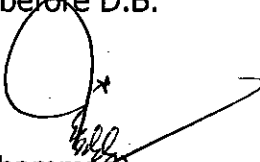
  
Chairman

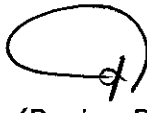
11.03.2021

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

30.06.2020

Due to COVID19, the case is adjourned to 24.09.2020 for the same as before.

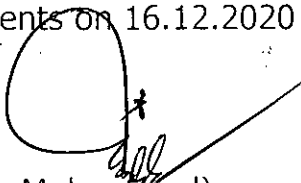
  
Reader

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 arguments on 16.12.2020 before D.B

  
(Mian Muhammad)  
Member (E)

  
(Rozina Rehman)  
Member (J)

11.1.2019

Learned counsel for the appellant states that appeals involving similar proposition are fixed for preliminary hearing on 01.02.2019.

Let instant matter be also posted on the said date alongwith other appeals.

  
Chairman

01.02.2019

Counsel for the appellant present. Preliminary arguments heard. It was contended by learned counsel for the appellant that similar nature appeals have already been admitted for regular hearing and the same are fixed for final arguments on 14.02.2019 therefore, requested that the present appeal may also be admitted for regular hearing. Request of the learned counsel for appellant seem genuine. Moreover, the ground mentioned in the memo of appeal also need consideration for regular hearing therefore, the present appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days thereafter, notice be issued to the respondents for written reply/comments for 20.03.2019 before S.B.

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

  
Appellant Deposited  
Security & Process Fee

11.09.2018

Since 12<sup>th</sup> September 2018 has been declared as public holiday <sup>by the Provincial Govt.</sup> on account of 1<sup>st</sup> Mukharram-ul-Haram, therefore the case is adjourned to 18.10.2018 for preliminary hearing before S.B.

  
Chairman

18.10.2018

Clerk to counsel for appellant present and seeks adjournment as learned counsel for appellant is not in attendance. Adjourn. To come up for preliminary hearing on 27.11.2018 before S.B.

  
Member


27.11.2018

Junior to counsel for the appellant present and seeks adjournment as senior counsel for the appellant is not in attendance. Adjourn. To come up for preliminary hearing on 11.01.2019 before S.B.

  
Member

30.03.2018

Counsel for the appellant present and seeks adjournment. Adjourned. To come up for preliminary hearing on 20.04.2018 before S.B.

  
(Ahmad Hassan)  
Member

20.04.2018

Counsel for the appellant and Asst. AG for respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for preliminary hearing on 08.05.2018 before S.B.

  
(Ahmad Hassan)  
Member

08.05.2018

The Tribunal is non-functional due to retirement of our Hon'ble Chairman. Therefore, the case is adjourned. To come up for same on 04.07.2018.

  
Reader

04.07.2018

Clerk of the counsel for appellant present and requested for adjournment on the ground that learned counsel for the appellant is busy before the Hon'ble Peshawar High Court. Adjourned. To come up for preliminary hearing on 31.07.2018 before S.B.

  
(Muhammad Amin Khan Kundi)  
Member

31.07.2018





Mr. Ahsan, Advocate counsel for the appellant present and made a request for adjournment. Granted. To come up for preliminary hearing on 12.09.2018 before S.B.

  
Chairman

Form-A  
FORM OF ORDERSHEET

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

Case No. 279/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	28/02/2018	<p>The appeal of Mr. Naila Bano presented today by Mr. Javed Iqbal Gulbela 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 28/2/18</p>
2-	01/03/18. 	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>12/03/18.</u></p> <p style="text-align: right;"> CHAIRMAN</p>
12.03.2018		<p>Clerk to counsel for the appellant present and seeks adjournment as learned counsel for the appellant is not available. Adjourned. To come up for preliminary hearing on 30.03.2018 before S.B</p> <p style="text-align: center;"> (Muhammad Hamid Mughal) Member</p>

**BEFORE THE HONBLE KHYBER PAKHTUNKHWA SERVICES  
TRIBUNAL PESHAWAR**

In Re S.A. 279 /2018

Mst. Naila Bano

**VERSUS**

Govt. of Khyber Pakhtunkhwa and others

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Dated: 26/02/2018

Appellant

Through

  
**JAVED IQBAL GULBELA**

&

  
**SAGHIR IQBAL GULBELA**

Advocate High Court

Peshawar.

Off Add: 9-10A Al-Nimrah Centre, Govt College Chowk Peshawar



①

**BEFORE THE HONBLE KHYBER PAKHTUNKHWA**  
**SERVICES TRIBUNAL PESHAWAR**

In Re S.A 279 /2018

Khyber Pakhtunkhwa  
Service Tribunal

Entry No. 283

Dated 28-2-2018

Mst Naila Bano D/o Muhammad Afsar R/o Bacha Ali Khan  
PO Public School Abbottabad

-----**(Appellant)**

**VERSUS**

1. Chief Secretary, Govt. of Khyber Pakhtunkhwa Peshawar.
2. Secretary Population Welfare Department, Khyber Pakhtunkhwa at Civil Secretariat, Peshawar.
3. Director General, Population Welfare Department R/o Plot No. 18, Sector E-8, Phase-VII, Peshawar.
4. Accountant General, Khyber Pakhtunkhwa at Accountant General Office, Peshawar Cantt, Peshawar.
5. District Population Welfare Officer Abbottabad.

Filed to-day

Registrar

28/2/18

-----**(Respondents).**

**APPEAL U/S 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.**

2

**Respectfully Sheweth;**

1. That the appellant was initially appointed as Family Welfare Assistant (Female) (BPS-5) on contract basis in the District Population Welfare Office, Peshawar on 03/01/2012. (Copy of the appointment order dated 03/01/2012 is annexed as Ann "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 Programme in Khyber Pakhtunkhwa (2011-14)".
3. That later-on the project in question was brought from developmental side to currant 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 service of the appellant, the appellant was terminated vide the impugned office order No. F. No. 1 (1)/Admn / 2012-13 /409, dated 13/06/2014 w.e.f 30/06/2014.

5. That the appellant alongwith rest of his colleagues impugned their termination order before the Hon'ble Peshawar High Court vide W.P# 1730-P/2014, as after carry-out the termination of the appellant and rest of his colleagues, the respondents were out to appoint their blue-eyed ones upon the regular posts of the demised project in question.
6. That the W.P# 1730-P/2014 was allowed by the Hon'ble Peshawar High Court Peshawar vide the judgment and order dated 26/06/2014. (Copy of order dated 26/06/2014 in W.P # 1730-P/2014 is annexed herewith as Ann "B").
7. 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 appellant and his colleagues prevailed and the CPLA was dismissed vide judgment and order dated 24/02/2016. (Copy of CPLA 496-P/2014 is annexed as Ann "C").
8. That as the Respondents were reluctant to implement the judgment and order dated 26/06/2014, so initially filed COC# 479-P/2014, which became infructuous due to suspension order

from the Apex Court and thus that COC No. 479-P/2014 was dismissed, being in fructuous vide order dated 07/12/2015.

9. That after dismissal of CPLA No. 496-P/2014 by the Hon'ble Apex Court on 24/02/2016, the appellant alongwith others filed another COC# 186-P/2016, which was disposed off by the Hon'ble Peshawar High Court vide Judgment and order dated 03/08/2016 with the direction to the Respondents to implement the judgment dated 26/06/2014 within 20 days.
10. That inspite of clear-cut and strict directions as in aforementioned COC# 186-P/2016 the Respondents were reluctant to implement the judgment dated 26/06/2014, which constrained the appellant to move another COC#395-P/2016.
11. That it was during the pendency of COC No.395-P/2016 before the August High Court, that the appellant was re-instated vide the impugned office order No. F.No.2(16) 2015-16-VII, dated 05/10/2016, 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. (Copy of the impugned office re-instatement order dated 05/10/2016 and posting order are annexed as Ann- "D").

5

12. That feeling aggrieved the appellant prepared a Departmental Appeal, but inspite of laps of statutory period no findings were made upon the same, but rather the appellant repeatedly attended the office of the Learned Appellate Authority for disposal of appeal and every time was extended positive gesture by the Learned Appellate Authority about disposal of departmental appeal and that constrained the appellant to wait till the disposal, which caused delay in filing the instant appeal before this Hon'ble Tribunal and on the other hand the Departmental Appeal was also either not decided or the decision is not communicated or intimated to the appellant. (Copy of the appeal is annexed herewith as annexure "E").

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

**Grounds:**

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.

6

**B.** That in another CPLA No. 605 of 2015 the Apex Court held that not only the effected employee is to be re-instated into service, after conversion of the project to currant side, as regular Civil Servant, but as well as entitled for all back benefits for the period they have worked with the project or the K.P.K Government. Moreover the Service of the Appellants, therein, for the intervening period i.e from the date of their termination till the date of their re-instatement shall be computed towards their pensionary benefits; vide judgment and order dated 24/02/2016. It is pertinent to mention here that this CPLA 605 of 2015 had been decided alongwith CPLA of 496 of 2014 of the Appellant on the same date.

**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 K.P.K. (Copy of CPLA 605/2015 is annexed as Ann- "F").

**D.** That where 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 re-instated on 08/10/2016 and that too with immediate effect.

F. That attitude of the Respondents constrained 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 re-instatement order of the appellant, which approach under the law is illegal.

G. That where 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 K.P.K, by giving retrospective effect to the re-instatement order dated 08/10/2016.

⑧

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 impugned reinstatement order, dated 05/10/2017 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 and project one to that of regular one, with all back benefits in terms of arrears, seniority and promotion,*

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

Dated: 26/02/2018

*Nwala*

Appellant

Through

*J. Iqbal*

*S. Iqbal*

JAVED IQBAL GULBELA

&

SAGHIR IQBAL GULBELA

Advocate High Court

Peshawar.

NOTE:-

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

*J. Iqbal*

Advocate.



**BEFORE THE HONBLE KHYBER PAKHTUNKHWA SERVICES  
TRIBUNAL PESHAWAR**

In Re S.A \_\_\_\_\_/2018

Mst. Naila Bano

**VERSUS**

Govt. of Khyber Pakhtunkhwa and others

**AFFIDAVIT**

I, Mst Naila Bano D/o Muhammad Afsar R/o Bacha Ali Khan PO Public School Abbottabad, 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.

*Javed Iqbal Gulbela*

Identified By :

Javed Iqbal Gulbela  
Advocate High Court  
Peshawar.

*Naila*

DEPONENT



**BEFORE THE HONBLE KHYBER PAKHTUNKHWA SERVICES  
TRIBUNAL PESHAWAR**

In Re S.A \_\_\_\_\_/2018

Mst. Naila Bano

**VERSUS**

Govt. of Khyber Pakhtunkhwa and others

**ADDRESSES OF PARTIES**

**APPELLANT.**

Mst Naila Bano D/o Muhammad Afsar R/o Bacha Ali Khan  
PO Public School Abbottabad.

**RESPONDENTS:**

1. Chief Secretary, Govt. of Khyber Pakhtunkhwa Peshawar.
2. Secretary Population Welfare Department, Khyber Pakhtunkhwa at Civil Secretariat, Peshawar.
3. Director General, Population Welfare Department R/o Plot No. 18, Sector E-8, Phase-VII, Peshawar.
4. Accountant General, Khyber Pakhtunkhwa at Accountant General Office, Peshawar Cantt, Peshawar.
5. District Population Welfare Officer Abbottabad.

Dated: 26/02/2018

*Appellant*

Through



**JAVED IQBAL GULBELA**

**&**

**SAGHIR IQBAL GULBELA**

Advocate High Court  
Peshawar.

**BEFORE THE HONBLE KHYBER PAKHTUNKHWA SERVICES  
TRIBUNAL PESHAWAR**

In Re S.A \_\_\_\_\_/2018

Mst. Naila Bano

**VERSUS**

Govt. of Khyber Pakhtunkhwa and 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 20-10-2016, 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 never communicated the decision if any made thereupon.

4. That besides the above as the accompanying Service Appeal is about the back benefits and arrears thereof and as financial matters and questions are involved which effect 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 favors adjudication on merits and technicalities must always be eschewed in doing justice and deciding cases on merits.

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

Dated: 26/02/2018

*Nasir*  
Petitioner/Appellant

Through

*Javed*  
JAVED IQBAL GULBELA

&

*Saghir*  
SAGHIR IQBAL GULBELA

Advocate High Court  
Peshawar.

DISTRICT POPULATION WELFARE OFFICE  
Abbottabad

13

Offer of appointment

Dated 21/02/ 2012

Am-A

F.No.1(9)/2012/Admn: - Consequent upon the recommendations of the Departmental selection committee, you are offered for appointment as Family Welfare Assistant (F) (BPS-05) on contract basis in Family Welfare Centre Project, Population Welfare Department district Abbottabad for the project life on the following terms and conditions:-

- Your appointment against the post of Family Welfare Assistant (M) BPS=05 in purely on contract basis for the project life. This order will automatically stand terminated unless extended. You will get pay in BPS-05 (5400-260-13200) plus usual allowances as admissible under the rules.
- Your services will be liable to termination with assigning any reason during the currency of agreement. In case of resignation, 14 days prior notice will required otherwise your 14 days pay plus usual allowance will be forfeited.
- You shall provide Medial Fitness Certificate from the Medial Superintendent of the DHQ Hospital concerned before joining service.
- 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 an misconduct your service will 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 Pakhtunkhwa Service Tribunal / any court of law.
- 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.
- 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.
- 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.
- You have to join duty at your own expenses.
- If you accept the above terms and conditions you should report for duty to the District Population Welfare Office Abbottabad within 15 days of the receipt of this offer failing which your appointment shall be considered as cancelled.
- You will execute a surety bond with the Department.

Ghulam Farid  
District Population Welfare Officer  
Abbottabad

Ms. Naila Bano

D/o Muhammad Afsar

Banda Ali Khan PO Public School

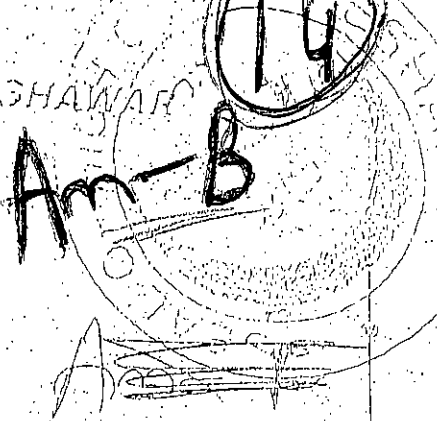
Copy to:- Abbottabad

- PS to Director General Directorate General PWD, Peshawar
- District Account Officer Abbottabad
- Account Assistant (Local) Abbottabad
- Master File

**ATTESTED**

District Population Welfare Officer  
Abbottabad

JUDGMENT SHEET  
IN THE PESHAWAR HIGH COURT, PESHAWAR  
JUDICIAL DEPARTMENT



W.P. No. 1730 of 2004  
CM-559-P/14 and/or and 6/2/14

JUDGMENT

Date of hearing 26/06/2014

Appellant/Plaintiff/No. Name etc. by Mr. Iqbal Anwar Khan  
Respondent/Defendant/No. Name etc. by Mr. Iqbal Anwar Khan

\*\*\*\*\*

NISAR HUSSAIN KHAN, J.- By way of instant

writ petition, petitioners seek issuance of an appropriate writ for declaration to the effect that they have been validly appointed on the posts under the Scheme "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 petitioners are entitled to be regularized in line with the regularization of other staff in similar projects and retroactive to this effect on the part of respondents in

~~ATTESTED~~

~~ATTESTED~~

~~ATTESTED~~

~~ATTESTED~~

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JUDGMENT SHEET  
IN THE PESHAWAR HIGH COURT, PESHAWAR  
JUDICIAL DEPARTMENT

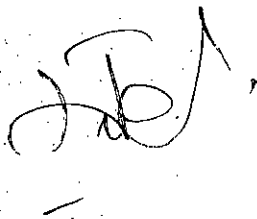
W.P.No.1730 of 2014  
With CM 559-P/14 An/CM 600 and 605/14

JUDGMENT

Date of hearing 26/06/2014  
Appellant Muhammad Nadeem ... By Mr Ijaz Anwar Advocate.  
Respondent Govt. tc by Gohar Ali Shah AAG..

\*\*\*\*\*

NISAR HUSSAIN KHAN. J:- By way of instant writ petition, petitioners seek issuance of an appropriate writ for declaration to the effect that they have been validity appointed on the posts under the scheme "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 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 respondents in



**ATTESTED**

regularization of the petitioners is illegal, malafide and fraud upon their legal rights and as a consequence petitioners be declared as regular civil servants for all intent and purposes.

2. Case of the petitioners is that the Provincial Government Health Department approved a scheme namely Provision for Population Welfare Programme for a period of five years from 2010 to 2015 for socio-economic well being of the downtrodden citizens and improving the basic health structure; that they have been performing their duties to the best of their ability with zeal and zest which made the project and scheme successful and result oriented; which constrained the Government to convert it from ADP to current budget. Since whole scheme has been brought on the regular side, so the employees of the scheme were also to be absorbed. On the same analogy, some of the staff members have been regularized whereas the petitioners have been discriminated who are entitled to alike treatment.

ATTESTED

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ATTESTED

ATTESTED

*[Handwritten signature]*



Regularization of the petitioners is illegal, malafide and fraud upon their legal rights and as a consequence petitioners be declared as regular civil servants for all intent and purposes.

2. Case of the petitioners is that the Provincial Government Health Department approved a scheme namely Provision for Population Welfare Programme for period of five years from 2010 to 2015 for socio-economic well being of the downtrodden citizens and improving the their duties to the best of their ability with zeal and zest which made the project and scheme successful and result oriented which constrained the Government to convert it from ADP to current budget. Since whole scheme has been brought on the regular side, so the employees of the scheme were also to be absorbed. On the same analogy, some of the staff members have been regularized whereas the petitioners have been discriminated who are entitled to alike treatment.

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Some of the applicants/interveners namely Ajmal and 76 others have filed C.M.No. 600-P/2014 and another like C.M.No.605-P/2014 by Anwar Khan and 12 others have prayed for their impleadment in the writ petition with the contention that they are all serving in the same Scheme/Project namely Provision for Population Welfare Programme for the last five years. It is contended by the applicants that they have exactly the same case as averred in the main writ petition, so they be impleaded in the main writ petition as they seek same relief against same respondents. Learned AAG present in court was put on notice who has got no objection on acceptance of the applications and impleadment of the applicants/interveners in the main petition and rightly so when all the applicants are the employees of the same Project and have got same grievance. Thus instead of forcing them to file separate petitions and ask for comments, it would be just and proper that their fate be decided once for all through the same writ petition as they stand on the same legal plane. As such both the Civil Misc. applications are allowed.

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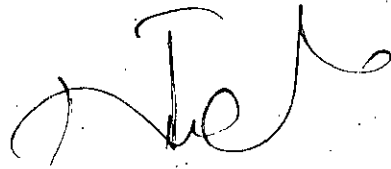
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*[Handwritten signature]*

3. Same of the applicants/interveners namely Ajmal and 76 others have filed C.M.No. 600-P/2014 and another alike C.M.No.605-P/2014 by Anwar Khan and 12 others have prayed for their impleadment in the writ petition with the contention that they are all sieving in the same scheme/project namely Provision for Population Welfare Programme for the last five years. It is contended by the applicants that they have exactly the same case as averred in the main writ petition, so they be impleaded in the main writ petition as they seek same relief against same respondents. Learned AAG present in court was put on notice who has got no objection on acceptance of the applications and impleadment of the applicants/Interveners in the main petition and rightly so when all the applicants are the employees of the same Project and have got same grievance. Thus instead of forcing them to file separate petitions and ask for comments, it would be just and proper that their fate be decided once for all through the same writ petition as they stand on the same legal plane. As such both the Civil Misc. applications are allowed



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17

and the applicants shall be treated as petitioners in the  
main petition who would be entitled to the same  
treatment.

Comments of respondents were called which  
were accordingly filed in which respondents have admitted  
that the Project has been converted into Regular/Current  
side of the budget for the year 2014-15 and all the posts  
have come under the ambit of Civil servants Act, 1973 and  
Appointment, Promotion and Transfer Rules, 1989.

However, they contended that the posts will be advertised  
afresh under the procedure laid down, for which the  
petitioners would be free to compete alongwith others.  
However, their age factor shall be considered under the  
relaxation of upper age limit rules.

5. We have heard learned counsel for the  
petitioners and the learned Additional Advocate General  
and have also gone through the record with their valuable  
assistance.

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**ATTESTED**

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ATTESTED

And the applicants shall be treated as petitioners in the main petition who would be entitled to the same treatment.

4. Comments of respondents were called which were accordingly filed in which respondents have admitted that the Project has been converted into Regular/Current side of the budget for the year 2014-2015 and all the posts have come under the ambit of Civil servants Act, 1973 and Appointment, Promotion and Transfer Rules, 1989.

However, they contended that the posts will be advertised afresh under the procedure laid down, for which the petitioners would be free to compete alongwith others:

However, their age factor shall be considered under the relaxation of upper age limit rules.

5. We have heard learned counsel for the petitioners, and the learned Additional Advocate General and have also gone through the record with their valuable assistance.

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*[Signature]*  
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*[Signature]*

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It is apparent from the record that the posts held by the petitioners were advertised in the Newspaper on the basis of which all the petitioners applied and they had undergone due process of test and interview and thereafter they were appointed on the respective posts of Family Welfare Assistant (male & female), Family Welfare Worker (F), Chowkidar/Watchman, Helper/Maid, upon recommendation of the Departmental Selection Committee, though on contract basis in the Project of Provision for Population Welfare Programme, on different dates i.e. 1.1.2012, 3.1.2012, 10.3.2012, 29.2.2012, 27.6.2012, 3.3.2012 and 27.3.2012 etc. All the petitioners were recruited/appointed in a prescribed manner after due adherence to all the codal formalities and since their appointments, they have been performing their duties to the best of their ability and capability. There is no complaint against them of any slackness in performance of their duty. It was the consumption of their blood and sweat which made the project successful, that is why the Provincial Government converted it from Developmental to

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Provincial Government

12 JUL 2014

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ATTESTED

6. It is apparent from the record that the posts held by the petitioners were advertised in the Newspaper on the basis of which all the petitioners applied and they had undergone due process of test and interview and thereafter they were appointed on the respective posts of Family Welfare Assistant (male & female), Family Welfare Worker (F), Chowkidar/Watchman, Helper/Maid, upon recommendation of the Department selection committee of the Departmental selection committee, through on contract basis in the project of provision for population welfare programme, on different dates i.e. 1.1.2012, 3.1.2012, 10.3.2012, 29.2.2012, 27.6.2012, 3.3.2012, and 27.3.2012 etc. All the petitioners were recruited/appointed in a prescribe manner after due adherence to all the formalities and since their appointments, they have been performing their duties to the best of their ability and capability. There is no complaint against them of any slackness in performance of their duty. It was the consumption of their blood and sweat which made the project successful, that is why the provisional government converted it from development to

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non-developmental side and brought the scheme on the current budget.

7. We are mindful of the fact, that their case does not come within the ambit of TRAMP Employees (Regularization of Services) Act 2009, but at the same time we cannot lose sight of the fact that it were the devoted services of the petitioners which made the Government realize to convert the scheme on regular budget, so it would be highly unjustified that the seed sown and nourished by the petitioners is plucked by someone else when grown in full bloom. Particularly when it is manifest from record that pursuant to the conversion of other projects from developmental to non-development side, their employees were regularized. There are regularization orders of the employees of other alike ADP Schemes which were brought to the regular budget; few instances of which are: Welfare Home for Destitute Children District Charsadda, Welfare Home for Orphan Nowshera and Establishment of Mentally Retarded and Physically Handicapped Centre for Special Children Nowshera.

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12 JUL 2014

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ATTESTED



Non-development side and brought the scheme on the current budget.

7. We are mindful of the fact that their case does not come within the ambit of NWFP Employees (Regularization of Services) act 2009, but at the same time we cannot lose sight of the fact that it were the devoted services of the petitioners which made the Government realize to convert the scheme on regular budget, so it would be highly unjustified that the seed sown and nourished by the petitioners is plucked by someone else when grown in full bloom. Particularly when it is manifest from record that pursuant to the conversion of the other projects from development to non-development side, their employees were regularized. There are regularization orders of the employees of other alike ADP schemes which were brought to the regular budget; few instances of which are: welfare Home for orphan Nowshera and establishment of Mentally retarded and physically Handicapped center for special children Nowshera,

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Industrial Training Centre Khaishgi Bala Nowshera, Dar ul

Arnon Mardan, Rehabilitation Centre for Drug Addicts

Peshawar and Swat and Industrial Training Centre Dargai

Qadeem District Nowshera. These were the projects

brought to the Revenue side by converting from the AIB to

current budget and their employees were regularized.

While the petitioners are going to be treated with different

yardstick which is height of discrimination. The employees

of all the aforesaid projects were regularised, but

petitioners are being asked to go through fresh process of

test and interview after advertisement and compete with

others and their age factor shall be considered in

accordance with rules. The petitioners who have spent best

blood of their life in the project shall be thrown out if do

not qualify their criteria. We have noticed with pain and

anguish that every now and then we are confronted with

numerous such like cases in which projects are launched,

youth searching for jobs are recruited and after few years

they are kicked out and thrown astray. The courts also

cannot help them, being contract employees of the project.

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JUL 2017

Industrial Training center khasihgi Bala Nowshera, Dar Ul Aman Mardan, rehabilitation center for Drug Addicts Peshawar and Swat and Industrial Training center Dagai Qadeem District Nowshera. These were the projects brought to the Revenue side by converting from the ADP to current budget and there employees were regularized. While the petitioners are going to be retreated with different yardstick which is height of discrimination. The employees of all the aforesaid projects were regularized, but petitioners are being asked to go through fresh process of test and interview after advertisement and compete with others and their age factor shall be considered in accordance with rules. The petitioners who have spent best blood of their life in the project shall be thrown out if do not qualify their criteria. We have noticed with pain and against that every now and then we are confronted with numerous such like cases in which projects are launched, youth searching for jobs are recruited and after few years they are kicked out and thrown astray. The courts also cannot help them, being contract employees of the project.

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they are treated out the treatment of Master and Servant.

Having been put in a situation of uncertainty, they more often than not, fall prey to the foul hands. The policy makers should keep all aspects of the society in mind.

Learned counsel for the petitioners produced a copy of order of this court passed in W.P.No.2131/2013 dated 30.1.2014 whereby project employee's petition was allowed subject to the final decision of the august Supreme Court in C.P.No.344-P/2012 and requested that this petition be given alike treatment. The learned AAG conceded to the proposition that let fate of the petitioners be decided by the august Supreme Court.

In view of the concurrence of the learned counsel for the petitioners and the learned Additional Advocate General and following the ratio of order passed in W.P. No. 2131/2013, dated 30.1.2014 like Mst.Fozia Aziz vs. Government of KPK, this writ petition is allowed in the terms that the petitioners shall remain on the posts.

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12 JUL 2014

(3) (51)

& they are meted out the treatment of master and servant. Having been put in a situation of uncertainty, they more often than not fall prey to the foul hands. The policy makers should keep all society in mind.

1. Learned counsel for the petitioners product a copy of order of this court passed in w.p.no2131/2013 dated 30.1.214 whereby project employec's petition was allowed subject to the final decision of the august Supreme court in c.p.344-p/2012 and requested that this petition be given alike treatment. The learned AAG conceded to the proposition that let fate of the petitioners be decided by the august Supreme Court.
2. In view of the concurrence of he learned counsel for the petitioners and the learned Additional Advocate General and following the ratio of order passed in w.p.no.2131/2013,dated 30.1.2014 titled Mst. Fozia Aziz Vs. Government of KPK, this writ petitioners shall on the posts

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subject to the fate of CP No. 544-P/2012 as identified

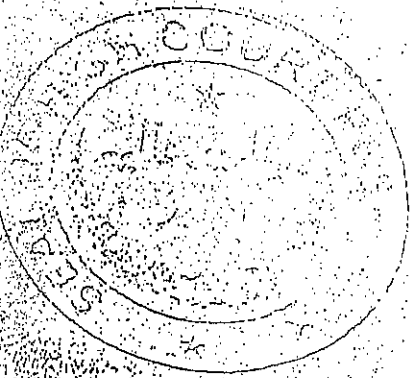
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proposition of facts and law is involved therein.

Announced on  
26<sup>th</sup> June, 2014.

Mr. Nisar Hussain Khan  
Sd/- Assistant Public Prosecutor

12/07/14



CERTIFIED TO BE TRUE COPY

Public Prosecutor  
District Court, Peshawar  
Punjab and Federal Territory of Islamabad  
Punjab Order 108

12 JUL 2014

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Presented in  
12/7/2014  
12/7/2014  
12/7/2014  
Mubashir Ahmad Agaz

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Subjects to the fate of CP No.344-P/2012 as identical proposition of facts and law is involved therein.

Announced on  
26<sup>th</sup> June, 2014.

  
**ATTESTED**

  
**ATTESTED**

IN THE SUPREME COURT OF PAKISTAN  
(Appellate Jurisdiction)

Amir C  
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PRESENT:  
MR. JUSTICE ANWAR ZAHEER, JUDGE, H.C.  
MR. JUSTICE MIAN SAQIB NISAR  
MR. JUSTICE AMIR HANI MUSLIM  
MR. JUSTICE IQBAL HAMEED UR RAHMAN  
MR. JUSTICE IFTIKHAR 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. Amir Hussain and others  
CIVIL APPEAL NO. 136-P OF 2013  
Govt. of KPK and others Vs. Muhammad Younas 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  
Livestock Peshawar and others

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. Ifkhar Hussain and others  
CIVIL APPEAL NO. 113-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. Saifdar Zaman and others

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Court Associate  
Supreme Court of Pakistan  
Islamabad

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For the appellant(s)

For Respondents (1-3, 5 & 7)

For respondents (4, 8, 9 & 10)

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

For the Respondent(s)

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

For Respondents (4-7)

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

For Respondents (1-3)

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

For Respondent No.1

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

For the Respondent(s)

CP-196-P/2014  
For the Petitioner(s)

For the Respondent(s)

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

For the Respondent(s)

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

For the Respondent(s)

CP-28-P/2013  
For the Petitioner(s)

For the Respondent(s)

Mr. Waqar Ahmed Khan, Addl. AG KPK

Mr. Ghulam Nabi Khan, ASC

Not represented.

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 Shaheen, ASC

Mr. Waqar Ahmed Khan, Addl. AG KPK

Mr. Shoaib Shaheen, ASC

Mr. Waqar Ahmed Khan, Addl. AG KPK

Mr. Saadia Rehman (in person)

Mr. Waqar Ahmed Khan, Addl. AG KPK  
Roor AFed, Director, Population Welfare  
Department.

Mr. Khushdil Khan, ASC

Mr. Shafeeq 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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Joint Assistant  
Registrar  
District Court of Peshawar  
Islamabad

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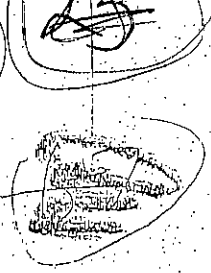
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Govt. of KPK through Chief Secy. Vs. Ma. Naima  
Peshawar and others

CIVIL PETITION NO. 619-P OF 2014

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

25



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

Mr. Waqar Ahmed Khan, Addl. AG KPK  
Syed Masood Shah, SO Litigation  
Hafiz Altaul Memeco, SO, Litigation (Fin)  
Muhammad Khalid, AD (Litigation)  
Abdul-Hadi, SO (Litigation)

(CMA 496-P/13)

Mr. Ayub Khan, ASC

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. 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.

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

For Respondents 5, 6 & 9

In person (absent)

ATTESTED  
Court Association  
Supreme Court of Pakistan  
Islamabad

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ATTESTED

Govt. of KPK thr. Secy. Agriculture, Livestock, Peshawar and another Vs. Innayatullah and others

CIVIL PETITION NO. 600-P OF 2013

Govt. of KPK thr. Chief Secy. and others Vs. Noman Adil and others

CIVIL PETITION NO. 496-P OF 2014

Govt. of KPK thr. Chief Secretary Peshawar and others Vs. Muhammad Nadeem Jafri and others

CIVIL PETITION NO. 34-P OF 2015  
Dean, Pakistan Institute of Community Ophthalmology (PICO), HMC and another Vs. Muhammad Imran and others

CIVIL PETITION NO. 526-P OF 2013

Govt. of KPK through Chief Secretary Peshawar and others Vs. Mst. Safia

CIVIL PETITION NO. 527-P OF 2013

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

CIVIL PETITION NO. 528-P OF 2013

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

CIVIL PETITION NO. 28-P OF 2014

Govt. of KPK through Chief Secy. Peshawar and others Vs. Raimullah and others

CIVIL PETITION NO. 214-P OF 2014

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

CIVIL PETITION NO. 621-P OF 2015

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

CIVIL PETITION NO. 368-P OF 2014

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

CIVIL PETITION NO. 369-P OF 2014

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

CIVIL PETITION NO. 370-P OF 2014

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

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ABU Associate  
Supreme Court of Pakistan  
Islamabad

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C/S 213-P/2013, 368-  
171-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. A.G. K...

Not represented.

24-02-2016

**ORDER**

ANWAR ZAHEER JAMALI, CI.- Arguments heard. The  
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.

Sd/- Anwar Zaheer Jamali, JCS  
Sd/- Mina Saqib Nisar, J  
Sd/- Amir Hani Mustim, J  
Sd/- Iqbal Hameedur Rahmani, J  
Sd/- Khilji Arif Hussain, J  
Certified to be true Copy.

Amir Hani Mustim  
Judge, Supreme Court of Pakistan  
Islamabad

Islamabad the  
24-02-2016  
Not approved for reporting.

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

28

05 Oct 2016  
Amir

Dated Peshawar the 05<sup>th</sup> October, 2016

OFFICE ORDER

No. SOE (PWD) 4-9/7/2014/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 24-02-2016 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

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

Dated Peshawar the 05<sup>th</sup> 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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Ann<sup>ce</sup> E

To,

The Chief Secretary,  
Khyber Pakhtunkhwa Peshawar.

Subject: DEPARTMENTAL APPEAL

Respected Sir,

With profound respect the undersigned submit as under:

- 1) That the undersigned along with others have been re-instated in service with immediate effects vide order dated 05.10.2016.
- 2) That the undersigned and other officials were regularized by the honourable 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 honourable Supreme Court but the Govt appeals were dismissed by the larger bench of the said 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 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

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vide order dated 24.07.2016 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 require 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.**

Yours Obediently

**Naila Bano  
Family Welfare Assistant (BPS-5)  
Population Welfare Department  
Abbottabad.  
Office of District Population  
Welfare Officer,  
Abbottabad.**

**Dated: 20.10.2016**

**ATTESTED**

PRESENT:  
MR. JUSTICE ANWAR ZAHEER JAMALI, J.C.  
MR. JUSTICE MIAN SAQIB-MISAR  
MR. JUSTICE AMIR HANI MUSLIM  
MR. JUSTICE IQBAL HAMEEDUR RAHMAN  
MR. JUSTICE ICHILJI ARIF HUSSAIN

31  
Am-F

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

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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 30.5.2011.

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 out 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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*[Signature]*  
Coun. Associate  
Supreme Court of Pakistan  
Islamabad

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24.6.2014), 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 :-

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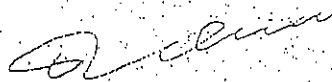
"In view of the clear statutory provisions the respondents cannot seek regularization as they were admittedly project employees and thus have been expressly excluded from purview of the Regularization Act. The appeal is therefore allowed, the impugned judgment is set aside and writ petition filed by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

7. In view of the above, the petitioners cannot seek regularization being project employees, which have been expressly excluded from purview of the Regularization Act. Thus, the 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 No.134-P 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 codal formalities, the period of their contract appointments was extended from

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Court Associate  
Supreme Court of Pakistan  
Islamabad

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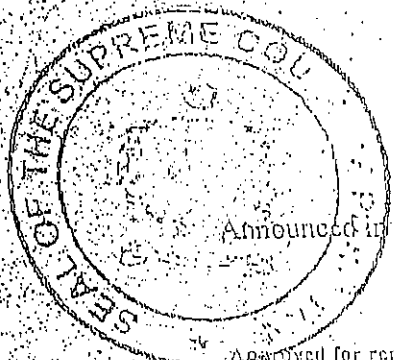
... picking, had appointed different persons in place of the Appellants. The  
 case of the present Appellants is covered by the principles laid down by this  
 Court in the case of Civil Appeals No. 134-P of 2013 etc. (Government of  
 KPK through Secretary, Agriculture vs. Adnanullah and others), as 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 held entitled to the back benefits  
 for the period they have worked with the project or 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 computed  
 towards their pensionary benefits.

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

Certified to be True Copy



Announced in open Court on

*[Signature]*

*[Signature]*  
 Court Associate  
 Supreme Court of Pakistan  
 Islamabad

Approved for reporting.

30.5.16

11685/16

GR No:	11685/16	Civil/Criminal
Date of Filing	6.6.16	
No of Writs		
No of Parties	12	
Requesting	5 CA	
Copy Fee to	7.00	
Court Fee		
Date of	6-6-2016	
Date of	6-6-2016	

By S. Khatun, AGR

ATTESTED

ATTESTED

*[Signature]*

(35)

An-67

POPULATION WELFARE DEPARTMENT  
OFFICE OF THE DISTRICT POPULATION WELFARE OFFICER  
ABBOTTABAD

F.No.2(18)/2013-14

Dated Abbottabad the 14.6.2014

To

Saman Bibi, FWA (F)  
FWC Bandi Phullan

✓ Naila Bano, FWA(F)  
FWC Shaheena Jamil

Mehnaz Bibi FWA (F)  
RHSC (A) Abbottabad

Sadia Manzoor FWA (F)  
FWC Phalkot

Subject: **COMPLETION OF ADP PROJECT I.E. PROVISION FOR  
POPULATION WELFARE DEPARTMENT, KHYBER  
PAKHTUNKHWA**

The subject project is going to be completed on 30.6.2014 therefore the enclosed office order F.No.4(35)/2013-14/Admn dated 13.6.2014 may be treated as fifteen days notice in advance for the termination of your services as on 30.6.2014.

(Asim Zia Kakakhel)  
District Population Welfare Officer  
Abbottabad

Copy to:-

1. PA to the Director General Population Welfare Department Khyber Pakhtunkhwa Peshawar for information please.
2. Accountant (local) for necessary action.
3. P/F of the official concerned.

District Population Welfare Officer  
Abbottabad

**ATTESTED**

(36)

Government of Khyber Pakhtunkhwa,  
Directorate General Population Welfare  
Post Box No. 235

PC Trust Building Sunehri Masjid Road, Peshawar Cantt. Ph: 091-9211536-38

Dated Peshawar the 13/6/2014.

OFFICE ORDER

F.No.4(35)/2013-14/Admn:- On completion of the ADP Project No. 903-821-790/110622 under the scheme provision of Population Welfare Programme Khyber Pakhtunkhwa. The services of the following ADP Project employees stands terminated w.e.f. 30.06.2014 as per detail below:-

S.No.	Name	Designation	District /Institution
1	Tahira Bano	FWW/	Abbottabad
2	Irum Mehmood	FWW	Abbottabad
3	Saman Bibi	FWA (F)	Abbottabad
4	Naila Bano	FWA (F)	Abbottabad
5	Mehnaz Bibi	FWA (F)	Abbottabad
6	Sadia Manzoor	FWA (F)	Abbottabad
7	Jawad Khan	FWA (M)	Abbottabad
8	Zaheer ul Haq	FWA (M)	Abbottabad
9	Sadiq Mustafa	FWA (M)	Abbottabad
10	Asim Ali	FWA (M)	Abbottabad
11	Dilawar Shah	Chowkidar	Abbottabad
12	Waqar Ahmad	Chowkidar	Abbottabad
13	Waqas Khan	Chowkidar	Abbottabad
14	Umar Hayat	Chowkidar	Abbottabad
15	Nazia Bibi	Aya / Helper	Abbottabad
16	Shaista Bibi	Aya / Helper	Abbottabad
17	Rakhshanda Rani	Aya / Helper	Abbottabad
18	<del>Sadia Manzoor</del> Nazia Bibi	Aya / Helper	Abbottabad

All pending liabilities of ADP Project employees must be cleared before 30.06.2014 positively under intimation to this office.

Sd/-  
(Project Director)

F.No.4 (35)/2013-14/Admn

Dated Peshawar the \_\_\_\_\_ 2014.

Copy forwarded to the:-

1. Director Technical, PWD, Peshawar.
2. District Population Welfare Officer, Abbottabad.
3. District Accounts Officer, Abbottabad.
4. Chief Health P&D Department, Khyber Pakhtunkhwa.
5. PS to Advisor to Chief Minister for Population Welfare, Khyber Pakhtunkhwa.
6. PS to Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department, Peshawar.
7. PS to Secretary to Govt. of Khyber Pakhtunkhwa, Population Welfare Department, Peshawar.
8. PS to Director General, PWD, Peshawar.
9. Master File.

**ATTESTED**

1/6/2

# وکالت نامہ

بعدالت: H. P. S. Service Tribunal, Pakistan

Met. Naik Bano نام Govt S.M.A. & others

S.A. منجانب Appellate دعویٰ

تاریخ

باعث تحریر آنکہ مقدمہ مندرجہ بالا عنوان اپنی طرف سے واسطے پیروی و جوابدہی  
 بمقام ~~.....~~ کیلئے جاوید اقبال گل بیلہ ایڈووکیٹ ہائی کورٹ کو بدیں شرط وکیل  
 مقرر کیا ہے۔ کہ میں ہر پیشی کا خود یا بزرگیہ مختار خاص رو برو عدالت حاضر ہوتا رہوں گا۔ اور بوقت پکارے جانے مقدمہ وکیل  
 صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا، اگر پیشی پر من مظهر حاضر نہ ہوا اور مقدمہ میری غیر حاضری کی وجہ سے  
 کسی طور پر میرے برخلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہونگے۔ نیز وکیل صاحب موصوف صدر  
 مقام پکھری کی کسی اور جگہ یا پکھری کے مقررہ اوقات سے پہلے یا پیچھے یا بروز تعطیل پیروی کرنے کے ذمہ دار نہ ہونگے۔ اگر  
 مقدمہ علاوہ صدر مقام پکھری کے کسی اور جگہ سماعت ہونے یا بروز تعطیل یا پکھری کے اوقات کے آگے پیچھے پیش ہونے پر  
 من مظهر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا مختار نہ واپس کرنے کے بھی  
 صاحب موصوف ذمہ دار نہ ہونگے۔ مجھے کوکل ساختہ پر داختہ صاحب موصوف مثل کردہ ذات خود منظور و قبول ہوگا۔ اور  
 صاحب موصوف کو عرضی دعویٰ و جواب دعویٰ اور درخواست اجراء ڈگری و نظر ثانی اپیل و گمرانی ہر قسم کی درخواست پر دستخط و  
 تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کے اجراء کرنے اور ہر قسم کے روپیہ وصول کرنے اور رسید دینے اور داخل  
 کرنے اور ہر قسم کے بیان دینے اور سپروٹا لشی و راضی نامہ فیصلہ برخلاف کرنے اقبال دعویٰ دینے کا بھی اختیار ہوگا۔ اور  
 بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم امتناعی یا ترقی یا اگر قاری قبل از اجراء ڈگری بھی موصوف  
 کو بشرط ادائیگی علیحدہ مختار نہ پیروی کا اختیار ہوگا۔ اور بصورت ضرورت صاحب موصوف کو بھی اختیار ہوگا یا مقدمہ مذکورہ یا  
 اس کے کسی جزوی کاروائی کے واسطے یا بصورت اپیل، اپیل کے واسطے دوسرے وکیل یا بیرسٹر کو بجائے اپنے یا اپنے ہمراہ  
 مقرر کریں اور ایسے مشیر قانون کے ہر امر وہی اور ویسے ہی اختیارات حاصل ہونگے جیسے کے صاحب موصوف کو حاصل  
 ہیں۔ اور دوران مقدمہ میں جو کچھ ہر جانہ التواء پڑے گا۔ اور صاحب موصوف کا حق ہوگا۔ اگر وکیل صاحب موصوف کو  
 پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور ایسی صورت  
 میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔ لہذا مختار نامہ لکھ دیا کہ سندر ہے۔  
 مورخہ..... مضمون مختار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے

① نائیک بانو دفتر صدر افسر سیکشن ۱۰

Accepte  
 130  
 (130)

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

In Service Appeal No.279/2018

Mst. Naila Bano ..... (Appellant)

VS

Govt. of Khyber Pakhtunkhwa and others ..... (Respondents)

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Deponent.

Sagheer Musharraf  
Assistant Director (Lit)

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

In Service Appeal No.279/2018

Mst. Naila Bano ..... (Appellant)

VS

Govt. of Khyber Pakhtunkhwa and others ..... (Respondents)

**PARA-WISE REPLY/COMMENTS ON BEHALF OF THE RESPONDENTS  
NO. 2, 3 & 5.**

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 Family Welfare Assistant (Female) in BPS-05 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 Family Welfare Assistant (Female). 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. Incorrect. Verbatim based on distortion of facts. The actual position of the case is that after completion of the project the incumbents were terminated from their posts according to the project policy and no appointments made against these project posts. Therefore the appellant alongwith other filed a writ petition before the Honorable Peshawar High Court, Peshawar.
6. Correct to the extent that the Honorable Court allowed the subject writ petition on 26/06/2014 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.
7. 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 was clubbed with the case of Social Welfare Department, Water Management Department, Live Stock etc. in the case of Social Welfare Department, Water Management Department, Live Stock etc. the employees were continuously for the last 10 to 20 years while in the case of Population Welfare Department their services period during the project life was 3 months to 2 years & 2 months.
8. No comments.
9. No comments.
10. Correct. But a re-view petition No.312-P/2016 has been filed by this Department against the judgment dated:24/02/2016 of the larger bench of Supreme Court of Pakistan on the grounds that this case was not argued as it was clubbed with the cases of other Department having longer period of services. Which is still pending before the Supreme Court of Pakistan.
11. Correct to the extent that the appellant alongwith 560 incumbents of the project were reinstated against the sanctioned regular posts, with immediate effect, subject to the fate of re-view petition pending in the August Supreme Court of Pakistan. During the period under reference they have neither reported for nor did perform their duties.
12. Correct to the extent that a re-view petition is pending before the Apex Court and appropriate action will be taken in light of the decision of the Supreme Court of Pakistan.
13. No comments.

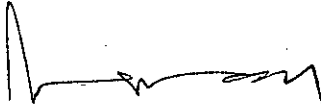
**On Grounds.**

- A. Incorrect. The appellant alongwith other incumbents reinstated against the sanctioned regular posts, with immediate effect, subject to the fate of re-view petition pending the August Supreme Court of Pakistan.
- B. Correct to the extent that the employees entitled for the period they have worked with the project but in the instant case they have not worked with the project after 30/06/2014 till the implementation of the judgment. Anyhow the Department will wait till decision of re-view petition pending in the Supreme Court of Pakistan.
- C. As explained in para-7 of the grounds above.
- D. Incorrect. The Department is bound to act as per Law, Rules & Regulation.
- E. Incorrect. After the judgment dated:26/06/2014 of PHC, Peshawar this Department filed Civil Petition No.496/2014 in the Apex Court of Pakistan. Which was decided by the larger bench of Supreme Court of Pakistan where dismissed all the civil petitions filed by the Govt. of Khyber Pakhtunkhwa on 24/02/2016 and now the Govt. of Khyber Pakhtunkhwa filed a re-view petitions in the Apex Court of Pakistan against the decision referred above. Which is still pending? The appellant alongwith other incumbents reinstated against the sanctioned regular posts, with immediate effect, subject to the fate of re-view petition pending in the August Supreme Court of Pakistan.
- F. Incorrect. Verbatim based on distortion of facts. As explained in Ground-E above.

- 20
- 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.

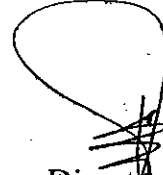
**Prayer:-**

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.



District Population Welfare Officer  
Abbottabad  
Respondent No 5

Distt. Population Welfare Officer  
Abbottabad



Director General  
Population Welfare Department  
Respondent No 3



Secretary  
Population Welfare Department  
Government of Khyber Pakhtunkhwa  
Respondent No 2

12/6/19

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

In Service Appeal No.279/2018

Mst. Naila Bano ..... (Appellant)

VS

Govt. of Khyber Pakhtunkhwa and others ..... (Respondents)

**Counter 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. 279/2018

Mst. Naila Bano .....Appellant.

Vs

Chief Secretary Govt of Khyber Pakhtunkhwa, Peshawar  
and others .....Respondents.

**(Reply on behalf of Respondent No. 4)**

**Preliminary Objections:-**

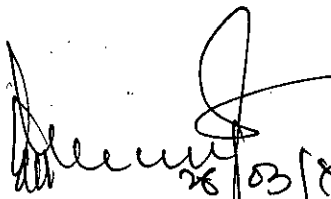
1. That the appellant has no cause of action.
2. That the appellant has no locus standi.
3. That the appeal is time barred.
4. That the appellant is bed due to joinder and mis-joinder of the necessary parties.

**Respectfully Sheweth:**

Para 1 to 13:-

It is submitted that being an administrative matter it relates to respondent No. 2,3 & 5, and 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. 2,3 & 5 for the satisfaction of his grievances and the appeal in hand having no merits may be dismissed with cost.

  
26/03/2018  
**ACCOUNTANT GENERAL  
KHYBER PAKHTUNKHWA**

**BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER**  
**PAKHTUNKHWA PESHAWAR**

In S.A# 279/2018

Naila Bano

**Versus**

Government of Khyber Pakhtunkhwa and Others


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Dated: 01/08/2019

  
Appellant

Through

  
**JAVED IQBAL GULBELA,**  
&  
**SAGHIR IQBAL GULBELA**  
Advocates High Court  
Peshawar

**BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER**  
**PAKHTUNKHWA PESHAWAR**

In S.A# 279/2018

Naila Bano

**Versus**

Government of Khyber Pakhtunkhwa and Others

**REJOINDER ON BEHALF OF THE**  
**APPELLANT TO THE COMMENTS**  
**FILED BY THE RESPONDENTS NO:**  
**2, 3 & 5**

**Respectfully Sheweth,**

**Reply to Preliminary objection:**

1. Incorrect and Denied. The appellant has got a good cause of action.
2. Incorrect and denied.
3. Incorrect and denied. Moreover the appeal of the appellant is according to law and Rules.
4. Incorrect and denied.
5. Subject to proof. However mere filing of review petition before the Hon'ble Apex Court

or pendency of the same before the Hon'ble Apex Court does not constitute an automatic stay of proceedings before this Hon'ble Tribunal, unless there has been an express order of the Hon'ble Apex Court in this regard.

6. Incorrect, malicious, misleading, hence denied.
7. Incorrect, malicious, misleading, hence denied. Moreover this Hon'ble Tribunal has ample jurisdiction to adjudicate the instant appeal.

**On facts**

1. Incorrect and hypocritical. The appellant was appointed on contract basis and has been regularized later-on and is now entitled for the relief sought, while true picture is detailed in the main appeal.
2. Incorrect. True and detailed picture is given in the corresponding paras of the main appeal.
3. Incorrect and misleading. The appellant along with rest of her colleagues were duly appointed, initially, on contract basis in the subject project and after being creating same strength of numbers

of vacancies on regular right and for accommodation their blue eyed ones, thereupon, the appellant along with her colleagues were terminated from their services. This termination order was impugned in writ petition on 1730-P/2014 which was allowed vide judgment and order dated 26/06/2014. This decision of the Hon'ble Peshawar High Court was impugned by the Respondent department in the Hon'ble Apex Court in CPLA No. 496-P/2014, but that was also dismissed vide the Judgment and order dated 24/02/2016. Now the appellant and all her colleagues have been regularized, but maliciously with effect from 05/10/2016, instead of regularizing the appellant and her colleagues from their initial date of appointment or at least from 01/07/2014, whereby the project was brought on regular side. And now in order to further defeat the just rights of the appellant, the Respondent department has malafidely moved a Review Petition No. 3012-P/2016 in the Hon'ble Apex Court and now has taken the pretention of its being pendency before the Hon'ble Apex Court just to have a miserable feign to evade the just rights and demands of the appellant and her colleagues, which under no canon of law is allowed or warranted, nor such plea can be allowed to defeat the ends of justice.



4. Correct. Detailed picture is given above and as well as in the main appeal.
5. Incorrect and denied. Detailed picture is given above in the main appeal.
6. Correct to the extent that the writ Petition of appellant was allowed. While the rest is incorrect and misleading.
7. Correct to the extent that CPLA No. 496-P/2014 was dismissed by the Hon'ble Apex Court, while the rest of the para is not only incorrect and concocted one, but as well as suffice to prove the adamancy and arrogance of the Respondent department as well as its loathsome and flout-full attitude towards the judgments of the Hon'ble Superior Courts of the land.
8. No comments.
9. No comments.
10. Correct to the extent that CPLA was dismissed against the judgment dated 24/02/2016 and the Review petition is malafidely moved while the rest is misleading and denied.

11. Correct to the extent that the appellant along with rest of her colleagues were reinstated into service while the rest is misleading and denied.

12. In reply to Para No. 12 of the comments it is submitted that the Respondent department has no regard for the judgment of the superior Courts, otherwise there would have been no need for filling the instant appeal.

13. No comments.

**On Grounds:-**

A. Hypocratic and malicious. True picture is given in the main appeal.

B. Incorrect. The appellant and rest of her colleagues are fully entitled for the relief they have sought from this Hon'ble Tribunal.

C. Misleading and hypocratic. True and detailed picture is given above and as well as in appeal.

D. Correct to the extent that the department is bound to act as per Law, Rules and Regulation, but it does not.

E. Correct to the extent of judgment dated 26/06/2014, 24/02/2016 and moving CPLA, while the rest is misleading.

F. Incorrect and denied.

G. Incorrect and denied. The appellant and all her colleagues have validly and legally been regularized and now are entitle for the relief sought.

H. Incorrect and denied.

I. No comments.

*It is, therefore, most humbly prayed that on acceptance of instant rejoinder, the appeal of the appellant may graciously be allowed, as prayed for therein.*

Dated: 01/08/2019

عبدیالرزاق  
Appellant

Through

Javed Iqbal Gulbela,

&

Saghir Iqbal Gulbela,  
Advocates, High Court,  
Peshawar.

**BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER**  
**PAKHTUNKHWA PESHAWAR**

In S.A# 279/2018

Naila Bano

**Versus**

Government of Khyber Pakhtunkhwa and Others

**AFFIDAVIT**

I, **Naila Bano**, do hereby solemnly affirm and declare on oath that contents of the **Rejoinder** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble court.

عینہ بانو  
**Deponent**

**Identified By:-**

  
**Javed Iqbal Gulbela**  
Advocate High Court  
Peshawar

